



## OPEN MINUTES March 24-25, 2022 Board Meeting

### **Thursday March 24, 2022:**

#### **MEMBERS PRESENT:**

Warren Gall, M.D., Chair  
Ronald Kolegraff, M.D., Vice-Chair  
Nikhil Wagle, M.D., Secretary  
Trudy Caviness  
Patricia Fasbender, D.O.  
Dalton Hayes  
Chad Stadsvold, D.O.  
Joyce Vista-Wayne, M.D.

#### **MEMBERS ABSENT:**

Diane Cortese

#### **STAFF PRESENT:**

Kent M. Nebel, J.D., Executive Director  
Joseph A. Fraioli, J.D., Legal Director  
Don J. Woodhouse, M.D., Medical Director  
Anne Schleppehorst, Chief Investigator  
Aaron Kephart, Investigator  
Brandi Allen, Investigator  
Dave McGlaughlin, Investigator  
Jerome Hill, Investigator  
Laura Wood, Investigator  
Michelle DeLong, Investigator  
Marvin Firch, Monitoring Coordinator  
Emily Zalasky, Iowa Physician Health Program Coordinator  
Natalie Lyons, Iowa Physician Health Program Case Manager  
Kari Rolls, Administrative Assistant  
Kaitie Westphal, Enforcement Support  
Anagha Dixit, Assistant Attorney General

**At 11:34 a.m., Warren Gall, M.D., Chair, called the meeting to order.**

**At 11:34 a.m., on a motion by Ronald Kolegraff, M.D., seconded by Joyce Vista-Wayne, M.D., all members present voted to meet in closed session, pursuant to Iowa Code Sections 21.5(1)(a), 21.5(1)(d) and 21.5(1)(f), to review or discuss records which are**

required or authorized by state or federal law to be kept confidential, discuss the contents of a licensing examination or whether to initiate licensee disciplinary investigations or proceedings, and discuss the decision to be rendered in a contested case. Trudy Caviness, Patricia Fasbender, D.O., Warren Gall, M.D., Dalton Hayes, Ronald Kolegraff, M.D., Chad Stadvold, D.O., Joyce Vista-Wayne, M.D., and Nikhil Wagle, M.D., all voted aye in a roll call vote to approve the motion.

At 2:06 p.m., Closed Session went to recess. The Closed Session resumed on Friday, March 25, 2022, at 7:35 a.m.

**Friday, March 25, 2022**

**MEMBERS PRESENT:**

Warren Gall, M.D., Chair  
Ronald Kolegraff, M.D., Vice-Chair  
Nikhil Wagle, M.D., Secretary  
Trudy Caviness  
Patricia Fasbender, D.O.  
Dalton Hayes  
Chad Stadvold, D.O.  
Joyce Vista-Wayne, M.D.

**MEMBERS ABSENT:**

Diane Cortese

**STAFF PRESENT:**

Kent M. Nebel, J.D., Executive Director  
Joseph A. Fraioli, J.D., Legal Director  
Don J. Woodhouse, M.D., Medical Director  
Anne Schlepphorst, Chief Investigator  
Aaron Kephart, Investigator  
Brandi Allen, Investigator  
Dave McGlaughlin, Investigator  
Jerome Hill, Investigator  
Laura Wood, Investigator  
Michelle DeLong, Investigator  
Marvin Firch, Monitoring Coordinator  
Emily Zalasky, Iowa Physician Health Program Coordinator  
Natalie Lyons, Iowa Physician Health Program Case Manager  
Kari Rolls, Administrative Assistant  
Anagha Dixit, Assistant Attorney General  
Chrissy Greco, Assistant to Executive Director  
Shantel Billington, Office Manager / Financial Manager  
Kaitie Westphal, Enforcement Support

**Closed Session resumed at 7:35 a.m.**

At 8:54 a.m., all members present voted in favor of a motion by Joyce Vista-Wayne, M.D., seconded by Patricia Fasbender, D.O., to meet in an open session.

**PUBLIC SESSION:**

At 9:13 a.m., Kent Nebel, Executive Director, called the public session to order. Roll call was taken. Diane Cortese was absent.

On a motion by Joyce Vista-Wayne, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to approve the agenda.

**Public present via Zoom:**

<b>Name</b>	<b>Represents</b>
Jill Eggenburger	Daughter
Liam Law	Self
Sherri Muller	Self
Jill Stuecker	Iowa Dental Board
Linda Thiesen	University of Iowa

Miss Muller spoke about her case and investigation with the Board. She said she has made progress in her own endeavors, to alert the public as well as other treatment providers, of her experience as a child, with Dr. Lynn Lindaman.

Executive Director’s Report can be found [here](#).

The Board reviewed and approved the 2023 Board Calendar

**Legislative Update – Kent Nebel, Executive Director**

**New Bills we are monitoring:**

**SF 487 Review of State Boards:** This bill requires each state board to justify its existence to a legislative committee every five years and sets the specific criteria.

**HF2203 Liability and Disciplinary Actions:** This bill would bar civil liability and licensee disciplinary action for causing or contributing, directly or indirectly, to the death or injury of an individual while providing or arranging health care in support of the state’s response to COVID-19. This includes the off-label use of drugs to treat a patient with a suspected or confirmed case of COVID-19. This does not apply to reckless or willful misconduct. This would not prevent the Board from investigating or disciplining a licensee for a possible violations to the prevailing standard of care.

**Previous Bills we are monitoring:**

**HF 2279 & SSB 3039 Tort Reform:** This bill enacts a \$1 million hard cap on non-economic damages.

**HF 2388 Ambulatory Surgical Centers:** This bill requires ambulatory surgical centers to be licensed and provides for inspections by the Department of Inspections and Appeals.

**HF 2389 Dispensing Abortion Drugs:** This bill prohibits dispensing mifepristone for a medical abortion except in a health care setting and requires written informed consent for patients.

**HF 2547 Licensed Midwives:** This bill requires a person practicing midwifery in Iowa to obtain a license to practice beginning July 1, 2023. This bill creates a separate Board within the Iowa Department of Public Health.

**HF 2203 / Sf 2117 Off Label Drug Treatments:** Allows patients on mechanical ventilators to receive medicines for off-label purposes under the provisions for the use of experimental drugs to treat terminally ill patients.

**HF 2298 Covid Immunizations:** A bill for an act relating to immunization against COVID-19 requirements for enrollment in any licensed childcare center, elementary or secondary school, or postsecondary school in Iowa.

**HF 2200 Direct Health Care Agreements:** A bill for an act relating to direct health care agreements, and including effective date and applicability provisions. (Formerly HF 625, HF 289.)

**Administrative Rules update – Joseph Fraioli, Legal Director**

Nothing new to discuss.

**Hearing Update – Joseph Fraioli, Legal Director**

**Judicial Review – Anagha Dixit, Assistant Attorney General**

**Colby v. Board of Medicine – Dennis Colby, M.D.,** the doctor lost a contested case earlier this fall and has filed a petition for judicial review. Briefing and oral arguments are complete and we await a decision from the District Court.

**Robinson v. Board of Medicine-David Robinson, M.D.,** entered a settlement agreement with the Board in 2016. In 2019, the Board terminated the terms of his probation. Dr. Robinson requested that the Board rescind the 2016 settlement agreement, and the Board declined to do so. Dr. Robinson has now sought judicial review of this agency action in district court. The appendix in this case was filed but Dr. Robinson alleges that the entire investigatory report should be part of the record. The Board has resisted the matter and a hearing was held on the issue on January 28, 2020. The matter has been submitted and awaiting an order.

**Yates v. Board of Medicine-Leroy L. Yates, JR, M.D.,** lost a contested case on December 12, 2019. The Board was successful at District Court is defending the judicial review. It is now under review by appellate courts.

**Lajeunesse v. Board of Medicine** Michael LaJeunesse was a complainant whose case was closed by the Board and he is attempting to have the Board's decision judicially reviewed. He has attempted multiple avenues to have the matter reviewed by a District Court or higher. Most recently, his judicial review of the Board's decision declining to issue a declaratory order was reviewed by the court and the District Court agreed with the Board's ruling. He has appealed this decision. Briefing is complete and we await a decision by the appellate courts.

**Irland v. Board of Medicine – Mark Irland, M.D.,** Dr. Irland was issued a confidential order and filed a Motion to Dismiss at the administrative level, which was denied. He filed a judicial review in response and the Board filed a motion to dismiss his judicial review. The District Court ruled in favor of the Board's position. Dr. Irland appealed and the matter was retained by the Court of Appeals. After oral arguments, the matter was affirmed by the Court of Appeals on March 2, 2022.

**Doe v. Board of Medicine-John Doe, M.D.**, Dr. Doe filed a judicial review after losing a contested case hearing before the Board for competency concerns. The matter has been set for briefing and an oral argument in front of the District Court is scheduled for June 3, 2022.

**Iowa Physician Health Program** Coordinator, Emily Zalasky provided the program's monthly statistics and said that she has brought on their two new committee members in February. She stated that she and Natalie Lyons, IPHP Case Coordinator, will be attending a national conference in April for the Federation of State Physicians.

**Interstate Medical Licensure Compact – Updates by Dr. Gall and Dr. Fasbender.** Compact applications have doubled. Texas and Delaware have joined the Compact, bringing the number of states to 37.

**FSMB** – Kent Nebel and Chrissy Greco spoke about the Diversion Equity Inclusion Workgroup Draft Report. They said that the report is very in depth and they hope to gain some insight on how to implement these practices into the Board of Medicine.

Mr. Nebel said that several staff members will be attending the Federation's Annual Meeting at the end of April.

**At 9:45 a.m., on a motion by Nikhil Wagle, M.D., seconded by Ronald Kolegraff, M.D., all members present voted to meet in closed session, pursuant to Iowa Code Sections 21.5(1)(a), 21.5(1)(d) and 21.5(1)(f), to review or discuss records which are required or authorized by state or federal law to be kept confidential, discuss the contents of a licensing examination or whether to initiate licensee disciplinary investigations or proceedings, and discuss the decision to be rendered in a contested case. Trudy Caviness, Patricia Fasbender, D.O., Warren Gall, M.D., Dalton Hayes, Ronald Kolegraff, M.D., Chad Stadvold, D.O., Joyce Vista-Wayne, M.D., and Nikhil Wagle, M.D., all voted aye in a roll call vote to approve the motion.**

**Anagha Dixit, Assistant Attorney General, left the meeting at 10:41 a.m.**

**At 10:57 a.m., while still in closed session, all members present voted in favor of a motion by Nikhil Wagle, M.D., seconded by Dalton Hayes, to meet in an open session. In open session, the Board took the following actions:**

**On a motion by Trudy Caviness, seconded by Patricia Fasbender, D.O., all Board members present voted to close file 03-2020-530, with no formal action.**

**On a motion by Trudy Caviness, seconded by Patricia Fasbender, D.O., all Board members present voted to leave open file 02-2021-336.**

**On a motion by Trudy Caviness, seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-386, with no formal action. Nikhil Wagle, M.D., recused.**

**On a motion by Warren Gall, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to affirm its original decision to close file 03-2021-501, with no formal disciplinary action.**

**On a motion by Warren Gall, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-493, with no formal action.**

**On a motion by Warren Gall, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 03-2018-646, with no formal action.**

**On a motion by Warren Gall, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2018-378, with no formal action.**

**On a motion by Warren Gall, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2018-545, with no formal action.**

**On a motion by Warren Gall, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2020-007, with no formal action.**

**On a motion by Warren Gall, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-548, with no formal action.**

**On a motion by Warren Gall, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2022-023, with no formal action.**

**On a motion by Warren Gall, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-394, with no formal action.**

**On a motion by Warren Gall, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-168, with no formal action.**

**On a motion by Warren Gall, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-382, with no formal action.**

**On a motion by Warren Gall, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 03-2021-061, with no formal action.**

**On a motion by Dalton Hayes, seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-022, with no formal action.**

**On a motion by Dalton Hayes, seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-056, with no formal action.**

**On a motion by Dalton Hayes, seconded by Patricia Fasbender, D.O., all Board members present voted to close file 03-2019-705, with no formal action.**

**On a motion by Dalton Hayes, seconded by Patricia Fasbender, D.O., all Board members present voted to close file 03-2021-184, with no formal action.**

**On a motion by Dalton Hayes, seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-362, with no formal action.**

**On a motion by Dalton Hayes, seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-379, with no formal action.**

**On a motion by Dalton Hayes, seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-388, with no formal action.**

**On a motion by Dalton Hayes, seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-413, with no formal action. Nikhil Wagle, M.D., recused.**

**On a motion by Dalton Hayes, seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-303, with no formal action.**

**On a motion by Dalton Hayes, seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-304, with no formal action.**

**On a motion by Dalton Hayes, seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-512, with no formal action.**

**On a motion by Dalton Hayes, seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2022-120, with no formal action.**

**On a motion by Dalton Hayes, seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-531, with no formal action.**

**On a motion by Dalton Hayes, seconded by Patricia Fasbender, D.O., all Board members present voted to leave open file 03-2021-518.**

**On a motion by Dalton Hayes, seconded by Patricia Fasbender, D.O., all Board members present voted to close file 03-2021-472, with no formal action.**

**On a motion by Dalton Hayes, seconded by Patricia Fasbender, D.O., all Board members present voted to leave open file 02-2021-072.**

**On a motion by Dalton Hayes, seconded by Patricia Fasbender, D.O., all Board members present voted to close file 03-2021-330, with no formal action.**

**On a motion by Ronald Kolegraff, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-331, with no formal action.**

**On a motion by Ronald Kolegraff, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-484, with no formal action.**

**On a motion by Ronald Kolegraff, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to leave open file 02-2020-120.**

**On a motion by Ronald Kolegraff, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to leave open file 02-2021-316.**

**On a motion by Ronald Kolegraff, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-348, with no formal action.**

**On a motion by Ronald Kolegraff, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 03-2020-110, with no formal action.**

**On a motion by Ronald Kolegraff, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2020-111, with no formal action.**

**On a motion by Ronald Kolegraff, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to leave open file 02-2021-341.**

**On a motion by Ronald Kolegraff, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2020-332, with no formal action.**

**On a motion by Ronald Kolegraff, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-503, with no formal action.**

**On a motion by Ronald Kolegraff, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to leave open file 02-2021-563.**

**On a motion by Ronald Kolegraff, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-403, with no formal action.**

**On a motion by Ronald Kolegraff, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to leave open file 02-2021-514.**

**On a motion by Ronald Kolegraff, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-504, with no formal action.**

**On a motion by Ronald Kolegraff, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to close file 02-2021-457, with no formal action.**

**On a motion by Nikhil Wagle, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to leave open file 02-2017-645.**

**On a motion by Nikhil Wagle, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to leave open file 02-2021-255.**

**On a motion by Joyce Vista-Wayne, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to accept the Screening Committee Report and its recommendations.**

**On a motion by Nikhil Wagle, M.D., seconded by Patricia Fasbender, D.O., all Board members present voted to accept the Licensure Committee Report and its recommendations.**

**On a motion by Ronald Kolegraff, M.D., seconded by Trudy Caviness, all Board members present voted to accept the Monitoring Committee Report and its recommendations.**



**On a motion by Warren Gall, M.D., seconded by Ronald Kolegraff, M.D., all members present voted to approve the minutes for the January 27-28, 2022, Board meeting.**

**On a motion by Nikhil Wagle, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to approve the State's Motion to Amend Charges for Shafik N. Wassef, M.D., file 02-2018-400.**

**On a motion by Joyce Vista-Wayne, M.D., seconded by Trudy Caviness, all Board members present voted to approve the 2023 Board Calendar dates.**

**Kent M. Nebel, J.D., Executive Director, advised the Board that both Nikhil Wagle, M.D., and Ronald Kolegraff, M.D., are needed for the April 21, 2022, Teleconference and requested that all Board members check their availability. He advised that they are still members of the Board until the last day of April. Dr. Kolegraff said he is available and can attend. Dr. Wagle requested that the time of the Teleconference be changed from 7:30 a.m. to 7:00 a.m. All members present approved the time change.**

**At 11:21 a.m., all members present voted in favor of a motion by Ronald Kolegraff, M.D., seconded by Nikhil Wagle, M.D., to adjourn the meeting.**