

**KANSAS STATE BOARD OF HEALING ARTS
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612**

**BOARD MINUTES – Friday
April 10, 2015**

FORMAT OF MINUTES – Prior to each motion there appears the names of two Board Members in parenthesis. The first made the motion, the latter seconded the motion. Ayes, nays, abstentions and recusals are recorded when requested.

FRIDAY, APRIL 10, 2015

I. CALL TO ORDER - ROLL CALL

The Kansas State Board of Healing Arts met at the Board Office, 800 Jackson, Lower Level-Suite A, Topeka, Kansas on Friday, April 10, 2015. The meeting was called to order at 8:30 a.m. by Myron Leinwetter, D.O. and President.

Michael Beezley, M.D.	present
Jerry DeGrado, D.C.	present
Robin Durrett, D.O.	absent
Steven Gould, D.C.	present
Anne Hodgdon, public member	absent
David Laha, DPM	present
M. Myron Leinwetter, D.O.	present
Richard A. Macias, public member	present
Douglas Milfeld, M.D.	absent
Garold O. Minns, M.D.	present
John Settich, public member	present
Kimberly Templeton, M.D.	present
Terry L. Webb, D.C.	present
Joel Hutchins, M.D.	present
Ronald Varner, D.O.	present

Staff members present were Kathleen Selzler Lippert, Executive Director; Kelli Stevens, General Counsel; Stacy Bond, Assistant General Counsel; Reese Hays, Litigation Counsel; Jessica Bryson, Seth Brackman, Jane Weiler, Susan Gering, and Anne Barker Hall, Associate Litigation Counsel; Dan Riley, Disciplinary Counsel; Joshana Offenbach, Associate Disciplinary Counsel; Katy Lenahan, Licensing Administrator; John McMaster, M.D., Medical Director; Kathy Moen, Medical Litigation Support Specialist; Jennifer Cook and Marsha Sonner, Legal Assistants to General Counsel; and Cathy Brown, Executive Assistant. The attached sign-in sheet indicates those people who were present during portions of the meeting.

Cameron Gooden, CSR, Appino and Biggs Reporting Service, took and recorded the administrative proceedings conducted.

II. APPROVAL OF AGENDA

(Minns/Varner) Approve agenda with the following changes:
Addition of a request to supervise more than four PTA's and deletion of the administrative hearing for Lindsay Herbig, R.T. Carried.

APPROVAL OF BOARD MEETING MINUTES

(Minns/Varner) Approve minutes of February 13, 2015 regular meeting with the following changes: add Mr. Macias to those recused from the Neuhaus case and Dr. Webb to those recused from the Spitzer case. Carried.

III. OTHER BUSINESS

(Webb/Gould) Recess board meeting to conduct administrative proceedings under the Kansas Administrative Procedures Act. Carried.

IV. ADMINISTRATIVE PROCEEDING

JEREMY HOWES, MD., DOCKET #15-HA00027 - Conference Hearing for Review **Confidential** and Further Proceedings. Ms. Bryson appeared for the Board. Dr. Howes appeared in person with counsel, Mr. Mark Stafford.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Leinwetter, Dr. Templeton, Dr. Webb and Mr. Settich. Dr. Beezley presided.

Licensee Exhibits B-H were offered and admitted into the record.

Board Decision: The board will accept Dr. Howes' offer to take communication course and **Confidential**
Confidential Other specifics will be included in a written order that will be served in the next 30 days.

KRISTIAN E. LEWIS, M.D., DOCKET #15-HA00026 - Review of Initial Order. Ms. Barker Hall appeared for the Board. Dr. Lewis did not appear in person.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Leinwetter and Dr. Templeton. Dr. Webb presided.

Board Decision: Modify the Initial Order and revoke Dr. Lewis's license.

TIMOTHY WARREN, D.C., DOCKET #15-HA00017 - Conference Hearing on Petition for Discipline. Ms. Gering appeared for the Board. Dr. Warren appeared in person with counsel, Mr. Don D. Gribble, II.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Leinwetter, Dr. Templeton, Dr. Webb and Mr. Settich. Dr. Gould also recused himself from the proceedings. Dr. Beezley presided.

A subcommittee of the board consisting of Drs. Laha, Minns, Varner, Beezley, DeGrado and Hutchins, and Mr. Macias was appointed to serve as presiding officers in this case pursuant to K.S.A. 77-514(g).

Board Decision: The board determined that Dr. Warren has violated K.S.A. 65-2836(k) by failing to maintain medical records for 10 years. Dr. Warren is to obtain 10 hours of CME and write an article regarding maintaining sports physicals as a medical record. Dr. DeGrado was appointed to review the article prior to its inclusion in chiropractic publications.

MUHAMMED AKRAM, P.A., DOCKET #15-HA00073 - Conference Hearing on Application for Licensure. Ms. Bryson appeared for the Board. Mr. Akram appeared in person with counsel, Mr. James T. McIntyre.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Leinwetter, Dr. Templeton, Dr. Webb and Mr. Settich. Dr. Beezley presided.

Board Decision: Licensure denied.

NITINRAI PANDYA, M.D., DOCKET #10-HA00009 - Conference Hearing on Request for Termination of Monitoring. Ms. Weiler appeared for the Board. Dr. Pandya appeared in person, *pro se*.

Board Decision: Request for Termination of Monitoring was denied.

MECKSON MAKUNDI, R.T., DOCKET #10-HA00108 - Conference Hearing on Request for Termination of Monitoring. Ms. Weiler appeared for the Board. Mr. Makundi appeared in person, *pro se*.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Leinwetter and Dr. Templeton. Dr. Webb presided.

Board Decision: Terminate monitoring.

JOEL ERSKIN, P.A., DOCKET #11-HA00117 - Conference Hearing on Request for Termination of Monitoring. Ms. Weiler appeared for the Board. Mr. Erskin appeared in person with counsel, Mr. Kevin Fowler.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Leinwetter and Dr. Templeton. Ms. Bond also recused herself from the proceedings. Dr. Webb presided.

Board Decision: Terminate monitoring.

LYNN WEBSTER, M.D., DOCKET #15-HA00074 - Conference Hearing on Application for Licensure. Ms. Bryson appeared for the Board. Dr. Webster appeared in person, *pro se*.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Leinwetter, Dr. Templeton, Dr. Webb and Mr. Settich. Dr. Beezley presided.

Board Decision: Licensure granted.

JESS M. RIETZKE, D.C., DOCKET #14-HA00127 - Conference Hearing on Request for Termination of Monitoring. Ms. Weiler appeared for the Board. Mr. Rietzke appeared in person, *pro se*.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Durrett, Dr. Laha, Mr. Macias.

Board Decision: Terminate monitoring.

TIFFANY (FINDLEY) CHRISTY, R.T., DOCKET #09-HA00089 - Conference Hearing on Request for Termination of Monitoring. Ms. Weiler appeared for the Board. Ms. Christy appeared in person, *pro se*. Ms. Bond also recused herself from the proceedings.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Beezley and Dr. Leinwetter. Dr. Webb presided.

Board Decision: Terminate monitoring.

DIANNE MALLARI, D.C., DOCKET #15-HA00061 - Conference Hearing on Application for Reinstatement. Ms. Bryson appeared for the Board. Dr. Mallari appeared in person with counsel, Ms. Ivery Goldstein.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Leinwetter and Dr. Templeton. Dr. Beezley presided.

Board Decision: Dr. Mallari will be reinstated after passing part 4 of the NBCE and will have 25% of her patient charts monitored for six months.

CHRISTIE MENSCH, M.D., DOCKET #12-HA00062 - Conference Hearing on Motion to Modify Consent Order. Ms. Weiler appeared for the Board. Dr. Mensch appeared in person with counsel, Carol Ruth Bonebrake.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Templeton, Dr. Webb, and Mr. Settich.

Board Decision: Terminate the current consent order at the termination of Dr. Mensch's residency program; **Confidential** and grant unrestricted license **Confidential**

JEFFREY W. CAMERON, M.D., DOCKET #10-HA00136 - Conference Hearing on Request for Termination of Consent Order. Ms. Weiler appeared for the Board. Dr. Cameron appeared in person, *pro se*.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Leinwetter and Dr. Templeton. Dr. Webb presided.

Board Decision: Terminate the consent order.

GAIL GIROUARD, M.D., DOCKET #15-HA00070 - Conference Hearing on Petition for Discipline. Mr. Brackman appeared for the Board. Dr. Girouard did not appear.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Durrett, Dr. Laha and Mr. Macias.

Board Decision: Continue hearing to June board meeting to allow Associate Litigation Counsel to file an amended petition.

JOSEPH P. CLARK, P.A., DOCKET #14-HA00103 & 14-HA00123 - Conference Hearing on Motion to Lift Suspension. Mr. Brackman appeared for the Board. Mr. Clark appeared with counsel, Carol Ruth Bonebrake.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Durrett, Dr. Laha and Mr. Macias.

Associate Litigation Counsel noted that Licensee's exhibits 8 and 14 were duplicates, 3 and 16 were duplicates, and that his most recent exhibit 1 should be renumbered 17. Counsel for Licensee agreed to the correction.

Board Decision: Deny motion to lift suspension.

V. SETTLEMENT AGREEMENT

Renee M. Belieu, M.D. - Review of Proposed Consent Order. Mr. Brackman appeared for the Board. Dr. Belieu did not appear in person.

Board Decision: Approve the consent order.

Richard B. Connolly-Walker, D.C. - Review of Proposed Consent Order. Mr. Brackman appeared for the Board. Dr. Connolly-Walker appeared in person *pro se*.

Board Decision: Approve the consent order.

Lamberto O. Flores, M.D. - Review of Proposed Consent Order. Mr. Brackman appeared for the Board. Dr. Flores did not appear and had requested a continuance.

Board Decision: Continue settlement proceedings to the June board meeting.

Hozair M. Syed, M.D. - Review of Proposed Consent Order. Mr. Brackman appeared for the Board. Dr. Syed did not appear.

Board Decision: Approve the consent order. A journal entry will be issued to amend address information for paperwork required by the board.

Traci Borland, O.T. - Review of Proposed Consent Order. Mr. Hays appeared for the Board. Ms. Borland appeared in person *pro se*.

Board Decision: Approve the consent order.

Timothy Spears, D.O. - Review of Proposed Consent Order. Ms. Gering appeared for the Board. Dr. Spears appeared in person *pro se*.

Board Decision: Approve the consent order.

Kyle Sheahon, D.C. – Ratification of Proposed Consent Order. Ms. Bryson appeared for the Board. Dr. Sheahon appeared in person *pro se*.

Board Decision: Ratify the consent order.

William Thomas, D.C. – Review of Proposed Consent Order. Ms. Barker Hall appeared for the Board. Dr. Thomas appeared in person *pro se*.

Board Decision: Approve the consent order.

NOTE: Mr. Settich left the meeting at this point (3:00 p.m.)

Donald Schmitt, LRT – Ratification of Consent Order. Ms. Bryson appeared for the Board. Mr. Schmitt appeared in person *pro se*.

Board Decision: Ratify the consent order with modification to delete lines 7 through 16 on page 9, beginning with the word “applicant” and ending with “continue”.

Constantine Fotopoulos, M.D. – Review of Proposed Consent Order. Ms. Gering and Mr. Hays appeared for the Board. Dr. Fotopoulos appeared in person with counsel, Mr. Mark Lynch.

Board Decision: Approve the consent order.

Nicholas Bacon, R.T. – Ratification of Consent Order. Ms. Bryson appeared for the Board. Dr. Bacon appeared in person *pro se*.

Board Decision: Ratify the consent order.

Kris Lewonowski, M.D. – Review of Proposed Consent Order. Ms. Weiler and Ms. Bryson appeared for the Board. Dr. Lewonowski appeared in person with counsel, Mr. Mark Stafford.

Board Decision: Approve the consent order.

VI. STAFF REPORTS

The Board President called the board meeting back to order.

Licensing Administrator:

Approval of Administrative Actions
(Templeton/Varner) Approve administrative actions. Carried

Approval of Licensee/Registrant List

(Templeton/Varner) Approve licensee/registrant list. Carried.

Minutes of Committee/Council Meetings

Minutes of all council meetings held since last board meeting were approved.

Licensing Report

Ms. Lenahan presented licensure statistics for the year-to-date using the new Prezi software.

Litigation Counsel:

Litigation Report

Mr. Hays presented the statistical report for the Litigation department, for the two month period and year-to-date.

Disciplinary Counsel:

Disciplinary Report

Mr. Riley distributed and reviewed the statistical report for the Disciplinary department, for the two month period and year-to-date.

Review Committee Appointments

Stephanie Oberhelman, D.O. was appointed to the D.O. Review Committee.
J. Michael Patton, M.D. was appointed to the M.D. Review Committee #3.

General Counsel:

General Counsel Report

Ms. Stevens updated the board on the status of appellate cases involving the board.

Kansas AG Opinion 2015-01 Regarding TPOPP Forms

Ms. Stevens reviewed the Attorney General Opinion regarding Kansas-Missouri Transportable Physician Orders for Patient Preferences (KM-TPOPP) forms which concludes the form does not enable a guardian to direct the withholding or withdrawal of life-preserving measures without fulfillment of one or more of the statutorily required prerequisites, each of which requires legal documentation as a matter of law.

Kansas AG Opinion 2014-20 re: Physician Delegation to EMS Attendants

Ms. Stevens reviewed the Attorney General (AG) Opinion regarding physician delegation to emergency medical service attendants which concluded that a physician may delegate medical tasks to an EMS attendant beyond those tasks specified in the EMS Act provided the attendant is competent to perform the tasks, the delegation does not violate any other statute or regulation, and the other statutory criteria for delegation are met.

Executive Session for Attorney-Client Consultation Re: U.S. Supreme Court Decision in North Carolina Board of Dental Examiners v. Federal Trade Commission

(Minns/Macias) Go into executive session for 10 minutes, pursuant to K.S.A. 75-4319(b)(2), for the purpose of consultation with an attorney for the Board, which would be deemed privileged in the attorney-client relationship. Carried.

(Minns/Macias) Return to open session. Carried.

Request to Supervise More Than 4 PTA's

(Templeton/Minns) Request denied. Carried.

Executive Director:

Budget Update

Ms. Selzler Lippert that the agency is on target with our appropriation for this fiscal year.

Legislative Update

A bill that was crafted to make "clean-up" amendments to the physician assistant's and healing arts' acts has been combined with another bill. This bill has passed the Senate and now will need to be passed by the house.

Actions Taken Since Last Board Meeting

All action taken were included in the board's packet of information for the meeting. There were no questions or corrections.

Misc. Items/Information for the Board

Statement of Substantial Interest Form:

Ms. Selzler Lippert reminded the board members to complete and submit the form by the deadline.

Pharmacy Board Collaborative Practice Committee:

Ms. Selzler Lippert will work with Dr. Minns to obtain the names of three board appointees to this committee.

Annual Inventory:

Ms. Selzler Lippert asked board members to complete the annual inventory form found in their folders and return them to the Executive Assistant by the end of the meeting.

Request for Institutional License

The board has received an application for an institutional license from an applicant who attended a disapproved school. The board agreed to hear this request at the June board meeting.

Appointment of Special General Counsel

Approve request to contract with Mr. Mark Ferguson to serve as Special General Counsel in the administrative hearing for Vijendra Dave, MD.

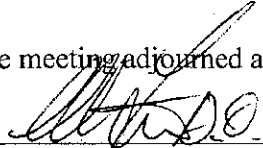
Non-Elected Personnel Matters

(board member/board member) Go into executive session pursuant to K.S.A. 75-4319(b)(1) for 15 minutes to discuss personnel matters of non-elected personnel. Carried.

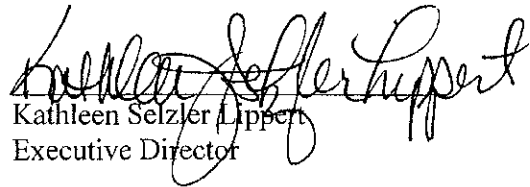
VII. ADJOURNMENT

(Board member/Board member). This meeting is adjourned. Carried.

The meeting adjourned at 4:30 p.m.



Myron Leinwetter
President



Kathleen Seizler Lippert
Executive Director