

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

**BOARD MINUTES – Friday
February 13, 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, FEBRUARY 13, 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, Feb. 13, 2014. The meeting was called to order at 8:30 a.m. by Myron Leinwetter, D.O. and President.

Michael Beezley, M.D.	present via teleconference for one settlement agreement
Robin Durrett, D.O.	absent
Steven Gould, D.C.	present
Anne Hodgdon, public member	present
David Laha, DPM	present
M. Myron Leinwetter, D.O.	present
Richard A. Macias, public member	present
Douglas Milfeld, M.D.	present
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.

Barbara Hoskins, CSR, Appino and Biggs Reporting Service, took and recorded the administrative proceedings conducted.

II. APPROVAL OF AGENDA

(Minns/Templeton) Approve agenda with the following changes: Appointment of Presiding Officer for VinZant Reconsideration Hearing added to the General Counsel Staff Report; Jessica R. Dronette, M.D hearing continued to June; hearing for Timothy Warren D.C. continued. Carried.

APPROVAL OF BOARD MEETING MINUTES

(Minns/Templeton) Approve minutes of December 11 and 12, 2014 regular meeting. Carried.

III. OTHER BUSINESS

KAPA/KOMA Procedural Information

A recent Attorney General Opinion prompted the change in our regular procedures for conducting administrative hearings and board business during regular board meetings. Board business conducted during board meetings must comply with the Kansas Open Meetings Act (KOMA) and administrative proceedings conducted during board meetings must comply with the Kansas Administrative Procedures Act (KAPA). Administrative hearings are not part of the board meeting itself; they are just held on the same day as the meeting. Beginning with this board meeting we will recess the board meeting in order to conduct administrative hearings under KAPA. The Board will need to reconvene the meeting if there is business to be conducted after the hearings.

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

IV. ADMINISTRATIVE PROCEEDING UNDER KAPA

ANNE NEUHAUS, MD., DOCKET #10-HA00129 - Conference Hearing on Consideration of Statement of Costs. Mr. Hays and Ms. Bryson appeared for the Board. Dr. Neuhaus appeared in person with counsel Mr. Robert Eye.

Following are the members of the disciplinary panel and those members who were present at the board meeting recused themselves from the proceedings: Dr. Leinwetter and Dr. Beezley. Ms. Stevens, Ms. Selzler Lippert and Mr. Macias were also recused and Mr. Mark Ferguson served as Special General Counsel. Dr. Webb presided.

Board Decision: The board will take all pending motions under advisement and will issue a written decision within 30 days.

ELIZABETH BAKER, O.T.A., DOCKET #15-HA00059 - Conference Hearing on Petition for Discipline. Ms. Weiler appeared for the Board. Ms. Baker did not appear.

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

Board Decision: Suspend Licensee's license and require Ms. Baker to appear before the board if she applies to lift the suspension.

ZACHARY T. HESSE, D.C., DOCKET #14-HA00081 - Conference Hearing on Request for Termination of Monitoring. Ms. Weiler appeared for the Board. Dr. Hesse appeared in person *pro se*.

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

Board Decision: Monitoring terminated.

J.S. SPITZER, M.D., DOCKET #15-HA00060 - Conference Hearing on Request for Exception or Opinion on Practice Permitted with an Exempt License. Mr. Hays appeared for the Board. Dr. Spitzer appeared in person *pro se*. Dr. Webb was recused from these proceedings.

Board Decision: It was the Board's opinion that items 2, 3, 5 and 6 on Licensee's Exhibit A-Primary Care Consultant Duties for Horizons Mental Health Center's Health Home Services Program, were appropriate for an exempt license. Items 1, 4, 7 and 8 were not appropriate for an exempt license because they involved direct patient care or utilization review.

STEWART GROTE, D.O., DOCKET #14-HA00014 - Conference Hearing on Motion for Termination of Suspension. Mr. Brackman and Ms. Barker Hall appeared for the Board. Dr. Grote appeared in person with counsel, Mr. Mark Lynch.

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

Board Decision: The Board accepts Dr. Grote's proposal to complete education in the scattered deficient areas and the EKG portion prior to terminating his suspension, with further details to be included in the Board's order. Dr.

Templeton was appointed to approve the final order and further compliance matters.

ANURADHA SATYAVOLU, M.D., DOCKET #15-HA00054 - Conference Hearing on Application for Licensure by Endorsement. Mr. Hays appeared for the Board. Dr. Satyavolu was unable to appear in person today and has requested a continuance.

Board Decision: Grant continuance to the April 10, 2015 board meeting.

V. SETTLEMENT AGREEMENT

Confidential

John H. Carson, M.D., Docket #15-HA00057 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Dr. Carson appeared in person *pro se*.

Board Decision: The Consent Order was approved.

John B. Moore, M.D. – Review of Proposed Consent Order. Ms. Barker Hall appeared for the Board. Dr. Moore appeared in person with counsel, Marc Erickson.

Board Decision: The Consent Order was approved.

Kristen Burghart, O.T.A., Docket #15-HA00058 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Ms. Burghart appeared in person *pro se*.

Board Decision: The Consent Order was approved.

Confidential

NOTE: Dr. Templeton left the meeting at this point (3:00 p.m.).

Greg Epperson, M.D. – Review of Proposed Consent Order. Ms. Gering and Mr. Brackman appeared for the Board. Dr. Epperson appeared in person with counsel, Mr. Mark Stafford and Mr. Brian Niceswanger. Dr. Webb presided.

Recusals: Ms. Stevens

Board Decision: The Consent Order was approved.

Confidential

Ashley Bartlett, L.R.T. – Ratification of Consent Order. Ms. Bryson appeared for the Board. Mr. Bartlett appeared in person *pro se*.

Board Decision: The Consent Order was approved.

VI. STAFF REPORTS

The Board President called the board meeting back to order.

Licensing Administrator:

Approval of Administrative Actions

(Minns/Varner) Approve administrative actions. Carried

Approval of Licensee/Registrant List

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

Minutes of Committee/Council Meetings

Minutes of all council meetings held since last board meeting were either provided in the board packet or distributed at the board meeting. The board had no questions.

Litigation Counsel:

Litigation Report

(Minns/Varner) Approve new board policy #15-03, Schedule of Conference Hearings. This policy gives direction to agency staff regarding the timeframes for scheduling conference hearings at the board meetings. Carried.

Disciplinary Panel #30 was appointed by the board. Members who will serve for the ensuing year are Ms. Hodgdon, Dr. Milfeld, Dr. Varner and Dr. Gould.

The Litigation statistical report was presented by Mr. Hays. Dr. Leinwetter noted the increase in closed cases that took place from 2008 until this year and from last year until this year. The board members commended the Litigation staff on their work.

Disciplinary Counsel:

Disciplinary Report

Mr. Riley distributed and reviewed the statistical report for the Disciplinary department. He noted that 9 cases older than 2 years were closed during this period, which he said was a very good number.

There was a discussion regarding the Birthing and Women's Center in Topeka and the Board's interaction with that facility.

Ms. Offenbach discussed two subpoena objection lawsuits and the nature of the opposition presented in them.

General Counsel:

General Counsel Report

Ms. Stevens reported the following to the Board: the appeal filed by Dr. Wasse Zafer was dismissed; a final order was issued in the Dr. Anne Neuhaus case so her appeal to district court is expected to re-commence; the board's decision in the Dr. Sergey Shushunov case was upheld on appeal and Ms. Stevens commended Ms. Bond on her successful arguments before the Court of Appeals; and she made the board aware that a civil subpoena issued to the board in Labette County may result in litigation involving the peer review privilege.

PA Supervision

(Minns/Varner) Approve request from Dr. Suber to supervise more than two Physician Assistants. Carried.

(Hutchins/Minns) Approve request by Mr. Bible for Dr. McClintick to supervise more than two Physician Assistants. Carried.

Regulations Update: Institutional License Draft Regulations and PA Draft Amended Regulations

Ms. Stevens reviewed changes that are in the process of being made to the healing arts and physician assistant regulations, and noted that it will require a lot of staff work and board member involvement until they reach completion. The 2014 statutory amendments to the Physician Assistant Act may need to be delayed to allow enough time for regulation development.

Appointment of Presiding Officer – VinZant Reconsideration Hearing

Dr. Hutchins was appointed to serve as Presiding Officer for a hearing regarding Dr. Whitney VinZant's Request for Reconsideration.

Executive Director:

Budget Update

Ms. Selzler Lippert reported that the agency's budget was approved by both the House and the Senate with a slight adjustment for KPERS.

Legislative Update

A list of the bills that Ms. Selzler Lippert is tracking this session was provided to the board in their packet of materials.

Actions Taken Since Last Board Meeting

A list of all actions taken was provided to the board in their packet of materials. There were no questions.

Impaired Provider Program (IPP) Reports

All IPP Reports received for the last quarter were provided to the Board in their packet of materials. There were no questions.

Misc. Items/Information for the Board

Dr. Leinwetter was appointed as the Board's voting delegate to the Federation of State Medical Board for their 2015 conference.

VII. OTHER BUSINESS

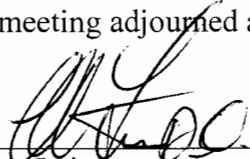
Executive Session

(Hutchins/Settich) Go into executive session for 15 minutes pursuant to K.S.A. 77-4319(b)(1) to review the performance evaluations of the Executive Director and General Counsel. Carried.

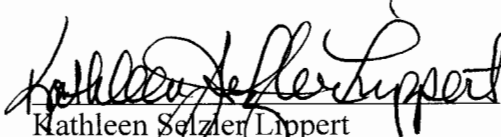
VIII. ADJOURNMENT

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

The meeting adjourned at 4:05 p.m.



Myron Leinwetter
President



Kathleen Selzler Lippert
Executive Director