

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

BOARD MINUTES – Friday
October 19, 2012

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, OCTOBER 19, 2012

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, October 19, 2012. The meeting was called to order at 8:30 a.m. by Kimberly Templeton, M.D. & President.

Eustaquio Abay, M.D. -	present
Michael Beezley, M.D. -	present
Ray Conley, D.C. -	present
Gary Counselman, D.C. -	present
Robin D. Durrett, D.O. -	present
Anne Hodgdon, public member -	present
David Laha, DPM -	present
M. Myron Leinwetter, D.O.	present
Rick Macias, public member -	present
Garold O. Minns, M.D. -	present
John Settich, public member -	present
Carolina M. Soria, D.O. -	present
Kimberly Templeton, M.D.	present
Terry L. Webb, D.C.	present
Nancy J. Welsh, M.D. -	absent

Staff members present were Kathleen Selzler Lippert, Executive Director; Kelli Stevens, General Counsel; Ann Halferty, Assistant General Counsel; Reese Hays, Litigation Counsel; Jessica Bryson, Stacy Bond, Seth Brackman, and Brandy Snead, Associate Litigation Counsel; Dan Riley, Disciplinary Counsel; Joshana Offenbach, Associate Disciplinary Counsel; Katy Lenahan, Licensing Administrator; Jane Weiler, Legal Assistant; Kathy Moen, Medical Litigation Support Specialist; John McMaster, M.D., Medical Director; 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.

Dr. Templeton and Ms. Selzler Lippert introduced two new board members, Dr. David Laha, D.P.M. and Dr. Robin Durrett, D.O.

II. APPROVAL OF AGENDA

(Conley/Minns) Approve agenda with the following change: Administrative Hearing for Richard Brown, M.D. was continued. Carried.

III. APPROVAL OF BOARD MEETING MINUTES

(Conley/Minns) Approve minutes of August 17, 2012 regular meeting with correction on the roll call for the DPM position changing "absent" to "vacant"; and approve minutes of August 24, 2012 special board meeting. Carried.

IV. OTHER BUSINESS

General Counsel Review – Executive Session

(Conley/Minns) Go into executive session for 15 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.

(Conley/Hodgdon) Return to open session. Carried.

V. ADMINISTRATIVE PROCEEDINGS

JOHN W. CARLSTON, D.C., DOCKET #11-HA00037 - Review of Initial Order. Ms. Bond appeared for the Board. Dr. Carlston appeared in person with counsel, Mr. Eldon Boisseau.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Webb, Dr. Templeton and Dr. Soria. Ms. Stevens and Ms. Halferty also recused themselves from the proceedings and Mr. Randy Stookey served as special general counsel. Mr. Settich presided.

Licensee's counsel questioned whether board members had been given ample time to review all case materials and members did not indicate that the review time was insufficient.

(Conley/Minns) Respondent did commit each violation of the healing arts act as set forth in the Initial Order. Carried with Dr. Counselman opposed.

(Conley/Beezley) Revoke license and assess costs. Carried.

Ms. Bond asked that the second paragraph on page 4 and the first paragraph on page 5 of *Dr. Carlston's Brief for the Board of Healing Arts Setting and Review of the Presiding Officer's Findings* be stricken from the record and this was

approved. Dr. Beezley was appointed to serve as Presiding Officer if reconsideration is requested.

(Beezley/Abay) Go into executive session pursuant to K.S.A. 75-4319(b)(2) for 10 minutes for the purpose of attorney-client consultation. Carried.

(Board Member/Board Member) Return to open session. Carried.

VI. SETTLEMENT AGREEMENTS

Salvador F. Valdeperas II, M.D., Docket #12-HA00015 – Ratification of Consent Order. Ms. Bond appeared for the Board. Dr. Valdeperas appeared via teleconference, *pro se*.

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

(Conley/Beezley) Approve amended Consent Order. Carried.

Faith Peterman, D.C., Docket #13-HA00013 – Ratification of Consent Order. Ms. Bond appeared for the Board. Dr. Peterman 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. Conley, Dr. Leinwetter, Dr. Minns and Ms. Hodgdon.

(Counselman/Webb) Ratify Consent Order. Carried.

Timothy J. Seybert, L.R.T., Docket #13-HA00005 – Proposed Consent Order. Mr. Brackman appeared for the Board. Mr. Seybert 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. Conley, Dr. Leinwetter, Dr. Minns and Ms. Hodgdon.

(Counselman/Beezley) Go into closed session pursuant to 77-523(f) to discuss matters which are confidential under K.S.A. 65-4925. Carried.

(Beezley/Counselman) Return to open session. Carried.

(Beezley/Webb) Approve Consent Order. Carried.

Cloyce W. Hamilton, III, R.T., Docket #13-HA00010 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Mr. Hamilton 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. Conley, Dr. Leinwetter, Dr. Minns and Ms. Hodgdon.

(Abay/Beezley) Go into closed session to discuss confidential matters under investigation pursuant to K.S.A. 65-2839a(d). Carried.

(Counselman/Webb) Return to open session. Carried.

(Counselman/Beezley) Ratify Consent Order. Carried.

Timothy Bolen, P.T. – Proposed Consent Order. Ms. Snead appeared for the Board. Mr. Bolen 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. Conley, Dr. Leinwetter, Dr. Minns and Ms. Hodgdon.

(Counselman/Abay) Go into closed session pursuant to K.S.A. 77-523(f) to discuss matters which are confidential under K.S.A. 65-4925. Carried.

(Beezley/Webb) Return to open session. Carried.

(Beezley/Webb) Approve Consent Order. Carried.

Dr. Webb was appointed to approve the record-keeping course, with a 60-day completion date.

VII. ADMINISTRATIVE PROCEEDING

JUSTIN R. WALTERS, D.C., DOCKET #12-HA00028 - Conference Hearing on Motion to Terminate Monitoring. Ms. Bryson appeared for the Board. Dr. Walters appeared via teleconference, *pro se*.

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

(Conley/Minns) Go into closed session pursuant to K.S.A. 77-523(f) to discuss matters which are confidential under K.S.A. 65-4925. Carried.

(Conley/Beezley) Return to open session. Carried.

(Conley/Minns) Terminate monitoring. Carried.

ROBERT J. NEU, D.C., DOCKET #09-HA00054 - Conference Hearing on Motion to Terminate Probation. Mr. Hays appeared for the Board. Dr. Neu 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. Beezley, Dr. Conley and Dr. Leinwetter.

Respondent's Exhibits A and B were admitted into the record.

(Minns/Webb) Go into closed session pursuant to K.S.A. 77-523(f) to discuss matters which are confidential under K.S.A. 65-4925. Carried.

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

(Counselman/Macias) Terminate probation. Carried.

RAJAT BARUA, M.D., DOCKET #13-HA00017 - Conference Hearing on Application for Licensure by Endorsement. Mr. Hays appeared for the Board. Dr. Barua appeared in person *pro se*.

(Minns/Counselman) Grant license by endorsement. Carried.

MAJD KOBITARY, M.D., DOCKET #13-HA00018 - Conference Hearing on Application for Licensure by Endorsement. Mr. Hays appeared for the Board. Dr. Kobitary appeared *pro se*, via teleconference.

(Conley/Abay and Minns) Grant license by endorsement. Carried.

MAHER KHAN, M.D., DOCKET #13-HA00019- Conference Hearing on Application for Licensure by Endorsement. Mr. Hays appeared for the Board. Dr. Khan appeared *pro se*, via teleconference.

(Minns/Durrett) Go into executive session pursuant to K.S.A. 75-4319(b)(2) for 5 minutes for the purpose of attorney-client consultation. Carried.

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

(Beezley/Conley) Grant license by endorsement. Motion withdrawn.

(Minns/Hodgdon) Deny licensure by endorsement. Carried.

(Minns/Durrett) Give Dr. Khan one week to withdraw his application. Carried with Ms. Hodgdon opposed.

SARAH TSAI, M.D., DOCKET #13-HA00021- Conference Hearing on Application for Licensure by Endorsement. Mr. Hays appeared for the Board. Ms. Tsai appeared in person pro se, via teleconference.

(Laha/Abay) Grant licensure by endorsement. Carried with Dr. Beezley and Mr. Macias opposed.

T. KEVIN KING, M.D., DOCKET #13-HA00022 - Conference Hearing on Application for Licensure. Mr. Hays appeared for the Board. Dr. King appeared in person *pro se*.

(Conley/Beezley) Grant licensure by endorsement. Carried.

VIII. SETTLEMENT AGREEMENTS

Todd Eck, D.C., Docket #12-HA00003 – Consent Order for Settlement. Ms. Bond appeared for the Board. Dr. Eck appeared in person with counsel, Ms. 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. Beezley, Dr. Leinwetter and Dr. Conley.

(Webb/Minns) Go into executive session pursuant to K.S.A. 75-4319(b)(2) for 5 minutes for the purpose of attorney-client consultation. Carried.

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

(Webb/Minns) Approve Consent Order. Carried.

IX. ADMINISTRATIVE PROCEEDINGS (cont'd.)

RICHARD PRESTON, M.D., DOCKET #13-HA00016 - Conference Hearing on Motion for Order Compelling Evaluation. Ms. Snead appeared for the Board. Dr. Preston 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. Conley, Dr. Leinwetter, Dr. Minns and Ms. Hodgdon.

(Webb/Beezley) Go into executive session pursuant to K.S.A. 75-4319(b)(2) for 15 minutes for the purpose of attorney-client consultation. Carried.

(Board Member/Board Member) Return to open session. Carried.

(Abay/Beezley) Compel Dr. Preston to take a neuro-psych evaluation within 10 days. Carried.

(Abay/Counselman) Give board attorney leave to file an emergency suspension. Carried.

JANA R. BRONFMAN, M.D., DOCKET #12-HA00077 - Conference Hearing on Petition for Discipline. Ms. Bryson appeared for the Board. Dr. Bronfman 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. Webb, Dr. Templeton, Dr. Soria and Mr. Settich.

(Conley/Beezley) Issue default order, make findings of fact and conclusions of law that are consistent with allegations in the petition, and revoke license. Carried.

NOTE: Dr. Beezley and Dr. Templeton left the meeting at this point.

X. STAFF REPORTS

Litigation Counsel:

Litigation Report

The Litigation statistical report for the period since the last board meeting was distributed. A copy is included in the folder containing hard-copy materials for the October 2012 board meeting.

Licensing Administrator:

Approval of Administrative Actions

(Conley/Minns) Approve administrative actions. Carried

Approval of Licensee/Registrant List

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

Minutes of Committee/Council Meetings

Minutes of all council meetings held since last board meeting were either included in the board packet or distributed at the meeting. There were no questions or discussion.

Licensing Report

Education committee will meet and work on a draft policy for addressing the issue of the Board's approval of the Licentiate of the Medical Council of Canada

(LCMM), which has been routinely accepted in Kansas as an approved licensing exam.

Disciplinary Counsel:

Disciplinary Report

The Disciplinary statistical report for the period since the last board meeting was distributed. A copy is included in the folder containing hard-copy materials for the October 2012 board meeting.

D.O. Review Committee Appointment

Dr. Durrett was recently appointed to the Board and will need to be replaced on the D.O. Review Committee. Recommendations were requested for this vacancy.

General Counsel:

General Counsel Report -

The board declined to make or entertain a motion regarding a request from Dr. Ronald Zoeller, D.C., for approval to apply for early reinstatement of his license.

Ms. Stevens advised the Board that someone does not have to ask the Board to quash or modify or limit a subpoena; they can take that request straight to District Court.

Ms. Stevens reviewed the status of all District Court, Supreme Court and Court of Appeals cases involving the Board.

XI. OTHER BUSINESS

Guidelines for State Employees Concerning Meals, Gifts, Entertainment and Travel - Carol Williams, Kansas Governmental Ethics Commission.

Ms. Williams gave her presentation to the Board and distributed a handout of guidelines.

Open Hearings/Open Meetings Act

Ms. Stevens gave a presentation to the Board regarding the open hearings/open meetings act and distributed a handout of guidelines

XII. ADMINISTRATIVE PROCEEDINGS (cont'd.)

PRAVIN G. SAMPAT, M.D., DOCKET #09-HA00049 - Conference Hearing on Motion for Temporary Relief from Payments. Ms. Snead appeared for the Board. Dr. Sampat appeared in person counsel, Mr. Richard Benson.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Conley, Dr. Beezley and Dr. Leinwetter. Dr. Welsh was also recused from the proceedings.

(Macias/Minns) Do not revoke license for non-payment of costs; deem costs satisfied. Carried.

PRAVIN G. SAMPAT, M.D., DOCKET #09-HA00049 - Conference Hearing on Motion to Modify License Limitations. Ms. Snead appeared for the Board. Dr. Sampat appeared in person with counsel, Ms. Elizabeth Herbert.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Conley, Dr. Beezley and Dr. Leinwetter. Dr. Welsh was also recused from the proceedings.

Licensee's Exhibit J was admitted into the record.

(Minns/Abay) Go into executive session pursuant to K.S.A. 75-4319(b)(2) for 15 minutes for the purpose of attorney-client consultation. Carried.

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

(Minns/Abay) Go into executive session pursuant to K.S.A. 75-4319(b)(2) for 10 minutes for the purpose of attorney-client consultation. Carried.

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

(Minns/Hodgdon) Deny motion for modification. Carried.

HAMPTON ANDERSON, D.O., DOCKET #11-HA00010 - Conference Hearing on Petition for Discipline. Ms. Snead appeared for the Board. Dr. Anderson appeared in person with counsel, Mr. Mike Francis.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Webb, Dr. Soria and Dr. Templeton. Ms. Stevens and Dr. Durrett also recused themselves from the proceedings. Ms. Selzler Lippert served as special general counsel.

Licensee's Exhibits #1-3 were admitted into the record.

(Conley/Minns) Go into closed session pursuant to K.S.A. 77-523(f) to discuss matters which are confidential under K.S.A. 65-4915. Carried.

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

(Conley/Hodgdon) Revoke license. Carried.

RICHARD PRESTON, M.D., DOCKET #13-HA00016 - Conference Hearing on Ex Parte Motion for Emergency Suspension. Ms. Snead appeared for the Board. Dr. Preston 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. Conley, Dr. Leinwetter, Dr. Minns and Ms. Hodgdon. Mr. Settich presided.

(Hodgdon/Abay) Go into closed session pursuant to K.S.A. 77-523(f) to discuss matters which are confidential under K.S.A. 65-4925. Carried.

(Abay/Hodgdon) Return to open session. Carried.

(Counselman/Abay) Issue order of ex parte emergency suspension, to be signed by Mr. Settich. Carried.

XIII. OTHER BUSINESS (cont'd.)

Use of Ultrasound and Lasers for Fat Reduction – When Are These Modalities the Practice of Medicine

John Keifhaber, Executive Director, Kansas Chiropractic Association stated that they would like some time to compile and present information to the Board regarding this topic. The Board also received written comments from a past board member, Dr. Mark McCune. A subcommittee consisting of Dr. Leinwetter, Dr. Abay, Dr. Templeton, Dr. Counselman and Mr. Macias was appointed to further discuss and review this issue.

XIV. STAFF REPORTS

Executive Director:

Budget Update

A budget summary was provided in the electronic packet of materials sent to the board for review, prior to the board meeting.

Impaired Provider Program (IPP) Reports

Quarterly IPP reports provided since the last board meeting were included in the electronic packet of materials sent to the board for review, prior to the board meeting.

Actions Taken Since Last Board Meeting

A summary of actions taken was provided in the electronic packet of materials sent to the board for review, prior to the board meeting.

Legislative Post Audit Reports

Ms. Selzler Lippert will bring a report to the December board meeting that covers the topics: what do we do, what do we do well, and have we done what we said we would do following the last audit. Staff has also formed a “Metrics Committee” to develop a system that will provide better and broader statistical reports.

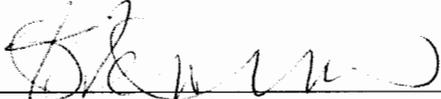
Misc. Items/Information for the Board

Ms. Selzler Lippert will be providing detailed information on costs and fines at the December board meeting.

XV. ADJOURNMENT

(Conley/Abay) This meeting is adjourned. Carried.

The meeting adjourned at 3:40 p.m.



Kimberly Templeton, M.D.
President


Kathleen Selzler Lippert
Executive Director