

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

BOARD MINUTES – October 8, 2021

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, Date

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 and via virtual meeting on Friday October 8, 2021. The meeting was called to order at 8:30 a.m. by Thomas Estep, M.D., President.

Abebe Abebe, M.D.	present	
Mark Balderston, D.C.	present	
Molly Black, M.D.	present	
Richard Bradbury, D.P.M.	present	
Jerry DeGrado, D.C.	present	
Robin Durrett, D.O.	present	
Thomas Estep, M.D.	present	
Steven Gould, D.C.		absent
Camille Heeb, M.D.	present	
Steve Kelly, PhD, public member		absent
Jennifer Koontz, M.D.	present	
John Settich, PhD public member	present	
Stephanie Suber, D.O.	present	
Ronald Varner, D.O.	present	
Sherri Wattenbarger, public member	present	

Staff members present were Susan Gile, Interim Executive Director and Operations Manager; Courtney Cyzman, General Counsel; Warran Wiebe, Deputy General Counsel; Steven Lehwald, Assistant General Counsel; Nancy Dodik, Disciplinary Counsel; Todd Hiatt, Litigation Counsel; Matthew Gaus, Associate Litigation Counsel; Ruslan Ivanov, Associate Litigation Counsel; Lydia Hornbaker, Associate Litigation Counsel; Katie Baylie, Deputy Disciplinary Counsel; Rebekah Moon Licensing Administrator; John McMaster, M.D., Medical Director; Kathy Moen, Medical Litigation Support Specialist; Jennifer Cook, Paralegal to General Counsel; and LeeAnn Hunter-Roach, Legal Assistant to General Counsel.

APPROVAL OF AGENDA

(Varner, DeGrado) Motion to approve agenda with no changes. Carried.

APPROVAL OF 8/13/2021 BOARD MEETING MINUTES

(Varner, Suber) Motion to approve minutes of August 13, 2021, with no changes. Carried.

APPROVAL OF 8/30/2021 SPECIAL BOARD MEETING MINUTES

(Varner, Black) Motion to approve minutes of August 30, 2021, with no changes. Carried.

II. OTHER BUSINESS

New Staff Introductions

By Susan Gile, Interim Executive Director: Jennifer Johnson. Jennifer is an RN and is joining the Disciplinary Department. Terrin Pittz is joining the agency as a Licensing Analyst and has experience working with at-risk kids in Topeka Public Schools. James McSweyn is returning to the Litigation Department as Law Clerk and will work on legal research and special projects. Lydia Hornbaker, J.D. is joining the Litigation Department as Associate Litigation Attorney and is a recent graduate of Washburn University School of Law. Colleen Krallman has accepted a new position in the Licensing Department as a Licensing Specialist.

III. STAFF REPORTS

Executive Director:

Report and Updates on Agency by Susan Gile, Interim Executive Director

Presentation to Dr. Settich for work as immediate Past President. The December Board meeting will be 1.5 days commencing on 12/9 with a staff luncheon around noon. The ED Memo prepared by Tucker Poling is reviewed. Comments made regarding Review Committee positive feedback regarding investigators. COVID update – employees still working remotely effectively. Tucker Poling’s last day as Executive Director was September 30th. HB 2066 processes being implemented by the Licensing Department. Board’s budget was submitted on September 15, 2021 and is waiting on Division of Budget. No questions.

General Counsel:

General Counsel Report by Courtney Cyzman

Education and Outreach.

Meeting with Board of Pharmacy to coordinate a CME regarding Category III CME hours to occur hopefully by end of year.

Appellate Case Updates.

Shine v. KSBHA. Petition for Review motion by Dr. Shine to the Kansas Supreme Court was denied. Court of Appeals decision stands. Mandate has been issued and this case has been concluded in the Board's favor.

Sajadi v. KSBHA. Court of Appeals issued a published opinion. Dr. Sajadi has 30 days to file a Petition for Review. Court of Appeals reinstated limitations on Dr. Sajadi's license.

Trust Women v. Bennet et al. Oral argument was held September 9, 2021.

KSBHA v. Parcels. We are waiting for the Court of Appeals to issue a decision or to set the matter for oral argument.

There were no questions or discussion.

Physician Wellness

KUMC credentialing impairment question. To the Board's knowledge, KU is first hospital in Kansas to change credentialing question (following Board's example). Dr. Templeton provided comments. There is interest by the Joint Commission on this issue. September 17, 2021 was National Physician Suicide Awareness Day. Board sent our physician letter to Licensees regarding awareness and resources. Dr. Templeton provided comments.

No questions regarding GC Memo.

Initial Discussion regarding PHP/IPPs and KSBHA working group

The agency would like to develop working group with Board PHPs to discuss relevant policy issues. We anticipate quarterly meetings. HAPN and KAOM have indicated they are on board but have we not heard back from KMS. Dr. Templeton provided comments. The agency needs Board direction. Straw vote – no objection to proceeding.

Consider Final adoption of permanent regulation K.A.R. 100-6-7.

A temporary regulation is currently in place covering application requirements regarding HB 2066. Motion to approve. (Varner, Balderston). Roll call vote - adopted.

Initial approval for continuing education amendment for K.A.R. 100-29-9

The Board approved a draft last meeting. Went to PT Council and they requested change in CME hours requirements of maximum online allowed set at 10 hours. Now back to Board for reapproval. No questions.

(Varner, Wattenbarger) Motion to approve. Carried. General Counsel will start through regulation process.

Appoint IMLC Commissioner. Position was held by Tucker Poling. Durrett gives general information regarding position and quarterly meetings. Gile agrees to accept. (Balderston, Varner, carried).

Appoint PT Compact Commissioner. Position was held by Tucker Poling. Gile agrees to accept. Motion to approve. (Varner, Durrett, carried).

Appoint CNM-I Council member. Dr. Settich currently fills as Board President. Settich will continue. (Varner, Black, carried).

Consideration of AAP for NPTE. Information by Steven Lehwald regarding Alternative Approval Pathway. FSBPT fields accommodation requests. Cuts turnaround time with no cost to Board. Benefit to Licensing Department. Board still pays for accommodations.

(Wattenbarger, Balderston) Motion to accept. Carried.

Licensing Administrator Report by Rebekah Moon:

Approval of Licensee/Registrant List

(Varner, Durrett) Approve licensee/registrant list. Carried.

Licensing Report

The statistical report for the Licensing Department was included in the Board's packet of materials, for their review. Processing is taking 5-7 business days and reviews are taking 7-10 business days. New analysts have joined team and Colleen Krallman has accepted new position in department. There were no questions or discussion.

Disciplinary Counsel Report by Nancy Dodik:

Disciplinary Report

The statistical report for the Disciplinary Department was included in the Board's packet of materials, for their review. Jennifer Johnson has joined department as new investigator and another investigator will be starting in a few weeks. No questions.

Litigation Counsel Report by Todd Hiatt:

Litigation Report

The statistical report for the Litigation Department was included in the Board's packet of materials, for their review. HCSF audit cases are done. Next big project is backlog of cases that are over 2 years old. There were no questions or discussion.

Question from Dodik regarding need for M.D./general surgeon for review committee.

Recess until 10:00 a.m.

IV. ADMINISTRATIVE PROCEEDINGS

(Varner, Bradbury) Recess open meeting and go into closed meeting to conduct administrative proceedings under the Kansas Administrative Procedures Act. Carried.

Reggie Voboril, M.D., Docket #17-HA00003– Conference Hearing on Motion to Terminate.

Mr. Matthew Gaus appeared for the Board. Dr. Voboril appeared in person via teleconference, *pro se*.

Recusals: None.

(Varner, Abebe) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under K.S.A. 65-4925. Carried.

(Durrett/Varner) Return to open hearing. Carried.

(Durrett, Varner) Motion to Terminate Consent Order. Carried.

Mihaela Onciu, M.D., Docket #21-HA00087– Conference Hearing on Petition for Reconsideration.

Mr. Matthew Gaus appeared for the Board. Dr. Onciu appeared in person via teleconference, with counsel Ms. Anne M. Kindling.

Recusals: None.

(Durrett, Wattenbarger) Motion to recess into executive session for Attorney Client Consultation. Carried.

(Varner/Suber) Return to open hearing. Carried.

(Varner, Durrett) Motion to go back into closed hearing under K.S.A. 65-2838a. Carried.

(Balderston, Varner) Return to open hearing. Carried. Motion Granted – Final Order Vacated.

Anthony Savo, M.D., Docket #21-HA00086– Conference Hearing on Petition for Reconsideration.

Mr. Matthew Gaus appeared for the Board. Dr. Savo appeared in person via teleconference, with counsel Ms. Anne M. Kindling.

Recusals: None.

(Durrett, Wattenbarger) Motion to recess into executive session for Attorney Client Consultation. Carried.

(Varner, Wattenbarger) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under K.S.A. 65-2838a. Carried.

(Varner, Bradbury) Return to open hearing. Carried. Motion Granted – Final Order Vacated.

Matthew Holtman, P.T.A., Docket #22-HA00010– Conference Hearing on Application.

Mr. Matthew Gaus appeared for the Board. Mr. Holtman appeared in person via teleconference, *pro se*.

Recusals: Dr. Black, Dr. Durrett, Dr. Gould and Dr. Kelly.

(Varner, Wattenbarger) Motion to recess into executive session for Attorney Client Consultation. Carried.

(Varner/Wattenbarger) Return to open hearing. Application granted. Carried.

Marianna Sandomirsky, M.D., Docket #21-HA00012– Conference Hearing on Summary Order.

Mr. Matthew Gaus appeared for the Board. Dr. Sandomirsky appeared in person via teleconference, *pro se*.

Recusals: None.

(Varner, Wattenbarger) Motion to recess into executive session for Attorney Client Consultation. Carried.

(Varner, Balderston) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under K.S.A. 65-2838a. Carried.

(Varner, Bradbury) Return to open hearing. Summary Order dismissed. Carried.

Recess: 11:11 – 11:15 a.m.

Vandana Sharma, P.T.A., Docket #22-HA00004– Conference Hearing on Application.

Mr. Matthew Gaus appeared for the Board. Ms. Sharma appeared in person via teleconference, *pro se*.

Recusals: None.

(Varner, Durrett) Motion to recess into executive session for Attorney Client Consultation. Carried.

(Varner, Balderston) Return to open hearing. Applicant is to complete education in the four areas identified as deficiencies and then can be licensed with monitoring for at least 6 months. Final Order will be issued within 30 days. Carried.

Kristen Giefer, D.O., Docket #22-HA00011– Conference Hearing on Application.

Mr. Matthew Gaus appeared for the Board. Dr. Giefer appeared in person via teleconference, *pro se*.

Recusals: Dr. Black, Dr. Durrett, Dr. Gould, Dr. Kelly.

(Balderston, Suber) Motion to recess into executive session for Attorney Client Consultation. Carried.

(Balderston, Bradbury) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under K.S.A. 65-4925. Carried.

(Balderston, Wattenbarger) Motion to grant license. Straw poll. Unanimous.

(Bradbury, Varner) Return to open hearing. Carried.

Motion to grant license. Straw poll. Unanimous. Carried.

(Varner, Balderston). Motion to return to open meeting for special discussion. Carried.

(Varner, Degrado) Motion to recess for Executive meeting regarding non-elected personnel matters pursuant to K.S.A. 75-4319(b)(1). Open Board meeting to resume in 15 minutes. Carried.

(Wattenbarger, Bradbury) Motion to approve additional agenda item regarding standing orders with remaining HCSF audit cases. Carried.

General discussion regarding standing orders moving forward to stop processing applicants marking “no” to HCSF question until they become compliant on renewals. Would like Fund representative to come to Board meeting to discuss further and coordinate efforts.

(Balderston, Varner) Motion to proceed with remaining HCSF cases with letter of concern/issue license if (1) now compliant, (2) truthful on application; (3) have backdated payment to extent possible and (4) no Kansas patients. Carried.

Recess until 12:45 p.m.

(Varner, Wattenbarger) Motion to recess Board meeting back to administrative proceedings under the Kansas Administrative Procedure Act. Carried.

V. CONSENT ORDERS

Travis S. Riffel, P.T.A., DOCKET #22-HA00016– Review of Proposed Consent Order.

Mr. Matthew Gaus appeared for the Board. Mr. Riffel appeared in person via teleconference, *pro se*.

Recusals: Steven Lehwald

(Varner, Bradbury) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under K.S.A. 65-2839a(d).
Carried

(Wattenbarger, Settich) Motion to approve Consent Order. Carried.

(Wattenbarger/Settich) Return to open hearing. Carried.

William J. Braun, M.D., DOCKET #22-HA00014– Review of Proposed Consent Order.

Mr. Matthew Gaus appeared for the Board. Dr. Braun appeared in person via teleconference, *pro se*.

Recusals:

(Varner, Heeb) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under K.S.A. 65-2839a(d).
Carried

(Varner, Heeb) Motion to recess into executive session for Attorney Client Consultation. Carried.

(Varner, Durrett) Motion to go into open hearing. Carried.

(Wattenbarger, Balderston) Motion to approve Consent Order. Carried.

Everette T. Sitzman, Jr., M.D., DOCKET #22-HA00015– Review of Proposed Consent Order.

Mr. Ruslan Ivanov appeared for the Board. Dr. Sitzman appeared in person via teleconference, *pro se*.

Recusals: Steven Lehwald

(Balderston, Varner) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under K.S.A. 65-2839a(d).
Carried

(Varner, Heeb) Motion to open hearing. Carried.

(Varner, Balderston) Motion to approve Consent Order. Carried.

(Varner, Bradbury) Motion to return to open meeting. Carried.

VI. ADJOURNMENT

(DeGrado, Wattenbarger) Motion to adjourn meeting. Carried.

The meeting adjourned at 1:32 p.m.



Thomas Estep, M.D.
President



Susan Gile
Interim Executive Director