

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

**BOARD MINUTES – Friday, December 11, 2020**

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, December 11, 2020**

**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 December 11, 2020. The meeting was called to order at 8:30 a.m. by John Settich, Ph.D. and President.

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.	present
Camille Heeb, M.D.	present
Steve Kelly, PhD, public member	present
Jennifer Koontz, M.D.	present
John Settich, PhD public member	present
Stephanie Suber, D.O.	present
Kimberly Templeton, M.D.	present
Ronald Varner, D.O.	present
Sherri Wattenbarger, public member	present

Staff members present were Tucker Poling, Acting Executive Director; Courtney Cyzman, General Counsel; Warran Wiebe, Deputy General Counsel; Nancy Dodik, Disciplinary Counsel; Todd Hiatt, Litigation Counsel; Tammy Mundil, Deputy Litigation Counsel; Matthew Gaus, Steven Lehwald, and John Kitchens, Associate Litigation Counsel; Rebekah Moon Licensing Administrator; John McMaster, M.D., Medical Director; Jennifer Cook, Paralegal to General Counsel; and Susan Gile, Operations Manager.

## **APPROVAL OF AGENDA**

(Estep/Varner) Motion to approve agenda.  
Carried.

## **APPROVAL OF BOARD MEETING MINUTES**

(Durrett/Estep) Motion to approve minutes of October 9, 2020.  
Carried.

## **II. OTHER BUSINESS**

### **New Staff Introductions**

New Board member, Dr. Bradbury was introduced. New staff member, Melissa Ohmie was introduced. Announced promotion of Judy Nichols. Acting Executive Director announced the promotion of Courtney Cyzman to General Counsel and Warran Wiebe to Deputy General Counsel.

### **Agency Update**

#### **Outreach Committee**

Outreach continues to go well. There is a new Education and Outreach page on the website. Education and Outreach members continue to meet with stakeholders proactively. Acting Executive Director Poling and Courtney Cyzman met with Community Care Network of Kansas recently. Before the end of the year, there are two virtual presentations planned; one focuses on the year in review and the other on recent and upcoming issues in healthcare professional licensing law and legislation.

Healthcare Professional Wellness - There was an initial meeting in October with KSBHA (Acting Executive Director Poling, Courtney Cyzman, and Dr. Templeton), KMS, KAOM, KCA, and KHA to discuss a strategic plan for professional wellness. A similar letter to the one sent to physicians on National Suicide Awareness Day will be going out to other healthcare professions near the time of their renewal. Several professions have already received it. The Board recently made changes to the application, specifically the peer recommendation forms, to attempt to reduce stigma related to seeking treatment. The changes are in line with recommendations from FSMB. A question arose as to the Board's responsibility to notify law enforcement if a licensee discloses behavior which is criminal.

#### **Sexual Misconduct Case Workgroup**

The Board put together a group to address how the agency handles sexual Misconduct cases. The group is comprised of Dr. Templeton, Dr. Black, Dr. Balderston, and ED Poling. Part of what the agency is focusing on is addressing that sexual misconduct is not limited to patients but can occur in the workplace with peers, medical students, or other subordinate staff. These investigations need to be handled in a unique manner. The agency recognizes these cases are typically under-reported. The agency may need to identify and cultivate ways to report

which are outside the normal chain of command. We need to work with other stakeholders so that the institutions are accountable if reported incidents are not addressed at the institutional level. North Carolina published a document titled “What to Expect from a Physical Exam”. This may be something the Board wants to consider moving forward.

### **Appoint new DP members**

Dr. Gould, D.C., Dr. Kelly, public member, Dr. Durrett, D.O., Dr. Black, M.D., with backups of Dr. Varner, D.O. and Dr. Templeton, M.D. were appointed to DP #36.

### **COVID update**

Agency staff continue to work primarily remotely. We continue to have good protocols in place, quarantine those exposed, and do internal contact tracing to quarantine those in contact with exposed or infected staff.

### **Physical Therapy Compact**

Acting Executive Director Poling and Courtney Cyzman had an opportunity to meet with the Kansas Physical Therapy Association (“KPTA”) in November, and KPTA advised they intend to reintroduce the PT Compact into legislation during the 2021 legislative cycle. KPTA was interested in input from the PT Council and the Board. The key issue last time it was introduced was that statutorily, Kansas requires PTs to carry professional liability insurance, and it was unclear how the proposed PT compact legislation would allow for Kansas to include that requirement to PTs who would receive a privilege to practice in Kansas through the compact.

Mitch DePriest, a KPTA lobbyist presented to the Board. He states PTs are overwhelmingly safe nationally. Since 2013 there have only been 14 claims made. Only two states do not allow for direct access to a PT. Provided a map noting states which have adopted the compact.

Jennifer Caswell, APTA states functionally, PTs must have professional liability insurance to bill so nearly all or most nationally carry it regardless of a statutory requirement. She also stated PTs are becoming more mobile and it is a draw to students to have licensure transportability.

### III. ADMINISTRATIVE PROCEEDINGS

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

**Nura Yasin, M.D., Docket #21-HA00026**

**Conference Hearing on Application for Reinstatement.** Mr. John Kitchens appeared for the Board. Dr. Yasin appeared via video conference, *pro se*.

(Balderston/Durrett) Motion to recess into closed session for Attorney Client Consultation. Carried.

(Balderston/Suber) Return to Administrative hearing. Carried.

Dr. Yasin withdraws her Application for Reinstatement.

**Chad Sharp, M.D., Docket #19-HA00017**

**Conference Hearing on Motion to Terminate Limitations and Conditions.** Mr. Matthew Gaus appeared for the Board. Dr. Sharp appeared via video conference, *pro se*.

(Varner/Durrett) 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.

(Templeton/Durrett) Motion to recess into closed session for Attorney Client Consultation. Carried.

(Estep/Varner) Return to Administrative hearing. Carried.

Continued to February Board meeting.

**David B. Jones, M.D., Docket #19-HA00028**

**Conference Hearing on Motion to Terminate Consent Order.** Mr. Matthew Gaus appeared for the Board. Dr. Jones appeared via video conference, with counsel Anne Kindling.

(Estep/Black) Motion to recess into closed session for Attorney Client Consultation. Carried.

(Gould/Varner) Return to Administrative hearing. Carried.

Terminate Consent Order.

**Adrianna Kelmendi, M.D., Docket #21-HA00011**

**Conference Hearing on Petition for Reconsideration of Final Order.** Mr.

Matthew Gaus appeared for the Board. Dr. Kelmendi appeared via video conference, with counsel Mark Stafford.

(Durrett/Estep) Motion to recess into closed session for Attorney Client Consultation. Carried.

(Estep/Varner) Return to Administrative hearing. Carried.

(Varner/Templeton) Motion to recess into closed session for Attorney Client consultation. Carried.

(Balderston/Estep) Return to Administrative hearing. Carried.

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Grant Petition for Reconsideration. and Vacate the Final Order.

**Brian Lahey, M.D., Docket #19-HA00005**

**Conference Hearing on Motion to Modify First Amended Consent Order.** Mr.

Todd Hiatt appeared for the Board. Dr. Lahey appeared via video conference, with counsel Diane Bellquist.

(Templeton/Varner) Motion to recess into closed session for Attorney Client Consultation. Carried.

(Estep/Varner) Return to administrative hearing. Carried.

(Wattenbarger/Templeton) Motion to deny the Motion to Modify First Amended Consent Order. Carried.

**Open meeting is called back to order.**

**Review K.A.R. 100-6-4**

Would like the board to consider deleting paragraph 5 of this regulation.

(DeGrado/Gould) Motion for staff to delete K.A.R. 100-6-4 subpart 5. Carried.

**Policy Discussion**

KSBHA Board Policy #21-03 – Postgraduate training accreditations that are substantially equivalent to ACGME for medicine and surgery licensure in Kansas. This policy was drafted by ad hoc policy work group addressing the issue ACGME substantial equivalence. The Board recently determined the Royal College of Physicians and Surgeons in Canada is substantially equivalent which is reflected in this policy. Also, it provides general guidance to applicants who appear before the Board and desire any other non-ACGME accreditation program to be deemed substantially equivalent.

(Estep/Durrett) Motion to approve KSBHA Board Policy #21-03. Carried.  
KSBHA Board Policy #21-04 – Examinations which are the substantial equivalent to USMLE or COMLEX-USA  
This policy was also developed by the same ad hoc policy workgroup. The policy reflects the Board’s determination of examinations that are substantially equivalent to the USMLE or COMLEX-USA at the time the examination was completed.

(Durrett/Varner) Motion to approve KSBHE Board Policy #21-04. Carried.

KSBHA Board Policy #98-01 (Funeral Leave), #10-01 (10 year USMLE Completion rule), and #97-01 (Federation Credentials Verification Services) are before the Board for archiving.

(Varner/Estep) Motion to archive KSBHA Board Policy #98-01, #10-01, and #97-01. Carried.

#### **KSBHA appointment to Child Death Review Board**

The Board was provided information about Dr. Christine James, D.O. willingness to serve on the SCDRB.

(Varner/Black) Motion to appoint Dr. Christine James, D.O. to the SCDRB. Carried.

#### **IV. STAFF REPORTS**

##### **Licensing Administrator:**

##### **Approval of Licensee/Registrant List**

(Varner/Black) 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.

Extensions of renewal dates are still in effect. The department is maintaining processing timelines of seven business days or less. After the beginning of the year, renewal notices will be sent via email versus postal mail.

Rebekah provided an overview including positive changes within the past year of the Licensing Department.

## **PT Application Review**

Steven Resch, an applicant for PT licensure in Kansas has been a PT in MO for many years. His application went to the PT Council who recommends to the board he be licensed with no additional requirements.  
(Templeton/Varner) Motion to grant the license. Carried.

## **Review FSBPT Jurisprudence Assessment Module (JAM) Exam**

The Board contracted with the FSBPT in 2001 to create the Kansas PT exam, which is the national PT exam. Now, under K.A.R. 200-29,9, the jurisprudence exam must be completed by PT's during each two-year PT continuing education cycle. For administration and implementation, Exhibit C is attached to the FSBPT contract for the Board's consideration.

(Koontz/Varner) Motion to approve the contract with FSBPT for administration and implementation of the jurisprudence exam. Carried.

## **Disciplinary Counsel:**

### **Disciplinary Report**

The statistical report for the Disciplinary Department was included in the Board's packet of materials for their review.

Over half of the cases closed have been closed within 60 days of being assigned. The number of investigations open stays consistent. The department will be having designated investigators attend specialized sexual misconduct training so they will be trauma informed and be better equipped to handle the unique and sensitive nature of sexual misconduct investigations.

### **Review Committee Appointment**

The Disciplinary Department needs two additional MDs on review committees. The first for consideration of appointment is Dr. Dereck Totten from Colby, Kansas. He works in rural family medicine and has broad experience.

(Durrett/Estep) Motion to appoint Dr. Totten. Carried.

The second is Dr. Blake Phipps. He completed a fellowship in maternal and child health and has experience at the VA Medical Center.

(Black/Durrett) Motion to appoint Dr. Phipps. Carried.

## **Litigation Counsel:**

### **Litigation Report**

The statistical report for the Litigation Department was included in the Board's packet of materials for their review. The department has been working on the

audit cases and they are moving forward. The goal is to have these cases completed in the Spring.

**V. ADJOURNMENT**

(Estep/Varner) Motion to adjourn meeting. Carried.

The meeting adjourned at 3:10 p.m.



John Settich, Ph.D.  
President



Tucker Poling  
Acting Executive Director