

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

**BOARD MINUTES – Friday
December 13, 2013**

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 13, 2013

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, December 13, 2013. The meeting was called to order at 8:30 a.m. by John Settich, PhD and President.

Eustaquio Abay, M.D. -	absent, resigned on 12/4/13
Michael Beezley, M.D. -	present, 9:45 a.m. to 12:30 p.m.
Ray Conley, D.C. -	present
Gary Counselman, D.C. -	present
Robin Durrett, D.O.	present
Anne Hodgdon, public member -	absent
David Laha, DPM -	present
M. Myron Leinwetter, D.O.	present
Rick Macias, public member -	absent
Garold O. Minns, M.D. -	present
John Settich, public member -	present
Kimberly Templeton, M.D.	absent
Terry L. Webb, D.C.	present
Joel Hutchins, M.D. -	present

Staff members present were Kathleen Selzler Lippert, Executive Director; Kelli Stevens, General Counsel; Reese Hays, Litigation Counsel; Jessica Bryson, Stacy Bond, Seth Brackman, Jane Weiler, Susan Gering and Anne Barker Hall, Associate Litigation Counsel; Kathy Moen, Medical Litigation Support Specialist; Dan Riley, Disciplinary Counsel; Joshana Offenbach, Associate Disciplinary Counsel; Katy Lenahan, Licensing Administrator; 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.

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

II. APPROVAL OF AGENDA

(Conley/Webb) Approve agenda with the following changes:

Additions: Delegation of Authority-Endorsement Applications to Executive Director Staff Report; Presentation on Manipulation Under Anesthesia to 1:00 timeslot; Report on Staffing Changes

Deletions: Rubinstein, Lakin, Stucky and Jones Administrative Hearings Carried.

APPROVAL OF BOARD MEETING MINUTES

(Conley/Minns) Approve minutes of October 11, 2013 regular meeting. Carried.

III. OTHER BUSINESS

Staffing Changes

Ms. Ann Halferty, Assistant General Counsel has left the agency and Ms. Stacy Bond, an Associate Litigation Counsel, has been hired as our new Assistant General Counsel starting December 16, 2013.. Anne Barker Hall has been hired to fill the vacant Associate Litigation Counsel position.

General Counsel Review – Executive Session

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

IV. SETTLEMENT AGREEMENT

Thomas John Hegarty, M.D., Docket #14-HA00047 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Dr. Hegarty appeared in person *pro se*.

(Minns/Conley) 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.

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

(Conley/Minns) Ratify Consent Order. Carried.

Tanika Valentine, LRT, Docket #14-HA00058 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Ms. Valentine appeared in person *pro se*.

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

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

(Minns/Beezley) Return to open session. Closed.

(Conley/Minns) Approve licensee's motion to withdraw his request for ratification of the consent order. Continue this matter to February, in order to negotiate a new consent order. Carried.

Jerry Pomeroy, PT. – Consideration of Proposed Consent Order. Mr. Hays appeared for the Board. Mr. Pomeroy appeared via teleconference and his counsel, Mr. Mark Stafford, appeared in person.

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

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

(Conley/Minns) Approve Consent Order. Carried.

Danilo A. Dalan, M.D., Docket #13-HA00109 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Dr. Dalan appeared in person *pro se*.

(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/Minns) Return to open session. Carried.

(Conley/Minns) Ratify the Consent Order. Carried.

Daniel M. Kihiu, O.T., Docket #14-HA00053 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Mr. Kihiu appeared in person *pro se*.

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

(Conley/Minns) Ratify the Consent Order. Carried.

Daniel Bortnick, M.D., Docket #13-HA00065 – Review of Proposed Consent Order. Ms. Bond appeared for the Board. Dr. Bortnick and his counsel, Mr. Jonathan Bortnick, appeared via teleconference.

(Minns/Conley) Ratify the Consent Order. Carried.

Brooke Eckmann, PTA, Docket #14-HA00060 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Ms. Eckmann appeared *pro se*, via teleconference.

(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/Minns) Return to open session. Carried.

(Conley/Webb) Ratify the Consent Order. Carried.

Amelia Rodrock, D.C., Docket #14-HA00048 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Dr. Rodrock appeared in person *pro se*.

NOTE: Dr. Beezley joined the meeting at this point, at 9:45 a.m.

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

(Conley/Minns) Ratify the Consent Order. Carried with Dr. Leinwetter opposed.

Brittany Lynn, PTA, Docket #14-HA00059 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Ms. Lynn appeared in person *pro se*.

(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.

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

(Conley/Minns) Ratify the Consent Order. Carried.

V. ADMINISTRATIVE PROCEEDING

LESLIE A. WATKINS, D.C., DOCKET #12-HA00080 - Conference Hearing on Motion to Terminate Consent Order. Ms. Weiler appeared for the Board. Dr. Watkins 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. Webb and Dr. Templeton.

Board Exhibit A was admitted into the record.

(Conley/Minns) Terminate monitoring. Carried.

DONALD CASEBOLT, M.D., DOCKET #14-HA00061 - Conference Hearing on Application for Reinstatement of Licensure. Ms. Bryson appeared for the Board. Dr. Casebolt 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. Abay, Dr. Counselman, Dr. Durrett, Dr. Laha and Mr. Macias.

(Conley/Minns) Dr. found in default. Deny application for reinstatement. Carried.

FAITH PETERMAN, D.C., DOCKET #13-HA00013 - Conference Hearing on Request for Termination of Consent Order. Ms. Weiler appeared for the Board. Dr. Peterman appeared via teleconference.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Minns, Dr. Leinwetter, Dr. Conley and Ms. Hodgdon.

Board Exhibit A was admitted into the record.

Pursuant to K.S.A. 77-514(g), the Board designated Board members Mr. Settich, and Drs. Hutchins, Laha, Webb, Beezley, Counselman and Durrett as presiding officers to render a final order in this proceeding.

(Counselman/Durrett) Terminate the Consent Order. Carried.

MELISSA A. CUTBURTH, D.C., DOCKET #14-HA00057 - Conference Hearing on Application for Licensure. Ms. Bryson appeared for the Board. Dr. Cutburth appeared in person with counsel, Mr. Brian Wright.

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

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

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

(Webb/Minns) Continue this matter to the February board meeting for hearing or settlement. If the matter is settled, information on how the doctor's services were billed is to be provided. Carried.

RICHARD BONO, JR, M.D., DOCKET #12-HA00060 - Conference Hearing on Request to Terminate Monitoring. Ms. Weiler appeared for the Board. Dr. Bono 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. Templeton, Dr. Webb, Mr. Settich. Dr. Leinwetter presided.

Board exhibits A and B were admitted into the record.

(Counselman/Durrett) Terminate monitoring. Carried.

NASEH NAWABI, M.D., DOCKET #14-HA00062 - Conference Hearing on Application for Licensure. Ms. Bryson appeared for the Board. Dr. Nawabi 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. Abay, Dr. Counselman, Dr. Durett, Dr. Laha and Mr. Macias.

(Conley/Webb) Dr. found in default. Application for licensure denied. Carried.

SERGEY SHUSHUNOV, M.D., DOCKET #14-HA00037 - Conference Hearing on Petition for Discipline. Ms. Gering appeared for the Board. Dr. Shushunov appeared in person with counsel, Ms. Danielle Sanger.

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

Pursuant to K.S.A. 77-514(g), the Board designated Board members Mr. Settich, and Drs. Leinwetter, Hutchins, Conley, Webb, Beezley, and Minns as presiding officers to render a final order in this proceeding.

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

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

Licensee's Exhibits #1-4, 7-14, and #16 were admitted into the record. There was an objection by board counsel to Licensee admitting Exhibit #5. Objection was overruled.

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

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

(Hutchins/Conley) Revoke license. Carried.

SHARON MITCHELL, M.D., DOCKET #10-HA00050 - Conference Hearing on Request to Terminate Consent Order. Ms. Weiler appeared for the Board. Dr. Mitchell 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. Counselman and Dr. Templeton. Ms. Stevens and Ms. Selzler Lippert also recused themselves from the proceedings and Mr. Riley served as Special General Counsel.

Licensee's Exhibit #1 was admitted into the record.

(Beezley/Webb) Terminate the Consent Order. Carried.

NOTE: Dr. Beezley left the meeting at this point, at 12:30 p.m.

VI. OTHER BUSINESS

CPEP Summary Review

Dr. Durrett presented a review of his visit to CPEP for their annual Learning Summit. Ms. Hodgdon was absent for the meeting but provided a written review of her visit, and it was distributed to the Board.

Chiropractic Manipulation Under Anesthesia

Ms. Stevens presented information on this topic and discussion followed.

VII. ADMINISTRATIVE PROCEEDINGS (continued)

SALVADOR VALLDEPERAS, M.D., DOCKET #12-HA00015 - Conference Hearing on Request to Terminate Consent Order. Ms. Weiler appeared for the Board. Dr. Valldeperas 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. Templeton and Dr. Webb.

(Minns/Counselman) Terminate Consent Order. Carried.

BRIAN SCOTT SIMPSON, P.T., DOCKET #08-HA00070 - Conference Hearing on Request to Terminate Probation. Ms. Weiler appeared for the Board. Mr. Simpson 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. Counselman, Dr. Beezley, Dr. Minns, Dr. Leinwetter, Dr. Conley and Ms. Hodgdon. Ms. Stevens and Ms. Selzler Lippert also recused themselves from the proceedings and Mr. Riley served as Special General Counsel.

(Conley/Hutchins) Pursuant to K.S.A. 77-514(g), designate board members Mr. Settich and Drs. Hutchins, Laha, Webb and Durrett as presiding officers to render a final order in this proceeding.

(Durrett/Hutchins) 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.

Board exhibits A through T were admitted into the record.

(Hutchins/Laha) Return to open session. Carried.

(Webb/Laha) Deny petition. Motion withdrawn.

Licensee requested to withdraw his motion to terminate probation.

(Hutchins/Webb) Approve request to withdraw motion to terminate probation. Carried.

STEVEN E. ALBERT, D.O., DOCKET #14-HA00040 - Conference Hearing on Application for Reinstatement of Licensure. Ms. Bryson appeared for the Board. Dr. Albert 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. Abay, Dr. Counselman, Dr. Durrett, Dr. Laha and Mr. Macias. Dr. Webb also recused himself from the proceedings.

(Leinwetter/Conley) Pursuant to K.S.A. 77-514(g), designate board members Mr. Settich and Drs. Hutchins, Leinwetter, Conley and Minns as presiding officers to render a final order in this proceeding.

(Conley/Hutchins) Find Dr. Albert in default and deny application. Carried.

KAREN HALL, P.T.A, DOCKET #09-HA00103 - Conference Hearing on Request to Terminate Monitoring. Ms. Weiler appeared for the Board. Ms. Hall 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. Beezley, Dr. Leinwetter and Dr. Conley.

(Hutchins/Leinwetter) Pursuant to K.S.A. 77-514(g), designate board members Mr. Settich and Drs. Durrett, Counselman, Laha, Webb, Hutchins and Minns as presiding officers to render a final order in this proceeding.

(Hutchins/Durrett) 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.

Board exhibits A through G were admitted into the record.

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

(Minns/Counselman) Terminate monitoring. Carried.

JAMES A. WALSH, D.C., DOCKET #11-HA00048 - Conference Hearing on Motion to Terminate Monitoring. Ms. Weiler appeared for the Board. Dr. Walsh 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. Templeton and Dr. Webb. Dr. Conley and Dr. Leinwetter also recused themselves from the proceedings.

Board Exhibits A through G were admitted into the record.

(Conley/Hutchins) Pursuant to K.S.A. 77-514(g), designate board members Mr. Settich and Drs. Durrett, Counselman, Laha, Hutchins and Minns as presiding officers to render a final order in this proceeding.

(Minns/Laha) Terminate monitoring. Carried.

HALA ZAINI KAZANCHI, M.D., DOCKET #14-HA00065 - Conference Hearing on Application for Licensure by Endorsement. Mr. Hays appeared for the Board. Dr. Kazanchi appeared in person *pro se*.

(Conley/Hutchins) Pursuant to K.S.A. 77-514(g), designate board members Mr. Settich and Drs. Durrett, Counselman, Laha, Hutchins and Minns as presiding officers to render a final order in this proceeding.

(Durrett Minns) 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/Hutchins) Return to open session. Carried.

(Minns/Durrett) Grant licensure by exam. Carried.

ALICIA MARIE BEAN, M.D., DOCKET #11-HA00021 - Conference Hearing on Request to Modify Consent Order. Ms. Weiler appeared for the Board. Dr. Bean 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. Templeton and Dr. Leinwetter and Dr. Counselman.

(Conley/Hutchins) Pursuant to K.S.A. 77-514(g), designate board members Mr. Settich and Drs. Durrett, Counselman, Laha, Hutchins and Minns as presiding officers to render a final order in this proceeding.

(Minns/Durrett) 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.

Board exhibits A through G were admitted into the record.

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

(Minns/Webb) Modify consent order to terminate monitoring. Carried.

VIII. STAFF REPORTS

Licensing Administrator:

Approval of Administrative Actions

(Conley/Counselman) Approve administrative actions. Carried

Approval of Licensee/Registrant List

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

Minutes of Committee/Council Meetings

Minutes of all council meetings held since last board meeting were provided to the board for their review. There were no questions.

Referencing K.A.R. 100-15-4, the board has received a question from a Doctor of Chiropractic asking if the preparation for teaching healing arts at Cleveland College of Chiropractic would be eligible for continuing education credits. Dr. Conley stated that in K.A.R. 100-15-4(e) the term "continuing education" does not refer to teaching courses at a school such as Cleveland Chiropractic College.

Litigation Counsel:

Litigation Report

Mr. Hays distributed and reviewed the current Litigation department statistics with the Board.

Disciplinary Counsel:

Disciplinary Report

Mr. Riley distributed and reviewed the current Disciplinary department statistics with the Board.

General Counsel:

General Counsel Report

Ms. Stevens provided an update to the Board on appellate and other cases; statistics for the General Counsel division; regulations that are in the process of being drafted; and other projects that include a contract for custodian services for abandoned medical records, revisions to the board's electronic records plan and agency retention schedule, draft amendments to the Healing Arts Act for the 2014 legislative session, and development of a Medspa legal issues educational presentation.

Summary of Laser & Ultrasound Subcommittee Meeting

The subcommittee met with stakeholders on October 31, 2013 and the discussion topics included Chiropractic scope of practice, the definition of surgery, the devices used, education and training for competency, and the need for more information from professionals actually performing the procedures. Another meeting has been scheduled at the offices of the Board on January 9, 2014 at 3:00 p.m.

Executive Director:

Budget Update

Budget summaries for the months of August, September and October were provided to the Board in their packet of materials for the meeting. There were no questions.

Actions Taken Since Last Board Meeting

A list of actions taken since the last board meeting were provided to the Board in their packet of materials for the meeting. There were no questions.

Impaired Provider Program (IPP) Reports

Quarterly IPP reports were provided to the Board in their packet of materials for the meeting. There were no questions.

Appoint Federation of State Medical Boards (FSMB) Delegate & Alternate for 2014

(Hutchins/Counselman) Appoint Dr. Leinwetter as the Board's delegate to the FSMB for the upcoming year, and appoint Dr. Hutchins as the alternate delegate. Carried.

Appoint Federation of Chiropractic Licensing Boards (FCLB) & National Board of Chiropractic Examiners (NBCE) Delegate & Alternate for 2014
Dr. Webb was appointed as the board's voting delegate and Dr. Counselman as the alternate delegate for 2014.

Proposed Changes to Audit Policy #08-03

Staff will bring proposed amendments to this policy to the February board meeting for the board to review.

Joint Pain Management Statement

Dr. Templeton was appointed as the Board's representative to the Joint Committee for Pain Management.

Proposed Healing Arts Act Statute Changes

Ms. Selzler Lippert discussed that we have several changes that we would like to make to the Healing Arts Act, however, we will wait until the Act is opened by others who are proposing changes before introducing/including ours.

Appointment of Presiding Officer

Dr. Templeton was appointed as Presiding Officer in the Christian Heath, MD case.

Dr. Hutchins was appointed as Presiding Officer in the Brian Berger, MD case.

Dr. Beezley was appointed as Presiding Officer in the Corrie Danks, MD case.

Misc. Items/Information for the Board

Staff will begin pulling National Practitioner Data Bank reports for all professions after January 1, 2014.

Dr. Leinwetter mentioned that there will be legislation introduced this year to allow Nurse Practitioners to have independent practice.

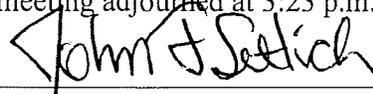
Discussion of Matters Regarding Non-Elected Personnel

Mr. Settich announced that performance appraisals were conducted for the Board's Executive Director and General Counsel, and the results for both were very satisfactory. Board members will be provided with a report of the review and the evaluation discussion. These appraisals will be conducted annually.

IX. ADJOURNMENT

(Hutchins/Durrett). This meeting is adjourned. Carried.

The meeting adjourned at 3:23 p.m.



John Setlich
President



Kathleen Selzler Lippert
Executive Director