

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

**BOARD MINUTES – Friday
December 9, 2016**

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 9, 2016

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 9, 2016. The meeting was called to order at 8:30 a.m. by Garold Minns, M.D. and President.

Michael Beezely, M.D.	present	
Jerry DeGrado, D.C.	present	
Robin Durrett, D.O.	present	Arrived at 9:15 a.m.
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	Arrived at 8:45 a.m.
Terry L. Webb, D.C.	absent	
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; Jane Weiler, Susan Gering, Anne Barker Hall and Joseph Behzadi, Associate Litigation Counsel; Dan Riley, Disciplinary Counsel; Joshana Offenbach, Associate Disciplinary Counsel; Theresa Massey, Licensing Analyst; 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.

Cameron Gooden, CSR, Appino and Biggs Reporting Service, took and recorded the administrative proceedings conducted.

II. APPROVAL OF AGENDA

(Gould/Hutchins) Approve agenda with the following changes: Freund hearing continued; Sims deliberations continued; Kevan Long MD, Tiffany Defebaugh OTA and Kyle Sheahon DC hearings deleted; Michael Estivo DO settlement deleted; and Nizar Kibar MD settlement continued. An executive session to discuss non-elected personnel matters was added just prior to the lunch break. Carried.

APPROVAL OF BOARD MEETING MINUTES

(Gould/Hutchins) Approve minutes of October 14, 2016 regular meeting with the following changes: on page 1 change Katy Lenahan to John Nichols in the staff member listing; on page 6 amend text regarding Certified Nurse Midwife Advisory Council Recommendations on Regulations to indicate that Dr. Bradley was providing his opinion; on page 9 include in text regarding Legislative Update which public health boards might be combined. Carried.

III. OTHER BUSINESS

Staff Recognition

Employees recognized for the third quarter of the year were: Sheryl Snyder for Volunteerism; Jennifer McArthur, Allison Tenfelde, Jennifer Smith and Lisa Howard for Innovation; Barbara Montgomery, Deb Albright, Richard Mote and Kathy Moen for Distinguished Accomplishment; and Ivan Perez as Employee of the Quarter.

IV. ADMINISTRATIVE PROCEEDINGS

(President) Recess board meeting to conduct administrative proceedings under the Kansas Administrative Procedures Act.

WILLIAM H. THOMAS, JR., D.C., DOCKET #17-HA00013 – Conference Hearing on Petition for Discipline. Ms. Barker Hall appeared for the Board. Dr. Thomas 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. Laha, Mr. Macias, Dr. DeGrado, Dr. Durrett and Dr. Hutchins.

Board Decision: The Petition was denied.

BRADY L. TERNES, A.T., DOCKET #17-HA00020 - Conference Hearing on Petition for Discipline. Ms. Gering appeared for the Board. Mr. Ternes 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. Laha, Mr. Macias, Dr. DeGrado, Dr. Durrett and Dr. Hutchins.

Board Decision: The board found that Dr. Ternes violated the Athletic Trainer's Act and discipline was imposed.

STEVEN WILKINSON, M.D., DOCKET #16-HA00078 - Conference Hearing on Motion for Reconsideration. Mr. Behzadi appeared for the Board. Dr. Wilkinson appeared in person with counsel Mr. Christopher Molzen.

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

Board Decision: The hearing was continued.

RICHARD BROWN, M.D., DOCKET #13-HA00020 - Conference Hearing on Request to Terminate Monitoring. Ms. Weiler appeared for the Board. Dr. Brown 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: Mr. Minns, Dr. Leinwetter and Ms. Hodgdon. Dr. Laha presided.

Board Decision: Monitoring was terminated.

EXECUTIVE SESSION

(Board Member/Board Member) Go into executive session for 15 minutes pursuant to K.S.A. 75-4319(b)(1) for the purpose of discussing personnel matters of non-elected personnel. Carried.

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

(Board Member/Board Member) Go into executive session for 15 minutes pursuant to K.S.A. 75-4319(b)(1) for the purpose of discussing personnel matters of non-elected personnel. Carried.

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

(President) Call the Board Meeting back to order.

NOTE: Dr. Beezley left the meeting at this point (12:00 noon).

V. **OTHER BUSINESS**

2016 USMLE Workshop Presentation

Ms. Selzler Lippert presented USMLE information to the board members.

(President) Recess the Board Meeting to conduct review of settlement agreements.

VI. **SETTLEMENT AGREEMENT**

Pamela J. Sheek, L.R.T., - Ratification of Consent Order. Ms. Barker Hall appeared for the Board. Ms. Sheek appeared in person *pro se*.

Recusals: None

Board Decision: Consent Order terminated and license granted without restrictions or limitations.

Baser Sayeed, M.D., Docket #16-HA00058 – Review of Proposed Consent Order. Mr. Behzadi appeared for the Board. Dr. Sayeed appeared in person with counsel, Mr. Trevor Wohlford.

Recusals: None

Board Decision: Approve Consent Order with agreed modifications.

Jeffrey Cotter, M.D. – Review of Proposed Consent Order. Ms. Barker Hall appeared for the Board. Dr. Cotter appeared in person *pro se*.

Recusals: Dr. Minns. Dr. Laha presided

Board Decision: Consent Order denied.

David Silverman, M.D., Docket #17-HA00026 – Ratification of Consent Order. Ms. Barker Hall appeared for the Board. Dr. Silverman appeared in person *pro se*.

Recusals: None

Board Decision: Consent Order terminated and license granted without restrictions or limitations.

VII. **STAFF REPORTS**

The Board President called the board meeting back to order.

Licensing Administrator:

Approval of Licensee/Registrant List

(Hutchins/Gould) Approve licensee/registrant list. Carried.

Minutes of Committee/Council Meetings

Minutes of council meetings held since last board meeting were provided to the board in their packet of materials. There were no questions.

Licensing Report

Ms. Selzer Lippert reported that John Nichols, Licensing Administrator, is on leave to study for law school finals and the Kansas bar examination. She reviewed the recent insurance audit that was conducted and the efforts of licensing department staff to get licensees into compliance.

Litigation Counsel:

Litigation Report

Mr. Hays reported that Ms. Fredley had resigned her attorney position to accept a position at Kansas University and that the position is currently vacant.

A request was made for new Disciplinary Panel Members. The following board members volunteered to be on DP #32: Dr. DeGrado, Dr. Leinwetter, Dr. Beezley and Mr. Settich.

Mr. Hays presented the statistical report for the department.

Disciplinary Counsel:

Disciplinary Report

The statistical report for the department was distributed to board members and Mr. Riley reviewed it with them. He reported that the number of closures have dropped because of decreased manpower, as three investigator positions are now vacant. Interviews have been conducted to fill these vacancies.

There was a discussion regarding chiropractic treatment to animals, which requires supervision of a veterinarian unless the DC is treating their own animals. The board would like to provide educational information to our licensees and Dr. DeGrado volunteered to chair a committee to create, compile and distribute information.

General Counsel:

General Counsel Report

Ms. Stevens presented an update on appellate cases involving the Board. She reported that the agency is going through a National Practitioner Data Bank audit with 26 of our cases being reviewed for reporting compliance.

Dr. Templeton asked if the board could draft a policy on what work residents with a training license can and cannot perform. Ms. Selzler Lippert will contact the hospital association in order to disseminate this information.

Dr. Templeton also asked if there was anything the board could do to provide increased protection for practitioners who report other licensees, and if information could be provided on how the reporting practitioner might fund their defense if they are sued.

Regulation Update

An update of Certified Nurse-Midwife regulations was provided by Ms. Stevens.

Offer of Settlement of KJRA Appeal for Board Consideration - Derek Urban, MD

(Varner/Milfeld) Go into executive session for 15 minutes pursuant to K.S.A. 75-4319(b)(2) for purposes of attorney-client consultation regarding a settlement offer made to the Board in the KJRA appeal of Derek Urban, M.D. that is currently pending in Shawnee County District Court. Carried.

Ms. Offenbach will serve as the board attorney for this case. Mr. Hays and Ms. Bond did not participate in the executive session.

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

(Durrett/DeGrado) Reject the settlement offer. Carried.

Board Members:

(Laha/Beezley) Go into executive session for 15 minutes pursuant to K.S.A. 75-4319(b)(1) to discuss matters of non-elected personnel. Carried.

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

Executive Director:

Budget & Legislative Update

Ms. Selzler Lippert provided an update on the Interim Committee on Combining Certain Public Health Boards. The Committee heard testimony from many boards; some neutral but most opposed. The Committee will consider all the information and provide a recommendation for the Legislature to consider.

Ms. Selzler Lippert reported that she will be attending a Missouri Medical Board Strategic Planning Meeting on Dec. 10, 2017, to discuss PMP from our state's perspective, how the information comes to our board, and how we use it.

Ms. Selzler Lippert also reported that Kansas Medical Society is looking at proposing legislation to provide increased protection for the agency's peer review committees.

Actions Taken Since Last Board Meeting

Information was provided in the board's packet of information. There was no discussion and no questions.

IPP Report

First Quarter reports for FY 2017 were provided in the board's packet of information. There was no discussion and no questions.

Status of Joint Pain Policy of Healing Arts, Nursing and Pharmacy Boards

The policy has been completed and approved and is in the process of being signed by the Presidents of the three boards.

Misc. Items/Information for the Board

60th Anniversary of Board in 2017 - The year 2017 will be the 60th anniversary of the Kansas Board of Healing Arts. Ms. Selzler Lippert asked if the Board would like to commemorate this in any way and they asked staff to provide some recommendations that they could consider.

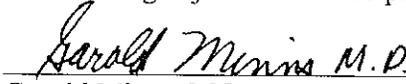
Appointment of FCLB/NBCE Board Delegate and Alternate – Dr. Webb was appointed as the board's delegate and Dr. Gould was appointed as the alternate.

Appointment of FSMB Board Delegate and Alternate – Dr. Minns will check his schedule to see if he is able to attend the FSMB annual meeting as the board's delegate and will notify Ms. Selzler Lippert of his availability. Ms. Selzler Lippert asked other board members to notify her of their interest in attending if Dr. Minns is unable to go.

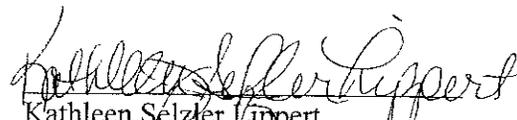
Medical Malpractice Suit Threshold – Dr. Minns asked if the board wanted to set a threshold on the number of medical malpractice suits that a practitioner can have before a petition for discipline is filed. It was stated in the discussion that followed that the board usually looks for a pattern or a particularly egregious case rather than utilizing a numerical threshold.

VIII. ADJOURNMENT

(President). This meeting is adjourned. Carried.
The meeting adjourned at 3:00 p.m.



Garold Minns, M.D.
President



Kathleen Selzler Lippert
Executive Director