

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

**BOARD MINUTES – Friday
February 12, 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, FEBRUARY 12, 2015

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, February 12, 2016. The meeting was called to order at 8:30 a.m. by Terry Webb, D.C. and President.

Michael Beezley, M.D.	absent
Jerry DeGrado, D.C.	present
Robin Durrett, D.O.	present
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., V.P.	present
Garold O. Minns, M.D.	present
John Settich, public member	present
Kimberly Templeton, M.D.	present
Terry L. Webb, D.C., Pres.	present
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, Tracy Fredley and Joseph Behzadi, Associate Litigation Counsel; Dan Riley, Disciplinary Counsel; Joshana Offenbach, Associate Disciplinary Counsel; Katy Lenahan, Licensing Administrator; John McMaster, M.D., Medical Director; Kathy Moen, Medical Litigation Support Specialist; Ivan Perez, Compliance Coordinator; Jennifer Cook and Marsha Kane, Legal Assistants to General Counsel; John Nichols, Law Clerk to General Counsel and Cathy Brown, Executive Assistant. The attached sign-in sheet indicates those people who were present during portions of the meeting.

Ksenija Zeltkains, CSR, Appino and Biggs Reporting Service, took and recorded the administrative proceedings conducted.

II. APPROVAL OF AGENDA

(Hutchins/Gould) Approve agenda with the following changes: additions of admin hearing for Rebecca Rentea, MD; deletion of settlement agreements for Workman and Kercher and admin hearings for Kyle Sheahon, DC and Stuart Twemlow, MD. Carried.

APPROVAL OF BOARD MEETING MINUTES

(Hutchins/Gould) Approve minutes of December 11, 2015 regular meeting with the following changes: Kathleen Selzler Lippert was absent from the meeting. Carried.

III. OTHER BUSINESS

Staff Recognition by Department - Licensing

Ms. Katy Lenahan, Licensing Administrator, presented members of the licensing staff, explained their duties and recognized their individual years of service to the agency and the State.

Staff Ten Years of State Service – Stacy Bond

Ms. Stacy Bond, Assistant General Counsel, was presented with her 10 year pin and certificate.

IV. ADMINISTRATIVE PROCEEDINGS

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

DANIEL L. MYERS, M.D., DOCKET #16-HA00037 – Conference Hearing on Motion to Dismiss. Ms. Fredley appeared for the Board. Dr. Myers 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. Minns presided.

Board Exhibit A was admitted into the record.

Board Decision: Motion to dismiss was denied. Proceedings on Dr. Myers' application are stayed until June 24, 2016. Dr. Myers has a duty to continue to supplement his application materials during the period of stay.

ANNA STARKS, P.T.A., DOCKET #16-HA00036 - Conference Hearing on Petition for Discipline. Ms. Weiler appeared for the Board. Ms. Starks 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. Templeton, Dr. Webb and Mr. Settich. Dr. Minns presided.

Board Decision: The licensee's license was revoked.

DORIAN HALL, P.T.A., DOCKET #16-HA00039 - Conference Hearing on Petition for Discipline. Ms. Weiler appeared for the Board. Mr. Hall failed to appear.

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

Board Exhibits 1 through 8 were admitted into the record.

Board Decision: Licensee was found to be in default and licensee's license was revoked.

SHAWN BENNINGTON, D.C., DOCKET #16-HA00045 - Conference Hearing on Application for Reinstatement. Ms. Fredley appeared for the Board. Dr. Bennington did not appear before the board. Ms. Fredley requested a protective order over confidential criminal investigation records. Dr. Bennington requested a continuance and also stated his intent to withdraw his application on February 10, 2016.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Milfeld, Dr. Varner, Dr. Gould and Ms. Hodgdon.

Board Exhibits 1 through 7 were admitted into the record.

Board Decision: The board approved the Protective Order, denied the request for continuance, denied withdrawal of the application, found licensee to be in default, and denied applicant's application for reinstatement.

JODIE L. EVANS, R.T., DOCKET #16-HA00049 - Conference Hearing on Application for Licensure Reinstatement. Ms. Fredley appeared for the Board. Ms. Evans did not appear. Ms. Evans requested withdrawal of her application.

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

Board Decision: The applicant's motion to withdraw her application for licensure reinstatement was granted.

JANET DAMERON GENGLER, R.T., DOCKET #15-HA00098 -

Conference Hearing on Request to Terminate Requirement. Ms. Weiler appeared for the Board. Ms. Gengler 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. Templeton, Dr. Webb and Mr. Settich. Dr. Minns presided.

Board Decision: Requirement was terminated.

CARL GOSSETT, M.D., DOCKET #15-HA00051 -

Conference Hearing on Motion to Terminate Monitoring. Ms. Weiler appeared for the Board. Mr. Gossett did not appear before the board.

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

Board Decision: The matter was dismissed and the motion to terminate monitoring was denied.

NICHOLAS LOCKROW, D.C., DOCKET #13-HA00015 -

Conference Hearing on Request to Modify Consent Order. Ms. Weiler appeared for the Board. Dr. Lockrow 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. Durrett, Dr. Laha, Mr. Macias.

Board Decision: The request to modify the consent order was granted.

NOTE: Dr. Durrett left the meeting at this point (11:35).

V. OTHER BUSINESS (cont'd)

Dedication of Kansas State Board of Healing Arts (KSBHA) Boardroom to Dr. Gary Counselman, D.C.

A plaque was presented to the family of deceased board member Dr. Gary Counselman, D.C., dedicating and naming the KSBHA boardroom the Dr. Gary

Counselman Boardroom. Mrs. Lou Ellen Counselman accepted the plaque and expressed her thanks to board members, staff members and guests. The plaque will be hung in the board room.

VI. ADMINISTRATIVE PROCEEDINGS (cont'd.)

REBECCA RENTEA, M.D., DOCKET #16-HA00056 - Conference Hearing on Application for Licensure by Endorsement. Mr. Hays appeared for the Board. Dr. Rentea appeared in person *pro se*.

Recusals: None

Board Decision: The board accepted Applicant's withdrawal of the application for licensure by endorsement.

JOE FOUST, P.A., DOCKET #14-HA00154 - Conference Hearing on Request to Terminate Consent Order Requirement. Ms. Weiler appeared for the Board. Mr. Foust 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 and Dr. Templeton.

Board Decision: Termination of the requirement to send letters verifying that Mr. Foust does not perform urologic surgeries was granted. All other requirements remain in effect.

VII. SETTLEMENT AGREEMENT

Kathleen McVay, P.T.A., - Review of Proposed Consent Order. Mr. Hays appeared for the Board. Ms. McVay appeared in person *pro se*.

Recusals: None

Board Decision: The Consent Order was approved.

Savanah Burks, A.T., Docket #16-HA00034 – Review of Proposed Consent Order. Ms. Fredley appeared for the Board. Ms. Burks appeared in person *pro se*.

Recusals: None

Board Decision: The Consent Order was approved.

Edward M. Asebedo, L.R.T., Docket #16-HA00042 – Ratification of Consent Order. Ms. Fredley appeared for the Board. Mr. Asebedo appeared in person *pro se*.

Recusals: None

Board Decision: The board ratified the Consent Order.

Alexander J. Hemme, D.C., Docket #16-HA00043 – Ratification of Consent Order. Ms. Fredley appeared for the Board. Dr. Hemme appeared in person *pro se*.

Licensee Exhibit A was admitted into the record.

Recusals: None

Board Decision: The board ratified the Consent Order

Brandy J. Palacios, P.T.A., Docket #16-HA00013 and #16-HA00015 – Review of Proposed Consent Order. Ms. Gering appeared for the Board. Ms. Palacios appeared in person with counsel, Mr. Matthew Coleman.

Recusals: None

Board Decision: Continue this matter and temporary licensure until the April 8, 2016 board meeting.

Jared Brown, A.T., Docket #16-HA00041 – Ratification of Consent Order. Ms. Fredley appeared for the Board. Mr. Brown appeared in person *pro se*.

Recusals: None

Board Decision: The board ratified the Consent Order.

Michael Boland, A.T., Docket #16-HA00050 – Ratification of Consent Order. Ms. Fredley appeared for the Board. Mr. Boland appeared in person *pro se*.

Recusals: None

Board Decision: The board ratified the Consent Order.

VIII. STAFF REPORTS

The Board President, Dr. Terry Webb, called the board meeting back to order.

Licensing Administrator:

Approval of Administrative Actions

(Leinwetter/Gould) Approve administrative actions. Carried

Approval of Licensee/Registrant List

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

Minutes of Committee/Council Meetings

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

Licensing Report

Ms. Lenahan presented the department’s statistical report and overview.

Litigation Counsel:

Litigation Report

Mr. Hays presented the department’s statistical report and an overview of the litigation process.

Disciplinary Counsel:

Disciplinary Report

Mr. Riley presented the department’s statistical report.

General Counsel:

General Counsel Report

Ms. Stevens presented a review and update of all appellate cases involving the Board.

Ms. Stevens also advised the Board that there are currently pending amendments before the Legislature to the Kansas Open Meetings Act (KOMA) regarding executive sessions and the way motions for executive sessions are recorded in the minutes and to the Kansas Open Records Act (KORA) regarding what constitutes a public record on a privately owned device.

Regulation Update – Physical Therapy (PT) and Occupational Therapy (OT) Regulations

Ms. Stevens presented an update on proposed amendments to PT and OT rules and regulations. It is anticipated the regulations will come before the Board for consideration for adoption at the April 8, 2016 meeting.

Report on PA Regulations Public Hearing and Request for Direction From Board

Ms. Stevens summarized the public meeting and comments. She stated that the amended regulations, as written, will come before the Board for consideration for adoption at the April 8, 2016 board meeting.

Executive Director:

Budget Update

Budgets are in flux at this time and transfers are being made from other state agencies.

Budget bills provide for transfers to state general fund (SGF) from fee funds and could adversely impact the agency fee balance. In July 2015, \$500,000 was transferred from the agency fee fund to SGF.

Actions Taken Since Last Board Meeting

Information on all actions taken since the last board meeting was contained in the Board's packet of information for the meeting. There were no questions or discussion.

IPP Report

All reports that had been received since the last board meeting were contained in the Board's packet of information for the meeting. There were no questions or discussion.

Misc. Items/Information for the Board

- Legislative Update – Highlights of pending legislation.
- Federal Trade Commission Update – This issue continues to be a concern. The General Counsel and Executive Director will attend a conference in March on this issue.
- Federation of State Medical Board's Delegate – Dr. Templeton was selected as the Board's delegate to the FSMB for 2016 and she will be attending their annual conference.
- K-Trac and Prescription Monitoring Program (PMP) Update – Dr. Leinwetter presented an update on this program. Dr. Leinwetter and Dr. Templeton were each appointed as voting members to the PMP Advisory Committee by the Board of Pharmacy.
- Review of KSBHA Medical Director Contributions – Ms. Selzler Lippert presented an overview of the contributions of Dr. John McMasters, Medical Director, to the mission of the KSBHA.
- Joint Meeting of the KSBHA and the Kansas Board of Nursing – A joint meeting was held on February 8, 2016 and the agenda contained the following discussion topics: Joint Pain Management Policy, Paramedic Mobile Integrated Healthcare, and Advanced Practice Registered Nurses. Board members who attended thought that the meeting was productive.
- Disciplinary Panel #31 – Drs. Laha, DeGrado, Hutchins and Durrett and Mr. Macias were appointed to DP #31.
- HR Update – Employee Awards & Recognition Program has several strong nominations for the committee to consider.

IX. OTHER BUSINESS (cont'd.)

(Leinwetter/Gould) Go into executive session pursuant to K.S.A. 75-4319(b)(1) for the purpose of discussing personnel matters of non-elected personnel.

X. ADJOURNMENT

(Board Member/Board Member). This meeting is adjourned. Carried.

The meeting adjourned at 4:30 p.m.

Terry Webb, D.C.
President

Kathleen Selzler Lippert
Executive Director