

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

**BOARD MINUTES – Friday  
February 24, 2012**

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 24, 2012**

**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 24, 2012. The meeting was called to order at 8:30 a.m. by Gary Counselman, D.C. & President.

Eustaquio Abay, M.D. -	present
Michael Beezley, M.D. -	present
Ray Conley, D.C. -	present
Gary Counselman, D.C. -	present
Frank K. Galbraith, DPM -	present
Anne Hodgdon, public member -	present
M. Myron Leinwetter, D.O.	present
Rick Macias, public member -	present
Garold O. Minns, M.D. -	present
John Settich, public member -	present
Carolina M. Soria, D.O. -	present
Kimberly Templeton, M.D.	present
Terry L. Webb, D.C.	present
Nancy J. Welsh, M.D. -	present
Ronald Whitmer, D.O. -	present

Staff members present were Kathleen Selzler Lippert, Executive Director; Kelli Stevens, General Counsel; Ann Halferty, Assistant General Counsel; Reese Hays, Litigation Counsel; Janith Lewis Bryant, Stacy Bond and Brandy Snead, Associate Litigation Counsel; Dan Riley, Disciplinary Counsel; Joshana Offenbach, Associate Disciplinary Counsel; Katy Lenahan, Licensing Administrator; and Cathy Brown, Executive Assistant. The attached sign-in sheet indicates those people who were present during portions of the meeting.

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

## II. APPROVAL OF AGENDA

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

**Additions:** Licensing Administrator Report

**Deletions:** Fogarty application withdrawn, hearing deleted;  
Appleman hearing continued to April Bd. Mtg.

**Changes:** Guindon hearing moved to 11:00 a.m.; Morales and Cocal hearings will follow 11:15 hearing for Pickering;

Carried.

## III. APPROVAL OF BOARD MEETING MINUTES

(Conley/Webb) Approve minutes of December 2, 2011 regular meeting with the following change: on page 3 of the minutes, change “appeared/did not appear” to “appeared” in the heading of Chad Sharp, MD’s administrative hearing. Carried.

## IV. OTHER BUSINESS

### **Introduction of New Medical Director and New Board Member**

Dr. John McMaster, M.D., the new Medical Director for the Board, was introduced.

Our newest board member, Dr. Estaquio O. Abay, II, M.D., was also introduced to the Board. Dr. Abay succeeds Dr. Hodges.

### **General Counsel Review – Executive Session**

Mr. Jeffrey Mattern, legal intern for the General Counsel, was approved by the Board to observe executive sessions.

(Conley/Beezley) Go into closed executive session for 20 minutes, pursuant to K.S.A. 75-4319(b)(2), for the purpose of consultation on pending disciplinary cases with an attorney for the Board, which would be deemed privileged in the attorney-client relationship. Carried.

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

## V. RULES AND REGULATIONS

### **Consideration of adoption of amendments to K.A.R. 100-28a-5.**

(Conley/Galbraith) Adopt regulation as amended. Carried

### **Consideration of adoption of amendments to K.A.R. 100-28a-10.**

(Conley/Hodgdon) Adopt regulation as amended. Carried.

## VI. STAFF REPORTS

**Licensing Administrator:**

**Approval of Administrative Actions**

(Minns/Conley) Approve administrative actions. Carried

**Approval of Licensee/Registrant List**

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

**Minutes of Committee/Council Meetings**

Minutes of all council meetings held since last board meeting was provided to the Board in the board packet or as a handout. There were no questions or concerns.

**Licensing Report**

No statistics were reported.

**Litigation Counsel:**

**Litigation Report**

The Litigation Report was distributed and reviewed. There are currently 123 open cases, which is down from the last board meeting, and 37 closed cases, which is also down from the last board meeting due to time spent on upcoming formal hearings.

**Disciplinary Counsel:**

**Disciplinary Report**

The Disciplinary Report was distributed and reviewed. There are currently 624 open investigations.

**VII. SETTLEMENT AGREEMENT**

**Christie M. Mensch, M.D. – Ratification of Consent Order**

Ms. Bryson appeared for the Board. Dr. Mensch appeared in person with counsel, Ms. Carol Bonebrake.

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, Dr. Soria, Dr. Galbraith and Mr. Settich. Ms. Stevens and Ms. Selzler Lippert also recused themselves. Mr. Riley served as Special General Counsel.

(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.

Ms. Bonebrake requested that Carolyn Westgate, KMS-MAP be allowed to remain in the executive session and it was approved.

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

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

**Steven Moulton, P.T.A. – Ratification of Consent Order**

Ms. Bond appeared for the Board. Mr. Moulton was not requested to 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. Templeton, Dr. Webb, Dr. Soria, Dr. Galbraith and Mr. Settich.

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

**Hannah L. Lai, M.D., Docket #12-HA00045 – Ratification of Consent Order**

Ms. Bond appeared for the Board. Dr. Lai 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, and Dr. Soria.

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

**Kelly Turney, A.T., Docket #12-HA00048 – Ratification of Consent Order**

Ms. Bond appeared for the Board. Ms. Turney was not requested to 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. Templeton, Dr. Webb, Dr. Soria, Dr. Galbraith and Mr. Settich.

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

**Sarah J. Bolen, O.T.A. – Ratification of Consent Order**

Ms. Bryson appeared for the Board. Ms. Bolen was not requested to 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. Templeton, Dr. Webb, Dr. Soria, Dr. Galbraith and Mr. Settich.

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

**Hampton Anderson, D.O., Docket #11-HA00010 – Settlement Agreement**

Ms. Lewis-Bryant appeared for the Board. Dr. Anderson appeared in person with counsel, Mr. Michael Francis.

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, and Dr. Soria. Dr. Leinwetter has served as presiding officer in this case and he Ms. Stevens also recused themselves from the proceedings. Ms. Halferty served as General Counsel.

(Minns/Beezley) Go into executive session for 10 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.

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

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

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

(Minns/Welsh) Go into executive session for 10 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.

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

(Hodgdon/Conley) Deny the Consent Order. Carried.

## **VII. ADMINISTRATIVE PROCEEDING**

**MALLOREY CASTANEDA, R.T., DOCKET #11-HA00065** - Conference Hearing on Petition for Discipline. Ms. Bond appeared for the Board. Mr. Castaneda 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 and Dr. Soria.

Exhibits #1 through 4 were admitted into the record.

(Conley/Abay) 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.

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

(Settich/Beezley) Extend the monitoring contract for one year. Carried.

**SELINA MORALES, O.T.A., DOCKET #12-HA00056** - Conference Hearing on Application for Temporary License. Ms. Bryson appeared for the Board. Ms. Morales 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, Dr. Soria, Dr. Templeton, Dr. Galbraith and Mr. Settich.

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

(Minns/Conley) Go into executive session for 5 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.

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

(Minns/Leinwetter) Grant temporary license. Carried.

**CURT GUINDON, M.D., DOCKET #08-HA00177** - Conference Hearing on Motion to Terminate Restrictions. Ms. Lewis-Bryant appeared for the Board. Dr. Guindon appeared in person with counsel, Mr. Trey Meyer.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Conley, Dr. Beezley, and Dr. Leinwetter. Ms. Selzler Lippert also recused herself.

Exhibits #1 through 10 were admitted into the record.

(Settich/Minns) Terminate restrictions. Carried.

**JOHN GORDON PICKERING, D.C., DOCKET #12-HA00046** - Conference Hearing on Petition for Discipline. Ms. Lewis-Bryant appeared for the Board. Dr. Pickering appeared in person with counsel, Mr. N. Trey Pettlon.

Dr. Conley recused himself from the proceedings.

(Webb/Whitmer) 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.

Exhibits #1 through 6 and Exhibits A through J were admitted into the record.

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

(Webb/Minns) Go into executive session for 5 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.

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

(Minns/Beezley) Revoke license and allow doctor to reapply in 18 months. Carried.

**JACOB ROSS GARDNER, D.C., DOCKET #12-HA00042** - Conference Hearing on Petition for Discipline. Ms. Bond appeared for the Board. Dr. Gardner 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. Soria, Dr. Templeton and Dr. Webb.

(Conley/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.

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

(Minns/Conley) Revoke license and allow doctor to reapply in 18 months. Carried.

**DAMIEN M. STEPHENS, D.C., DOCKET #11-HA00050** - Conference Hearing on Request to Terminate Monitoring. Ms. Bond appeared for the Board. Mr. Stephens 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. Templeton, Dr. Webb and Dr. Soria.

(Minns/Settich) Table to April board meeting. Carried.

**LERDO M. COCAL, M.D., DOCKET #12-HA00050** - Conference Hearing on Application for Reinstatement. Ms. Bryson appeared for the Board. Dr. Cocal 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. Webb, Dr. Soria, Dr. Templeton, Dr. Galbraith and Mr. Settich.

(Conley/Welsh) Table to April board meeting. Carried.

**WHOOON JONG KIL, M.D., DOCKET #12-HA00053** - Conference Hearing on Application for Licensure. Ms. Snead appeared for the Board. Dr. Kil appeared via teleconference, pro se.

Exhibits #1 through 3 were admitted into the record.

(Templeton/Minns) Deny application for licensure by endorsement. Carried.

**USAIKIMI IGBASEIMOKUMO, M.D., DOCKET #12-HA00054** - Conference Hearing on Application for Licensure by Endorsement. Ms. Snead appeared for the Board. Dr. Igbaseimokumo appeared in person, pro se.

(Settich/Templeton) Grant licensure by endorsement. Carried.

*NOTE: Dr. Beezley and Dr. Galbraith left the meeting at the noon break, which occurred at this point.*

**CHRISTOPHER SCHROEDER, D.C., DOCKET #07-HA00002** - Conference Hearing on Request for Termination of Monitoring. Mr. Hays appeared for the Board. Dr. Schroeder appeared in person with counsel, Ms. Cynthia Sheppard.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Counselman, Dr. Leinwetter, Dr. Templeton, Dr. Welsh and Dr. Whitmer. Dr. Webb and Ms. Stevens also recused themselves from the proceedings. Ms. Halferty served as General Counsel. Dr. Conley presided.

Appoint a subcommittee of board members not recused in this matter to serve as presiding officers. Carried

(Minns/Macias) Terminate monitoring. Carried

**DAVID APPLEMAN, A.T., DOCKET #12-HA00051** - Conference Hearing on Application for Licensure By Endorsement.

This matter was granted a continuance to the April board meeting.

**CARRIE ANN WIXSON, P.A., DOCKET #10-HA00051** - Conference Hearing on Petition to Terminate Probation and Limitation. Mr. Hays appeared for the Board. Ms. Wixson 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. Counselman, Dr.

Leinwetter and Dr. Templeton. Ms. Stevens and Ms. Selzler Lippert also recused themselves from the proceedings. Dr. Conley presided.

Petitioner's Exhibit #1 and Board Exhibit CC were admitted into the record.

(Minns/Webb) Terminate probation and limitation. Carried.

**WASSE ZAFER, D.C., DOCKET #12-HA00013** - Conference Hearing on Reconsideration of Final Order. Ms. Bond appeared for the Board. Dr. Zafer appeared in person with counsel, Mr. Larry Bork and Ms. Mary Christopher.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Conley, Dr. Beezley and Dr. Leinwetter. Dr. Counselman has served as presiding officer in this case and he and Dr. Webb also recused themselves from the proceedings. Ms. Stevens' conflict was waived by Dr. Zafer. Dr. Templeton presided.

(Minns/Hodgdon) 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.

(Boardmember/Boardmember) Return to open session. Carried.

(Minns/Abay) Go into executive session for 10 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.

(Minns/Welsh) Reinstate revocation with specific details for implementation set forth in the written order. Carried

## **VIII. STAFF REPORTS (continued)**

### **General Counsel:**

#### **General Counsel Report**

Ms. Stevens provided the Board updates on the Eck and Ryser civil cases, and stated that Dr. Lakin has appealed the Board's decision. She also provided statistics for the General Counsel area regarding response to inquiries, public record requests, and corporation certificates.

#### **Discovery in Administrative Proceedings – closed session**

This topic was not discussed and will be added to the April board meeting agenda.

### **Ultrasonic Cavitation**

(Conley/Webb and Welsh) Give General Counsel authorization to prosecute for unauthorized practice of medicine. Carried.

Ms. Stevens will bring additional information on this topic to the April board meeting and she may also ask Dr. Mark McCune to attend and provide information to the Board.

### **Revisiting Disapproved Schools from October 2011 Board Meeting**

General Counsel advised that the Board must reference specific standards not met when disapproving a school. Ms. Stevens advised that the Board should reconsider its prior decision to disapprove all schools on California's disapproved list.

(Settich/Templeton) Reconsider previous motion to disapprove all schools on the California Medical Board's disapproved list. Carried.

(Settich/Conley) Set item on agenda for next board meeting. Carried.

### **Medical School Sub-Committee Report**

Ms. Stevens reported that the subcommittee is reviewing various statutory and regulatory items involving medical school approval and licensure requirements. The committee will meet again in March.

### **Agency Guidance Documents**

By statutory amendments to K.S.A. 77-438 which were enacted in 2011, the agency is required to designate various policy documents as "guidance documents." These have been posted on our website per statutory requirements.

### **Executive Director:**

#### **Budget Update**

The Division of Budget and the Governor have recommended an approx. \$98,000 reduction in our previously approved budget for FY2013. We have appealed the portion of this cut dealing with IT equipment. The House recommended the cut but the Senate did not adopt the recommendation, so this will go to a conference committee.

#### **Legislative Update**

Information was included in the February board packet on bills that are being tracked by the Executive Director; SB 5 the Perfusionists licensure bill will be heard in House Health and Human Services on March 1<sup>st</sup>; the Acupuncturist licensure bill did not make it out of the Senate; the Massage Therapy licensure bill did not make it out of the house but could still be moved if included in "gut and go"; bill regarding credit card fees has been tabled or killed; a substitute Physical Therapist direct access bill passed on the House side and will go over to the

Senate side; discussion is continuing on the prescription monitoring program bill; and SB 253 regarding mammography looks like it will pass.

### **Actions Taken Since Last Board Meeting**

This information was included in the February board packet. There were no questions or comments.

### **2012 Annual FSMB Meeting – Appoint FSMB Delegate and Alternate**

Dr. Templeton was appointed as the board's delegate and Dr. Leinwetter was appointed as the alternate.

### **Appoint FCLB/NBCE Delegate and Alternate**

Dr. Counselman was appointed as the board's voting delegate and Dr. Webb was appointed as the alternate. Dr. Conley will also be attending the annual meetings.

*NOTE: Mr. Settich left the meeting at this point (approx. 2:40 p.m.).*

### **IPP Reports**

A meeting is scheduled for March 5, 2012 with representatives of the Kansas Medical Society, Kansas Association of Osteopathic Medicine, and Heart of America Professional Network to review and revise the impaired provider program quarterly status reports.

### **Media Inquiry Update**

Board members were requested to direct any questions or inquiries regarding the Neuhaus case to Ms. Halferty, Assistant General Counsel, as Ms. Stevens and Ms. Selzler Lippert are both recused from this case.

### **Misc. Items/Information for the Board**

D.P. #27 - Dr. Minns, Dr. Conley and Dr. Leinwetter volunteered to serve on Disciplinary Panel #27; however, we still need a public member to volunteer to serve on the panel so Ms. Selzler Lippert will be in contact with public members regarding this.

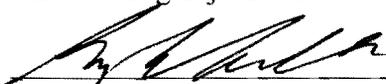
Ms. Selzler Lippert advised the Board that there is a new policy in place that requires us to perform background checks on new state hires.

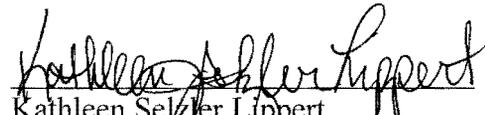
Dr. Galbraith has served his three-term maximum on the Board and his final term will end on June 30<sup>th</sup>. Drs. Minns, Welsh, and Whitmer's terms will all expire on June 30<sup>th</sup> and they will need to apply for reappointment if they wish to continue their service on the board. Staff will send them a link to the online application forms/process.

## **IX. ADJOURNMENT**

(Minns/Boardmember). This meeting is adjourned. Carried.

The meeting adjourned at 3:05 p.m.

  
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Gary Counselman, D.C.  
President

  
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Kathleen Selzer Lippert  
Executive Director