

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

BOARD MINUTES – Friday, February 9, 2018

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 9, 2018

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 9, 2018. The meeting was called to order at 8:30 a.m. by David Laha, DPM. and President.

Jerry DeGrado, D.C.	present	
Robin Durrett, D.O.	present	
Thomas Estep,	present	
Steven Gould, D.C.	present	
Anne Hodgdon, public member	present	
David Laha, DPM	present	
M. Myron Leinwetter, D.O.	present	
Douglas Milfeld, M.D.	present	
Garold O. Minns, M.D.	present	
John Settich, public member	present	
Kimberly Templeton, M.D.	present	
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; Tucker Poling, General Counsel; Ryan Hamilton and Jay Van Blaricum, Assistant General Counsel; Reese Hays, Litigation Counsel; Susan Gering, Deputy Litigation Counsel; Anne Barker Hall, Jared Langford and Phoenix Anshutz, Associate Litigation Counsel; Courtney Manly, Law Clerk; Dan Riley, Disciplinary Counsel; Nancy Dodik, Associate Disciplinary Counsel; John McMaster, M.D., Medical Director; Kathy Moen, Medical Litigation Support Specialist; Jennifer Cook, Legal Assistant to General Counsel; and Beth Visocsky, Operations Manager. The attached sign-in sheet indicates those people who were present during portions of the meeting.

Ksenijia Zeltkalns, CSR, Appino and Biggs Reporting Service, took and recorded the administrative proceedings conducted.

APPROVAL OF AGENDA

(Estep/Varner) Approve agenda

with the following changes:

Kerri Dible, R.T. removed from schedule and discussion of KAR 100-25-4 removed from schedule. Carried.

APPROVAL OF BOARD MEETING MINUTES

(Estep/Varner) Approve minutes of December 8, 2017 board meeting with no changes. Carried.

II. OTHER BUSINESS

Discussion of L.Ac. regulation to potentially revise. KAR 100-76-2

Rhonda Bathurst from Acupuncture Council spoke. There was discussion about grandfathering as well as what “equivalent” language in regulation means.

(Minns/Estep) Motion to move forward with equivalency language and delete the “biomedicine” component. Carried.

Discussion of PA council proposal to delete KAR. KAR 100-28a-14(b)

Discussed removing requirement that a physician must provide care at location once every 30 days. Discussed when the review should happen.

(Minns/Durrett) Motion to go back to the PA council to come up with a potential alternative and bring it back to the board. Carried.

Discussion of proposed PT Licensure Compact and legal requirements of proposed PT Licensure Compact. The following was discussed:

Discussed concerns about malpractice insurance and that the compact wouldn't require it.

Discussed possibility of getting a legislative working group of board members going again to review pending legislation of interest to the board. Mr. Minns, Ms. Hodgdon, Dr. Templeton, Dr. Milfeld, Dr. Durrett, and Dr. Gould volunteered to serve on the committee.

III. ADMINISTRATIVE PROCEEDINGS

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

(Minns/Estep) Recess into attorney client pursuant to K.S.A. 75-4319.

(Minns/Varner) Out of attorney client and back into administrative proceedings.

Dane B. Starnes, D.C., Docket #16-HA00111 – Conference Hearing on Motion to Terminate Final Order. Mr. Phoenix Anshutz appeared for the Board. Dr. Dane B. Starnes appeared in person, with counsel Judy Pope.

Recusals: DP #30 – Dr. Gould, Ms. Hodgdon, Dr. Milfeld, Dr. Varner

(Minns/Varner) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential [REDACTED] – K.S.A. 65-4925. Carried.

(Minns/Estep) Recess into attorney client pursuant to K.S.A. 75-4319.
(Minns/Estep) Out of attorney client and back into closed hearing.

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

Decision of the board is to deny request. Written order to follow within 30 days.

Christopher Walsh, M.D., Docket #14-HA00157 – Conference Hearing on Motion to Terminate Consent Order. Mr. Phoenix Anshutz appeared for the Board. Dr. Christopher Walsh appeared in person, pro se.

Recusals: none

(Estep/Minns) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential [REDACTED] – K.S.A. 65-4925. Carried.

(Minns/Estep) Recess into attorney client pursuant to K.S.A. 75-4319.
(Minns/Estep) Out of attorney client and back into closed hearing.

(Minns/Varner) Return to open hearing. Carried.

(Varner/Durrett) Motion to termination monitoring. Carried.

IV. SETTLEMENT AGREEMENTS

Lisa Schnick, D.O. – Review of Proposed Consent Order. Ms. Susan Gering appeared for the Board. Dr. Lisa Schnick appeared in person, with counsel Diana Beckman.

Recusals: none

(DeGrado/Minns) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under Investigation - K.S.A. 65-2839a(d). Carried

(Minns/Varner) Return to open hearing. Carried.

(Minns/Varner) Motion to accept consent order as proposed. Carried.

Joseph M. Baker, D.O. – Review of Proposed Consent Order. Mr. Phoenix Anshutz appeared for the Board. Dr. Joseph M. Baker appeared in person, pro se.

(Minns/Varner) Motion to accept Consent Order as written. Carried.

Christopher Weir, D.C. – Review of Proposed Consent Order. Mr. Phoenix Anshutz appeared for the Board. Dr. Christopher Weir appeared in person, pro se.

(Milfeld/Templeton) Motion to accept Consent Order as written. Carried.

(Estep/Hodgdon) Motion to move out of Administrative Hearings into Board Meeting. Carried.

Executive Director presentation.

Executive Director:

Legislative Report

Referred to memo and handouts. Gave Cyber Security overview. HB 2721 – Corporate Practice of Medicine was filed 2/8/18. Discussed Executive Order requiring prevention of sexual harassment training.

Audit of Personal Vehicle Use

Explained results of audit. Budget Office prefers use of rental vehicles to personally owned vehicles. Board asked Executive Director (KSL) to create and send a memo to request permission/authorization for Board and Council members to use their personal vehicles.

Delegated Authority

FYI for discussion at April Board Meeting.

Fee Discussion

Went over balances. Discuss that fees have not been increased for 10+ years. Need to look at move to create fees to incentivize on-time and on-line renewals and de-incentivize late and / or paper renewals. Also keep an eye on license type in relation to fee structure; for example: inactive v. active and inactive v. exempt alignment. Consider incremental steps over multiple years if an increase is needed over \$10. Authorize a \$10.00 per HAA renewal fee and other adjustments that reflect incentivization for on-time and on-line renewal, de-incentivization, and license type structure that do not adversely impact adequate revenues for required operations. Advance discussions with other professions to reflect increased operational requirements, provide incentivization and de-incentivization, and license type structure. Utilize regulatory changes if possible

and consider statutory changes if fee caps inhibit development of enhanced fee structure for all professions.

(Estep/Minns) Motion to increase online fee. Carried.

Budget Update

Went over Legislative handout and pie charts.

Staff Recognition Policy

Discussed 2018 changes to policy.

(Minns/Varner) Motion to accept modified policy. Carried.

KTRAX

Dr. Templeton brought up HB 2574 and issues with KTRAX.

(Minns/Varner) Motion to recess out of Board Meeting and go back into Administrative Hearings. Carried.

Mike S. Hall, P.A., 17-HA00062 – Review of Proposed Consent Order. Mr. Jared Langford appeared for the Board. Mr. Mike S. Hall appeared in person, with counsel Michael Baumberger.

Recusals: DP #31 – Dr. Laha, Dr. Durrett, Dr. DeGrado, Dr. Hutchins

(Templeton/Varner) Recess into attorney client pursuant to K.S.A. 75-4319.

(Milfeld/Minns) Out of attorney client and back into Administrative Hearings.

DP #31 recused – left the room; Dr. Minns took over for Dr. Laha.

(Templeton/Milfeld) Motion to deny Consent Order. Carried. General Counsel explained that the board has denied the request for approval based in part on a concern that there was a sexual relationship with patient, a psychiatric patient.

(Estep/Minns) Motion to return to open Board Meeting from Administrative Hearings.

The Board President called the board meeting back to order.

(DeGrado/Milfeld) Motion to recess the board meeting to go back into hearings to address the Ghassemi case. Carried.

Mohammad Ghassemi, M.D. – Review of Proposed Consent Order. Mr. Reese Hays appeared for the Board. Dr. Mohammad Ghassemi did not appear in person, with counsel Greg Forney. Neither Dr. Ghassemi nor Mr. Forney appeared; per phone call Mr. Forney had a misunderstanding regarding the requirement to appear in person.

(Settich/Varner) Motion to table case until the April Board Meeting. Carried.

(Minns/Varner) Motion to recess the Administrative Hearings and go back into the board meeting. Carried.

The Board President called the board meeting back to order.

V. FAA BasicMed Exam Discussion

Judy Pope and Michael McErwin, D.C. spoke regarding the issue. (Settich/Leinwetter) Motion to approve/recognize Chiropractors to complete the FAA physical. Carried. Dr. Milfeld and Dr. Estep voted no.

VI. STAFF REPORTS

Licensing Administrator:

Licensing Report

The statistical report for the Licensing Department was included in the Board's packet of materials, for their review. The following was discussed: Dr. DeGrado asked about Acupuncture license process, specifically what about those that do not have a license yet. Mr. Hays explained the grandfather clause dates.

Litigation Counsel:

Litigation Report

The statistical report for the Litigation Department was included in the Board's packet of materials, for their review. There were no questions or discussion.

Disciplinary Counsel:

Disciplinary Report

The statistical report for the Disciplinary Department was included in the Board's packet of materials, for their review. There were no questions or discussion.

Council Vacancies/Appointments

Dr. Schlick and Dr. Rues were appointed to the ND Council and Dr. Latham was appointed to the RT Council.

General Counsel:

General Counsel Report

Healing Arts Act regulation update project. Approval of drafts of proposed new and revised Healing Arts regulations. KAR 100-6-2, 100-6-2a, 100-7-1, 100-8-3

(Minns/Hutchins) Motion to proceed with proposed draft with addition of “satisfactory/successful completion” to 100-6-2. Carried.

(Varner/Milfeld) Motion to move forward with proposed draft on 100-6-2a. Carried.

(Minns/Hodgdon) Motion to move forward with proposed draft on 100-7-1. Carried.

(Minns/Milfeld) Motion to move forward with proposed draft on 100-8-3 after General Counsel reviews to ensure flexibility to reasonably account for maternity leave and military service and adds necessary language if necessary. Carried. Discussion of other Healing Arts Act regulation to potentially revise. KAR 100-6-3, 100-21-1, 100-22-1, 100-25-4

(Minns/Estep) Motion to move forward with proposed draft on 100-6-3. Carried.

(Minns/Estep) Motion to approve changes on 100-21-1 (patient records). Carried.

Discussion on 100-22-1 tabled until future Board Meeting.

CNM-I regulation update. The following was discussed:
Board of Nursing tabled their consideration of the proposed CNM-I regulations until their March Board meeting. HB 2589 – bill that would move CNM-I regulation to the Board of Nursing.

(Minns/DeGrado) Motion for Executive Session attorney-client communication K.S.A. 75-4319(b)(2). Carried.

An update of district and appellate cases involving the Board was included in the Board’s packet of materials, for their review. There were no questions or discussion.

Legal advice/update regarding KOMA. There were no questions or discussion.

Legal advice/update regarding communications. There were no questions or discussion.

(Estep/DeGrado) Motion for Executive Session attorney-client communication K.S.A. 75-4319(b)(2). Carried.

Administrative Hearings Process discussion. There were no questions or discussion.

(Hodgdon/Hutchins) Motion to reconvene open meeting to adjourn meeting. Carried.

VII. ADJOURNMENT

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

The meeting adjourned at 3:55 p.m.



David Laha, D.P.M.
President



Kathleen Selzler Lippert
Executive Director