

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

BOARD MINUTES – Friday, April 10, 2020

I. CONSENT ORDERS

Wendy Allen, L.R.T.- Review of Proposed Consent Order. Mr. Gaus appeared in person for the Board. Ms. Allen appeared via conference call, with counsel Colin Gotham.

Motion by Mr. Gaus for a closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under K.S.A. 65-4925. Carried.

(Templeton/Gould) Motion to recess into closed session for Attorney Client Consultation. Carried.

(Templeton/Wattenbarger) Motion to decline to approve the consent order. Carried.

Bryan Allen, L.R.T– Review of Proposed Consent Order. Mr. Gaus appeared in person for the Board. Mr. Allen appeared via conference call, with counsel Colin Gotham.

Motion by Mr. Gaus for a closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under K.S.A. 65-4925. Carried.

(Templeton/Gould) Motion to recess into closed session for Attorney Client Consultation. Carried.

(Templeton/Wattenbarger) Motion to decline to approve the consent order. Carried.

Iris Gonzalez, M.D.- Review of Proposed Consent Order. Mr. Gaus appeared in person for the Board. Dr. Gonzalez appeared via conference call, with counsel Luanne Leeds.

Motion by Mr. Gaus for a closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under K.S.A. 65-2839a(d). Carried

(Durrett/Templeton) Motion to approve Consent Order. Carried.

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, April 10, 2020

I. CALL TO ORDER OF THE MEETING OF THE BOARD - ROLL CALL

The Kansas State Board of Healing Arts met electronically via GoToMeeting and conference call on Friday April 10, 2020. The meeting was called to order at 9:40 a.m. by Steven Gould, D.C. and President.

Mark Balderston, D.C.	present
Molly Black, M.D.	present
Jerry DeGrado, D.C.	present
Robin Durrett, D.O.	present
Thomas Estep, M.D.	present
Steven Gould, D.C.	present
Joel Hutchins, M.D.	present
Steve Kelly, PhD, public member	present
David Laha, DPM	present
Garold O. Minns, M.D.	present
John Settich, PhD public member	present
Kimberly Templeton, M.D.	present
Ronald Varner, D.O.	present
Sherri Wattenbarger, public member	present

Staff members present were Tucker Poling, Acting Executive Director and General Counsel; Courtney Cyzman, Deputy General Counsel; Warran Wiebe, Assistant General Counsel; Nancy Dodik, Disciplinary Counsel; Todd Hiatt, Litigation Counsel; Matthew Gaus and Steven Lehwald, Associate Litigation Counsel; Rebekah Moon, Licensing Administrator; John McMaster, M.D., Medical Director; Jennifer Cook, Paralegal to General Counsel; and Susan Gile, Operations Manager.

APPROVAL OF AGENDA

(Balderston/Durrett) Motion to approve agenda with no changes. Carried.

APPROVAL OF BOARD MEETING MINUTES

(Minns/Varner) Motion to approve minutes of February 14, 2020, and March 19, 2020, board meeting(s) with no changes. Carried.

II. OTHER BUSINESS

New Staff Introductions

No new staff to introduce.

III. STAFF REPORTS

Licensing Administrator:

Approval of Licensee/Registrant List

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: Corporate Practice of Medicine Certificates went live early March. No applications have been received to date. The Education and Outreach Committee has four completed in person presentations. More were scheduled but have been cancelled or postponed due to COVID 19. The committee has done some via video and is pursuing this as an avenue to conduct more presentations in the future to ensure the information is disseminated. A copy of the presentation will be sent to Dr. Gould.

In regard to the COVID-19 response, Licensing has put in place an Emergency Temporary license application and a Telemedicine and Physician Assistant Waiver Notification form.

Licensing continues to meet review and processing times during this COVID-19 crisis.

To ensure timely licensure continues, background checks may be conducted via a name-based check. Fingerprints must be submitted within 180 days of completing the background results.

Disciplinary Counsel:

Disciplinary Report

The statistical report for the Compliance and Regulation Department was included in the Board's packet of materials, for their review. The following was discussed: To date, the department has received approximately ten COVID19 related complaints.

There is one new staff member who started with the agency on March 23rd; the date staff began working remotely. She is working with her supervisor on some remote training as much as possible. Sharon Schiesser who has been an investigator for many years, has changed positions.

There will be approximately 30 cases taken to review committees in the coming weeks.

Executive Director:

Updates on COVID-19 actions and issues

An Executive Order was issued last night which generally extends renewal deadlines within the emergency period to 90 days following the expiration of the emergency declaration. The same is true for continuing education. Executive Director Poling questions the extent of the applicability of the Executive Order and the definition of "state agency". Executive Director Poling will work with the agency accountant related to cash flow and budgetary impact.

Non-urgent vs. Urgent procedures - Discussed whether the Board can recommend an Executive Order to the Governor about performing non-urgent surgery. The Board issued a directive to Executive Director Poling to work with KDHE, KMS and other stakeholders on this issue. The Board would like to consider, in consultation with KMS and other stakeholders, creating a volunteer group of physicians for physicians to be able to call for consultation.

Adopt Regulations K.A.R. 100-78-1 and 100-78-2

The Board needs to formally adopt Corporate Practice of Medicine Regulations which are already in effect as temporary regulations.

(Minns/DeGrado) Motion to adopt K.A.R. 100-78-1. Adopted by roll call vote.

(Settich/Varner) Motion to adopt K.A.R. 100-78-2. Adopted by roll call vote.

Discussion of Board Policies

Policy work group and specifically Courtney Cyzman, Deputy General Counsel has been reviewing Board Policies. Would like to develop a Board Policy Workgroup to review and develop Board policies. Dr. Templeton, Sherrie Wattenbarger and Dr. Black volunteered to assist.

Council Appointments needed:

ND Council: Board Appointed (Board President or designee)

(Hutchins/Durrett) Motion to appoint Dr. Gould. Carried.

PT Council: Board appointed physician - Tabled to the next Board meeting.

Board members to let Warran Wiebe know if they have nominations.

LAc Council: Board needs to appoint Board member who is an MD/DO, to replace Board member Steve Kelly, who was previously appointed by the Board, but is not an MD/DO.

(Durrett/Black) Motion to appoint Dr. Hutchins to the LAc Council. Carried.

Exempt Licenses-Review and consider whether they may hold shares in professional corporations-

Corporation law states individual shareholders must be licensed in the profession of the corporation. The question is raised as to whether the licensee may hold an exempt license status. The corporation law says the shareholder must be licensed

to practice. This topic needs to be put on the agenda for the June Board meeting. The applicable statutes include; K.S.A. 17-2701 and K.S.A. 17-2707.

(Durrett/Black) Motion for Executive Session for Attorney/Client Consultation regarding active civil litigation and settlement pursuant to K.S.A. 75-4319 for 10 minutes. Carried.

(Balderston/Black) Motion to return to open meeting. Carried.

(Durrett/DeGrado) Motion for Executive Session for Attorney/Client Consultation regarding active civil litigation and settlement pursuant to K.S.A. 75-4319 for 5 minutes. Carried.

(Durrett/DeGrado) Motion to return to open meeting. Carried.

(Durrett/Wattenbarger) Motion for Executive Session for Attorney/Client Consultation regarding active civil litigation and settlement pursuant to K.S.A. 75-4319 for 5 minutes. Carried.

(Durrett/Black) Motion to return to open meeting. Carried.


(Durrett/Black) Motion for Executive Session for Attorney/Client Consultation regarding active civil litigation and settlement pursuant to K.S.A. 75-4319 for 5 minutes. Carried.

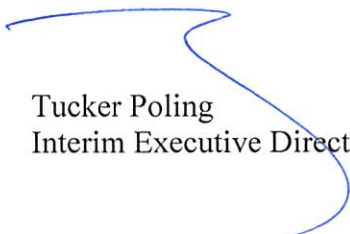
(Minns/Black) Motion to return to open meeting. Carried.

IV. ADJOURNMENT

(Minns/Kelly) Motion to adjourn meeting. Carried.

The meeting adjourned at 11:50 a.m.


Steven Gould, D.C.
President


Tucker Poling
Interim Executive Director