

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

BOARD MINUTES – Friday
April 12, 2013

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 12, 2013

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, April 12, 2013. The meeting was called to order at 8:30 a.m. by Kimberly Templeton, M.D. and President.

Eustaquio Abay, M.D. -	present
Michael Beezley, M.D. -	present
Ray Conley, D.C. -	present
Gary Counselman, D.C. -	present
Robin Durrett, D.O.	present
Anne Hodgdon, public member -	present
David Laha, DPM -	present
M. Myron Leinwetter, D.O.	present
Rick Macias, public member -	present
Garold O. Minns, M.D. -	absent
John Settich, public member -	present
Carolina M. Soria, D.O. -	absent
Kimberly Templeton, M.D.	present
Terry L. Webb, D.C.	present
Joel Hutchins, M.D. -	present

Staff members present were Kathleen Selzler Lippert, Executive Director; Kelli Stevens, General Counsel; Ann Halferty, Assistant General Counsel; Reese Hays, Litigation Counsel; Jessica Bryson, Stacy Bond, Seth Brackman, Brandy Snead and Jane Weiler, Associate Litigation Counsel; Kathy Moen, Medical Litigation Support Specialist; Dan Riley, Disciplinary Counsel; Joshana Offenbach, Associate Disciplinary Counsel; Katy Lenahan, Licensing Administrator; John McMaster, M.D., Medical Director; 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

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

Additions: Medical School Request for Approval and Request for Appointment of Special General Counsel to General Counsel Report; 2:00 Admin Proceeding for Samuel K. Akidiva, M.D.; Statement of Substantial Interest and FSMB & Issues Related to National Licensure and Expedited Licensure to Exec. Director's Report; noon presentation on Collaborative Education Efforts

Deletions: Chiropractic Use of Oxygen Concentrators from General Counsel Report;

Changes: Herbig admin proceeding continued. Lakin admin proceeding continued. Medical School Request continued.

Carried.

APPROVAL OF BOARD MEETING MINUTES

(Conley/Counselman) Approve minutes of February 25, 2011 regular meeting with the following changes: change professional designation for Dr. Templeton on last/signature page of minutes from D.O. to M.D. Carried.

III. OTHER BUSINESS

General Counsel Review – Executive Session

(Conley/Laha) 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.

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

(Webb/Abay) 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.

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

IV. SETTLEMENT AGREEMENT

Jean-Michael Hassan, M.D. – Consideration of a Proposed Consent Order. Ms. Snead appeared for the Board. Dr. Hassan did not appear. Counselor Brian Wright, appeared for Dr. Hassan.

Ms. Stevens and Dr. Templeton also recused themselves from the proceedings. Mr. Settich presided.

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

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

(Conley/Counselman) Approve Consent Order. Carried.

Annette Fay Stucky, P.T., Docket 13-HA00049 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Ms. Stucky appeared *pro se* via teleconference.

Licensee's Exhibit #1 was admitted into the record.

(Laha/Webb) Go into closed pursuant to K.S.A. 77-523(f) to discuss matters which are confidential under K.S.A. 65-4925. Carried.

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

(Beezley/Webb) Approve Consent Order. Carried.

Chad James Welter, D.C., Docket #13-HA00051 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Dr. Welter appeared in person *pro se*.

(Laha/Durrett) Go into closed pursuant to K.S.A. 77-523(f) to discuss matters which are confidential under K.S.A. 65-4925. Carried..

(Counselman/Webb) Return to open session. Carried.

(Webb/Counselman) Approve Consent Order. Carried.

Gregory Erb, M.D. – Consideration of Proposed Consent Order. Ms. Bond appeared for the Board. Dr. Erb appeared in person *pro se*.

Dr. Templeton recused herself from the proceedings and Dr. Counselman presided.

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

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

(Beezley/Webb) Go into executive session pursuant to K.S.A. 75-4319(b)(2) for 10 minutes for the purpose of attorney-client consultation. Carried.

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

(Abay/Beezley) Go into executive session pursuant to K.S.A. 75-4319(b)(2) for 5 minutes (until 10:05 a.m.) for the purpose of attorney-client consultation. Carried.

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

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

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

(Beezley/Laha) Approve Consent Order with elimination of **Confidential** and the addition of a practice monitor. Carried.

Nicholas Aaron Lockrow, D.C. – Ratification of Consent Order. Mr. Brackman appeared for the Board. Dr. Lockrow appeared in person with counsel, Mr. Mark Stafford.

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

(Counselman/Webb) Return to open session. Carried.

(Leinwetter/Beezley) Approve Consent Order. Carried.

Karen Dhanens-Wolverton, M.D., Docket #13-HA00053 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Dr. Dhanens-Wolverton appeared in person *pro se*.

Dr. Templeton recused herself from the proceedings and Dr. Counselman presided.

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

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

(Conley/Beezley) Approve Consent Order. Carried.

Erica L. Anderson, A.T., Docket #13-HA00043 – Ratification of Consent Order. Mr. Brackman appeared for the Board. Ms. Anderson appeared in person *pro se*.

Dr. Webb recused himself from the proceedings.

Board Exhibits A and B were admitted into the record.

(Settich/Macias) Approve Consent Order. Carried.

Brittany E. Burkett, O.T.A., Docket #13-HA00047 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Ms. Burkett appeared in person *pro se*.

(Hodgdon/Webb) Go into executive session pursuant to K.S.A. 75-4319(b)(2) for 10 minutes for the purpose of attorney-client consultation. Carried.

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

(Beezley/Webb) Approve Consent Order. Carried with Dr. Laha, Dr. Templeton and Mr. Macias opposed.

Charles Henry Fletcher, P.A. – Ratification of Consent Order. Mr. Brackman appeared for the Board. Mr. Fletcher appeared in person *pro se*.

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

(Durrett/Abay) Go into executive session pursuant to K.S.A. 75-4319(b)(2) for 10 minutes for the purpose of attorney-client consultation. Carried.

(Durrett/Counselman) Return to open session. Carried.

(Durrett/Abay) Ratify Consent Order as written with April 17, 2013 suspension date. Carried.

Robert H. Dillard, M.D. – Ratification of Consent Order. Mr. Hays appeared for the Board. Dr. Dillard appeared in person *pro se*.

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

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

(Beezley/Durrett) Approve Consent Order with proposed changes will be notated and initialed by both parties. Carried.

Stephen G. Grillot, D.O. – Consideration of Proposed Consent Order. Ms. Bond appeared for the Board. Dr. Grillot appeared in person with counsel, Ms. Mary Christopher.

Dr. Durrett recused himself from the proceedings.

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

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

(Webb/Counselman) Go into executive session pursuant to K.S.A. 75-4319(b)(2) for 5 minutes for the purpose of attorney-client consultation. Carried.

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

(Conselman/Settich) Deny approval of Consent Order. Carried.

Dr. Laha was appointed as Presiding Officer to hear an offer of a revised Consent Order and with authority to issue and approve a Consent Order as a Final Order at a later date.

V. ADMINISTRATIVE PROCEEDING

AMAZAIR McALLISTER, III, M.D., DOCKET #13-HA00040 - Conference Hearing on Application for Reinstatement of Physician Licensure. Ms. Bryson appeared for the Board. Dr. McAllister appeared with counsel Mr. Atif Abdel-Khaliq.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Minns, Dr. Conley, Dr. Leinwetter and Ms. Hodgdon.

Applicant's Exhibit B was entered into the record.

(Laha/Webb) Go into executive session pursuant to K.S.A. 75-4319(b)(2) for 10 minutes for the purpose of attorney-client consultation. Carried.

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

(Settich/Laha) Deny reinstatement of license. Carried.

MAUREEN S. CLARK, O.T., DOCKET #10-HA00106 - Conference Hearing on Request to Terminate Requirements. Ms. Weiler appeared for the Board. Ms. Clark 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. Counselman, Dr. Leinwetter and Dr. Templeton.

Board Exhibits A through K admitted into the record.

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

(Conley/Beezley) Terminate monitoring. Carried.

GLEN D. GEORGER, M.D., DOCKET #13-HA00038 - Conference Hearing Regarding Application for Reinstatement of Physician Licensure. Ms. Bryson appeared for the Board. Dr. Georger appeared with counsel, Mr. Brian Niceswanger.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Conley, Dr. Leinwetter, Dr. Minns and Ms. Hodgdon.

Licensee's Exhibit A was admitted into the record.

(Durrett/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.

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

(Settich/Abay) Go into executive session pursuant to K.S.A. 75-4319(b)(2) for 5 minutes for the purpose of attorney-client consultation. Carried.

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

(Beezley/Abay) Allow withdrawal of application. Carried.

J. RICH JONES, P.T., DOCKET #13-HA00046 - Conference Hearing on Petition for Discipline. Mr. Hays appeared for the Board. Mr. Jones appeared in person with counsel, Mr. Jerry Wallentine.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Conley, Dr. Leinwetter, Dr. Minns and Ms. Hodgdon.

Board Exhibits #1-4 and Licensee Exhibits A-F were admitted into the record.

(Counselman/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/Macias) Go into executive session pursuant to K.S.A. 75-4319(b)(2) for 10 minutes for the purpose of attorney-client consultation. Carried.

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

(Abay/Beezley) Go into executive session pursuant to K.S.A. 75-4319(b)(2) for 10 minutes for the purpose of attorney-client consultation. Carried.

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

(Durrett/Hutchins) Revoke license. Failed.

(Durrett/Macias) Suspend license for a minimum of 6 months, after which the Dr. can apply for reconsideration. Carried.

MATTHEW LANE, D.C., DOCKET #12-HA00071 - Conference Hearing on Request to Terminate Monitoring. Ms. Bond appeared for the Board. Dr. Lane 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, Dr. Soria and Mr. Settich. Dr. Counselman presided.

(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.

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

(Conley/Durrett) Terminate monitoring. Carried.

KARL GRANT, D.O., DOCKET #13-HA00041 - Conference Hearing on Application for Licensure Reinstatement. Ms. Bryson appeared for the Board. Dr. Grant appeared in person with counsel, Ms. Patricia Dengler.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Conley, Dr. Leinwetter, Dr. Minns, Ms. Hodgdon and Dr. Soria.

(Laha/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.

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

(Abay/Laha) Grant continuance and appoint Dr. Laha as Presiding Officer with authority to issue and approve a Final Order. Carried.

Dr. Laha was appointed as Presiding Officer.

MALLOREY CASTANEDA, R.T., DOCKET #11-HA00065 - Conference Hearing on Motion to Terminate Consent Order. Ms. Weiler appeared for the Board. Ms. 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. Webb, Dr. Templeton and Dr. Soria.

Board Exhibits A – K were and Licensee Exhibit #5-7 were admitted into the record.

(Conley/Beezley) 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.

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

(Beezley/Macias) Terminate Consent Order. Carried.

VI. OTHER BUSINESS (cont'd.)

Collaborative Education – Presentation by Dale Grube, Associate Dean of Continuing Education, KU Medical Center on KU collaborative proactive education efforts.

VII. ADMINISTRATIVE PROCEEDINGS (cont'd.)

KARL WEATHERHEAD, D.C., DOCKET #13-HA00057 - Conference Hearing on Petition for Revocation. Mr. Brackman appeared for the Board. Dr. Weatherhead did not appear in person.

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

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

(Conley/Abay) Find Dr. Weatherhead in default and revoke license. Carried.

TIMOTHY J. SEYBERT, L.R.T., DOCKET #13-HA00058 - Conference Hearing on Petition for Discipline. Ms. Weiler appeared for the Board. Mr. Seybert 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. Conley, Dr. Leinwetter, Dr. Minns and Ms. Hodgdon.

Board Exhibits A – G were admitted into the record.

(Laha/Beezley) 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.

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

(Settich/Beezley) Go into executive session pursuant to K.S.A. 75-4319(b)(2) for 5 minutes for the purpose of attorney-client consultation. Carried.

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

(Beezley/Abay) Suspend license for at least 6 months, after which the Board will consider lifting the suspension. Carried.

WINGROVE T. JARVIS, M.D., DOCKET #13-HA00056 - Conference Hearing on Application for Licensure by Endorsement. Mr. Hays appeared for the Board. Dr. Jarvis appeared in person *pro se*.

(Beezley/Conley) Grant license by endorsement. Carried with Dr. Templeton opposed.

ASHLEY L. COFFMAN, L.R.T., DOCKET #13-HA00052- Conference Hearing on Application for Licensure. Ms. Bryson appeared for the Board. Ms. Coffman 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. Leinwetter, Dr. Minns and Ms. Hodgdon.

(Laha/Abay) Continuance granted to June board meeting. Carried

KHANH VU, M.D., DOCKET #13-HA00055 - Conference Hearing on Application for Licensure by Endorsement. Mr. Hays appeared for the Board. Dr. Vu appeared in person *pro se*.

Applicant's Exhibits A and B were admitted into the record.

(Settich/Conley) Go into executive session pursuant to K.S.A. 75-4319(b)(2) for 5 minutes for the purpose of attorney-client consultation. Carried.

(Webb/Hodgdon) Return to open session. Carried.

(Leinwetter/Conley) Deny application for license for failure to meet requirements. Carried.

NOTE: Mr. Settich left the meeting at this point (4:00 p.m.)

ROBERT R. LADD, D.O., DOCKET #13-HA00060- Conference Hearing on Application for Licensure. Mr. Brackman appeared for the Board. Dr. Ladd 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. Conley, Dr. Leinwetter, Dr. Minns and Ms. Hodgdon.

(Macias/Beezley) Deny licensure. Carried with Dr. Counselman opposed.

SAMUEL K. AKIDIVA, M.D., DOCKET #13-HA00064- Conference Hearing on Application for Licensure. Mr. Hays appeared for the Board. Dr. Akidiva appeared in person *pro se*.

(Conley/Durrett) Grant license as he is in substantial compliance with requirements. Carried

NOTE: Drs. Beezley and Durrett left the meeting at this point (4:25 p.m.).

VIII. STAFF REPORTS

Licensing Administrator:

Approval of Administrative Actions

(Conley/Counselman) Approve administrative actions. Carried.

Approval of Licensee/Registrant List

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

Minutes of Committee/Council Meetings

Minutes of all council meetings held since last board meeting were provided in the Board's packet of materials. There were no questions or corrections.

Litigation Counsel:

Litigation Report

Mr. Hays distributed the Litigation Report to the board members for review.

Disciplinary Counsel:

Disciplinary Report

Mr. Riley distributed the Disciplinary Report to the board members for review.

General Counsel:

General Counsel Report

Ms. Stevens had provided the board members with a summary of appellate cases in their packet of materials.

(Leinwetter/Abay) Authorize the General Counsel to initiate an injunction against Ultimate Body Shaping, LLC. Carried.

Anatomical Pathology Services

Ms. Stevens was instructed by the Board to send a letter to Quest to help facilitate the safety net clinics' ability to charge patients reduced fees for pathology services.

Kalamoon University Medical School Request for Approval

Continued to the June board meeting.

Executive Director:

Budget Update

Ms. Selzler Lippert stated that the agency may be doing a \$5.00 reduction in licensure renewal fees to eliminate a growing balance in our fee fund.

Legislative Update

Ms. Selzler Lippert reported that the Physical Therapy bill before the Legislature was approved and enacted. Physician Assistants introduced a bill this session but no action was taken on it.

The Board approved the spending of agency funds on pro-active education programs if the Legislature grants their approval on the request.

Actions Taken Since Last Board Meeting

A list of actions was provided in the Board's packet of materials. There were no questions or discussion.

IPP Reports

No reports were submitted for this meeting.

K.M.S. Licensure Emergency Volunteer Physician

The Board approved Ms. Selzler Lippert's request to work on an abbreviated process that will be submitted to the Board for review and approval.

Misc. Items/Information for the Board

Dr. Templeton was appointed as Presiding Officer and Ms. Selzler Lippert as Special General Counsel in the Henry M. Borra, M.D. case.

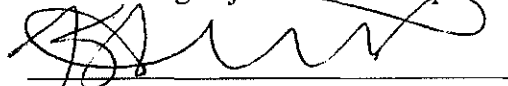
Dr. Leinwetter was appointed to replace Dr. Durrett on the Physician Assistant Council.

The topic of Ultrasound and Laser Fat Reduction, including Board Policy #13-01, will be included on the June board meeting agenda.

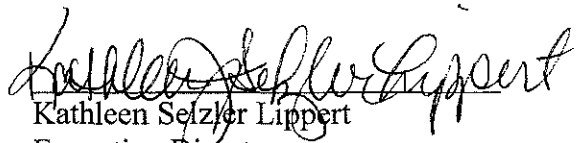
IX. ADJOURNMENT

(Conley/Abay) This meeting is adjourned. Carried.

The meeting adjourned at 5:27 p.m.



Kimberly Templeton, M.D.
President



Kathleen Selzler Lippert
Executive Director