

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

BOARD MINUTES – Friday, April 12, 2019

FRIDAY, APRIL 12, 2019

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, 2019. The meeting was called to order at 8:30 a.m. by Robin Durrett, D.O. and President.

Mark Balderston, D.C.	present	
Jerry DeGrado, D.C.	present	
Robin Durrett, D.O.	present	
Thomas Estep, M.D.	present	
Steven Gould, D.C.	present	
Anne Hodgdon, public member	present	
Joel Hutchins, M.D.		absent
Steve Kelly, 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 - via phone intermittently	
Ronald Varner, D.O.	present	

Staff members present were Kathleen Selzler Lippert, Executive Director; Tucker Poling, General Counsel; Ryan Hamilton, Assistant General Counsel; Reese Hays, Disciplinary Counsel; Susan Gering, Deputy Litigation Counsel; Jared Langford, Todd Hiatt, Katie Baylie, and Matthew Gaus, Associate Litigation Counsel; Nancy Dodik, Associate Disciplinary Counsel; Theresa Massey Licensing Analyst; 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.

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

INTRODUCTION OF NEW STAFF MEMBERS

Linda Shaver and Brandie Bryant in Administration. Cody Darling and Helen Kelly in Licensing.

Dr. Estep announced a new national committee. Dr. Templeton is part of the National Orthopedic Review Committee.

APPROVAL OF AGENDA

(Minns/Estep) Motion to approve agenda with the following changes:
Removal of Steven R. Henson, M.D. and Ayaz Malik, M.D. from the agenda.
Adding consider AT Council member appointment and request recommendation for MD/DO and PT Council members. Carried.

IT Update

(Minns/Varner) Motion to go into executive session for 15 minutes pursuant to K.S.A. 75-4319(b)12 for the purposes of updating board members on security processes in regard to accessing agency network and board email accounts (Executive Director, Director of Operations, General Counsel and staff, and IT Manager and staff, and other Board staff to be included). Carried.

(Minns/Leinwetter) Motion to reconvene open meeting. Carried.

(Minns/Leinwetter) Motion to go into executive session for 5 minutes pursuant to K.S.A. 75-4319(b)12 for the purposes of updating board members on security processes in regard to accessing agency network and board email accounts (Executive Director, Director of Operations, General Counsel and staff, and IT Manager and staff, and other Board staff to be included). Carried.

(Minns/Balderston) Motion to reconvene open meeting. Carried.

APPROVAL OF BOARD MEETING MINUTES

(Varner/Estep) Motion to approve minutes of February 8, 2019 board meeting with no changes. Carried.

II. OTHER BUSINESS

General Counsel:

Consider Appointment of OT Council Member

(Minns/Varner) Motion to appoint Shari Quick, M.D. to the OT Council. Carried.

Consider Appointment of AT Council Member

(Varner/Milfeld) Motion to appoint Mark Balderston, D.C. to AT Council. Carried.

Request recommendation for MD/DO PT Council Member

Dr. Durrett recommended that Board staff reach out to professional associations.

(Minns/Hodgdon) Motion to go into executive session for 10 minutes to consult with General Counsel in a privileged attorney-client communication pursuant to K.S.A. 75-4319(b)(2) for the purposes of discussion with General Counsel regarding legal advice relating to revising sanctioning guidelines (Executive Director, Director of Operations, Disciplinary Counsel, and Deputy Litigation Counsel to be included on advice of counsel). Carried.

(Minns/Laha) Motion to reconvene open meeting. Carried.

(Minns/Laha) Motion to go into executive session for 10 minutes to consult with General Counsel in a privileged attorney-client communication pursuant to K.S.A. 75-4319(b)(2) for the purposes of discussion with General Counsel regarding revising sanctioning guidelines (Executive Director, Director of Operations, Disciplinary Counsel, and Deputy Litigation Counsel to be included). Carried.

(Minns/Varner) Motion to reconvene open meeting. Carried.

Adopt regulations already approved

Motion to adopt all regulations – proceeded with rollcall vote.

Telemedicine: 100-77-1. Definitions.
All yes votes.

Telemedicine: 100-77-2. Telemedicine deemed rendered at location of patient.
All yes votes.

Telemedicine: 100-77-3. Prescribing drugs by means of telemedicine.
All yes votes.

Executive Director:

Legislative Report

SB 25 update/K-TRACS funding update. Recommendation that Executive Director send an email to the board with key stakeholders' information so the board can reach out. Dr. Durrett will work with ED on letter/memo to send.

(Estep/Minns) Motion to go into executive session for 13 minutes to consult with General Counsel in a privileged attorney-client communication pursuant to K.S.A. 75-4319(b)(2) for the purposes of discussion with General Counsel regarding legal and regulatory issues relating to expert witness qualifications (Executive Director and Director of Operations to be included). Carried.

(Leinwetter/Balderston) Motion to reconvene open meeting. Carried.

(Leinwetter/Balderston) Motion to go into executive session for 10 minutes to consult with General Counsel in a privileged attorney-client communication pursuant to K.S.A. 75-4319(b)(2) for the purposes of discussion with General Counsel regarding legal and regulatory issues relating to expert witness qualifications (Executive Director and Director of Operations to be included). Carried.

(Minns/Laha) Motion to reconvene open meeting. Carried.

(Minns/Varner) Motion to go into executive session for 5 minutes to consult with General Counsel in a privileged attorney-client communication pursuant to K.S.A. 75-4319(b)(2) for the purposes of discussion with General Counsel regarding legal and regulatory issues relating to expert witness qualifications (Executive Director and Director of Operations to be included). Carried.

(Varner/Minns) Motion to reconvene open meeting. Carried.

(Varner/Minns) Motion to go into executive session for 5 minutes to consult with General Counsel in a privileged attorney-client communication pursuant to K.S.A. 75-4319(b)(2) for the purposes of discussion with General Counsel regarding legal and regulatory issues relating to expert witness qualifications (Executive Director and Director of Operations to be included). Carried.

(Varner/Balderston) Motion to reconvene open meeting. Carried.

CME & 2-day Meeting Feedback

Board consensus is to continue CME but prefer 1-day meetings. Kathleen advised that CPEP is planning to come to the June Board meeting but that their presentation may not be CME – looking at 1 to 2 hours for their presentation. Also, Carolyn Westgate may be doing a PMP presentation – possibly working lunch.

III. ADMINISTRATIVE PROCEEDINGS

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

Daniel Frye, M.D., DOCKET # 18-HA00023 – Review of Initial Order from OAH. Ms. Gering appeared for the Board. Dr. Frye appeared in person, with counsel Bruce Keplinger.

Recusals: Dr. Leinwetter

(DeGrado/Varner) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under Impairment – K.S.A. 65-4925 and Peer Review - K.S.A. 65-4915 and 65-4925. Carried.

Objection to letters is abstained. Objection to statement regarding cost will be taken into consideration.

(Minns/Milfeld) Motion to recess into closed session for Attorney Client Consultation. Carried.

(Minns/Gould) Motion to go back into closed hearing. Carried.

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

Adopt some of ALJ Initial Order less suspension and probation; costs adjusted less one attorney's travel. Order to be issued within 30 days.

Mark Allen, M.D., DOCKET #17-HA00064 – Conference Hearing on Motion to Modify Consent Order. Ms. Susan Gering appeared for the Board. Dr. Allen appeared in person, with counsel Mark Stafford.

Recusals: Dr. Milfeld, Dr. Varner, Dr. Gould, Ms. Hodgdon

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

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

(Minns/Estep) Motion to grant Motion as filed. Carried.

Christopher Stubbs, M.D., DOCKET #19-HA00049 – Conference Hearing on Application for M.D. Licensure. Mr. Gaus appeared for the Board. Dr. Stubbs appeared in person, with counsel Mark Stafford.

Recusals: Dr. Varner, Dr. Estep, Dr. DeGrado, Dr. Settich

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

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

(Laha/Minns) Motion to continue hearing to June board meeting. Carried.

Alexander Azuka Juwah, M.D., DOCKET #19-HA00052 – Conference Hearing on Application for Institutional Licensure. Mr. Gaus appeared for the Board. Dr. Juwah appeared in person, pro se.

Recusals: Dr. Minns, Dr. Leinwetter, Ms. Hodgdon

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

(Estep/Milfeld) Motion to recess into closed session for Attorney Client Consultation. Carried.

(Estep/Gould) Motion to go back into closed hearing. Carried.

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

Application is being denied. Journal Entry to follow within 30 days.

Norman Johnson, M.D., DOCKET #19-HA00054 – Conference Hearing on Application for M.D. Licensure. Mr. Gaus appeared for the Board. Dr. Johnson appeared in person, pro se.

Recusals: Dr. Balderston, Dr. Hutchins, Mr. Kelly, Dr. Leinwetter

(Minns/Milfeld) Go into closed hearing to discuss confidential information.

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

(Minns/Varner) Motion to approve licensure. Carried.

Michael Arnold, L.R.T., DOCKET #19-HA00055 – Conference Hearing on Application for L.R.T. Licensure. Mr. Gaus appeared for the Board. Mr. Arnold did not appear.

Recusals: Dr. Balderston, Dr. Hutchins, Mr. Kelly, Dr. Leinwetter

(Varner/Minns) Motion to default deny licensure. Carried.

Misty Luce, P.T.A., DOCKET #19-HA00058 – Conference Hearing on Application for P.T.A. Licensure. Mr. Gaus appeared for the Board. Ms. Luce appeared in person, pro se.

Recusals: Dr. Balderston, Dr. Hutchins, Mr. Kelly, Dr. Leinwetter

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

Ms. Luce requested to enter a new exhibit – not allowed.

Mr. Gaus objected to Applicant's Exhibit 1 – overruled.

Ms. Luce indicated that she had obtained an attorney (Gary Laughlin) and was advised to request a continuance.

(Minns/Milfeld) Motion to recess into closed session for Attorney Client Consultation. Carried.

(Minns/Laha) Motion to go back into closed hearing. Carried.

(Laha/Gould) Return to open hearing. Carried.

(Minns/Estep) Motion to continue Conference Hearing to June board meeting. Carried.

Chad E. Sharp, M.D., DOCKET #19-HA00017 – Conference Hearing on Application for Change of Designation/Type. Ms. Manly appeared for the Board. Dr. Sharp appeared in person, pro se.

Recusals: Dr. Leinwetter, Dr. DeGrado, Dr. Settich

(Varner/Minns) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under Impairment – K.S.A. 65-4925. Carolyn Westgate and Dr. Faris remained. Carried.

(Minns/Estep) Motion to convert to formal hearing. Carried.

Dr. Ferris provided testimony.

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

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

(Minns/Estep) Motion to go back into open hearing. Carried.

Written order to follow within 30 days – Dr. Sharp cannot practice until the written order is issued.

Angela Holdeman, M.D., DOCKET #19-HA00063 – Conference Hearing on Reinstatement Application. Ms. Gering appeared for the Board. Dr. Holdeman appeared in person, pro se.

Recusals: Dr. Leinwetter, Mr. Kelly, Dr. Balderston, Dr. Hutchins, Dr. Minns

(Estep/Varner) Go into closed hearing for the presentation of information which is confidential under K.S.A. 65-2838a. Carried.

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

(DeGrado/Gould) Motion to go back into closed hearing. Carried.

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

Dr. Durrett appointed as Presiding Officer.

IV. CONSENT ORDERS

Rudy C. Sasina, D.C. – Review of Proposed Consent Order. Ms. Gering appeared for the Board. Dr. Sasina appeared in person, with counsel Roger Slead.

(Minns/Balderston) 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/DeGrado) Return to open hearing. Carried.

(Minns/Balderston) Motion to approve Consent Order. Carried.

Brian Lahey, M.D., DOCKET #19-HA00005 – Review of Proposed Consent Order. Mr. Hiatt and Ms. Baylie appeared for the Board. Dr. Lahey appeared in person, with counsel Nancy Crawford. Dr. Gould Presiding.

Recusals: Dr. Durrett and Tucker Poling

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

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

(Minns/Leinwetter) Motion to approve Consent Order. Carried.

V. STAFF REPORTS

The Board President called the board meeting back to order.

Licensing Administrator:

Licensing Report

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

Executive Director:**APRN Opinion Article**

Discussed recent Wichita Eagle APRN opinion article.

Agency Operations Updates

Discussed purchasing issues/challenges. Update on the ceiling in CAR. Update on Kathleen's involvement in AIM and FSMB boards. Reminder that SSI's are due April 30th and that harassment awareness training is coming soon. Discussed whether or not to respond to a PA request – Board decided to send no response. HB 2119 contains many of the health bills for this legislative session.

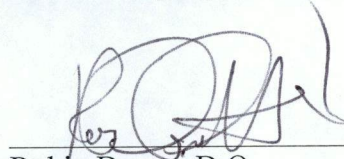
(Laha/Balderston) Motion to go into executive session for 5 minutes to consult with General Counsel in a privileged attorney-client communication pursuant to K.S.A. 75-4319(b)(2) for the purposes of discussion with General Counsel regarding the litigation process (Executive Director, Director of Operations, and Litigation staff to be included). Carried.

(Laha/Estep) Motion to reconvene open meeting. Carried.

VI. ADJOURNMENT

(Estep/Varner) Motion to adjourn meeting. Carried.

The meeting adjourned at 4:11 p.m.



Robin Durrel, D.O.
President



Kathleen Selzler Lippert
Executive Director