

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

**BOARD MINUTES – Friday
April 13, 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, APRIL 13, 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, April 13, 2012. The meeting was called to order at 8:30 a.m. by Gary Counselman, D.C. & President.

Eustaquio Abay, M.D. -	absent	
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	t
Carolina M. Soria, D.O. -	absent	
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; Reese Hays, Litigation Counsel; Stacy Bond, Jessica Bryson and Brandy Snead, Associate Litigation Counsel; Dan Riley, Disciplinary Counsel; Joshana Offenbach, Associate Disciplinary Counsel; Katy Lenahan, Licensing Administrator; Kathy Moen, Medical Litigation Support Specialist and Cathy Brown, Executive Assistant. The attached sign-in sheet indicates those people who were present during portions of the meeting.

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

II. APPROVAL OF AGENDA

(Conley/Templeton) Approve agenda with the following additions:
Administrative Proceedings for Joel Erskin, P.A. at 9:45 a.m. and Whoon Jong Kil, M.D. at 2:00 p.m.; Statements of Substantial Interest added to Executive Director's staff report.
Carried.

III. APPROVAL OF BOARD MEETING MINUTES

(Minns/Templeton) Approve minutes of February 25, 2011 regular meeting.
Carried.

IV. OTHER BUSINESS

General Counsel Review – Closed Session

(Minns/Templeton) Go into closed executive session for 20 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.

V. ADMINISTRATIVE PROCEEDINGS

ANN K. NEUHAUS, M.D., DOCKET #10-HA00129 - Review of Initial Order. Mr. Hays and Ms. Bryson appeared for the Board. Dr. Neuhaus appeared in person, with counsel, Mr. Robert Eye.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Leinwetter, Dr. Conley and Dr. Beezley. Ms. Selzler Lippert, Ms. Stevens and Ms. Halferty recused themselves from the proceedings and Mr. Randy Stookey served as Special General Counsel to the Board.

(Minns/Galbraith) Continue to June 22, 2012 board meeting. Carried.

STEPHEN J. SCHNEIDER, D.O., DOCKET #06-HA00100 - Review of Initial Order. Ms. Hays and Ms. Snead appeared for the Board. Dr. Schneider did not appear. The Board attempted to contact Dr. Schneider at the time of the hearing via conference call as stated in the Notice of Hearing that was mailed to him, but he did not appear on the phone call.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Conley and Dr. Beezley. Ms. Stevens and Ms. Halferty also recused themselves from the proceedings and Mr. Riley served as Special General Counsel to the Board.

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

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

(Minns/Templeton) Adopt Initial Order and revoke license. Carried.

VI. OTHER BUSINESS (cont'd.)

General Counsel Review – Closed Session

(Conley/Beezley) Go into closed 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/Leinwetter) Return to open session. Carried.

VII. SETTLEMENT AGREEMENT

K. Dean Reeves, M.D. – Proposed Consent Order. Ms. Offenbach appeared for the Board. Dr. Reeves appeared in person with counsel, Mr. Thomas Harris.

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. Ms. Stevens also recused herself and Ms. Selzler Lippert served as Special General Counsel to the Board.

(Conley/Whitmer) 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 with Ms. Hodgdon opposed.

Margaret Smith, M.D., Docket #12-HA00058 – Ratification of Consent Order. Ms. Bond appeared for the Board. Dr. Smith 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, Dr. Galbraith and Mr. Settich.

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

Mirriam Andaya, M.D., Docket #12-HA00059 – Ratification of Consent Order. Ms. Bond appeared for the Board. Dr. Andaya 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, Dr. Galbraith and Mr. Settich.

(Conley/Welsh) Ratify Consent Order. Carried.

Richard Bono, M.D., Docket #12-HA00060 – Ratification of Consent Order. Ms. Bond appeared for the Board. Dr. Bono 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, Dr. Galbraith and Mr. Settich.

(Conley/Leinwetter) Ratify Consent Order. Carried.

Kris Lewonowski, M.D., Docket #11-HA00078 – Proposed Consent Order. Mr. Hays and Ms. Bryson appeared for the Board. Dr. Lewonowski appeared in person with counsel, Mr. Mark Stafford, and Mr. Stephen Joseph.

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. Welsh also recused herself.

Exhibit #1 was 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.

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

(Conley/Minns)
Approve Consent Order with the added stipulation CONFIDENTIAL
CONFIDENTIAL

Carried.

The Disciplinary Panel is given the authority to approve CONFIDENTIAL

VII. ADMINISTRATIVE PROCEEDING (cont'd.)

JOEL ERSKIN, P.A., DOCKET #11-HA00117 - Conference Hearing on Offer of Settlement Agreement and Proposed Consent Order. Ms. Bond appeared for the Board. Mr. Erskin appeared in person with counsel, Mr. Randall Forbes.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Templeton, Dr. Counselman, and Dr. Leinwetter. Dr. Beezley presided.

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

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

(Webb/Welsh) Approve the Consent Order. Carried.

HAROLD W. BARKMAN, JR., M.D., DOCKET #08-HA00154- Conference Hearing on Petition to Terminate Monitoring and Limitation. Ms. Bryson appeared for the Board. Dr. Barkman, Jr. appeared in person with counsel, Ms. Carol Ruth Bonebrake.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. Counselman, Dr. Galbraith and Dr. Beezley. Dr. Templeton also recused herself. Dr. Leinwetter presided and conflict was waived for Ms. Stevens so she could serve as General Counsel.

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

Licensee requested that CONFIDENTIAL be allowed to remain in the hearing and it was approved.

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

Admit Board exhibits into the record.

(Minns/Welsh) Terminate monitoring. Carried.

DAMIEN STEPHENS, D.C., DOCKET #11-HA00050 - Conference Hearing on Request to Terminate Monitoring. Ms. Bond appeared for the Board. Dr. Stephens 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.

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

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

(Conley/Minns) Terminate monitoring. Carried.

HALEY PIERCE, R.T., DOCKET #12-HA00064- Conference Hearing Regarding Application for Licensure. Ms. Bryson appeared for the Board. Mr. Pierce 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, Dr. Galbraith and Mr. Settich.

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

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

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

Board exhibits #1 through #4 were admitted into the record. Petitioner's exhibits #1 through #4 were admitted into the record.

(Minns/Beezley) Grant licensure. Carried.

LORENZO ARAUJO, M.D., DOCKET #12-HA00063- Conference Hearing Regarding Application for Licensure by Endorsement. Ms. Bryson appeared for the Board. Dr. Araujo appeared in person, *pro se*.

(Templeton/Minns) Allow applicant to withdraw application or deny licensure. Carried.

Applicant requested withdrawal of his application.

(Conley/Galbraith) Accept withdrawal of application for licensure. Carried.

DAVID W. APPLEMAN, A.T., DOCKET #12-HA00051- Conference Hearing on Application for Licensure by Endorsement. Mr. Hays appeared for the Board. Mr. Appleman appeared with counsel, Mr. Matthew Condon. Dr. Webb recused himself from the proceedings.

Joint exhibits #1 and #2 were entered into the record.

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

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

(Templeton/Minns) Deny licensure. Carried.

(Settich/Welsh) Reconsider denial of licensure. Carried with Dr. Beezley opposed.

Applicant requested withdrawal of his application for licensure.

(Conley/Hodgdon) Accept withdrawal of application for licensure. Carried.

FRANCIS O. OKOYE, R.T., DOCKET #12-HA00057 - Conference Hearing Regarding Petition Seeking Disciplinary Action. Ms. Bryson appeared for the Board. Mr. Okoye 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, Dr. Soria, Dr. Galbraith and Mr. Settich.

(Minns/Conley) Hold licensee in default and revoke license. Carried.

LERDO M. COCAL, M.D., DOCKET #12-HA00050 - Conference Hearing Regarding Application to Reinstate License. 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. Templeton, Dr. Webb, Dr. Soria, Dr. Galbraith and Mr. Settich.

(Conley/Minns) Hold applicant in default and deny application for reinstatement. Carried.

CRAIG ROGERS, D.C., DOCKET #10-HA00133 - Conference Hearing on Request for Termination of Monitoring Provisions. Ms. Bond appeared for the Board. Dr. Rogers 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. Beezley, Dr. Conley and Dr. Leinwetter.

(Webb/Minns) Terminate practice supervision portion of the Final Order. Carried.

WHOON JONG KIL, M.D., DOCKET #12-HA00053 - Conference Hearing on Request for Reconsideration. Ms. Bond appeared for the Board. Dr. Kil appeared in person, *pro se*.

Exhibits #4 through #6 were admitted into the record.

(Settich/Conley) Grant licensure contingent on applicant passing oral board certification exams in May 2012. Carried with Drs. Templeton, Minns, Leinwetter and Webb opposed.

VIII. STAFF REPORTS

Licensing Administrator:

Approval of Administrative Actions

(Conley/Templeton) Approve administrative actions. Carried.

Approval of Licensee/Registrant List

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

Minutes of Committee/Council Meetings

There were no council meetings held since last board meeting.

Licensing Report

No new/updated statistics to report.

General Counsel:

General Counsel Report

Abandoned medical records of Krishna Rajanna, M.D. - The Board is proceeding to obtain temporary custody of Dr. Rajana's medical records and the Dr. has been sent an agreed order to sign. We have 1,200 individual records at present.

Ms. Stevens provided an update of appellate cases involving that Board that had been or are now pending.

Ultrasonic Cavitation (with Medical Director)

Ms. Stevens and Dr. McMaster discussed the procedure and what it involves. Ultrasound is primarily used for diagnostic purposes. What we are looking at now is its use as a therapeutic modality, which is approved in certain areas of physical therapy, chiropractic and the practice of medicine and surgery. The manner in which it is being used as a weight loss (cosmetic) treatment appears to be the practice of medicine and surgery. It can be performed in a legitimate medical practice. The Board has information that it is also being performed in businesses that are not medical practices. It appears to be performed by non-licensed individuals who do not have medical oversight. Dr. McMaster will be looking into this further.

Disapproved Schools

Ms. Stevens presented information indicating that the medical schools could be disapproved based on the following regulatory grounds:

1. Universidad CETEC, Santo Domingo, Dominican Republic (closed 1984) - disapprove for all graduates based on insufficient information concerning the program. K.A.R. 100-6-3(b)(2)
2. Universidad CIFAS Escuela de Medicina, Santo Domingo, Dominican Republic (closed 1984) - disapprove for all graduates based on insufficient information concerning the program. K.A.R. 100-6-3(b)(2)
3. Spartan Health Sciences University School of Medicine, Vieux Fort, Saint Lucia - disapprove for all graduates based on failure to require an undergraduate degree and lack of an entrance examination. Failure to have adequate admission requirements of K.A.R. 100-6-3(b)(13)
4. University of Health Sciences Antigua School of Medicine, St. John's, Antigua and Barbuda (open)- disapprove for all graduates based on lack of an entrance examination/failure to have adequate admission requirements K.A.R. 100-6-3(b)(13)
5. Universidad Federico Henriquez y Carvajal, Santo Domingo, Dominican Republic (closed 1998)- disapprove for all graduates based on insufficient information concerning the program. K.A.R. 100-6-3(b)(2)
6. Kigezi International School of Medicine, Cambridge, England (closed) and Kabale, Uganda (closed)- disapprove for all graduates based on the school not being located in a college that is legally recognized and authorized by the jurisdiction in which it is located to confer the M.D. or D.O. degree. K.A.R. 100-6-3(b)(4)

(Conley/Beezley) Disapprove medical schools on the basis of not meeting the regulations as set forth by the General Counsel. Carried.

Litigation Counsel:

Litigation Report

The statistical report for the Litigation department was distributed and reviewed: 176 open cases at present, 75 new disciplinary cases received in the last two months, 31 closed cases since last board meeting. Since last April they closed 252 cases with 200-250 being the normal rate of closure for a 12-month period. There are 4 formal hearings currently pending.

Disciplinary Counsel:

Disciplinary Report

The statistical report for the Disciplinary department was distributed and reviewed. Numbers for last period had spiked but they were more normal for this period (time period since last board meeting). Number of investigations on the “greater than 2 years” list has dropped by almost 7%. There were 92 cases closed between December and February board meetings and 104 cases closed between February and April board meetings. The total number of investigations has gone up by 15 since last time period, making for full agenda’s for review committees. This, in turn, will likely increase the agenda for the disciplinary panel and the case load for Litigation staff.

Executive Director:

Budget Update

Current reports and information was provided in the packet of information provided to the Board prior to the meeting. There were no questions or comments.

Legislative Update

No pending legislation that the Board had involvement was adopted this legislative session.

Actions Taken Since Last Board Meeting

List of actions were reviewed and approved.

Inventory Verification Forms

Annual inventory verification forms were distributed to the Boardmembers and they were asked to complete and return them to the Executive Assistant.

Impaired Provider Program Reports

Reports submitted were provided to the Board in their packet of materials, for review prior to the board meeting. Providers will be attending the June board meeting to give presentations on their programs and services. The reporting form has been updated and will be utilized beginning with the current reporting period.

Statements of Substantial Interest

Ms. Selzler Lippert reminded the Board that these reports are due by April 30, 2012.

Misc. Items/Information for the Board

Dr. Minns will be joining the Disciplinary Panel and has requested that someone be appointed to replace him on the R.T. Council. Dr. Beezley volunteered to serve on the R.T. Council.

The P.T. Council is requesting that a new non-board physician be appointed as the current appointee has not been attending meetings for some time. Board members were requested to provide recommendations.

Ms. Selzler Lippert will be serving on the Federation of State Medical Board's FCVS Advisory Council.

VIII. ADJOURNMENT

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

The meeting adjourned at 2:30 p.m.

Gary Counselman, D.C.
President

Kathleen Selzler Lippert
Executive Director