

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

BOARD MINUTES – Friday, April 13, 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, APRIL 13, 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 April 13, 2018. The meeting was called to order at 8:00 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.		absent
Garold O. Minns, M.D.	present	
John Settich, public member	present	
Kimberly Templeton, M.D.	present	
Terry L. Webb, D.C.	present	
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; Jared Langford and Courtney Manly, Associate Litigation Counsel; Katie Baylie, Law Clerk; Dan Riley, Disciplinary Counsel; Nancy Dodik, Associate Disciplinary Counsel; Nichole Schlesener, Licensing Administrator; 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.

STAFF ANNOUNCEMENTS

Introduction of new staff: Nichole Schlesener introduced Marissa Ashley and Amanda Perry; Reese Hays introduced Katie Baylie and Courtney Manly; Beth Visocky introduced Amber Cox. Kathleen Selzler Lippert presented Dan Riley a plaque in recognition of his more than ten years of service to the board, the April board meeting was Dan's last meeting – he has accepted another position with the Healthcare Stabilization Fund.

APPROVAL OF AGENDA

(Minns/Estep) Approve agenda with the following changes:
Remove Upchurch and Tang from the agenda. Carried.

APPROVAL OF BOARD MEETING MINUTES

(Minns/Estep) Approve minutes of February 9, 2018 board meeting with no changes. Carried.

II. ADMINISTRATIVE PROCEEDINGS

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

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

(Varner/Hodgdon) Motion to go back into open Administrative Proceedings. Carried.

Jade Meylor, D.C., Docket #18-HA00036 – Ratification of Consent Order. Ms. Courtney Manly appeared for the Board. Dr. Meylor appeared in person, with counsel Brian Niceswanger and Stephanie Pruitt.

Recusals: none.

(Minns/Estep) 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.

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

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

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

(Durrett/DeGrado) 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.

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

(Durrett/Minns) Motion to approve Consent Order with change from CPEP to EBAS because that is more specific to Chiropractors. Both parties agree to this change. Carried.

Kezia Shine, D.C., Docket #16-HA00031 –Review of Initial Order from OAH. Mr. Reese Hays appeared for the Board. Dr. Shine appeared in person, with counsel Brian Niceswanger and Stephanie Pruitt.

Recusals: #30 – Dr. Milfeld, Dr. Varner, Dr. Gould, Ms. Hodgdon, Tucker Poling, Ryan Hamilton

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

(DeGrado/Minns) Motion to go back into open Administrative Proceedings. Carried.

Under advisement and an order will be issued within 30 days.

Michael Estivo, D.O., Docket #16-HA00062 – Review of Initial Order from OAH. Ms. Susan Gering appeared for the Board. Dr. Estivo appeared in person, with counsel Mark Stafford.

Recusals: #29 – Dr. Leinwetter, Dr. Templeton, Dr. Webb, Mr. Settich, Ryan Hamilton

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

(Minns/Varner) Motion to go back into open Administrative Proceedings. Carried.

Under advisement and an order will be issued within 30 days.

Billy Richardson Jr, M.D., Docket #16-HA00113 – Conference Hearing on Request to Terminate Limitations on Consent Order. Ms. Courtney Manly appeared for the Board. Dr. Richardson appeared in person, with counsel Mark Stafford.

Recusals: #30 & #31 – Dr. Milfeld, Dr. Varner, Dr. Gould, Ms. Hodgdon, Dr. Leinwetter, Dr. Minns, Ryan Hamilton

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

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

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

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

(Templeton/Estep) Motion to grant motion in part by removing Paragraph A Subsection 2 that another physician must always be present and adding that this monitoring will last in perpetuity. Carried.

Sayed Sajadi, M.D., Docket #18-HA00037 – Conference Hearing on Petition. Ms. Susan Gering appeared for the Board. Dr. Sajadi appeared in person, with counsel Mark Stafford & Hannah Zimmerman.

Recusals: #29 – Dr. Leinwetter, Dr. Templeton, Dr. Webb, Mr. Settich

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

(Hutchins/Minns) Motion to go back into open Administrative Proceedings. Carried.

Grant motion to convert to formal hearing, with order to be issued.

Todd Eck, D.C., Docket #14-HA00124 – Review of Initial Order from OAH. Mr. Jared Langford appeared for the Board. Dr. Eck appeared in person, with counsel Rebekah Phelps-Davis.

Recusals: #23 – Dr. Leinwetter, Ryan Hamilton

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

(Webb/DeGrado) Motion to go back into open Administrative Proceedings. Carried.

(Webb/Minns) Motion (as clarified on record) to sustain ultimate findings of ALJ as to Counts I, II, IV, and V, not sustain finding of ALJ as to Count III and instead sustain Count III as alleged in Petition by finding that licensee engaged in the unlawful practice of medicine, as will be more specifically described in a written order to be issued within 30 days. Carried.

Dr. Eck, through his attorney Rebekah Phelps-Davis, requests stay.

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

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

Request for stay denied. Verbally advised that the revocation is effective today, April 13, 2018 and that the written order will follow within 30 days.

Charisse Taylor, L.R.T., Docket #18-HA00028 – Conference Hearing on Summary Order. Ms. Susan Gering appeared for the Board. Ms. Taylor appeared in person, with counsel Mark Epstein.

Recusals: #32 – Dr. Leinwetter, Dr. DeGrado, Mr. Settich, Dr. Gould

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

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

(Minns/Templeton) Motion to dismiss summary order. Carried.

Subir Ray, M.D., Docket #17-HA00052 – Conference Hearing on Motion for Removal of License Limitations. Ms. Susan Gering/M.K. Baylie appeared for the Board. Dr. Ray appeared in person, with counsel Megan Moseley. Dr. Minns was acting chair.

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

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

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

(Estep/Varner) Motion to remove license limitation. Carried.

Faiz Ahmed, M.D., Docket #18-HA00039 – Conference Hearing on Petition. Ms. Susan Gering/M.K. Baylie appeared for the Board. Dr. Ahmed did not appear.

Recusals: Dr. Degrado, Dr. Estep, Dr. Varner, Mr. Settich

(Minns/Templeton) Motion to adopt Petition and findings and make Military Affidavit part of record. Proposed Default Order revoking license. Carried.

John H. Carson, M.D., Docket #15-HA00057 – Conference Hearing on Motion to Terminate. Mr. Jared Langford appeared for the Board. Dr. Carson appeared in person, pro se.

Recusals: #29 – Dr. Leinwetter, Dr. Templeton, Dr. Webb, Mr. Settich

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

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

(Minns/Varner) Motion to terminate monitoring. Carried.

Nicholas Lockrow, D.C., Docket #13-HA00015 – Conference Hearing on Motion to Terminate. Ms. Susan Gering appeared for the Board. Dr. Lockrow appeared in person, pro se.

Recusals: #27 – Dr. Leinwetter, Dr. Minns, Ms. Hodgdon

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

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

(Durrett/Minns) Motion to terminate Consent Order. Carried.

Ashley Bartlett, L.R.T., Docket #15-HA00104 – Conference Hearing on Motion to Terminate. Ms. Courtney Manly appeared for the Board. Ms. Bartlett appeared in person, pro se.

Recusals: #29 – Dr. Leinwetter, Dr. Templeton, Dr. Webb, Mr. Settich

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

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

(Hodgdon/Minns) Motion to terminate Consent Order. Carried.

Brent A. Duran, D.O., Docket #13-HA00045 – Conference Hearing on Motion to Terminate. Ms. Susan Gering/M.K. Baylie appeared for the Board. Dr. Duran appeared in person, pro se.

Recusals: #27 – Dr. Leinwetter, Dr. Minns, Dr. Hodgdon

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

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

(Varner/Durrett) Motion to terminate Consent Order. Carried.

Kathleen McVay, P.T.A., Docket #16-HA00074 – Conference Hearing on Motion to Terminate. Ms. Courtney Manly appeared for the Board. Ms. McVay appeared in person, pro se.

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

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

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

(Minns/Estep) Motion to terminate Consent Order. Carried.

III. CONSENT ORDERS

Mohammad Ghassemi, M.D. – Review of Proposed Consent Order. Ms. Susan Gering appeared for the Board. Dr. Ghassemi appeared in person, with counsel Greg Forney.

Recusals: none.

(Minns/Estep) Motion to approve Consent Order. Carried. Dr. Templeton voted no.

David B. Jones, M.D. – Review of Proposed Consent Order. Ms. Courtney Manly appeared for the Board. Dr. Jones did not appear.

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

(Minns/Templeton) Motion to go back into open session. Carried.

(Minns/Templeton) Motion to reject Consent Order. Carried.

Nizar Kibar, M.D. – Review of Proposed Consent Order. Ms. Susan Gering appeared for the Board. Dr. Kibar appeared in person, pro se.

Recusals: Dr. Minns, Dr. Leinwetter

(Estep/Webb) Motion to approve Consent Order. Carried.

IV. STAFF REPORTS

The Board President called the board meeting back to order.

Executive Director:

Substance Abuse Task Force

This is the Governor's Task force pursuant to Executive Order 18-09: Task Force to Address Substance Abuse Use Disorders. Dr. Templeton appointed to the task force with Dr. Durrett as alternate.

PA Independent Practice Resolution at the Federation of State Medical Board Annual Meeting in April

Board to oppose the resolution.

(Durrett/Varner) Motion to go into executive session for 10 minutes to discuss personnel matters of nonelected personnel pursuant to K.S.A. 75-4319(b)(1). Mr. Poling, Ms. Lippert and Ms. Visocky remain for executive session. Carried.

(Durrett/DeGrado) Motion to go back into open session. Carried.

Physician Burnout

Dr. Templeton discussed the topic and the board hosting a delegation of key stakeholders to discuss the topic and encourage stakeholders to consider what changes can positively impact provider wellness or that could reduce burnout.

Licensing Administrator:

Approval of Licensee/Registrant List

(Minns/Durrett) Approve licensee/registrant list. Carried.

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.

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.

General Counsel:

(DeGrado/Gould) 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 discussion of legal advice regarding pending cases and administrative hearings processes, regulatory and compliance matters. Mr. Poling, Mr. Hamilton, Mr. Van Blaricum, Ms. Cook, Ms. Lippert and Ms. Visocky remain for executive session. Carried.

(DeGrado/Minns) Motion to go back into open session. Carried.

(DeGrado/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 discussion of legal advice regarding pending cases and administrative hearings processes, regulatory and compliance matters. Mr. Poling, Mr. Hamilton, Mr. Van Blaricum, Ms. Cook, Ms. Lippert and Ms. Visocky remain for executive session. Carried.

(DeGrado/Varner) Motion to go back into open session. Carried.

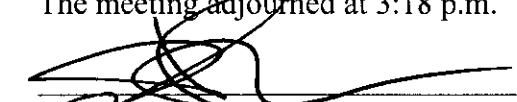
General Counsel Report

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.

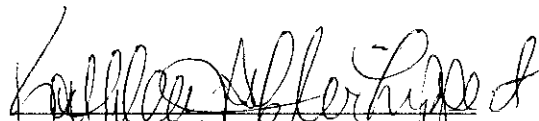
V. ADJOURNMENT

Mr. Settich motioned to adjourn the meeting. This meeting is adjourned. Carried.

The meeting adjourned at 3:18 p.m.



David Laha, D.P.M.
President



Kathleen Selzler Lippert
Executive Director