

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

**BOARD MINUTES – Friday
April 8, 2016**

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 8, 2016

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 8, 2016. The meeting was called to order at 8:30 a.m. by Terry Webb, D.C. and President.

Michael Beezley, M.D.	present
Jerry DeGrado, D.C.	present
Robin Durrett, D.O.	present
Steven Gould, D.C.	present
Anne Hodgdon, public member	present
David Laha, DPM	present
M. Myron Leinwetter, D.O.	present
Richard A. Macias, public member	absent
Douglas Milfeld, M.D.	present
Garold O. Minns, M.D.	present
John Settich, public member	present
Kimberly Templeton, M.D.	absent
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; Kelli Stevens, General Counsel; Stacy Bond, Assistant General Counsel; Reese Hays, Litigation Counsel; Jane Weiler, Susan Gering, Anne Barker Hall, Tracy Fredley and Joseph Behzadi, Associate Litigation Counsel; Dan Riley, Disciplinary Counsel; Joshana Offenbach, Associate Disciplinary Counsel; Katy Lenahan, Licensing Administrator; John McMaster, M.D., Medical Director; Kathy Moen, Medical Litigation Support Specialist; Jennifer Cook and Marsha Sonner, Legal Assistants to General Counsel; and Cathy Brown, Executive Assistant. The attached sign-in sheet indicates those people who were present during portions of the meeting.

Barbara Hoskins, CSR, Appino and Biggs Reporting Service, took and recorded the administrative proceedings conducted.

II. APPROVAL OF AGENDA

(Gould/Durrett) Approve agenda with the following deletions: Administrative Hearings for Robert Carter, MD and Trent Simms, D.O.; Settlement Agreements for Peter Workman, DC and Savannah Carlson, OT. Carried.

APPROVAL OF BOARD MEETING MINUTES

(Gould/Durrett) Approve minutes of February 12, 2016 regular meeting. Carried.

III. OTHER BUSINESS

Advanced Practice Registered Nurse (APRN) Scope of Practice & Licensure Overview by General Counsel

Ms. Stevens reviewed the handout and summary that was provided to the board members.

IV. ADMINISTRATIVE PROCEEDINGS

(Board President) Recess board meeting to conduct administrative proceedings under the Kansas Administrative Procedures Act. Carried.

ELIZABETH ASHWORTH, MD., DOCKET #15-HA00066 - Review of Initial Order. Mr. Hays and Ms. Gering appeared for the Board. Dr. Ashworth appeared in person with counsel, Mr. Mark Stafford.

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. Leinwetter, and Mr. Settich. Dr. Minns presided.

Exhibits K and L were admitted into the record.

Board Decision: Public censure, fine and costs; stayed pending judicial review.

MICHAEL ALLEN DORSCH, P.A., DOCKET #16-HA00052 - Conference Hearing on Petition for Discipline. Ms. Offenbach appeared for the Board. Dr. Dorsch 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. Milfeld, Dr. Varner, Dr. Gould, and Ms. Hodgdon

Board Decision: Licensee was found to be in default and licensee's license was revoked.

JANICE MCKENNY JEFFERSON, R.T., DOCKET #16-HA00070 - Conference Hearing on Petition for Discipline. Ms. Weiler appeared for the Board. Ms. Jefferson 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. Milfeld, Dr. Varner, Dr. Gould, Ms. Hodgdon.

Board Decision: Continued to February 2017 board meeting.

CLYDE E. MORGAN, DC, DOCKET 16-HA00060 - Conference Hearing on Application for Reinstatement. Ms. Fredley appeared for the Board. Dr. Morgan 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. Milfeld, Dr. Varner, Dr. Gould, and Ms. Hodgdon.

Board Decision: Applicant was found to be in default and applicant's application for licensure reinstatement was denied.

FADI DARWICHE, MD, DOCKET 16-HA00065- Conference Hearing on Application for Licensure by Endorsement. Mr. Hays appeared for the Board. Dr. Darwiche 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: None

Board Decision: Grant licensure by endorsement.

J. RICH JONES, PT, DOCKET 13-HA00046 - Conference Hearing on Motion to Modify Limitations. Ms. Weiler appeared for the Board. Mr. Jones appeared in person with counsel, Ms. Megan Moseley.

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

Board exhibit B was admitted into the record.

Board Decision: Approve modification to the limitation. Carried with Dr. Durrett opposed.

V. **OTHER BUSINESS (cont'd.)**

Agency-wide Security Training

Todd Standeford, I.T. Manager for the Board of Healing Arts, presented a security training session to all board members who were present at the meeting.

VI. ADMINISTRATIVE PROCEEDINGS (cont'd.)

BRET A. KELLEY, D.C., DOCKET #14-HA00132 - Conference Hearing on Request to Terminate Monitoring. Ms. Weiler appeared for the Board. Dr. Kelley 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. Durrett, Mr. Macias, and Dr. Laha

Board Decision: Grant termination of Consent Order.

DANIEL FRYE, M.D., DOCKET 09-HA00154 - Conference Hearing on Request to Terminate Consent Order. Mr. Hays appeared for the Board. Dr. Frye 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 and Dr. Leinwetter.

Board Decision: Continuance granted to June board meeting.

BRIAN SCOTT SIMPSON, PT., DOCKET 08-HA00070 - Conference Hearing on Request to Terminate Consent Order. Ms. Weiler appeared for the Board. Mr. Simpson 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. Minns, Dr. Leinwetter, and Ms. Hodgdon.

Board Decision: Terminate Consent Order.

FRANK D. MILLER, D.C., DOCKET 15-HA00105 - Conference Hearing on Motion for Termination of Suspension. Ms. Barker Hall appeared for the Board. Dr. Miller appeared in person with counsel, Mr. Robert Farmer.

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

Board Decision: Stay suspension of license subject to probationary conditions.

KYLE WEIS, RT, DOCKET 15-HA00080 - Conference Hearing on Request to Terminate Consent Order. Ms. Weiler appeared for the Board. Mr. Weis 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. Leinwetter, Dr. Templeton, Mr. Settich, and Dr. Webb.

Board Decision: Terminate monitoring and Consent Order.

DIANNE MALLARI, DC, DOCKET 15-HA00061 - Conference Hearing on Motion to Terminate Monitoring. Ms. Weiler appeared for the Board. Dr. Mallari appeared in person with counsel, Ms. Ivery Goldstein.

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

Board Exhibit B was admitted into the record.

Board Decision: Terminate monitoring.

NICHOLAS BACON, RT, DOCKET 15-HA00075 - Conference Hearing on Request to Terminate Monitoring. Ms. Weiler appeared for the Board. Mr. Bacon 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. Leinwetter, Dr. Templeton, Mr. Settich, and Dr. Webb.

Board Decision: Terminate monitoring.

ANTHONY FRANCIS, MD, DOCKET 89-HA00025 - Conference Hearing on Motion to Terminate Limitation. Ms. Weiler appeared for the Board. Dr. Francis 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: None

Board Decision: Deny request to terminate limitation.

VII. SETTLEMENT AGREEMENT

Kyle M. Sheahon, DC, Docket 16-HA00047 - Review of Proposed Consent Order. Ms. Weiler appeared for the Board. Dr. Sheahon appeared in person with counsel, Ms. Diane Bellquist.

Recusals: None

Board Decision: Approve Consent Order with Ms. Hodgdon opposed.

Truong Cong Pham, DC, Docket #16-HA00011- Review of Proposed Consent Order. Ms. Gering and Mr. Behzadi appeared for the Board. Dr. Pham appeared in person *pro se*.

Recusals: None

Board Decision: Approve Consent Order.

Aaron L. Cheney, D.C., Docket 16-HA00055 - Ratification of Consent Order. Ms. Fredley appeared for the Board. Dr. Cheney appeared in person *pro se*.

Recusals: None

Board Decision: Ratify Consent Order.

Brandy J. Palacios, PTA - Review of Proposed Consent Order, Docket #16-HA00013, Review of Proposed Consent Order, Dkt. #16-HA00015. Ms. Gering appeared for the Board. Ms. Palacios appeared in person with counsel, Mr. Patrick Barnes.

Recusals: None

Board Decision: Approve Consent Order.

Nicholas Gregg, AT, Docket #16-HA00064 - Ratification of Consent Order. Ms. Fredley appeared for the Board. Mr. Gregg appeared in person *pro se*.

Recusals: None

Board Decision: Approve Consent Order.

Roger Evans, MD, Docket #15-HA00079 - Review of Proposed Consent Order. Ms. Hall appeared for the Board. Dr. Evans appeared in person with counsel, Ms. Brooke Bennet Aziere .

Recusals: None

Board Decision: Approve Consent Order.

Shawna Hendrix, LRT, Docket #16-HA00066 - Ratification of Consent Order. Ms. Fredley appeared for the Board. Ms. Hendrix appeared in person *pro se*.

Recusals: None

Board Decision: Ratify Consent Order.

Katie Basgall, PT, Docket #16-HA00067 - Ratification of Consent Order. Ms. Fredley appeared for the Board. Ms. Basgall appeared in person *pro se*.

Recusals: None

Board Decision: Approve Consent Order.

Kimberly Davies, MD - Review of Proposed Consent Order. Ms. Hall appeared for the Board. Dr. Davies appeared in person *pro se*.

Recusals: None

Board Decision: Approve Consent Order.

VIII. OTHER BUSINESS (cont'd.)

Consideration of Adoption of Amended PA, PT, and OT Rules and Regulations

(Durrett/Hutchins) Adopt two new and nine amended Physician Assistant regulations K.A.R. 100-28a-1a, K.A.R. 100-28a-6, K.A.R. 100-28a-9, K.A.R. 100-28a-9a, K.A.R. 100-28a-10, K.A.R. 100-28a-11, K.A.R. 100-28a-12, K.A.R. 100-28a-13, K.A.R. 100-28a-14, K.A.R. 100-28a-15, and K.A.R. 100-28a-17. Carried by roll call vote.

(Durrett/Hutchins) Adopt amended Physical Therapy regulations K.A.R. 100-29-9 and K.A.R. 100-29-16. Carried by roll call vote.

(Durrett/Hutchins) Adopt one amended and one new Occupational Therapy regulations K.A.R. 100-54-7 and K.A.R. 100-54-12. Carried by roll call vote.

IX. STAFF REPORTS

The Board President called the board meeting back to order.

Licensing Administrator:

Approval of Administrative Actions

(Durrett/DeGrado) Approve administrative actions. Carried

Approval of Licensee/Registrant List

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

Minutes of Committee/Council Meetings

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

Licensing Report

None

Litigation Counsel:

Litigation Report

The Litigation Dept. report and statistics were presented by Mr. Hays. There are currently 16 cases at the Office of Administrative Hearings that will take approximately 1 week each. There are current 207 cases open, and 60 cases closed since last board meeting. There have been 320 cases closed since the start of this fiscal year.

Disciplinary Counsel:

Disciplinary Report

Mr. Riley distributed disciplinary department statistics and reviewed them with the Board. Mr. Riley reported that they are now receiving referrals from the prescription monitoring program.

(Varner/Leinwetter) Appoint Dr. Jon Morgan, DPM to the Podiatry Review Committee. Carried.

General Counsel:

Executive Session for Attorney-client Communication Re: Offer of Settlement

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

Decision: The Board did not accept the settlement offer.

Appellate Case Update

Ms. Stevens reviewed all appellate cases involving the Board.

Antitrust Issues Update

Participants reported on the contents of the Federation of State Medical Boards (FSMB) antitrust meeting and noted that it was the most helpful to date. Ms. Selzler Lippert and Ms. Stevens will talk to the Attorney General's office about board member indemnification issues and options for liability coverage.

Executive Director:

Budget Update

Budgets are still in flux and transfers are continuing to be made from other state agencies as well as KPERS and other special funds.

Legislative Update

Ms. Selzler Lippert included in the board's packet of materials for this meeting a status update of all bills that she is tracking this session as well as details on some of the bills that are more pertinent to the Board. At the meeting she further reviewed HB 2660 regarding fee fund transfers. If passed it would add the requirement that licensees be notified if fee fund transfers occur. She also further reviewed HB 2509, an I.T. bill that would transfer I.T. resources to the State's Office of Information Technology Services (OITS) if passed. If this bill does not pass, an executive order might be issued to implement it.

Actions Taken Since Last Board Meeting

A list of all actions taken this year was provided in the Board's packet of information for this meeting.

Education Subcommittee Update & Recommendations

Ms. Selzler Lippert provided the Board with copies of two pertinent articles, as well as a background and status update. There is a need to create additional regulations relative to postgraduate requirements for full licensure.

Appointment to LRT Council

No discussion at this meeting.

Statements of Substantial Interest

Statements are due by May. Board members were provided information in their packet of information for this meeting.

Misc. Items/Information for the Board

PA Regulation Education Update – The KSBHA and Kansas Academy of Physician Assistants have been coordinating to create opportunities for educational presentations regarding PA regulation updates. Several presentations have already been done and additional presentations are planned for the future.

Collaborative Drug Therapy Committee – The term is expiring for Dr. Leinwetter's 1-year appointment, however, he has consented to be reappointed for another term.

Committee on Emergency Planning and Response – Ms. Selzler Lippert asked that board members call or email her with names of nominees for appointment to this committee.

Federal Trade Commission Update – Ms. Selzler Lippert and Ms. Steven attended a March meeting sponsored by the FSMB to discuss the FTC case and a possible response, which included two proposed legislative solutions. These options will be discussed at the annual FSMB meeting and a vote taken on whether to pursue them.

Joint Meeting with KSBHA and the Kansas Board of Nursing – The next meeting is scheduled for Monday, May 23, 2016 to discuss a joint pain policy, community paramedics, advanced practice registered nurse (APRN) issues, nurse midwife independent practice legislation, and the possibility of the two boards sharing back-end resources.

Collaboration with Board of Pharmacy, K-TRAC and Prescription Monitoring Program (PMP) – Ms. Selzler Lippert provided an update. Dr. Leinwetter and Dr. Templeton have been appointed to the PMP Advisory Committee. The PMP has also referred several “prescribers of concern” to the KSBHA for a pilot project review.

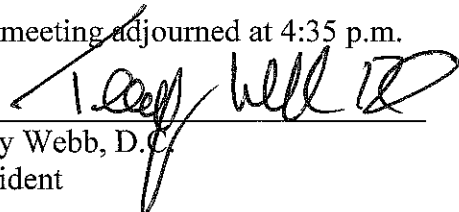
Consumer Report Ranking of State Medical Board Websites – The KSBHA website scored 56 points out of 100. We were rated excellent in identifying doctor information; very good in search capabilities; board disciplinary actions, hospital disciplinary actions and federal disciplinary actions; good in complaint and board information; and poor in malpractice payouts and conviction information.

Employee Award and Recognition Program – Nominations for the last quarter are in and will be reviewed by the committee as soon as a meeting time can be arranged.

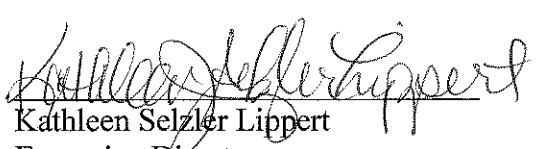
X. ADJOURNMENT

(Board President). This meeting is adjourned. Carried.

The meeting adjourned at 4:35 p.m.



Terry Webb, D.C.
President



Kathleen Selzler Lippert
Executive Director