

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

BOARD MINUTES – Friday
June 14, 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, JUNE 14, 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, June 14, 2013. The meeting was called to order at 8:30 a.m. by Kimberly Templeton, M.D. and President.

Eustaquio Abay, M.D. -	present	at 9:50 a.m.
Michael Beezley, M.D. -	present	
Ray Conley, D.C. -	present	
Gary Counselman, D.C. -	present	
Robin Durrett, D.O.	present	
Anne Hodgdon, public member -	absent	
David Laha, DPM -	absent	
M. Myron Leinwetter, D.O.	present	
Rick Macias, public member -	absent	
Garold O. Minns, M.D. -	present	
John Settich, public member -	present	
Carolina M. Soria, D.O. -	present	
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 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/Beezley and Durrett) Approve agenda with the following changes:

Additions: Noon – Discussion of Licensure Application Statutes;
Aleida Smith P.A. settlement agreement;

Deletions: Steadham, Lakin and Miller cases continued.

Carried.

APPROVAL OF BOARD MEETING MINUTES

(Conley/Leinwetter) Approve minutes of April 12, 2013 regular meeting.

Carried.

III. OTHER BUSINESS

General Counsel Review – Executive Session

(Conley/Durrett) Go into 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.

(Board member/Board member) Return to open session. Carried.

IV. SETTLEMENT AGREEMENT

Dale Scott, D.C. – Consideration of a Proposed Consent Order. Mr. Brackman appeared for the Board. Dr. Scott appeared in person *pro se*. Dr. Conley recused himself from the proceedings.

NOTE: Dr. Abay joined the meeting at this point.

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

(Board member/Board member) Return to open session. Carried.

(Webb/Beezley) Approve consent order with a change that omits the documentation requirements until such time that the Licensee applies for active status. Carried.

Alicia A. Johnson, N.D. – Consideration of Proposed Consent Order. Mr. Brackman appeared for the Board. Dr. Johnson appeared in person *pro se*.

Licensee's Exhibit A was admitted into the record.

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

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

(Counselman/Conley) Approve the consent order. Carried.

Mark J. Taylor, D.P.M. – Consideration of Proposed Consent Order. Mr. Brackman appeared for the Board. Dr. Taylor appeared in person *pro se*.

(Conley/Beezley) Go into closed session for 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.

Christopher Pounds, D.C., Docket #13-HA00083. – Ratification of Consent Order. Ms. Bryson appeared for the Board. Dr. Pounds appeared in person *pro se*.

(Webb/Conley) Approve consent order. Carried.

William Pankey, M.D., Docket #13-HA00075 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Dr. Pankey appeared in person *pro se*.

(Conley/Beezley) Approve consent order. Carried.

Andrea Veer, O.T.A., Docket #13-HA00076 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Ms. Veer appeared in person *pro se*.

(Conley/Counselman) Approve consent order. Carried.

Amanda Cleveland, O.T.A., Docket #13-HA00090 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Ms. Cleveland appeared in person *pro se*.

(Beezley/Conley) Approve consent order. Carried.

Dustin Loyd, P.T., Docket #13-HA00091 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Mr. Loyd appeared in person *pro se*.

(Conley/Beezley) Approve consent order. Carried.

Sarah Hein, P.A., Docket #13-HA00098 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Ms. Hein appeared in person *pro se*.

(Conley/Leinwetter) Accept change/correction of errors that will delete limitations and medicine and surgery language.

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

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

(Conley/Durrett) Approve consent order. Carried.

Matthew L. Camacho, O.T.A., Docket #13-HA00099 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Mr. Camacho appeared in person *pro se*.

Applicant's Exhibit A was admitted into the record.

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

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

(Beezley/Conley) Approve consent order. Carried.

Melanie Browne, R.T, Docket #13-HA00101 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Ms. Browne appeared in person *pro se*.

(Conley/Durrett) Approve consent order. Carried.

Aleida Smith, P.A. – Consideration of a Proposed Consent Order. Ms. Bryson appeared for the Board. Ms. Smith appeared in person *pro se*.

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

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

(Conley/Leinwetter) Approve consent order. Carried.

V. ADMINISTRATIVE PROCEEDING

SANDHYA PAHUJA, M.D., DOCKET #13-HA00092 - Conference Hearing on Application for Licensure by Endorsement. Mr. Brackman appeared for the Board. Dr. Pahuja appeared in person *pro se*, via teleconference.

Board Exhibit #1 was admitted into the record.

(Minns/Beezley) Licensure denied. Carried with Dr. Durrett opposed.

SARAH WOODROW, M.D., DOCKET #13-HA00093 - Conference Hearing on Application for Licensure by Endorsement. Mr. Brackman appeared for the Board. Dr. Woodrow appeared in person *pro se*, via teleconference.

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

(Minns/Abay) Grant license by endorsement. Carried.

HAIYING LIANG, M.D., DOCKET #13-HA00094 - Conference Hearing on Application for Licensure by Endorsement. Mr. Brackman appeared for the Board. Dr. Liang appeared in person *pro se*.

(Minns/Beezley) Grant license by endorsement. Carried.

LINDSEY A. HERBIG, R.T., DOCKET #12-HA00054 - Conference Hearing on Application for Licensure. Ms. Bryson appeared for the Board. Ms. Herbig 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. Minns, Ms. Hodgdon and Dr. Leinwetter.

(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.

(Board member/Board member) Return to open session. Carried.

(Counselman/Beezley) No action on license at present; Board recommends that Ms. Herbig participate in ethics program and Board will review her license application at the August board meeting. Carried.

FERNANDO ABARZUA CABEZAS, M.D., DOCKET #13-HA00095 - Conference Hearing on Application for Licensure. Mr. Brackman appeared for the Board. Dr. Cabezas appeared in person with counsel, Mr. Mark Stafford.

Applicant's Exhibits #5-8 were admitted into the record.

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

(Board member/Board member) Return to open session. Carried.

(Minns/Conley) Deny licensure. Carried with Counselman, Beezley and Settich opposed.

KIM BAKER, M.D., DOCKET #13-HA00096- Conference Hearing on Application for Licensure by Endorsement. Mr. Brackman appeared for the Board. Dr. Baker was available to appear via teleconference, however, the Board did not request his appearance.

(Conley/Beezley) Grant licensure by endorsement. Carried.

RICHARD W. MARTIN, R.T., DOCKET #13-HA00103 - Conference Hearing on Application for Licensure and Waiver of Education Requirement. Mr. Brackman appeared for the Board. Mr. Martin appeared in person pro se, via teleconference.

(Conley/Beezley) Grant waiver and licensure. Carried.

MICHAEL P. SCHUSTER, M.D., DOCKET #13-HA00084 - Conference Hearing on Request for Hearing on Summary Order. Mr. Brackman appeared for the Board. Dr. Schuster 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. Conley, Dr. Minns, Ms. Hodgdon and Dr. Leinwetter.

Board Exhibit #1 was admitted into the record.

(Settich/Beezley) Hold Dr. Schuster in default. Suspend license indefinitely. Carried.

JACK W. JAEGER, M.D., DOCKET #12-HA00014 - Conference Hearing on Petition to Terminate Practice Restrictions. Ms. Weiler appeared for the Board. Dr. Jaeger could not be reached for a scheduled telephone appearance; however, his counsel, Mr. Mark Stafford appeared on his behalf.

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 Exhibit #1 was admitted into the record.

(Beezley/Hutchins) Continue until August board meeting and continue with monitoring until that time. Carried.

DOUGLAS L. GEENENS, D.O., DOCKET #09-HA00059 - Conference Hearing on Request to Terminate Consent Order. Ms. Weiler appeared for the Board. Dr. Geenens appeared in person with counsel, Ms. Karen Virgillito.

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. Counselman. Ms. Stevens and Mr. Riley also recused themselves from the proceedings.

Board Exhibit D was admitted into the record.

(Hutchins/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.

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

(Minns/Abay) Discontinue monitoring. Carried.

CAROL A. RYSER, M.D., DOCKET #13-HA00085 - Conference Hearing on Petition for Revocation. Ms. Offenbach appeared for the Board. Dr. Ryser 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. Conley, Dr. Beezley and Dr. Leinwetter.

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

VI. OTHER BUSINESS

Policy 13-01 – Ultrasound and Laser Fat Reduction

Discussion was held on this topic. Judy Pope, General Counsel to the Kansas Chiropractic Association and Dr. Mark McCune presented comments.

(Settich/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.

The board wants to further explore whether these procedures constitute the use of surgery. The board policy will not be altered at this time.

(Conley/Counselman) Table this matter to the August board meeting to further explore this matter and whether it constitutes the use of surgery. Carried.

Use of Groupon

Groupon involves the splitting of a professional fee. Staff will draft policy language to present at the August board meeting when this issue will be discussed again.

Chiropractic Use of Oxygen Concentrators

The Board discussed whether or not concentrated oxygen is a prescription, and if it is, does it need to be prescribed. Oxygen concentrations not rising to medical level are acceptable. It was the Board's opinion that this is not an issue for policy and should be addressed on a case-by-case basis.

Impaired Provider Program Agreements for FY2014

(Hutchins/Leinwetter) Approve the Impaired Provider Program Agreements for fiscal year 2014. Carried.

VII. STAFF REPORTS

Licensing Administrator:

Approval of Administrative Actions

(Conley/Beezley and Abay) Approve administrative actions. Carried

Approval of Licensee/Registrant List

(Conley/Beezley and Abay) Approve licensee/registrant list. Carried.

Minutes of Committee/Council Meetings

Board members were provided with copies of minutes of all council meetings held since last board meeting. There were no questions or discussion.

Licensing Report

No report presented.

Litigation Counsel:

Litigation Report

Mr. Hays distributed the Litigation Report to the board members for review. There are an increased number of cases coming in from Disciplinary.

Disciplinary Counsel:

Disciplinary Report

Mr. Riley distributed the Disciplinary Report to the board members for review. The numbers on this report are more the norm as compared to last period.

General Counsel:

General Counsel Report

Ms. Stevens reviewed the status of appellate cases and statistics contained in her memo, which was provided in the supplemental packet.

Kalamoon School of Medicine – Request for Board Approval

This item was tabled until more information can be provided.

Executive Director:

Budget Update

The Board's FY2014 and FY2015 currently is subject to a salary cap. The Governor has not yet signed the budget and Department of Administration has recommended that the Governor line item veto the salary cap.

Legislative Update

Updates to the physical therapy bill passed through this Legislative session and were adopted.

Actions Taken Since Last Board Meeting

A report of all actions taken was provided in the board packet. There were no questions or discussion.

Impaired Provider Program (IPP) Reports

Third quarter IPP reports were provided in the board packet. Ms. Selzler Lippert reported that there are concerns with Heart of America Professional Network, the subcontractor for several of the programs, and we are looking for an alternate provider.

August Election of Board Officers

Ms. Selzler Lippert reminded the Board that the election of officers will take place at the August board meeting. She asked members to be thinking about whether they want to follow the formal or informal rotation cycle.

Recommendations for Physical Therapy Council Member

Dr. Richard Geis has resigned from the P.T. Advisory Council. Ms. Selzler Lippert asked board members to provide staff with any recommendations for a board-appointed physician to replace him.

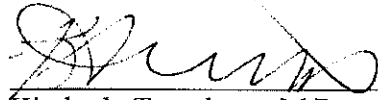
Misc. Items/Information for the Board

The CPEP Learning Summit is being held on November 7th and 8th this year. Board members should let the executive office know if they are interested in attending. Dr. Durrett and Dr. Abay both indicated they might be interested.

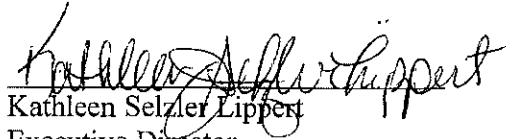
VIII. ADJOURNMENT

(Board member/Board member). This meeting is adjourned. Carried.

The meeting adjourned at 3:25 p.m.



Kimberly Templeton, M.D.
President



Kathleen Selzler Lippert
Executive Director