

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

**BOARD MINUTES – Friday, June 8, 2018**

**FRIDAY, JUNE 8, 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 June 8, 2018. The meeting was called to order at 8:30 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 – left the meeting @ noon |
| Douglas Milfeld, M.D.       | present                           |
| Garold O. Minns, M.D.       | present                           |
| John Settich, public member | present                           |
| Kimberly Templeton, M.D.    | present – via phone for ½ meeting |
| 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, Disciplinary Counsel; Susan Gering, Deputy Litigation Counsel; Jared Langford, Courtney Manly and Todd Hiatt, Associate Litigation Counsel; Nancy Dodik, Associate Disciplinary Counsel; Theresa Massey for 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.

**APPROVAL OF AGENDA**

(Varner/Estep) Approve agenda with the following changes: Remove Upchurch, Bernhardt, Krueger, and Holloway from agenda and change Condra to Review of Proposed Consent Order. Carried.

## **STAFF RECOGNITION**

Service awards: Theresa Massey – 15 years, Reese Hays – 10 years, Jenne Cook – 5 years, Sheryl Snyder – 20 years, Susan Gering – 5 years, Hester Workman – 15 years.

New Staff: Todd Hiatt – Litigation Attorney, Jeremy Budde – Investigator Supervisor, Nancy Wilson – Medical Investigator, Barb Snyder – Compliance (Temp Worker), Aidee Caldera and Chandni Bhakta – Licensing Analysts.

Board Member Recognition: Dr. Webb received a plaque to commemorate his years of service to the State of Kansas while serving on the board – the June meeting was his last, he will not be seeking a reappointment.

## **APPROVAL OF BOARD MEETING MINUTES**

(Minns/Estep) Approve minutes of April 13, 2018 board meeting(s) with the following changes: clarifying the wording in the minutes as it relates to physician burnout. Carried.

## **II. ADMINISTRATIVE PROCEEDINGS**

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

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

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

**Adam Condra, M.D., Docket #18-HA00040 – Review of Proposed Consent Order.** Ms. Courtney Manly appeared for the Board. Dr. Condra appeared in person, with counsel Kelli Stevens.

Recusals: Dr. Minns

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

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

(Gould/DeGrado) Motion to reject Consent Order as written. Carried.

Recuse: #33 – Dr. DeGrado, Dr. Estep, Dr. Varner, Mr. Settich, Dr. Durrett, Dr. Minns

(Estep/Varner) Motion to appoint Dr. Hutchins as presiding officer to approve amended Consent Order, which will include the following additional requirements to be completed within one year: Medical Records Course, Prescribing Narcotics and Pain Workup Course, Pro Be Ethics, and lectures to all resident programs in Kansas pertaining to practicing within the scope of a post-graduate permit. Carried.

**K. Dean Reeves, M.D., #12-HA00072 & 17-HA00025 – Review of Proposed Consent Order.** Ms. Susan Gering & Mr. Jared Langford appeared for the Board. Dr. Reeves appeared in person, with counsel Mark Lynch.

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

**J. Rich Jones, P.T., Docket #13-HA00046 – Conference Hearing on Motion to Terminate License Limitations.** Ms. Nancy Dodik appeared for the Board. Mr. Jones appeared in person with counsel Mark Lynch.

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

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

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

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

**Krystin Jade Provo, D.C., Docket #17-HA00012 – Conference Hearing on Motion to Terminate Consent Order Early.** Ms. Nancy Dodik appeared for the Board. Dr. Provo appeared in person, pro se.

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

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

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

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

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

(Gould/Varner) Motion to continue to August Board Meeting. Carried.

**William Freund, M.D., Docket #14-HA00153** – Conference Hearing on **Motion to Terminate Consent Order**. Ms. Nancy Dodik appeared for the Board. Dr. Freund appeared in person, pro se.

Recusals: #28 – Dr. Durrett, Dr. Laha, Tucker Poling, Dr. Leinwetter

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

[REDACTED] Carried.

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

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

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

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

(Varner/Estep) Motion to leave Consent Order as written. Carried.

**Chester Stone, M.D., Docket #18-HA00053** – Conference Hearing on **Petition**. Ms. Courtney Manly appeared for the Board. Dr. Stone appeared in person, pro se.

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

(Minns/Varner) Pursuant to K.S.A. 77-514G motion to appoint full board as presiding officer. Carried.

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

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

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

(Minns/Gould) Motion to revoke license. Carried – Dr. Milfeld voted no.

(Minns/Gould) Motion to reappoint Dr. Durrett as presiding officer for review of final order. Carried.

**Vinson DiSanto, D.O., Docket #18-HA00048** – Ratification of Consent Order. Mr. Reese Hays appeared for the Board. Dr. DiSanto appeared in person, pro se.

(Minns/Durrett) Motion to accept Consent Order as written. Carried.

### **III. LUNCH AND CPEP WEBINAR**

### **IV. STAFF REPORTS**

The Board President called the board meeting back to order.

#### **General Counsel:**

#### **Continue considerations of revisions to K.A.R. 100-28a-14**

Discussed current statutory and regulatory structure and requirements, history of this regulation, proposal from PA Advisory Council, input from stakeholders, and practical logistics of supervising in diverse practice settings in Kansas. PA, MD, DO groups testified as did two working Physician Assistants regarding same. Stakeholders all testified in opposition to physical presence requirement.

(Settich/Hodgdon) Motion to strike (c) from the current K.A.R. and to move forward with the proposal except for subsection (c) of the proposal. [physical presence requirement eliminated.] Carried – Dr. Hutchins and Dr. Templeton voted no.

#### **Approval of Temporary K.A.R. 100-76-2**

Revised K.A.R. 100-76-2, which has been presented to and approved by the Department of Administration and Attorney General as a proposed temporary and permanent regulation, was discussed. Board approved of revised version moving forward. Board was advised that roll call vote necessary to enact revised version as temporary regulation while process for approval as permanent regulation moves forward. Roll call vote was taken and Temporary K.A.R. 100-76-2 was approved.

#### **Consider Request to Supervise Additional PTA**

(Varner/Hutchins) Motion to grant request. Carried.

(DeGrado/Varner) Motion to go into executive session for 20 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 appellate cases and 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. Visocsky remain for executive session. Carried.

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

(Varner/Hutchins) 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 appellate cases and 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. Visovsky remain for executive session. Carried.

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

**General Counsel Report**

[An update of district and appellate cases involving the Board, and other matters protected by attorney client privilege, was included in the Board's packet of materials and supplemental paper materials provided at the meeting, for their review. These matters, in addition to discussions and directions regarding pending and future matters in the district and appellate courts were discussed in the closed attorney client sessions. There were no questions or discussion on these matters in open session.]

**Licensing Administrator:**

**Approval of Licensee/Registrant List**

(Varner/DeGrado) 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.

**Executive Director:**

**PT Board Appointment Needed – Board Appointed Physician Resigned**

Asked for names from the board members – Dr. Durrett suggested Dr. Brandon Rice from Wichita.

**Legislative Report**

SB 109 granted pay increases for most state employees – for the most part, anyone who has been with the state for at least 1 continuous year (since the last legislative pay increase) will receive either a 2.5% or 5% increase.

**Substance Abuse Task Force**

Dr. Templeton provided some handouts with information relating to the taskforce, there will be additional information provided at the August board meeting.

**FSMB and NCLB Annual Meetings**

Some staff and board members recently attended the FSMB and NCLB annual meetings. All of the presentation will be made available for anyone interested.

**Physician Burnout Symposium**

We will be hosting a Physician Burnout/Well-Being Symposium in mid-September. There will be stakeholders from across the region coming together to discuss the issues and look for solutions.

**Annual Election of Officers Information**

Election of officers will be held at the August board meeting.

**Misc. Items/Information for the Board**

Many have attended the CPEP meeting. As soon as we have the information for the next meeting we will send that information out.

Anyone who has not completed their harassment training will be receiving a reminder message from our HR Manager, Sheila Rice.

We will be hosting a Licensing Summit at the end of June. There will be stakeholders from across the nation coming together to discuss licensing best practices.

Mileage Reimbursement rules/practices were discussed and the clarified directive from the Department of Administration was shared with the board. At this point, it is the opinion of the Department of Administration that board members must utilize the state contract rental cars or if they choose to drive their personally-owned vehicle they will be reimbursed for the lesser cost to the state. The board instructed Ms. Lippert to continue pursuing an exemption for board members.

Cyber Security Training this year will be conducted by the State of Kansas Information Technology Department. Every employee and board member will be required to complete the training and to submit their certificate of completion to our HR Manager, Sheila Rice.

We recently had to add five additional parking spaces to accommodate our staff.

**General Counsel:**

(Minns/Estep) Motion to recess into executive session for a period of 30 minutes for the purposes of discussion of personnel matters relating to non-elected personnel, pursuant to K.S.A. 75-4319(b)(1), and for attorney client discussions regarding the same, pursuant to K.S.A. 75-4319(b)(2). The subject matter will relate to employee survey results and personnel analysis relating to same and legal advice regarding personnel matters. Mr. Poling and Jane Schumaker remain for executive session. Carried.

(Minns/Estep) Motion to return from executive session into open meeting. Carried.

(Minns/Varner) Motion to recess into executive session for a period of 20 minutes for the purposes of discussion of personnel matters relating to non-elected personnel, pursuant to K.S.A. 75-4319(b)(1), and for attorney client discussions regarding the same, pursuant to K.S.A. 75-4319(b)(2). The subject matter will relate to employee survey results and personnel analysis relating to same and legal advice regarding personnel matters. Mr. Poling and Jane Schumaker remain for executive session. Carried.

(Laha/Minns) Motion to return from executive session into open meeting. Carried.

(Minns/Varner) Motion to recess into executive session for a period of 20 minutes for the purposes of discussion of personnel matters relating to non-elected personnel, pursuant to K.S.A. 75-4319(b)(1), and for attorney client discussions regarding the same, pursuant to K.S.A. 75-4319(b)(2). The subject matter will relate to employee survey results and personnel analysis relating to same and legal advice regarding personnel matters. Mr. Poling and Ms. Lippert remain for executive session. Carried.

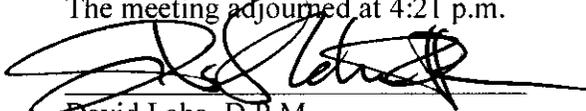
(Settich/Minns) Motion to return from executive session into open meeting. Carried.

**V. ADJOURNMENT**

(Minns/Durrett) Motion to adjourn. Carried.

This meeting is adjourned.

The meeting adjourned at 4:21 p.m.

  
David Laha, D.P.M.  
President

  
Kathleen Selzler Lippert  
Executive Director