

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

**BOARD MINUTES – Thursday, August 10, 2017 and
Friday, August 11, 2017**

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.

THURSDAY, AUGUST 10, 2017

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 Thursday, August 10, 2017. The meeting was called to order at 12:30 p.m. by Garold Minns, M.D. and President.

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

Lora Appino Barnett, CSR, Appino and Biggs Reporting Service, took and recorded the administrative proceedings conducted.

APPROVAL OF AGENDA

The agenda was accepted and approved by attending board members.

APPROVAL OF BOARD MEETING MINUTES

(Hutchins/Varner) Approve minutes of June 10, 2017 regular meeting. Carried.

Later in the meeting Dr. Minns requested that “Carried” be removed from the end of the approval for the agenda and minutes, found on page two of the June 10, 2017 board meeting minutes.

I. OTHER BUSINESS

Election of Board Officers

(Gould/Leinwetter) Nominate Dr. Durrett for Vice President of the Board. Carried.

There were no further nominations, nominations were closed, and the Board voted by written ballot. Dr. Durrett was elected as Vice President of the Board for the ensuing year.

(Gould/Durrett) Nominate Dr. Laha for President of the Board. Carried.

There were no further nominations, nominations were closed, and the Board voted by written ballot. Dr. Laha was elected as President of the Board for the ensuing year.

Discussion on Topics of Interest

Improvements to Disciplinary Panel Process and Substantive Review of Cases

- Consider having two panels operating simultaneously for two years that would alternate meeting throughout each year. -- Decision: The current system was determined to be acceptable.
- Consider improvements to Disciplinary Panel orientation to cover the qualitative aspect of the panel’s functions. – Decision: Staff will facilitate improvements.
- Consider suggestions for improvement to communication from panels to the Board (through Litigation Staff) and from the Board back to Litigation and the panels. -- Decision: Many ideas were discussed. Board and staff will need to further review logistics.

- Consider whether it might be appropriate on some cases to have the panels meet with licensees/applicants in person before giving authorization to Litigation. -- Decision: Due to KAPA issues, this cannot be implemented.
- Discuss the rationale for differing lengths of monitoring contracts for impaired providers. – Decision: Staff is currently discussing the term lengths with contracted monitoring providers.
- Discuss whether “being sanctioned or disciplined by a medical care facility” for acts or conduct that would constitute unprofessional conduct is a violation only when the action taken was one in which the licensee had due process rights to contest the action, or does it apply to any firing, probation, reprimand in any employment situation. -- Decision: Violation occurs only when they have the rights of due process.

Discussion about what types of conduct not directly related to practice should/should not be prosecuted

- When does behavior that occurs in a licensee’s personal life become a matter of Board concern?
- Does “conduct that deceives, defrauds or harms the public” need to be directly related to a licensee’s practice activities in order for it to be a violation?

Decision: Must decide what personal life behavior effects their profession. There followed a discussion of ADA issues and violations, and maintenance of care.

Discussion about ways to improve Board meeting and hearing efficiency

- Consider approving consent orders and other settlements in block votes, with Board members having the option to select out cases for which they want to have party appearances. -- Decision: Board members approved doing this on a trial basis and details/procedural instructions will be provided in the Board’s packet of materials for the October board meeting.
- Consider other possibilities for streamlining hearings and hearing some types of cases in summary fashion when appropriate. -- Other options declined by the board. Continue with current practice.
- Consider having GC staff create a glossary for Board members of the various procedural and substantive terms for use during review

of Board packets and during hearings and meetings. -- Decision: Staff will create a glossary, which the Board thought would be very helpful.

Board members will send the General Counsel any future ideas for streamlining and improving processes, procedures and practices. An hour will be scheduled each year at the August board meeting to review and discuss these items.

II. ADMINISTRATIVE PROCEEDINGS

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

ALLEN S. PALMER, D.O., DOCKET #17-HA00060 – Conference Hearing on Petition for Discipline. Ms. Gering appeared for the Board. Dr. Palmer appeared in person, with counsel Mr. Tom Theis.

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

Licensee's Exhibit consisting of the Licensee's C.V. was admitted into the record.

Board Decision: The board took the matter under advisement and will issue a written decision.

ALEXANDER HEMME, D.C., DOCKET #17-HA00057 - Conference Hearing on Petition for Discipline. Ms. Weiler appeared for the Board. Dr. Hemme appeared in person with counsel, Mr. Andrew Moskow.

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

Board Decision: Fine doctor \$250 and terminate consent order.

STEVEN PUDERBAUGH, D.O., DOCKET #17-HA00065 - Conference Hearing on Petition for Discipline. Ms. Gering appeared for the Board. Dr. Puderbaugh appeared in person with counsel, Mr. Tom Theis.

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

Licensee's Exhibit consisting of the Licensee's Affidavit was entered into the record.

Board Decision: Revoke License.

III. SETTLEMENT AGREEMENTS

Mark Allen, M.D., Docket #17-HA00064 Review of Proposed Consent Order. Mr. Behzadi appeared for the Board. Dr. Allen appeared in person with counsel, Mr. Mark Stafford.

Recusals: None

Board Decision: Consent Order denied and license emergently suspended.

Stay of suspension was requested and denied. Dr. Hutchins was appointed as Presiding Officer. (See reconsideration on Friday, August 11, 2017.)

Mackenzie Underwood, A.T. - Ratification of Consent Order. Ms. Barker Hall appeared for the Board. Ms. Underwood appeared in person, *pro se*.

Recusals: None

Board Decision: Ratify the Consent Order.

Brad Temple, D.C., Docket #17-HA00069 - Ratification of Consent Order. Ms. Barker Hall appeared for the Board. Dr. Temple appeared in person with counsel, Ms. Cynthia Shepherd.

Recusals: None

Board Decision: Reduce fine to \$1,000 and ratify the Consent Order.

Roger Parris, M.D. - Review of Proposed Consent Order. Mr. Behzadi appeared for the Board. Dr. Parris appeared in person with counsel, Ms. Megan Mosley.

Recusals: None

Board Decision: Suspension of license, to begin on August 11, 2017.

IV. STAFF REPORTS

The Board President called the board meeting back to order.

Licensing Administrator:

Approval of Licensee/Registrant List

The Board approved the licensee/registrant list as submitted.

General Counsel:

General Counsel Report

Ms. Stevens briefly reviewed appellate cases involving the Board.

Dr. Templeton was appointed to help staff with the final draft of regulations that are being updated for postgraduate training requirements and resident licensure to moonlight.

Update on KOMA Legislative Changes

General Counsel distributed a new worksheet that will be used for executive sessions. The worksheet will aid the board in meeting new Kansas Open Meetings Act requirements that went into effect July 1, 2017.

Review & Approval of Agency Website Frequently Asked Questions (FAQs)

FAQs were reviewed by board members. Two corrections were made and they were approved for publication on the agency website.

Assistant General Counsel

Minutes of Committee/Council Meetings

Minutes of council meetings held since last board meeting were included in the board's packet of materials for the meeting. There were no questions or concerns.

Athletic Trainer (AT) and Acupuncture Regulations

The board approved staff to move forward with updates to the AT regulations.

The Board was advised that the acupuncture temporary regulations have been approved by the Office of the Attorney General and are ready to move forward. A special board meeting will be scheduled for board review and approval of the regulations.

Executive Director:

Appoint Board Designee to Respiratory Care Council

Dr. Milfeld was appointed to the Respiratory Care Council.

Misc. Items/Information for the Board

Employee Leadership and Development Status Report, Janie Shumaker, Leadership Consultant – Ms. Shumaker reported that she had conducted several

meetings to understand the culture of the agency. She said that she discovered that there is broken trust and we have all worked on that issue. The staff survey that was conducted several months ago was a voice for employees and other opportunities were created to allow employees to open up with and without leadership in the room. Ms. Shumaker has not been able to identify a specific example of retaliation, which was mentioned in the survey, however, she did identify some examples of disrespectful behavior. Ms. Shumaker stated that the agency is not yet where they need to be with their best practices for leadership but that she will continue to coach the Executive Director and the Executive Director will coach the management team. Core value behaviors will become part of performance evaluation criteria going forward and staff will work to have more face to face communication.

(Macias/Gould) Board will recess into executive session for 30 minutes to discuss personnel matters of nonelected personnel pursuant to K.S.A. 75-4319(b)(1) and will reconvene the open meeting at 6:00 p.m. in the KSBHA board room. Allison Conklin and Kim Warren from State Division of Personnel Services, Janie Schumaker, Leadership Consultant, and Kathleen Selzler Lippert will be present for the executive session. Carried.

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

FRIDAY, AUGUST 11, 2017

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, August 11, 2017. The meeting was called to order at 8:30 a.m. by Garold Minns, M.D. and President.

Michael Beezely, M.D.	present
Jerry DeGrado, D.C.	present
Robin Durrett, D.O.	present
Steven Gould, D.C.	present
Anne Hodgdon, public member	absent
David Laha, DPM	absent
M. Myron Leinwetter, D.O.	present
Richard A. Macias, public member	present
Douglas Milfeld, M.D.	present
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; Kelli Stevens, General Counsel; Stacy Bond and Ryan Hamilton, Assistant General

Counsel; Reese Hays, Litigation Counsel; Jane Weiler, Susan Gering, Anne Barker Hall, Joseph Behzadi and Jared Langford, Associate Litigation Counsel; Dan Riley, Disciplinary Counsel; Joshana Offenbach, Associate Disciplinary Counsel; John Nichols, Licensing Administrator; John McMaster, M.D., Medical Director; Kathy Moen, Medical Litigation Support Specialist; Jody Kisner, Compliance Coordinator; Jennifer Cook, Legal Assistant to General Counsel; and Cathy Brown, Executive Assistant. The attached sign-in sheet indicates those people who were present during portions of the meeting.

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

II. ADMINISTRATIVE PROCEEDINGS

SUBIR RAY, M.D., DOCKET #17-HA00052 - Conference Hearing on Application. Ms. Barker Hall appeared for the Board. Dr. Ray appeared in person with counsel, Ms. Carol Ruth Bonebrake and 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. DeGrado, Dr. Durrett, Dr. Hutchins, Dr. Laha and Mr. Macias.

Board Decision: Grant license with requirements that will be detailed in the Order issued by the Board. Drs. Beezley and Leinwetter were opposed to this action.

KRISTEN GIEFER, D.O., DOCKET #17-HA00072 - Conference Hearing on Application. Ms. Barker Hall appeared for the Board. Dr. Giefer 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. Leinwetter, Dr. DeGrado and Mr. Settich.

Board Decision: Post-graduate permit granted by two-thirds majority.

EDWARD CHAUM, M.D., DOCKET #17-HA00071 - Conference Hearing on Application. Ms. Barker Hall appeared for the Board. Dr. Chaum 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. Leinwetter, Dr. DeGrado and Mr. Settich.

Board Decision: Allow Dr. Chaum to withdraw his application.

JOHN PITMAN III, M.D., DOCKET #17-HA00044 - Conference Hearing on Application. Ms. Barker Hall appeared for the Board. Dr. Pitman did not appear in person.

Following are the members of the disciplinary panel and those members present at the board meeting recused themselves from the proceedings: Dr. DeGrado, Dr. Durrett, Dr. Hutchins, Dr. Laha and Mr. Macias.

Board Decision: Hold licensee in default. Licensure denied.

ROGER BUSH, L.R.T., DOCKET #17-HA00004 - Conference Hearing on Motion to Terminate. Ms. Manly and Mr. Hays appeared for the Board. Mr. Bush 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. DeGrado, Dr. Durrett, Dr. Hutchins, Dr. Laha and Mr. Macias.

Board Decision: Terminate Consent Order.

MARY TAKAISHI, P.A., DOCKET #14-HA00098 - Conference Hearing on Motion to Terminate Prescribing Limitations. Ms. Manly appeared for the Board. Ms. Takaishi 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. Leinwetter, Dr. Minns and Ms. Hodgdon. Dr. Durrett also recused himself from the proceedings. Dr. Webb presided.

Board Decision: Terminate prescribing limitations. Other provisions of the Consent Order not previously terminated shall remain in effect.

DEREK URBAN, M.D., DOCKET #15-HA00007 - Hearing on Remand. Mr. Hays appeared for the Board. Mr. Urban 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. Leinswetter, Mr. Settich, Dr. Templeton and Dr. Webb.

Board Decision: The Board will take the matter under advisement and will issue a written order within the next 30 days.

III. SETTLEMENT AGREEMENTS

Mark Allen, M.D., Docket #17-HA00064 Reconsideration of Emergency Suspension and Consideration of Modified Consent Order. Mr. Behzadi appeared for the Board. Mr. Mark Stafford, counsel for Dr. Allen, appeared on behalf of Dr. Allen.

Recusals: None

Board Decision: Vacate emergency suspension. Dr. Hutchins appointed as Presiding Officer to review and approve modifications to a Consent Order the parties may propose.

IV. OTHER BUSINESS

Federation of State Medical Boards (FSMB)

Presentation on the role of the FSMB by Dr. Ralph Loomis and Dr. Humayun Chaudhry.

Discussion on Topics of Interest (cont'd.)

Employee Awards and Recognition Program

Board subcommittee is working on an alternate plan that will most likely include smaller award amounts and other changes to enhance the program. The plan will be brought to the October board meeting for review and consideration by the full board.

(Minns/Webb) Board will recess into executive session to discuss personnel matters of nonelected personnel pursuant to K.S.A. 75-4319(b)(1) and will reconvene the open meeting at 1:45 p.m. in the KSBHA board room. General Counsel and the Executive Director will be present for the executive session. Carried.

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

V. ADJOURNMENT

(DeGrado/Webb). This meeting is adjourned. Carried.

The meeting adjourned at 1:45 p.m.



Garold Minns, M.D.
President



Kathleen Selzler Lippert
Executive Director