

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

**BOARD MINUTES – Friday
August 17, 2012**

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, AUGUST 17, 2012

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 17, 2012. The meeting was called to order at 8:30 a.m. by Gary Counselman, D.C. & President.

Eustaquio Abay, M.D. -	present
Michael Beezley, M.D. -	present
Ray Conley, D.C. -	present
Gary Counselman, D.C. -	present
Anne Hodgdon, public member -	present
M. Myron Leinwetter, D.O.	present
Rick Macias, public member -	present
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
Nancy J. Welsh, M.D. -	present
Ronald Whitmer, D.O. -	present
D.P.M. Vacancy	

Staff members present were Kathleen Selzler Lippert, Executive Director; Kelli Stevens, General Counsel; Ann Halferty, Assistant General Counsel; Reese Hays, Litigation Counsel; Jessica Bryant, Stacy Bond, Seth Brackman, and Brandy Snead, Associate Litigation Counsel; Dan Riley, Disciplinary Counsel; Joshana Offenbach, Associate Disciplinary Counsel; Katy Lenahan, Licensing Administrator; 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/Templeton) Approve agenda with the following changes:

Additions: Administrative Hearings for Chakshu Gupta, M.D. and for Nicholas Szary, M.D.; Appointment to P.A. Council and N.D. Council

Deletions: Admin Hearing for Hemalatha Chaparala, M.D.; Administrative Hearing for John W. Carlston, D.C. (continued to October board meeting)

Carried.

III. APPROVAL OF BOARD MEETING MINUTES

(Conley/Leinwetter) Approve minutes of June 22, 2012 regular meeting with the following change: correct Ms. Hodgdon's name on the roll call to read Ann Hodgdon. Carried.

IV. OTHER BUSINESS

Election of Board Officers

(Webb/Conley) Nominate Dr. Templeton for the office of Board President. Carried.

(Conley/Templeton) Nominate Mr. Settich for the office of Board Vice President. Carried.

Following a vote by paper ballot, Dr. Templeton was unanimously elected Board President and Mr. Settich was unanimously elected Board Vice President.

General Counsel Review – Executive Session

(Minns/Templeton) Go into executive session for 15 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.

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

V. SETTLEMENT AGREEMENT

Greg Epperson, M.D., Docket #11-HA00001 – Consideration of a Proposed Consent Order. Ms. Offenbach appeared for the Board. Dr. Epperson appeared in person with counsel, Mr. Brian Niceswanger.

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.

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

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

(Minns/Templeton) Approve the Consent Order. Carried.

Dr. Templeton was appointed to monitor the CME reports.

Timothy S. Gorrill, M.D., Docket #13-HA00001 – Ratification of Consent Order. Ms. Bryson appeared for the Board. Dr. Gorrill 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. Leinwetter, Dr. Minns and Ms. Hodgdon.

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

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

(Beezley/Webb) Approve the Consent Order. Carried.

VII. ADMINISTRATIVE PROCEEDING

(Minns/Abay) Go into executive session pursuant to K.S.A. 75-4319(b)(2) for 15 minutes for the purpose of attorney-client consultation. Carried.

JOHN W. CARLSTON, D.C., DOCKET #11-HA00037 - Review of Initial Order. Ms. Snead appeared for the Board. Dr. Carlston did not appear in person as he was notified that his case was being continued to the October board meeting.

GULRAIZ A. CHEEMA, M.D., DOCKET #11-HA00054 - Conference Hearing on Request for Termination of Monitoring. Mr. Brackman appeared for the Board. Dr. Cheema appeared in person *pro se*.

(Minns/Conley) Terminate monitoring. Carried.

ERIC STANCIL, O.T.A., DOCKET #13-HA00002 - Conference Hearing Regarding Application for Licensure. Ms. Bryson appeared for the Board. Mr. Stancil 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. Leinwetter, Dr. Minns and Ms. Hodgdon.

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

(Beezley/Welsh) Return to open session. Carried.

(Beezley/Settich) Grant licensure. Carried.

VERGIL J. GUILLORY, D.O., DOCKET #13-HA00004 - Conference Hearing Regarding Application for Licensure. Ms. Bryson appeared for the Board. Dr. Guillory 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. Leinwetter, Dr. Minns and Ms. Hodgdon.

Applicant's exhibit #3 was admitted into the record.

(Templeton/Welsh) Continue proceedings and appoint a presiding officer. Allow Ms. Bryson to amend the response to include grounds of a pattern or practice or other which demonstrates incompetence. Carried.

Dr. Templeton was appointed as the Presiding Officer in this case.

MEGAN CALLAHAN, A.T., DOCKET #13-HA00003- Conference Hearing Regarding Application for Licensure. Ms. Bryson appeared for the Board. Ms. Callahan 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. Leinwetter, Dr. Minns and Ms. Hodgdon. Mr. Settich also recused himself from the proceedings.

(Beezley/Templeton) Grant license with public reprimand. Carried.

NICHOLAS SZARY, M.D., DOCKET #13-HA00008- Conference Hearing Regarding Application for Licensure by Endorsement. Mr. Hays appeared for the Board. Mr. Szary appeared in person *pro se*.

(Conley/Templeton) Grant license by endorsement. Carried.

MARVIN WILSON, M.D., DOCKET #12-HA00098- Conference Hearing on Application for Change of Designation. Ms. Bond appeared for the Board. Dr. Wilson 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. Leinwetter, Dr. Minns and Ms. Hodgdon.

Applicant's exhibits #1, 2 3 and 4 were admitted into the record.

(Templeton/Webb) Deny application unless Dr. Wilson wants to withdraw his application to attend CPEP. Motion failed with 4 yes's and 5 opposed.

(Soria/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.

(Templeton/Beezley) Order Dr. Wilson to complete SPEX exam and return to the Board for further proceedings. Specific provisions will be set forth in the Board's order. Carried.

CHAKSHU GUPTA, M.D., DOCKET #13-HA00007 - Conference Hearing on Application for Licensure. Mr. Hays appeared for the Board. Dr. Gupta appeared in person *pro se*.

(Conley/Hodgdon) Grant license by endorsement. Carried.

CHRISTIANE SMITH, M.D., DOCKET #12-HA00070 - Conference Hearing on Request for Termination of Consent Order. Ms. Bond appeared for the Board. Dr. Smith 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. Webb, Dr. Templeton and Dr. Soria.

(Abay/Welsh) Go into closed session for pursuant to K.S.A. 75-523(f) to discuss matters which are confidential under K.S.A. 65-4915 and 65-4925. Carried.

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

(Conley/Beezley) Terminate Consent Order. Carried.

VI. OTHER BUSINESS (cont'd.)

Annual Certification for Board Member Conflict of Interest Policy, Kelli Stevens, General Counsel.

Forms were distributed to each Board Member by the General Counsel and collected following review and signature.

I.T. Security Training and Annual Certification, Todd Standeford, I.T. Manager.

Mr. Standeford presented information to the Board and let them know that the annual security training and certification would be conducted on-line this year.

Pain Presentation, Myra Christopher and Dr. Campbell

Ms. Christopher presented and distributed the Center for Practical Bioethics' *Guidance at the Crossroads of Decision* informational packet. Dr. Campbell also presented information to the Board regarding pain and pain management.

VII. ADMINISTRATIVE PROCEEDINGS (cont'd.)

WHOON JONG KIL, M.D., DOCKET #12-HA00053 - Conference Hearing on Request for Reconsideration of Final Order. Ms. Snead appeared for the Board. Dr. Kil appeared in person *pro se*.

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

(Beezley/Templeton) Return to open session. Carried.

(Minns/Templeton) Uphold the denial of license by endorsement based on failure to pass the oral examination or allow Dr. Kil to withdraw his application, if submitted within one week from today. Carried.

VIII. STAFF REPORTS

Licensing Administrator:

Approval of Administrative Actions

(Conley/Minns) Approve administrative actions. Carried

Approval of Licensee/Registrant List

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

Minutes of Committee/Council Meetings

Review of minutes of all council meetings held since last board meeting. The Board had no questions and did not request any additional information.

Licensing Report

The online renewal system for the current renewal cycle is not working at present. The provider, INK, is unable to tell us when the problem will be corrected. Paper renewal forms are available on-line for those wishing to use them.

General Counsel:

General Counsel Report

Ms. Stevens distributed copies of the General Counsel Report, discussed the status of appellate cases involving the Board, and reviewed department statistics contained in the report.

Chiropractic Use of I-Lipo

Discussion of this topic was tabled until the next board meeting.

Litigation Counsel:

Litigation Report

Mr. Hays distributed the Litigation Report and reviewed updated department statistics for the period since the June 22, 2012 board meeting.

Disciplinary Counsel:

Disciplinary Report

Mr. Riley distributed the Disciplinary Report and reviewed updated department statistics for the period since the June 22, 2012 board meeting.

Executive Director:

Budget Update

Ms. Selzler Lippert reported that the Board's fee fund contained the cash balance necessary to begin fiscal year 2013. (The Board receives almost 50% of its revenue in May and June---the last two months of each fiscal year---when medical doctors renew their licenses. To operate without a deficit throughout the entire fiscal year, the Board must start each fiscal year with a cash balance in its fee fund that equals at least ½ of its expenditure limitation for the fiscal year.)

Actions Taken Since Last Board Meeting

The list of actions taken was provided to the Board in their packet of meeting materials. All actions were approved.

Impaired Provider Program (IPP) Reports

All available quarterly reports were provided to the Board in their packet of meeting materials. Ms. Selzler Lippert reported that she had held a joint meeting with the professional associations to discuss the Impaired Provider Program, reporting requirements, and funding requests and to provide a networking opportunity for participants and potential participants.

Board Policy #00-03 Review of Initial Orders

The Board considered Ms. Selzler-Lippert's proposed amendment to the agency policy which provides that the Board will review all initial orders issued by appointed presiding officers. The amendment would change the policy to permit

Board review as provided in K.S.A. 77-527, but such review would not be automatic.

(Conley/Hodgdon) Accept amendment to policy as written. Carried.

Appointment of Board Member to ND Council

Dr. Leinwetter was appointed to replace Dr. Whitmer on the ND Council.

Proposal for Board Meeting Dates

The board approved setting all future meetings of the Board on the second Friday of each February, April, June, August, October and December.

Misc. Items/Information for the Board

Ms. Selzler Lippert announced that CPEP is sponsoring their annual Learning Summit in Denver, Colorado on October 29th and 30th. In the past we have sent both staff and board members to the Summit. Board members who are interested in going this year are to contact Ms. Selzler Lippert in the next few days.

Dr. Leinwetter was appointed as Presiding Officer with authority to issue a final order regarding Brian Miller's request to terminate his consent order, Docket #12-HA00019.

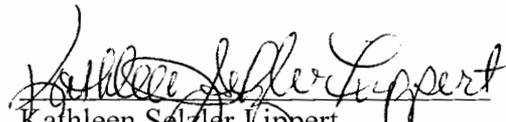
IX. ADJOURNMENT

(Leinwetter/Minns) This meeting is adjourned. Carried.

The meeting adjourned at 3:00 p.m.



Gary Counselman, D.C.
President



Kathleen Selzler Lippert
Executive Director