

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

BOARD MINUTES – Friday, August 9, 2019

I. CALL TO ORDER - ROLL CALL

The Kansas State Board of Healing Arts met at the State Capitol, Room 582-N. The meeting was called to order at 8:30 a.m. by Robin Durrett, D.O. and President.

Mark Balderston, D.C.	present	
Jerry DeGrado, D.C.	present	
Robin Durrett, D.O.	present	
Thomas Estep, M.D.	present	
Steven Gould, D.C.	present	
Anne Hodgdon, public member	present	
Joel Hutchins, M.D.		absent
Steve Kelly, public member	present	
David Laha, DPM	present	
Douglas Milfeld, M.D.	present	
Garold O. Minns, M.D.	present	
John Settich PhD, public member	present	
Kimberly Templeton, M.D.	present	
Ronald Varner, D.O.	present	

Staff members present were Kathleen Selzler Lippert, Executive Director; Tucker Poling, General Counsel; Ryan Hamilton, Assistant General Counsel; Susan Gering, Litigation Counsel; Jared Langford, Todd Hiatt, Katie Baylie, and Matthew Gaus, Associate Litigation Counsel; Nancy Dodik, Associate Disciplinary Counsel; John McMaster, M.D., Medical Director; Kathy Moen, Medical Litigation Support Specialist; Jennifer Cook and LeeAnn Hunter-Roach, Legal Assistant's to General Counsel; and Susan Gile, Operations Manager. The attached sign-in sheet indicates those people who were present during portions of the meeting.

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

APPROVAL OF AGENDA

(Balderston/Minns) Motion to approve agenda with the following changes:

Added introduction of new staff, appointment of Board member to the PA Council. Delete the Amanda Jarchow case. Parties are in agreement to request a

continuance to the October board meeting. Warren case is deleted and the working lunch presentation is deleted and moved to the October meeting. Carried.

APPROVAL OF BOARD MEETING MINUTES

(Milfeld/Varner) Motion to approve minutes of June 14, 2019 Board meeting(s) with no changes. Carried.

II. OTHER BUSINESS

Election of Board Officers- (Milfeld/DeGrado) Motion for Dr. Gould as the new President. There are no other nominations. (Estep/Balderston) Motion to accept Dr. Gould by acclimation. Carried.

(Minns/Varner) Motion for Mr. Settich for Vice President. There are no other nominations.

(Hodgdon/Varner) Motion to accept Mr. Settich by acclimation. Carried.

III. STAFF REPORTS

Executive Director:

Budget Update

The last few budget reports include information about funding for K-TRACS. This has an impact on the agency budget. Healing Arts fees were recently raised and went into effect May 2019. There is a need to increase the Allied profession fees as well. Fees have not been increased for many years. Need to promote online applications and renewals. Need to approach professional associations to ensure all are in agreement. No objection to proceeding.

Legislative Report

The Board discussed the Physical health questions on the application. More discussion will occur in October also about the KMS-PHP funding. FSMB has provided some language about whether there are issues which would keep a provider from safely practicing.

Actions Taken Since Last Board Meeting

Executive Director Kathleen Selzler-Lippert was available for questions. No discussion.

IPP Report

The IPP quarterly and annual reports were included in the Board's packet of materials, for Board members review. There were no questions or discussion.

Additional Topics

The National Board of Occupational Therapists requested to present at a Board meeting. The Executive Director believes this presentation is best made to the OT Council. However, the Council currently has no members as they are waiting to be appointed by the Governor's office. The Board discussed whether the national OT Board should present to the whole Board in February or wait for the appointment of the new OT Council members. Decision is to have them wait for appointment of new OT Council members.

Approval of Licensee/Registrant List

(Varner/DeGrado) Motion to approve the Licensee List. Carried.

General Counsel:**General Counsel Report**

General Counsel presented the Board with information related to Board policy 20-01, Testimony of Witnesses with Oversight of KSBHA.

(Degrado/Varner) Motion to adopt policy. Carried as written.

An update of district and appellate cases involving the Board was included in the Board's packet of materials, for their review.

(Estep/Minns) Motion to go into executive session for 5 minutes to consult with General Counsel in a privileged attorney-client communication pursuant to K.S.A. 75-4319(b)(2) for the purposes of discussion with General Counsel regarding pending district court and appellate cases (Executive Director and Director of Operations to be included). Carried.

(Milfeld/Varner) Motion to reconvene open meeting. Carried.

PA Council Appointment

General Counsel explains there needs to be an appointment of a Board member to the PA Council to replace Dr. Leinwetter who is no longer on the Board. Dr. Durrett is willing, but if another member wants to participate, this is also an option.

(Degrado/Laha) Motion for Dr. Durrett to represent the Board on the PA Council. Carried.

Assistant General Counsel, Ryan Hamilton discussed with the Board, a continuing education issue related to PT's. Mr. Hamilton explained there is a regulation

allowing the Board to approve certification for some CE credits. The PT's are requesting this for pelvic rehabilitation certification. Mr. Hamilton has reviewed the exam and it is extensive. The PT council members agreed. The exam requires 200 hours of clinical experience in pelvic therapy. The request is for the Board to approve the exam for 40 hours of continuing education. Each licensee could only use this once every 10 years.

(Templeton/Varner) Motion to approve the Pelvic Rehabilitation Certification for CE credits. Carried.

Personnel Matters

(Mildfeld/Estep) Motion that the Board recess to an executive meeting to discuss personnel matters pursuant to K.S.A. 75-4319(b)(1) for the need to discuss personnel matters of non-elected personnel, and that the open meeting shall resume in the Board room at 9:28am. Carried.

(Degrado/Minns) Motion to return to open meeting. Carried. The Board President called the meeting back to order.

(Templeton/Estep) Motion to go into executive session to consult with General Counsel in a privileged attorney-client communication pursuant to K.S.A. 75-4319(b)(2) for the purposes of discussion with General Counsel regarding legal liability analysis relating to externally funded programs, and that the open meeting shall resume at 9:45.

(Settich/Hodgdon) Motion to return to open meeting. Carried. The Board President called the Board meeting back to order.

(Degrado/Minns) Motion that the Board recess to an executive meeting to discuss personnel matters pursuant to K.S.A. 75-4319(b)(1) for the need to discuss personnel matters of non-elected personnel, and that the open meeting shall resume at 9:55am. Carried.

The Board President called the Board meeting back to order.

(Durrett/Gould) Motion to recess the meeting for a period of 5 minutes. Carried.

The Board President called the Board meeting back to order.

Licensing Administrator:

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

Disciplinary Counsel:

Disciplinary Report

The statistical report for the Compliance and Regulation Department was included in the Board's packet of materials, for their review. There were no questions or discussion.

IV. ADMINISTRATIVE PROCEEDINGS

The Board President recessed the meeting, by acclamation, for the purpose of conducting hearings pursuant to the Kansas Administrative Procedures Act.

Byron F. Conner, M.D., DOCKET #20-HA00006– Conference Hearing on Application for Licensure. Dr. Conner appeared in person, pro se.

Recusals: Mark Balderston, DC, Joel Hutchins, MD, Steve Kelly

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

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

(Minns/Templeton) Motion to approve licensure with stipulations. Order will be issued within 30 days. Carried.

Christopher Stubbs, M.D., DOCKET # 19-HA00049–Review of Consent Order. Mr. Matthew Gaus, Litigation Counsel appeared for the Board. Dr. Stubbs appeared, with counsel, Mark Stafford.

Recusals: Dr. DeGrado, Dr. Estep, Dr. Varner, John Settich, PhD.

(Minns/Balderston) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under K.S.A. 65-4925. Carried.

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

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

(Minns/Templeton) Motion to continue to the October Board Meeting. Carried.

Kezia Shine, D.C., DOCKET # 16-HA00031– Conference Hearing to Determine conditions of probation. Ms. Susan Gering appeared for the Board. Dr. Shine appeared in person, with counsel Brian Niceswanger.

Recusals: Dr. Milfeld, Dr. Varner, Dr. Gould, Anne Hodgdon

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

(Minn/Templeton) Return to open hearing. Carried.

The Board orders two years AMI monitoring with monthly reports, a mandatory PROBE ethics course, an EBAS test and a chaperone for one year with pregnant patients. A written order will be issued.

Lock Schnelle, A.T. Docket # 19-HA00087-Conference Hearing on Summary Order. Mr. Jared Langford appeared for the Board. Mr. Schnelle appeared in person, pro se.

Recusals: Courtney Manly, Dr. Balderston, Dr. Hutchins, Steve Kelly

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

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

(DeGrado/Templeton) Motion to approve Summary Order. Carried.

Daniel O'Connell, A.T. Docket # 19-HA00085– Conference Hearing on Summary Order Ms. Katie Baylie appeared for the Board. Mr. O'Connell appeared, pro se.

Recusals: Courtney Manly, Dr. Balderston, Dr. Hutchins, Steve Kelly

(Varner/Milfeld) Motion to accept the Summary Order. Carried.

Kristan Todd, A.T. Docket # 19-HA00082- Conference Hearing on Summary Order. Ms. Katie Baylie appeared for the Board. Ms. Todd appeared in person, pro se.

Recusals: Courtney Manly, Dr. Balderston, Dr. Hutchins, Steve Kelly

(Settich/DeGrado) Motion to approve Summary Order. Carried.

Philip Schoenwetter, A.T. Docket # 19-HA00083- Conference Hearing on Summary Order. Ms. Katie Baylie appeared for the Board. Mr. Schoenwetter appeared in person, pro se.

Recusals: Courtney Manly, Dr. Balderston, Dr. Hutchins, Steve Kelly

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

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

(Milfeld/Varner) Motion to vacate Summary Order as Mr. Schoenwetter is not in violation of the practice act. Carried.

Kim S. Young, D.O., Docket #19-HA00074- Conference Hearing on Summary Order Ms. Katie Baylie appeared for the Board. Dr. Young appeared in person, pro se.

Recusals: Dr. Balderston, Dr. Hutchins, Steve Kelly

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

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

(Milfeld/Estep) Motion to accept the Summary Order. Carried.

Emali McGee, O.T.A. Docket # 19-HA00103- Conference Hearing on Petition for Discipline Ms. Susan Gering appeared for the Board. Ms. McGee appeared in person, pro se.

Recusals: Dr. Balderston, Dr. Hutchins, Steve Kelly

(Varner/Templeton) Motion to recess into closed session for Attorney Client Consultation and deliberation. Carried.

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

The Board will issue a written order for Public Censure, complete billing course for Occupational Therapists and write a 500 word essay

Dane Starnes, D.C. Docket # 16-HA00111- Conference Hearing on Termination of Final Order. Ms. Nancy Dodik, Associate Litigation Counsel appeared for the Board. Dr. Starnes appeared person, pro se.

Recusals: Dr. Balderston, Dr. Hutchins, Steve Kelly

(Estep/Varner) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under K.S.A. 65-4925. Carried.

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

(Settich/DeGrado) Motion to accept Termination of Final Order. Carried.

Trent Alan Sims, D.O. Docket # 19-HA00108-Conference Hearing on Application for Postgraduate Permit. Mr. Todd Hiatt, Litigation Attorney appeared for the Board. Dr. Sims appeared in person, with counsel, Diane Belquist.

Recusals: Dr. Milfeld, Dr. Varner, Dr. Gould, Anne Hodgdon

(Estep/DeGrado) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under K.S.A. 65-4925. Carried.

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

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

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

(Estep/DeGrado) Motion to grant license. Carried.

Michele Jane Helsel, O.T. Docket # 19-HA00110-Conference Hearing on Application for Licensure. Matthew Gaus, Litigation Attorney appears for the Board. Ms. Helsel appeared in person, pro se.

Recusals: Dr. Balderston, Dr. Hutchins, Steve Kelly

The application will be held open for Ms. Helsel to complete a course in Minnesota and return next year.

Dalton Lane Smith, D.C. Docket # 19-HA00114-Conference Hearing on Application for Reinstatement. Matthew Gaus, Litigation Attorney appears for the Board. Dr. Smith appeared in person, pro se.

Recusals: Dr. Balderston, Dr. Hutchins, Mr. Kelly, Dr. DeGrado

(Varner/Estep) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under K.S.A. 65-4925. Carried.

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

(Varner/Milfeld) Motion to go back into closed hearing. Carried.

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

(Milfeld/Templeton) Motion to deny Application for Reinstatement. Carried.

David Thomas Beckley, D.C. Docket # 19-HA00112-Conference Hearing on Application for Reinstatement. Matthew Gaus, Litigation Attorney, appears for the Board. Dr. Beckley appears in person, pro se.

Recusals: Courtney Manly, Dr. Balderston, Dr. Hutchins, Steve Kelly

(Varner/Gould) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under K.S.A. 65-4925. Carried.

(Templeton/Varner) Motion to recess into closed session for Attorney Client Consultation. Carried.

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

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

(Templeton/Varner) Motion to deny reinstatement of license. Carried.

Vikram Singh Panwar, M.D. Docket # 19-HA00113-Conference Hearing on Application for Licensure. Matthew Gaus, Litigation Attorney appears for the Board. Dr. Panwar appears in person and with counsel, Kelli Stevens.

Recusals: Dr. Balderston, Dr. Hutchins, Steve Kelly

(Varner/Milfeld) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under Peer Review - K.S.A. 65-4915 and 65-4925. Carried.

(Templeton/Varner) Motion to recess into closed session for Attorney Client Consultation and deliberation . Carried.

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

(Laha/Settich) Return to open hearing. Carried.

The Board will deny the Application for Licensure.

Eric Tsai, M.D. Docket # 20-HA00001-Application by Endorsement.

(Templeton/DeGrado) Motion for Licensure by Endorsement. Carried.

Muhammad Fareed, M.D., Docket # 20-HA00004-Review of Application for Initial Licensure.

Dr. Fareed did not appear.

(Varner/Estep) Motion to continue his case to the October meeting. Carried.

V. Consent Orders

Matthew Metcalf, D.C. Docket # 19-HA000089-Ratification of Consent Order. Matthew Gaus, Litigation Attorney appears for the Board. Dr. Metcalf appears in person, pro se.

Recusals: Dr. Balderston, Dr. Hutchins, Steve Kelly

(Varner/Milfeld) Go into closed hearing pursuant to K.S.A. 77-523(f) for the presentation of information which is confidential under K.S.A. 65-4925. Carried.

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

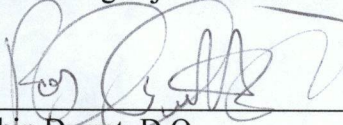
(DeGrado/Varner) Motion to accept Consent Order. Carried.

VI. ADJOURNMENT

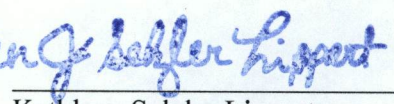
The Board President returned the body to the open meeting from recess, by acclimation.

(DeGrado/Gould) Motion to adjourn meeting. Carried.

The meeting adjourned at 3:44 p.m.



Robin Durrett, D.O.
President



Kathleen Selzler Lippert
Executive Director