

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

**BOARD MINUTES – October 14, 2022**

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, October 14, 2022**

**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 and via virtual meeting on Friday October 14, 2022. The meeting was called to order at 9:02 a.m. by Ronald Varner, D.O., President.

Abebe Abebe, M.D.		absent
Mark Balderston, D.C.	present	
Molly Black, M.D.	present	
Richard Bradbury, D.P.M.	present	
Jerry DeGrado, D.C.	present	
Robin Durrett, D.O.	present	
Thomas Estep, M.D.	present	
Steven Gould, D.C.		absent
Camille Heeb, M.D.		absent
David Jordan, public member	present	
Jennifer Koontz, M.D.	present	
Stephanic Suber, D.O.	present	
Ronald Varner, D.O.	present	
Sherri Wattenbarger, public member	present	
Kathy Wolfe Moore, public member	present	

Staff members present were Susan Gile, Acting Executive Director and Operations Manager; Courtney Cyzman, General Counsel; Warran Wiebe, Deputy General Counsel; Ruslan Ivanov, Assistant General Counsel; Cody Bebout, Assistant General Counsel; Briana Hogan, Law Clerk, General Counsel; Nancy Dodik, Disciplinary Counsel; Britani Potter, Assistant Disciplinary Counsel; Todd Hiatt, Litigation Counsel; Matthew Gaus, Deputy Litigation Counsel; Lydia Hornbaker, Associate Litigation Counsel; James McSweyn, Associate Litigation Counsel; Lisa Montgomery, Associate Litigation Counsel; John McMaster, M.D., Medical Director; Chandni Bhakta, Deputy Licensing Administrator; Cameron Charity, Licensing Analyst; Kathy Moen, Medical Litigation Support Specialist; Kady Curtis, Support Staff Supervisor, Litigation;

Ivan Perez, Compliance Coordinator; Kelly Clubb, Technology Support Consultant; Jennifer Cook, Paralegal to General Counsel; LeeAnn Hunter-Roach, Legal Assistant to General Counsel; and Ali Diaz, Administrative Specialist, Administration.

Others: Kemper Tell, Kansas Osteopathic Medical Association; Dr. Peter Graham, Acumen; Dr. Mary Jo Fleming, KMS-PHP; Angela Gritman, KMS-PHP.

## **APPROVAL OF AGENDA**

(Estep, Balderston) Motion to approve agenda. Carried.

## **APPROVAL OF 8/12/22 BOARD MEETING MINUTES**

(Wattenbarger, Estep) Motion to approve board meeting minutes from August 12, 2022, with no changes. Carried.

## **II. OTHER BUSINESS**

### **New Staff Introductions**

By Susan Gile, Acting Executive Director

Cody Bebout has joined the agency as Assistant General Counsel. Britani Potter has passed the bar and has moved from a Law Clerk to an Assistant Disciplinary Counsel. Lisa Montgomery has also joined the agency as an Associate Litigation Counsel.

### **Executive Director Report**

Kansas.gov email addresses for Board and Council members are not being utilized so they will be discontinued. Question regarding encrypting email process. This will be researched for the December Board meeting.

The Board's recent letter sent out to all Kansas licensed physicians on National Physician Suicide Awareness Day was highlighted in the Sedgwick County Medical Society newsletter.

Dr. Gould has been working with the National Board of Chiropractic Examiners to review and update the Special Purpose Examination for Chiropractic ("SPEC Exam"). We anticipate having a presentation on the SPEC exam at the December Board meeting.

CE Broker update. The contract has been signed. This is a CE tracking tool which will be optional for licensees. There is an aggressive timeline for implementation. There were no questions.

Budget has been submitted and is at the Department of Budget for review before proceeding to the Legislature.

### **Development of Expert Witness List**

KSBHA would like to develop a pool of experts and not use companies to find experts. Discussion regarding ideas, i.e., educational outreach, associations.

### **Appoint FSMB Delegate**

(Wattenbarger, Balderston) Motion to appoint Dr. Estep as FSMB delegate for 2023. Dr. Varner will be the alternate. . Carried. Dr. Estep abstains.

## **III. STAFF REPORTS**

### **General Counsel:**

#### **General Counsel Report by Courtney Cyzman**

*Trust Women v. Bennett et al* – On September 2, 2022, the Kansas Supreme Court denied the Petition for Review. The mandate was issued September 16, 2022. This matter has been reversed and remanded to the District Court with directions. A hearing at the District Court has not yet been scheduled.

*Bejar v. Kansas State Board of Healing Arts* –This matter has been set for Summary Calendar before the Kansas Court of Appeals on October 17, 2022.

*KSBHA v. Shawn Parcels*. We are waiting a written opinion from the Kansas Court of Appeals.

Currently there are 6 active Presiding Officer cases with a Board member assigned as the PO and 2 cases at the Office of Administrative Hearings (“OAH”). Questions were answered regarding the process.

#### **Regulation Update**

K.A.R. 100-6-6, Reentry active license; medicine and surgery and osteopathic medicine had JCARR on September 14, 2022, and a public hearing on September 22, 2022. The CNMI regulations have been stamped and are scheduled for JCARR on October 18, 2022, with a public hearing to follow on November 30, 2022.

**Consider final adoption of K.A.R. 100-6-6. Reentry active license; medicine and surgery and osteopathic medicine.**

(Balderston, Bradbury) Motion to adopt K.A.R. 100-6-6. Roll call vote. Unanimous. Carried.

Education Outreach

Year to date, KSBHA has given 36 presentations (many of these include both Licensing & Professionalism), with 16 additional presentations scheduled.

Policy Update

- Consider approval of proposed KSBHA Board Policy #23-01 – Special Advisor to the Board

Dr. Templeton was appointed as Special Advisor at the August 13, 2021, Board meeting. Term is 5-years and is an unpaid position.

(Durrett, Estep) 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 purposes of discussion with General Counsel regarding proposed policy. Carried.

Motion to go into executive session for an additional 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 proposed policy. (Estep, Bradbury). Carried.

Motion to go into executive session for an additional 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 proposed policy. (Estep, Bradbury). Carried.

(Balderston, Estep). Motion to return to open meeting. Carried.

Proposed policy will be tabled.

- Consider approval of KSBHA Board Policy #23-02 – Successful Completion of USMLE and COMLEX-USA.

At the beginning of the pandemic, both USMLE and COMLEX-USA suspended their in-person skills examinations, Step 2 CS and Level 2-PE respectively. On July 21, 2021, Step 2 CS of the USMLE was permanently discontinued. On February 11, 2021, Level 2-PE of the COMLEX-USA was indefinitely suspended. NBOME – the organization who administers COMLEX-USA—has

decided moving forward Level 2-PE will not return; but rather the assessment aspects of that exam will now be incorporated into the osteopathic medical school curriculum. This policy addresses how the permanent discontinuation of both Step 2 CS and Level 2-PE interplay with K.A.R. 100-7-1, which sets a total limitation on the number of attempts to qualify for licensure by examination.

(Estep, Suber) Motion to adopt KSBHA Board Policy #23-02. . Carried.

#### **Appoint AT Council Member**

(Balderston, Bradbury) Motion to appoint Dr. Luis Salazar, MD to AT Council. . Carried.

#### **Recess**

### **IV. ADMINISTRATIVE PROCEEDINGS**

(Estep, Durrett) Motion to recess the open meeting of the Board to conduct administrative proceedings under the Kansas Administrative Procedures Act. . Carried.

**Charles Gibbs, M.D., Docket No. 21-HA00031 - Formal Hearing on Motion to Terminate or Stay Indefinite Suspension.**

Mr. Todd Hiatt appeared for the Board. Dr. Gibbs appeared in person and with Counsel Kelli Stevens. Also present during the hearing are Dr. Peter Graham, Dr. Mary Jo Fleming and Angela Gritman.

Gen Counsel: Courtney Cyzman

Recusals: Ruslan Ivanov

(Estep, Varner) Motion to 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, Wattenbarger) Motion to go into executive session for attorney client consultation. Carried.

(Estep, Wattenbarger) Motion to go back into closed hearing.. Carried.

(Estep, Balderston) Return to open hearing. Carried.

The Board will take the matter under advisement and issue an order within 30 days.

**Jessica Craine, P.T., Docket No. 23-HA00003 - Motion to Amend Consent Order.**

Mr. Matt Gaus appeared for the Board. Ms. Craine appeared appears by videoconference, *pro se*.

Gen Counsel: Warran Wiebe  
Recusals:

(Estep, Durrett) Motion to 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/Balderston) Motion to grant the Motion to Amend Consent Order.  
Carried.

**V. Staff Reports Continued/New Business Items continued from 9:15 a.m. block**

(Bradbury, Wattenbarger) Motion to reconvene the open Board Meeting. Carried.

**Deputy Licensing Administrator Chandni Bhakta:**

**Licensing Report**

The statistical report for the Licensing Department was included in the Board's packet of materials for their review.

**Approval of Licensee/Registrant List**

(Balderston, Estep) Motion to approve licensee/registrant list. Carried.

Dr. Estep has question regarding recent email he received regarding CME.

**Disciplinary Counsel Nancy Dodik:**

**Disciplinary Report**

The statistical report for the Disciplinary Department was included in the Board's packet of materials for their review. There have been 78 investigations closed since last meeting and there are currently 277 open investigations. There were no questions.

**Litigation Counsel Todd Hiatt:**

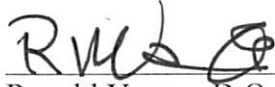
**Litigation Report**

The statistical report for the Litigation Department was included in the Board's packet of materials for their review. The Department recently hired 2 new attorneys. There were no questions.


**VI. ADJOURNMENT**

(Estep, Wattenbarger) Motion to adjourn meeting. Carried.

The meeting adjourned at 11:40 a.m.



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Ronald Varner, D.O.  
President



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Susan Gile  
Acting Executive Director