

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

BOARD MINUTES – April 14, 2023

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, Date

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, April 14, 2023. The meeting was called to order at 9:00 a.m. by Ronald Varner, D.O., President.

Abebe Abebe, M.D.	present	
Mark Balderston, D.C.	present	
Molly Black, M.D.	present	(arrives 9:55 a.m.)
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.	present	
Camille Heeb, M.D.	present	
David Jordan, public member	present	
Jennifer Koontz, M.D.	present	(arrives 9:09 a.m.)
Stephanie Suber, D.O.		absent
Ronald Varner, D.O.	present	
Sherri Wattenbarger, public member	present	
Kathy Wolfe Moore, public member		absent

Staff members present were Susan Gile, Executive Director; Scott Henricks, Operations Manager; Courtney Cyzman, General Counsel; Warran Wiebe, Deputy General Counsel; Cody Bebout, Assistant General Counsel; Nancy Dodik, Disciplinary Counsel; Tammi Mundil, Deputy Disciplinary Counsel; Britani Potter, Assistant Disciplinary Counsel; Todd Hiatt, Litigation Counsel; Matthew Gaus, Deputy Litigation Counsel; James McSweyn, Associate Litigation Counsel; Lisa Montgomery, Associate Litigation Counsel; Brad Taylor, Associate Litigation Counsel; Sebastian Orosco, Associate Litigation Counsel; Callie Dunlap, Legal Assistant – Litigation; John McMaster, M.D., Medical Director; Rebekah Moon, Licensing Administrator; Chandni Bhakta, Deputy Licensing Administrator; Nadine Derr, Licensing Analyst; Emily Florez, Senior

Administrative Assistant; Kathy Moen, Medical Litigation Support Specialist; Kady Curtis, Support Staff Supervisor; Ivan Perez, Compliance Coordinator; Larry Bowles, IT Director; Kelly Clubb, Technology Support Consultant; Jennifer Cook, Paralegal to General Counsel; LeeAnn Hunter-Roach, Legal Assistant to General Counsel; and Caitlin Kremer, General Counsel Law Clerk.

APPROVAL OF AGENDA

(Estep/Durrett) Motion to approve agenda with no changes. Carried.

APPROVAL OF BOARD MEETING MINUTES

(Durrett/Estep) Motion to approve minutes of the February 10, 2023, Board meeting with no changes. Carried.

II. OTHER BUSINESS

New Staff Introductions

Executive Director, Susan Gile announces the following personnel have joined the agency: Scott Henricks (Operations Manager), Emily Florez (Administrative Assistant - front desk), Nadine Derr (Licensing), Caitlin Kremer (General Counsel), James McSweyn will be moving from the Litigation Department to the General Counsel Department. We are also expecting a new legal assistant in Litigation and an HR manager to start the first of May.

Executive Director:

Executive Director Report

The Executive Director's memo is in the packet. General information regarding budget process. No questions.

Legislative update

The Executive Director's memo provides an overview of legislation relevant to the agency. SB 111/SB 305 – Message Therapy Licensure did not move this year. SB 112 – Amends the scope of practice for CRNAs, passed Senate, and has been referred to House Health and Human Services. S Sub for SB 131 – Sports Waiver bill was worked in Conference Committee. Bills related to medical marijuana did not move this year. Questions from Board regarding the agency's stance on bills – generally neutral.

Appoint FSBPT voting delegate and alternate delegate

(Estep/Abebe) Motion to appoint Executive Director, Susan Gile as FSBPT voting delegate and Operations Manager, Scott Henricks as alternate delegate. Carried.

CE Broker update

The CE Broker program is now live for Athletic Trainers, Acupuncturists, Respiratory Therapists, and Licensed Radiologic Technologists.

III. STAFF REPORTS

General Counsel Report by Courtney Cyzman

Appellate case update

The headlines of the most notable developments since the last Board meeting are:

1. *Bejar v. Kansas State Board of Healing Arts* – On March 3, 2023, the Kansas Court of Appeals issued an unpublished opinion in the Board’s favor, affirming our Final Order Denying Reinstatement. Dr. Bejar has filed a Petition for Review to the Kansas Supreme Court. Our Response is due April 13, 2023.
2. *Trust Women v. Bennett et al* – Litigation in the District Court is stayed pending the mandate in *Hodes & Nauser v. Stanek*, which is at the Kansas Supreme Court.

There are 8 active Presiding Officer cases where Board members are assigned as the Presiding Officer. There are 2 current active cases at OAH.

The General Counsel attorneys are talking to all councils regarding updates to regulations as required by 2022 H.B. 2087.

General regulation update.

Information regarding free KTRACS CME is available to our licensees and is intended to meet the Category III requirements. An E-blast went out to all licensees with this requirement and information where they can locate the free CME.

Final adoption of K.A.R. 100-54-13 (permanent)

(Estep/Durrett) Motion to adopt amended K.A.R. 100-54-13 (permanent). Roll call vote. [Dr. Black is absent for the vote]. Unanimous. Carried.

Final adoption of K.A.R. 100-15-1 (permanent)

(Durrett/Abebe) Motion to adopt amended K.A.R. 100-15-1 (permanent). Roll call vote. [Dr. Black is absent for the vote]. Unanimous. Carried.

Policy update

Proposed KSBHA Board Policy #23-04 regarding authority for ED to be appointed as Presiding Officer to accept Consent Orders for Surrender (in cases where a Board member has not already been appointed Presiding Officer). No objections from the policy work group.

(Estep/DeGrado) Motion to approve KSBHA Board Policy #23-04. Carried.

Universal impairment question review

On February 23, 2023, all state medical Boards were notified by the Federation of State Medical Boards (“FSMB”), that U.S. Sens. Ron Wyden, Cory Booker, and Jeff Merkley sent a letter to the Department of Justice (“DOJ”) asking it to investigate practices of medical boards relating to medical licensing and application questions regarding mental health. The letter states that some of the questions may violate the Americans with Disabilities Act (“ADA”) and may further prevent physicians from seeking the mental health treatment they need.

The Board’s universal impairment question is currently compliant with the ADA. By reviewing and implementing changes to our licensure questions regarding impairment, we advance healthcare professionals’ physical and mental health, reduce fear in engaging in and sustaining treatment, reduce stigma, and promote patient safety and the delivery of quality healthcare. It’s important to note, our changes do not alter our duty to protect the public. Only individuals who are fully qualified to practice are licensed. We continue our efforts in many respects and welcome the opportunity for additional ideas on how we can continue to be leaders on this topic.

KOMA training

Deputy General Counsel, Warran Wiebe presents a slide presentation and discussion regarding the Kansas Open Meetings Act.

Licensing Administrator:

Approval of Licensee/Registrant List

(Estep/Bradbury) Motion to 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. Licensing Administrator, Rebekah Moon reports that applications are being processed within 15 business days and reviews are taking 7-10 business days. There are questions regarding licensing process generally.

Disciplinary Counsel:

Disciplinary Report

The statistical report for the Disciplinary Department was included in the Board’s packet of materials for their review. Disciplinary Counsel, Nancy Dodik reports there are 159 open investigations and 121 investigations have been closed (7 cases were transferred to litigation) since the February Board Meeting. Board members request additional information regarding older investigations and complaints that have not yet become investigations.

Litigation Counsel:

Litigation Report

The statistical report for the Litigation Department was included in the Board's packet of materials for their review. Litigation Counsel, Todd Hiatt reports there are 8 Presiding Officer cases open and 10-11 are out for expert review.

Break – 10-10:15 a.m.

(DeGrado/Durrett) Motion to recess open meeting of the Board until 10:15 a.m. Carried.

IV. ADMINISTRATIVE PROCEEDINGS

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

Howard Halvorson, M.D., Docket #23-HA00024– Conference Hearing on Application for Reinstatement.

Mr. James McSweyn appeared for the Board. Dr. Halvorson appeared in person, *pro se*.

Recusals: Dr. Abebe, Dr. Durrett, Dr. Gould, Dr. Bradbury, and Ms. Wolfe Moore

(Estep/DeGrado) Motion to recess into executive session for attorney-client consultation. Carried.

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

Prior to further consideration of reinstatement of Dr. Halvorson's license, Dr. Halvorson must complete additional testing, training, or education by successfully completing the CPEP Reentry to Clinical Practice Program, or the substantial equivalent as approved by the Board.

Suja Chandrasekaran, O.T., Docket #23-HA00025– Conference Hearing on Application for Licensure.

Ms. Chandrasekaran appeared by video conference, *pro se*.

Recusals: n/a

(Estep/Durrett) Application for licensure is granted. Carried.

Board is open to policy being drafted for consideration in June for those who have gone through similar OTED/NBCOT process.

Anuradha Rao, M.D., Docket #23-HA00013 Conference Hearing on Application for Licensure.

Dr. Rao appeared in person and with counsel Mark Maloney.

Recusals: n/a

(Durrett/Estep) Application for licensure is granted. Carried.

Amarnath Kadimella, M.D., Docket #23-HA00010 – Conference Hearing on Application for Licensure.

Dr. Kadimella appeared via video conference, *pro se*.

Recusals: n/a

(DeGrado/Durrett) Motion to recess into executive session for attorney-client consultation. Carried.

(Estep/Heeb) Motion to return to open hearing. Carried.

This case will be continued until Dr. Kadimella presents additional information consistent with prior Journal Entries, including a proposed future practice plan. When the hearing is scheduled and noticed, virtual appearance is granted.

V. CONSENT ORDERS

Ryan Koch, D.O., DOCKET #23-HA00026– Review of Proposed Consent Order for Surrender.

Mr. Sebastian Orosco appeared for the Board. Appearances by Dr. Koch and counsel Kelli Stevens are waived.

Recusals: n/a

(DeGrado/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. 65-2839a(d). Carried.

(DeGrado/Estep) Motion to return to open hearing. Carried.

(Jordan/DeGrado) Motion to accept the Consent Order with an amendment to paragraph 26 removing the wording indicating Dr. Koch is a physician assistant. Carried.

Vishal Verma, M.D., Docket No. 22-HA00045 – Review of Proposed Consent Order.

Mr. Matt Gaus appeared for the Board. Dr. Verma appeared in person, with counsel Jordan T. Stanley, Vincent Roth (virtually).

Recusals: n/a

(DeGrado/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. 65-2839a(d). Carried

(Durrett/DeGrado) Motion to return to open hearing. Carried.

(Durrett/DeGrado) Motion to accept the Consent Order. Carried.

Anwar Khoury, M.D., Docket No. 23-HA00008 – Review of Proposed Consent Order.

Mr. Todd Hiatt appeared for the Board. Dr. Khoury appeared in person, with counsel B.K. Christopher and Mark Edwards.

Recusals: n/a

(Estep/DeGrado) 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. 65-4915 and K.S.A. 65-4925. Carried. Without objection, Mrs. Khoury remains in the Board room for this case.

(Durrett/DeGrado) Motion to recess into executive session for attorney client consultation. Carried.

5-minute break

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

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

(Durrett/Wattenbarger) Motion to approve Consent Order with public censure and \$1000 fine, and all other requirements therein. Carried.

Reconvene Board Meeting.

(Durrett/Estep) Motion to return to the open Board meeting. Carried.

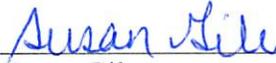
VI. ADJOURNMENT

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

The meeting adjourned at 12:42 p.m.



Ronald Varner, D.O.
President



Susan Gile
Executive Director