

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

**BOARD MINUTES – October 13, 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, 10/13/2023**

**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 13, 2023. The meeting was called to order at 9:00 a.m. by Jerry DeGrado, D.C., President.

Abebe Abebe, M.D.	present	
Mark Balderston, D.C.	present	
Molly Black, M.D.	present (virtual)	
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 (virtual)	
Stephanie Suber, D.O.	present	
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; Rikki Price, Human Resources Manager; Courtney Cyzman, General Counsel; Warran Wiebe, Deputy General Counsel; Cody Bebout, Deputy General Counsel; James McSweyn, Assistant General Counsel; Nancy Dodik, Disciplinary Counsel; Tammi Mundil, Deputy Disciplinary Counsel; Britani Potter, Assistant Disciplinary Counsel; Jennifer McArthur, Disciplinary Administrative Staff Supervisor; Todd Hiatt, Litigation Counsel; Matthew Gaus, Deputy Litigation Counsel; Lisa Montgomery, Deputy Licensing Counsel; Brad Taylor, Associate Litigation Counsel; Sebastian Orosco, Associate Litigation Counsel; Janice Ayers, Litigation Legal Assistant; John McMaster, M.D., Medical

Director; Rebekah Moon, Licensing Administrator; Chandni Bhakta, Deputy Licensing Administrator; Joe Crumpton, Special Investigator – Supervisor; Kathy Moen, Medical Litigation Support Specialist; Kady Curtis, Support Staff Supervisor; Callie Dunlap, Litigation Legal Assistant; Dawn Frey, Litigation Legal Assistant; Ivan Perez, Compliance Coordinator; Larry Bowles, IT Director; Kelly Clubb, Technology Support Consultant; Quinn Pert, Licensing Analyst; John Blonigen, Administrative Specialist, Disciplinary; Jennifer Cook, Paralegal to General Counsel; and LeeAnn Hunter-Roach, Legal Assistant to General Counsel.

Others:

#### **APPROVAL OF AGENDA**

(Balderston/Abebe) Motion to approve agenda with the addition of item to appoint Board Members as part of agency Legislative Workgroup for upcoming session. Carried.

#### **APPROVAL OF 8/11/2023 BOARD MEETING MINUTES**

(Abebe/Varner) Motion to approve Board meeting minutes of 8/11/2023 with no changes. Carried.

## **II. OTHER BUSINESS**

### **New Staff Introductions**

By Susan Gile, Executive Director:

Quinn Pert has joined the Licensing Department as an Allied Health Analyst.

Internal Promotions, staff highlights:

Lisa Montgomery has been promoted to Deputy Licensing Counsel, having previously served as Associate Litigation Counsel. The position will be assisting the Licensing Department and will report to Todd Hiatt, Litigation Counsel.

Cody Bebout has been promoted to Deputy General Counsel. Mr. Bebout was previously in the role of Assistant General Counsel.

Acknowledgement of Rikki Price, Human Resources Manager, for her recruitment efforts to fill vacant positions and the establishment of a monthly agency newsletter.

### **Virtual Court Reporter**

Agency was recently notified that the Court Reporter will be virtual for this meeting. Executive Director Gile advised the agency is working on Request for Proposal (RFP) through the Department of Administration to contract for court reporting services.

### III. ADMINISTRATIVE PROCEEDINGS

(DeGrado/Varner) Motion to recess the open Board Meeting to conduct administrative proceedings under the Kansas Administrative Procedure Act. Carried.

#### **John P. Harris, D.C., Docket 24-HA00012 Review of proposed Consent Order.**

Mr. Brad Taylor and Mr. Todd Hiatt appeared for the Board. Dr. Harris appeared in person, and through his attorney Diane Bellquist.

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

(Estep/Durrett) Motion to recess into closed session due to confidential information pursuant to K.S.A. 77-523(f), K.S.A. 65-2839a(d). Carried.

(Estep/Durrett) Motion to go into executive session for attorney client consultation. Carried.

(Bradbury/Varner) Motion to return to closed hearing. Carried

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

(Estep/Suber) Motion to return to closed hearing. Carried.

(Varner/Abebe) Motion to return to open hearing. Carried.

(Varner/Abebe) Motion to accept the Consent Order as amended. Carried.

(Bradbury/Varner) Motion to return to open Board Meeting. Carried.

#### **(Varner/Abebe) Reconvene Board Meeting Call open Board meeting back to order.**

### IV. STAFF REPORTS

#### **Executive Director:**

By Susan Gile, Executive Director:  
Budget

Agency its budget on submitted September 15, 2023. Continue to field questions from Division of Budget. Brief explanation of budget process and timeline provided.

## Federation of Chiropractic Licensing Boards Meeting

Executive Director and Dr. Gould attended Federation of Chiropractic Licensing Boards (FCLB) district meeting last week in South Dakota.

### **Appoint Legislative Workgroup**

Agency would like to have Board Members appointed to a Legislative working group like last year. Group will be provided regular electronic updates and be consulted as needed on legislative matters relevant to the agency. Dr. Estep, Dr Durrett, Dr. Varner, Mr. Jordan, and Dr. Balderston have volunteered. Ms. Wolfe-Moore is absent but will be part of the Legislative Workgroup if agreeable.

(Estep/Abebe) Motion to appoint named board members to Legislative Workgroup. Carried.

## **V. ADMINISTRATIVE PROCEEDINGS (Cont.)**

(Bradbury/Varner) Motion to recess the open Board Meeting to conduct administrative proceedings under the Kansas Administrative Procedure Act. Carried.

### **Farhaad Riyaz, M.D., Docket #24-HA00003 Conference Hearing on Summary Order.**

Mr. Brad Taylor appeared for the Board. Dr. Riyaz appeared in person, *pro se*.

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

(Varner/Estep) Motion to recess into closed session due to confidential information pursuant to K.S.A. 77-523(f), K.S.A. 65-4925. Carried.

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

(Estep/Varner) Motion to return to closed hearing. Carried.

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

All Board members vote burden has been met. Summary order vacated.

**Shawn Dave, M.D., Docket #24-HA00009 Conference Hearing on Application for Licensure.**

Ms. Lisa Montgomery appeared for the Board. Dr. Dave appeared in person, and through attorney Kelli Stevens.

Recusals: Courtney Cyzman

(Estep/Abebe) Motion to go into executive session for attorney client consultation. Carried.

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

Conference Hearing continued to the December Board Meeting. Exhibits E and F admitted; no Presiding Officer assigned.

**Recess – 10 minutes**

**Angela Boston, M.D., Docket #23-HA00034 Conference Hearing on Application for Licensure.**

Mr. Sebastian Orosco appeared for the Board. Dr. Boston appeared in person, *pro se*.

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

Exhibit A admitted.

Exhibit 14 admitted.

(Estep/Varner) Motion to recess into closed session due to confidential information pursuant to K.S.A. 77-523(f), K.S.A. 65-4925. Carried.

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

(Estep/Varner) Motion to return to closed hearing. Carried.

(Varner/Bradbury) Motion to return to open hearing. Carried.

Pursuant to K.S.A. 65-2836(c) Board members voting and present do not believe statutory burden met. Board accepts Dr. Boston's withdrawal of her application.

**Jerry C. Bouman, D.O., Docket #24-HA00010 Review of Proposed Consent Order.**

Ms. Lisa Montgomery appeared for the Board. Dr. Bouman appeared virtually, and through his attorney Blane Markley, who also appeared virtually.

Recusals: Dr. Abebe, Dr. Bradbury, Dr. Durrett, Dr. Gould, and Ms. Wolfe Moore  
Gen Counsel: Cody Bebout

(Balderston/Varner) Motion to recess into closed session due to confidential information pursuant to K.S.A. 77-523(f), 65-2839a(d). Carried.

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

(Varner/Wattenbarger) Motion to accept consent order as written. Carried.

**James A. Brockenbrough, M.D., Docket #24-HA00005 Review of Proposed Consent Order.**

Mr. Brad Taylor and Mr. Todd Hiatt appeared for the Board. Dr. Brockenbrough appeared in person, and through his attorney J. Wesley Smith.

Recusals: DP: Dr. Abebe, Dr. Bradbury, Dr. Durrett, Dr. Gould, and Ms. Wolfe-Moore, Susan Gile, and Courtney Cyzman

(Abebe/Estep) Motion to recess into closed session due to confidential information pursuant to K.S.A. 77-523(f), 65-2839a(d). Carried.

(Estep/Bradbury) Motion to recess into executive session. Carried.

Board will accept consent order as modified with the effective date of December 31, 2023.

**(Wattenbarger/Abebe) Motion to leave administrative proceedings and return open Board Meeting. Carried.**

**(Durrett/Gould) Motion to recess open Board Meeting for 30 minutes, return at 12:50 p.m. Carried.**

**Reconvene open Board Meeting**

**VI. STAFF REPORTS (cont.)**

**Executive Director:**

## **Report and Updates on Agency by Susan Gile, Executive Director**

### **Information sharing with law enforcement agencies.**

(Wattenbarger/Gould) Motion to recess into executive session for 10 minutes pursuant to K.S.A. 75-4319(b)(2) for the purpose of attorney client consultation related to information sharing with law enforcement agencies and options with the open meeting of the Board to return at 1:14pm. Carried.

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

Board agrees to proceed forward with entering into discussions on this topic.

### **General Agency Business**

Discussion of staff satisfaction survey results.  
Discussion of agency branding implementation.

### **Federation of State Medical Boards (FSMB) Bylaw Revision Comment**

FSMB called for updates to bylaws. Executive Director proposes only minor edits.

(Estep/Abebe) Motion to approve FSMB proposed edits. Carried.

### **Establishment of Executive Director (ED) and General Counsel (GC) Evaluation Workgroup**

Would like to establish workgroup to evaluate the performance of the ED and GC so that evaluations can be completed by year-end. Last year the workgroup consisted of the Board President, Vice-President, immediate past President, and another Board member. Using same model, the workgroup for this year would include Dr. DeGrado, Dr. Bradbury, Dr. Varner.

(Estep) Move to accept and ask Dr. Suber to be the additional Board Member on the workgroup. Carried.

### **Board President Dr. DeGrado Visit to Agency**

On October 12, 2023, Dr. DeGrado visited the Agency office and met with KSBHA Department Heads.

### **Sports Waiver**

Discussion of the Kansas sports waiver discussion. Waiver form has been revised and condensed, now asks for more basic information. Athletic Trainers (AT) Council may propose legislation to amend their practice act to correct the licensure exemption gap.

(Suber/Abebe) Motion for the Board go into executive session pursuant to K.S.A. 75-4319(b)(2) for the purpose of attorney-client consultation to discuss matters that are confidential and privileged related to the legal analysis of the sports waiver and options for 15 minutes. Return to the open meeting at 1:46 p.m. Carried.

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

(Wattenbarger/Abebe) Move that the Board use its discretion to remove ATs from list of healthcare professionals allowed to apply for a sports waiver. Urge Kansas ATs to pursue legislation to address the gap in law in their practice act. Carried.

### **General Counsel:**

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

##### **Appellate case update**

##### ***Hodes & Nauser, PA, Nauser, Fowler, Comp. Health of Planned Parenthood Great Plains v. Kobach et al.***

The hearing on the temporary injunction regarding the Woman's Right to Know Act and the HB 2264 - Reversal Amendment was held on August 8, 2023, in Division 12 in Johnson County District Court. At the conclusion of the hearing, the Judge took the matter under advisement and the Board is awaiting an order by the Judge.

##### ***Mack v. Kansas State Board of Healing Arts.***

At its August Board Meeting, Board issued order for evaluation. Dr. Mack has filed an appeal in Johnson Co. District Court.

Presiding Officer Cases: OAH Cases – 1; Board member as presiding officer – 6. Four cases have trial dates between January and February of 2024.

6<sup>th</sup> Annual National Physician Suicide Awareness Day was on September 17, 2023. Like previous years, the Board, in conjunction with Kansas Medical Society (KMS) and the Kansas Association of Osteopathic Medicine (KAOM), sent a letter to every physician highlighting the importance of wellness as well and resources.

From September 28-29, 2023, all General Counsel attorneys attended the National eDiscovery Leadership Conference hosted by University of Missouri Kansas City Law School.

**(Varner/Gould) Motion for Final Adoption of amended permanent K.A.R. 100-6. Reentry active license; medicine and surgery and osteopathic medicine.**

Roll call: All voting Board members approved. Carried.

**Consideration for approval of proposed KSBHA Board Policy #24-03 – Considerations on Closing or Leaving Practice.**

(Varner/Suber) Motion to approve KSBHA Board Policy #24-03 – Considerations on Closing or Leaving Practice. Carried.

This policy incorporates existing statutes and regulations regarding change of business address, patient record retention, various confidentiality provisions, and legal notification requirements. This policy was developed with consideration of the Kansas Medical Society *Transitioning a medical practice* (2017) guidelines, existing law, and in collaboration with the both the internal and external KSBHA Policy Workgroups.

#### **The Life of a Case Presentation**

Courtney Cyzman, General Counsel, gives a Power Point presentation regarding the Life of a Case.

#### **Licensing Administrator Report by Rebekah Moon:**

##### **Approval of Licensee/Registrant List**

(Varner/Abebe) 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. There were no questions or discussion.

#### **Disciplinary Counsel Report by Nancy Dodik:**

##### **Disciplinary Report**

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

Consideration of Dr. Katie Benson, D.C., for appointment to the DC Review Committee. Dr. Benson was recommended by Kansas Chiropractic Association.

(Varner/Abebe) Motion to appoint Dr. Benson, D.C., to the DC Review Committee. Carried.

**Litigation Counsel Report by Todd Hiatt:**

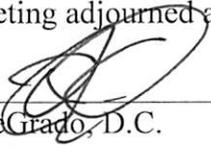
**Litigation Report**

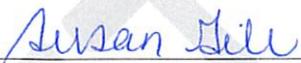
The statistical report for the Litigation Department was included in the Board's packet of materials, for their review.

**VII. ADJOURNMENT**

(Abebe/Varner) Motion to adjourn meeting. Carried.

The meeting adjourned at 2:20 p.m.

  
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Jerry DeGrado, D.C.  
President

  
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Susan Gile  
Executive Director