

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

BOARD MINUTES – December 7, 2023 & December 8, 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.

THURSDAY, 12/07/2023

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 Thursday, December 7, 2023. The meeting was called to order at 2:00 p.m. on 12/07/2023 by Jerry DeGrado, D.C., President.

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

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; 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; April Robbins, Administration – Administrative Specialist; Haley, Licensing Assistant; Deana Cannon, Medical Investigator; Sarah Peterson Herr, Associate Disciplinary Counsel.

Others:

APPROVAL OF AGENDA

Additions:

Executive session under K.S.A. 75-4319(b)(1) to discuss personnel matters of non-elected personnel regarding the General Counsel position.

Executive session under K.S.A. 75-4319(b)(1) to discuss personnel matters of non-elected personnel regarding Board member participation.

Consider approval for Dr. Estep to put forward his nomination for the Federation of State Medical Boards (FSMB) nominating committee.

Deletion:

Executive session under K.S.A. 75-4319(b)(1) to discuss personnel matters of non-elected personnel regarding Executive Director evaluation.

(Estep/Varner) Motion to approve agenda with the additions and deletion:
Carried.

APPROVAL OF BOARD MINUTES FROM OCTOBER 13, 2023

(Varner/Estep) Motion to approve minutes of 10/13/2023 with no changes. Carried.

APPROVAL OF SPECIAL BOARD MINUTES FROM OCTOBER 31, 2023, AND NOVEMBER 7, 2023

(Estep/Varner) Motion to approve special board meeting minutes of 10/31/2023 and 11/07/2023 with no changes. Carried.

II. OTHER BUSINESS

General housekeeping information and staff changes

By Susan Gile, Executive Director:

New Staff Introductions

- April Robbins has rejoined Administration as an Administrative Specialist for accounting.
- Haley Marr has joined Licensing department as a Licensing Assistant.
- Deana Cannon has joined Disciplinary department as a Medical Investigator.

- Tonya Sotkovski has joined Disciplinary department as an Administrative Specialist.
- Sarah Peterson Herr has joined Disciplinary department as Associate Disciplinary Counsel

Staff Departures

- Richard Young, Medical Investigator (12/14/2023)
- Cody Bebout, Deputy General Counsel (12/19/2023).
- Courtney Cyzman, General Counsel (12/21/2023 in office, 1/02/2024 official).
- Delylah Mordecai, Licensing - Healing Arts Analyst (12/27/2023)
- Yvonne SparrowSmith, Litigation – Licensed Law Clerk. Last day was 12/01/2023.

Executive Director:

Report and Updates on Agency by Susan Gile, Executive Director:

Executive session pursuant to K.S.A. 75-4319(b)(1) to discuss personnel matters of non-elected personnel.

(Estep/Varner) motion that the Board go into executive session pursuant to K.S.A. 75-4319(b)(1) to discuss personnel matters of non-elected personnel regarding the General Counsel position for a period of 20 minutes and that the open meeting shall resume at 2:30 p.m. in the Board Room. Only the Executive Director, General Counsel, and Operations Manager are to remain in the room.

(Gould/Varner) Motion to return to open meeting of the Board.

(Varner/Balderston) Motion that the Board go into executive session pursuant to K.S.A. 75-4319(b)(1) to discuss personnel matters of non-elected personnel regarding the General Counsel position for a period of an additional 10 minutes and that the open meeting shall resume at 2:40 pm in the Board Room. Only the Executive Director, General Counsel, and Operations Manager are to remain in the room.

(Estep/Varner) Return to open Board meeting. Carried

Interim General Counsel

On 11/07/2023 Special Board Meeting, Cody Bebout was named Interim General Counsel. As mentioned earlier in this meeting by Executive Director Gile, Cody Bebout is leaving the agency.

5- minute recess.

(Estep/Varner) motion to appoint Warran Wiebe as Interim General Counsel. Carried.

Federation of State Medical Boards (FSMB) symposium

January 17, 2024, in Washington, D.C. for Board Presidents and Executive Directors. Executive Director, Susan Gile and Board President, Dr. Jerry DeGrado will attend and share information with the Board.

Administrators in Medicine (AIM)

Licensing Specialists program. Started in November of 2023, concludes in April of 2024, with final meeting in July of 2024. Lori Barnes and Colleen Krallman, Licensing Specialists are participating.

- AIM is also sponsoring a Certified Medical Board Investigators Program in February of 2024. Two KSBHA investigators have been approved to attend.
 - These staff developmental opportunities meet Strategic plan goal 2.

Federation of State Boards of Physical Therapy (FSBPT) annual education meeting

Executive Director Gile attended. Very general to medical regulations. Encourages all to consider attending next year in Iowa.

Agency Budget

Submitted on 9/15/2023 and has been recommended for acceptance by Division of Budget on 11/09/2023. Next step is before Legislators, then Governor.

- Budget is sound. As of October of 2023, 28% spent 1/3 of way through. 13 litigation cases pending.
- Questions and comments from the Board regarding salaries and the legislative process:
 - Executive Director Gile explained how the pay increase request and procedure works through the Department of Administration.

Federation of State Medical Boards (FSMB) Nomination

(Varner/Durrett) Motion for Dr. Estep to put forward his nomination for the FSMB Board of Directors. Passed.

Disciplinary Panel appointment

(Varner/Durrett) Motion to appoint Dr. Estep, Mr. Jordan, Dr. Varner, Dr. Balderston, and Dr. Bradbury to Disciplinary Panel #39 for 2024. Passed.

Executive session pursuant to K.S.A. 75-4319(b)(1) to discuss personnel matters of non-elected personnel regarding Board member participation.

(Estep/Varner) motion that the Board go into executive session pursuant to K.S.A. 75-4319(b)(1) to discuss personnel matters of non-elected personnel regarding Board member participation for a period of 10 minutes and that the open meeting shall resume at 3:12 p.m. in the Board Room. Only the Executive Director, General Counsel attorneys, and Operations Manager are to remain in the room.

(DeGrado/Balderston) Motion to return to open meeting of the Board.

- (Estep/Balderston) Motion that the Board go into executive session pursuant to K.S.A. 75-4319(b)(1) to discuss personnel matters of non-elected personnel regarding Board member participation for a period of an additional 10 minutes and that the open meeting shall resume at 3:23 pm. in the Board Room. Only the Executive Director, General Counsel attorneys, and Operations Manager are to remain in the room.

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

Social Media Discussion

Any account would be for information sharing only, no comments from users. Agency requests Board for authorization to establish Facebook and Linked In accounts. Questions from Board and request to hear from IT personnel regarding cyber security as it relates to social media. Tabled until tomorrow when IT will present and discuss in Executive Session.

General Counsel:

General Counsel Report by Courtney Cyzman, General Counsel

Update of appellate cases involving the Board:

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

- On October 30, 2023, Judge issued ruling on plaintiffs' motion for temporary injunction.
- All defendants (including KSBHA) are temporarily enjoined (prohibited) from enforcing certain statutes related to the Women's Right to Know Act and HB2264.
- On November 13, 2023, the Kansas Attorney General's office filed a Notice of Appeal.

Mack vs. KSBHA

- Motion to dismiss petition for review was granted. Appeal period expired. Concluded in Board's favor.

Currently 7 active Presiding Officer cases. 6 are with Board members, and 1 with Office of Administrative Hearings (OAH). 5 have trials set for the next 5-6 months.

Currently there are 28 unlicensed practice cases open.

Regulations:

Amended KAR 100-6-6 effective 11/10/2023.

Education & Outreach:

29 presentations have been given this year. Some are being scheduled for 2024. Operations Manager is working on scheduling and expanding the service.

Professional Certificates:

For FY24 we reviewed and approved 46 thus far.

Third Party Subpoenas:

None since last Board Meetings. All previous ones have been resolved.

Last week: Deputy General Counsels attended FSMB in Louisville.

Review in-person continuing education waiver.

This waiver came about at the start of the pandemic. KSBHA has had waiver enforcement which allows in-person continued education requirements to be satisfied with live online services. We are currently in our third year of the waiver. It has been discussed at each December Board meeting since established. Board recommends continuing for another year and research professions for feedback and recommendations.

(Estep/Balderston) Motion to continue waiver of enforcement of any regulations requiring in-person continuing education for all healthcare professions it licenses for one more year. The Board will reassess this waiver at its December 2024 Board meeting. Passed.

General Counsel Presentation

- KSBHA Key Cases
 - Kansas Board of Healing Arts v. Foote, M.D. (1968)
 - Vakas, M.D. vs. Kansas Board of Healing Arts (1991)
 - Sajadi, M.D. vs. Kansas Board of Healing Arts (2021)

Courtney Cyzman comments regarding her transition from the Board.

III. STAFF REPORTS

Licensing Administrator, Rebekah Moon

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

Licensing Specialists, Lori Barnes and Colleen Krallman attending AIM, as referenced by Executive Director.

No questions from the Board.

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

End of year accomplishments: Executive Director Gile highlighted several areas of excellent work from the Licensing Department which occurred throughout 2023.

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.

Closed 55 investigations since last Board Meeting in August. 18 have been sent to Litigation. 133 open investigations currently. Of the 133, 77% have been open for less than 6 months. No investigations over 2 years old.

No questions

End of year accomplishments: Executive Director Gile highlighted several areas of excellent work from the Disciplinary Department which occurred throughout 2023.

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.

Added position – Deputy Licensing Counsel. Lisa Montgomery taking over General Counsel technical licensing cases. Slight increase in numbers of those cases.

End of year accomplishments: Executive Director Gile highlighted several areas of excellent work from the Litigation Department which occurred throughout 2023.

IV. RECESS

(Varner/Suber) Motion to recess until 9:00 a.m. tomorrow morning, December 8, 2023.
Passed.

FRIDAY, 12/08/2023

V. 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, December 8, 2023. The meeting was called to order at 9:00 a.m. on 12/08/2023 by Jerry DeGrado, D.C., President.

Abebe Abebe, M.D.		absent
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.		absent
Stephanie Suber, D.O.	present	
Ronald Varner, D.O.	present	
Sherri Wattenbarger, public member		absent
Kathy Wolfe Moore, public member	present	

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; 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; April Robbins, Administration – Administrative Specialist; Haley, Licensing Assistant; Deana Cannon, Medical Investigator; Sarah Peterson Herr, Associate Disciplinary Counsel, Tonya Sotkovski, Disciplinary - Administrative Specialist.

VI. OTHER BUSINESS

Social Media Cyber Security Discussion – Larry Bowles, KSBHA Information Director
(Durrett/Estep) Motion to go into executive session pursuant to K.S.A. 75-4319(b)(12) to discuss matters related to IT security measures for social media for 5 minutes and that the open meeting shall resume at 9:13 a.m. in the Board Room.

(Estep/Suber) Motion to return to open meeting of the Board.

(Varner/Estep) Motion that the Board go into executive session pursuant to K.S.A. 75-4319(b)(12) to discuss IT security measures as it relates to social media for a period of an additional 5 minutes and that the open meeting shall resume at 9:18 a.m. in the Board Room.

(Estep/Suber) Motion to return to open meeting of the Board.

(Durrett/Estep) Motion to approve Facebook and Linked In account for informative information.
Passed

(Durrett/Estep) Motion to Recess for annual Board Pictures.

VII. ADMINISTRATIVE PROCEEDINGS

(Durrett/Estep) Recess Open Meeting of Board for proceedings pursuant to Kansas Administrative Procedures Act. (Board meeting to be reconvened at 12:15 p.m. and/or between administrative proceedings at call of chair for any agenda items not completed in 9:00 a.m.block).

Tonguc Pinar, M.D., Docket #24-HA00017 - Conference Hearing on Application for Licensure.

Ms. Lisa Montgomery appeared for the Board. Dr. Pinar appeared in person, and through attorney Jordan Stanley.

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

(Varner/Estep) Motion to go into closed hearing for the presentation of confidential information pursuant to K.S.A. 77-523(f) and K.S.A. 65-4925. Carried.

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

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

Board determines to issue license with limitations. Summary of Limitations include: no prescribing of controlled substances, maintain ongoing compliance with existing Board orders from Massachusetts and Illinois, and Board requests notification prior to any

application for a DEA registration. Board decision effective upon issuance of written order.

Ronald Carson, D.O., Docket #24-HA00016 - Conference Hearing on Request to Supervise Additional PAs

Dr. Carson appeared in person, *pro se*.

(Estep/Jordan) Motion for Board to grant the request to supervise additional Physician Assistants. Passed.

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.

Recusal: Courtney Cyzman

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

(Estep/Durrett) Motion to return to open administrative hearing.

5-minute recess

Board accepts Dr. Dave's request to withdraw application.

Hemil Maniar, M.D., Docket #24-HA00014 - Conference Hearing on Application for Licensure

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

Recusal: Courtney Cyzman

(Durrett/Varner) Motion for Board to grant licensure. Passed.

Akinsola Akinyode, P.T. Docket #24-HA00019 - Conference Hearing on Application for Licensure

Dr. Akinyode appeared virtually, *pro se*.

Recusals: Courtney Cyzman, Cody Bebout and Susan Gile

(Estep/Durrett) Motion to convert from conference hearing to formal hearing to allow additional information or testimony from parties other than the applicant or the applicant's counsel. Passed.

Confirmation of proper notification to applicant about conversion from conference hearing to formal hearing.

(Durrett/Varner) Motion for Board to grant licensure effective December 8, 2023. Passed.

VIII. CONSENT ORDER

Matthew Falor, A.T., - Review of Proposed Consent Order

Mr. Brad Taylor appeared for the Board. Matthey Falor appeared in person, *pro se*.

(Estep/Varner) Motion to go into closed hearing for the presentation of confidential information pursuant to K.S.A. 77-523(f) and K.S.A. 65-4925. Carried.

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

(Varner/Estep) Motion for Board to accept Consent Order as written. Passed.

Reconvene the open Board Meeting

(Bradbury/Balderston) Motion to return to open meeting of the Board.

Farewell to Courtney Cyzman, Cody Bebout and others.

IX. ADJOURNMENT

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

The meeting adjourned at 12:56 p.m.



Jerry DeGrado, D.C.
President



Susan Gile
Executive Director