

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

**BOARD MINUTES – June 9, 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, 6/9/2023**

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

Abebe Abebe, M.D.		absent
Mark Balderston, D.C.	present	
Molly Black, M.D.		absent
Richard Bradbury, D.P.M.	present	
Jerry DeGrado, D.C.	present	
Robin Durrett, D.O.	present	[drops at 9:30 a.m.]
Thomas Estep, M.D.	present	
Steven Gould, D.C.		absent
Camille Heeb, M.D.	present	
David Jordan, public member		absent
Jennifer Koontz, M.D.	present	
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; Cody Bebout, Assistant General Counsel; James McSweyn, Assistant General Counsel; Caitlin Kremer, General Counsel Law Clerk; Nancy Dodik, Disciplinary Counsel; Tammi Mundil, Deputy Disciplinary Counsel; Britani Potter, Assistant Disciplinary Counsel; Angela Mordecai, Complaint Coordinator; Todd Hiatt, Litigation Counsel; Matthew Gaus, Deputy Litigation Counsel; Lisa Montgomery, Associate Litigation Counsel; Brad Taylor, Associate Litigation Counsel; Sebastian Orosco, Associate Litigation Counsel; Janice Ayers, Litigation Legal Assistant; Teresa Sparrow Smith, Litigation Law Clerk; John McMaster, M.D., Medical Director; Rebekah Moon, Licensing Administrator; Chandni Bhakta, Deputy Licensing Administrator; Kathy Moen, Medical

Litigation Support Specialist; Kady Curtis, Support Staff Supervisor; Ivan Perez, Compliance Coordinator; Kelly Clubb, Technology Support Consultant; Jennifer Cook, Paralegal to General Counsel; and LeeAnn Hunter-Roach, Legal Assistant to General Counsel.

**APPROVAL OF AGENDA**

(Estep/DeGrado) Motion to approve agenda with addition of Executive Session under K.S.A. 75-4319(b)(2) to discuss confidential and privileged information regarding pending District Court litigation and appellate cases. Carried.

**APPROVAL OF 4/14/2023 BOARD MEETING MINUTES**

(Estep/DeGrado) Motion to approve minutes of 4/14/2023 with no changes. Carried.

**II. OTHER BUSINESS**

**New Staff Introductions**

By Susan Gile, Executive Director:

Rikki Price has joined the Agency as the Human Resources Manager. Emily Florez has moved from the front desk receptionist position to Licensing. Janice Ayers has joined the Litigation department as a Legal Assistant, and James McSweyn has moved from the Litigation department to the General Counsel department as an Assistant General Counsel attorney.

**III. STAFF REPORTS**

**Executive Director:**

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

Susan Gile, Executive Director, discusses the office renovations taking place at the Agency. Recent progress made by the Disciplinary department is also discussed. No questions.

**Final approval of Professionals Health Program Contracts**

(Estep/DeGrado) Motion to approve Professionals Health Program contracts. Carried.

**Final approval of Medical Director contract.**

(DeGrado/Estep) Motion to approve Medical Director contract. Carried.

## **General Counsel:**

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

#### **Appellate Case Updates**

*Bejar v. Kansas State Board of Healing Arts* - On April 14, 2023, we filed a Response to Dr. Bejar's Petition for Review to the Kansas Supreme Court requesting review be denied. We are waiting a decision from the Kansas Supreme Court on if review will be granted.

#### **General Counsel Report**

There are currently 5 Presiding Officer cases with a Board Member appointed in active litigation and 1 case with Office of Administrative Hearings is in progress.

General Counsel, along with the Administration Department is working to develop an electronic recordkeeping plan.

Regulation highlights from previous Board Meeting:

- K.A.R. 100-54-13. (Occupational Therapy; Professional liability insurance) became effective May 5, 2023.
- Amended K.A.R. 100-15-1. (Expiration dates) became effective May 12, 2023.
- Amended K.A.R 100-11-1. (Amount) has been published in the register and is in the open public comment period. Public hearing is scheduled for July 19, 2023, and we are waiting for the JCARR hearing to be set.

Education and Outreach: YTD 17 presentations, 7 additional scheduled. At the FCLB conference Ms. Cyzman presented on legal and policy considerations for licensing impairment application questions. Ms. Cyzman also gave a presentation for KAMMCO members regarding physician supervision of mid-level practitioners.

General Counsel Department Activities: General Counsel Department has answered 299 legal questions; responded to 195 open records requests and approved 196 professional certificates year-to-date.

**Executive Session under K.S.A. 75-4319(b)(2) for the purpose of attorney-client consultation to discuss confidential and privileged information regarding pending District Court litigation and appellate cases.**

(Estep/DeGrado) I move the Board go into executive session pursuant to K.S.A. 75-4319(b)(2) for the purpose of attorney-client consultation to discuss pending district court litigation and appellate cases for 20 minutes. Return to the open meeting at 9:40 a.m.

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

**Consideration for approval of proposed KSBHA Board Policy #23-05 – Recognition of the OTED process through NBCOT for OT Licensure**

(Estep/Wolfe Moore) Motion to approve KSBHA Board Policy #23-05 – Recognition of the OTED for Occupational Therapy Licensure.

This policy reflects that foreign education in occupational therapy that has undergone and completed the requirements of the Occupational Therapist Eligibility Determination (“OTED”) process of the National Board for Certification in Occupational Therapy (“NBCOT”), meets the educational requirements for occupational therapy licensure in Kansas. This policy was developed following *In the Matter of Suja Chandrasekaran, OT*; KSBHA Docket No. 23-HA00025. The OT Council was consulted in that matter agrees with this policy. Any future foreign trained occupational therapist applicant who has undergone and completed the OTED process, and meets all other technical licensure requirements, would not need to appear before the Board for this purpose.

**Review K.A.R. 100-1-1 through K.A.R. 100-5-4 and consider initial approval of proposed amendments.**

(Estep/DeGrado) Motion to initial approval of amended K.A.R. 100-1-1. Carried.  
(Estep/DeGrado) Motion for initial approval of amended K.A.R. 100-2-2. Carried.  
(Estep/DeGrado) Motion for initial approval of amended K.A.R. 100-2-3. Carried.  
(Estep/DeGrado) Motion for initial approval of amended K.A.R. 100-2-4. Carried.  
(Estep/DeGrado) Motion to revoke K.A.R. 100-3-1. Carried.  
(Estep/DeGrado) Motion for initial approval of amended K.A.R. 100-4-1. Carried.  
(DeGrado/Estep) Motion for initial approval of amended K.A.R. 100-4-2. Carried.  
(Estep/DeGrado) Motion for initial approval of amended K.A.R. 100-5-1. Carried.  
(DeGrado/Estep) Motion for initial approval of amended K.A.R. 100-5-2. Carried.  
(DeGrado/Estep) Motion to revoke K.A.R. 100-5-4. Carried.

**Propose revocation of K.A.R. 100-25-5.**

(DeGrado/Estep) Motion to revoke K.A.R. 100-25-5. Carried.

**Update and report out on Federation of Chiropractic Licensing Boards and Federation of State Medical Boards Annual Conference**

Dr. Balderston (voting delegate), Dr. Gould (alternate), General Counsel Courtney Cyzman, and Assistant General Counsel, Cody Bebout attended the FCLB annual conference April 26 – April 29, 2023.

Dr. Estep (voting delegate) and General Counsel Courtney Cyzman attended the FSMB annual conference May 4-6, 2023. On Thursday, May 4, Kansas, along with 21 other state medical boards were recognized by the Dr. Lorna Breen Heroes' Foundation as a 2023 Wellbeing First Champion.

#### **Kansas Administrative Procedure Act presentation**

Cody Bebout, Assistant General Counsel, gives a Power Point presentation regarding the Kansas Administrative Procedure Act.

**Executive session under K.S.A. 75-4319(b)(2) for the purpose of attorney-client consultation to discuss confidential and privileged as it relates to legal analysis of expungement and administrative disciplinary actions.**

Motion for executive session under K.S.A. 75-4319(b)(2) for the purpose of attorney-client consultation to discuss confidential and privileged related to legal analysis of expungement and administrative disciplinary actions for 20 minutes. Return to open meeting at 10:25 a.m.

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

(DeGrado/Estep) Motion to maintain the Board's position on expungement and administrative disciplinary actions, in that when a licensee's conviction underlying the agency action against them has later been expunged, it does not need to be removed from public view nor any reference to that conviction.

Recess 10 minutes to return at 10:35 a.m.

#### **IV. ADMINISTRATIVE PROCEEDINGS**

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

Recess 10:50-11 a.m. [IT issues]

**Noel Eboh Jr., M.D., Docket #23-HA00030** – Conference Hearing on Application for Institutional Licensure.

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

Recusals: n/a

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

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

Matter taken under advisement and a written order will be issued within 30 days. Carried.

[Dr. Durrett drops off]

**Avner Meoded M.D., Docket #23-HA00033** Conference Hearing on Application for Licensure.

Dr. Meoded appeared in person, and through counsel, Kelli Stevens.

Recusals: n/a

(Estep/DeGrado) Licensure granted. Carried.

**Howard Halvorson, M.D., Docket #23-HA00024** Conference Hearing on Request for Consideration to replace CPEP with SPEX examination.

Mr. Sebastian Orosco appeared for the Board. Dr. Halvorson appeared virtually, *pro se*.

Recusals: #38 – Dr. Abebe, Dr. Durrett, Dr. Gould, Dr. Bradbury, and Ms. Wolfe Moore, and Assistant General Counsel, James McSweyn.

All remaining Board members are appointed as presiding officers under the Kansas Administrative Procedure Act, as there is not a quorum present.

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

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

(Estep/DeGrado) Motion to approve SPEX examination as an alternative to the CPEP reentry to clinical practice program in this matter. Carried.

## V. CONSENT ORDERS

**Karen Epperson, M.D. #23-HA00032** Review of Proposed Consent Order.

Mr. Matthew Gaus appeared for the Board. Dr. Epperson appeared in person, *pro se*.

Recusals: N/A

(DeGrado/Estep) 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).

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

(DeGrado/Estep) Motion to approve the Consent Order. Carried.

**(Estep/DeGrado) Motion to Reconvene the open meeting of the Board. .**

**Licensing Administrator Report by Rebekah Moon:**

**Approval of Licensee/Registrant List**

(Bradbury/Balderston) 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. CE Broker is live for some professions. 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. Department is working to review internal processes. No questions.

**Litigation Department 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. Update provided regarding the IMLC process. The statewide opioid response team has been reactivated. Questions regarding cases involving IV hydration and Ketamine.

Dr. Estep asks that discussion regarding virtual meetings and office work be placed on the August 2023 Board meeting agenda.

**VI. ADJOURNMENT**

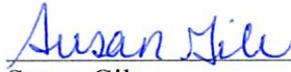
(DeGrado/Estep) Motion to adjourn meeting. Carried.

The meeting adjourned at 12:08 p.m.



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Jerry DeGrado, D.C.  
President



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Susan Gile  
Executive Director