

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

**BOARD MINUTES – April 8, 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, April 8, 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 April 8, 2022. The meeting was called to order at 9:00 a.m. by Thomas Estep, M.D., President.

Abebe Abebe, M.D.	present	
Mark Balderston, D.C.	present	
Molly Black, M.D.		absent
Richard Bradbury, D.P.M.		absent
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	
Steve Kelly, PhD, public member		absent
Jennifer Koontz, M.D.	present	
John Settich, PhD public member	present	
Stephanie Suber, D.O.		absent
Ronald Varner, D.O.	present	
Sherri Wattenbarger, public member	present	

Staff members present were Susan Gile, Acting Executive Director and Operations Manager; Courtney Cyzman, General Counsel; Warran Wiebe, Deputy General Counsel and Steven Lehwald, Assistant General Counsel; Nancy Dodik, Disciplinary Counsel; Katie Baylie, Deputy Disciplinary Counsel; Todd Hiatt, Litigation Counsel; Matthew Gaus, Associate Litigation Counsel; John McMaster, M.D., Medical Director; Rebekah Moon, Licensing Manager/Administrator; Briana Hogan, Law Clerk, Theresa Sparrowsmith, Extern, Kathy Moen, Medical Litigation Support Specialist; Jennifer Cook, Paralegal to General Counsel; and LeeAnn Hunter-Roach, Legal Assistant to General Counsel, Ali

Diaz, Administrative Specialist, General Counsel; Richard Mote, Application Support Technician.

Also present: Dr. Kimberly Templeton.

**APPROVAL OF AGENDA**

(Varner, Abebe) Motion to approve agenda with additions: Add discussion regarding draft letter relating to HB 2280 and update on peer review symposium by Dr. Templeton. Carried.

**APPROVAL OF 2/11/2022 BOARD MEETING MINUTES**

(Varner, Abebe) Motion to approve minutes of February 11, 2022 with no changes. Carried.

**II. OTHER BUSINESS**

**New Staff Introductions**

By Susan Gile, Acting Executive Director:

IT: Kelly Clubb (hardware) and Vents Ivanov (software)

Administration: Susan McClain (front desk)

Litigation Attorney: James McSweyn (formerly law clerk)

General Counsel: Ali Diaz – additional duties as Public Information Officer

**III. STAFF REPORTS**

**Executive Director:**

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

Not much has changed regarding COVID. There is no mask mandate at this time. The agency is working on filling vacant positions but it is hard to get quality candidates. The agency is working on formation of data committee by next Board meeting. Budget looks good at this point – we’re three-fourths of the way through fiscal year. Upcoming conference attendance discussed.

**Legislative Update**

It’s been a very active session. The legislature is in recess until the end of the month. Highlights include:

HB 2087: signed and will impact agency as it requires review of regulations every 5 years.

SB 560: medical marijuana – stalled at this time.

SB 200: passed and changes pharmacist scope of practice to expand to point-of-care testing for certain conditions.

SB 274: Naturopathic doctors practice bill which would amend scope of practice – not much movement.

SB Sub for HB 2280: This bill provides for healthcare providers to be able to prescribe medications off-label, specifically ivermectin and hydroxychloroquine for the prevention and treatment of COVID-19. It also provides that a “recommendation, prescription, use or opinion of a prescriber related to a treatment for COVID-19, including a treatment that is not recommended or regulated by the licensing board, the department of health and environment or the federal food and drug administration, shall not be considered unprofessional conduct.”

SB Sub HB 2279: APRN scope of practice regarding prescribing controlled substances without supervising physician as passed House and is in conference committee. General questions on how this affects Collaborative Practice Agreement. This bill does not bring APRNs under the Board’s jurisdiction.

SB 440 – Governor signed this bill which establishes when an OT may treat a patient without a referral from a healthcare professional. It also requires OTs to maintain professional liability insurance.

SB 531: Massage therapy bill – no movement.

General discussion and comments by Board members.

### **AG Opinion regarding off-label drug prescribing**

On February 21, 2022 we received a request for input from the Attorney General’s office. This request was in response to a request the AG received from Ty Masterson, Senate President. Senator Masterson was inquiring of the AG as to whether Kansas law prevents physicians or other prescribers from prescribing FDA approved generic medications such as ivermectin and hydroxychloroquine for off-label uses in the treatment of COVID-19. We provided a response on March 4, 2022. On March 25, 2022, the AG issued their opinion. Essentially, the AG affirmed our position that off-label prescribing is permitted and that this includes the prescribing of ivermectin and hydroxychloroquine for the prevention and treatment of COVID-19.

General discussion by Board members.

### **General Counsel:**

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

*KSBHA v. Parcels*. Waiting on Court of Appeals’ opinion following oral arguments.

*Estivo v. KSBHA*. Waiting on Court of Appeals’ opinion following oral arguments.

*Bejar v. KSBHA*. Has been briefed and the Board's position was affirmed by the District Court.

Regulations: General Counsel Cyzman has had several meetings with AG's office on regulations. Several CNM-I regulations have been triple stamped and will now move to public hearing and JCARR hearing.

Education/Outreach: General Counsel's office has done 12 presentations and there are 11 more scheduled. They also had a joint KTRACs presentation which was well attended.

**Licensing Overview by Rebekah Moon**: Licensing Administrator Moon gives a PowerPoint presentation regarding the licensing department and how they function. General questions regarding the VeriDocs process.

**Update on Peer Review Symposium**: Dr. Kimberly Templeton gives the Board an update on the Peer Review Symposium which will occur this Fall. They are putting together a planning committee of representatives from KMS, KaMMCo, BOHA, KAOM, KHA and KDHE. Discussion and comments by Board members.

**Licensing Administrator by Rebekah Moon:**

**Approval of Licensee/Registrant List**  
(Durrett, Gould) 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.

**Disciplinary Counsel 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 are 586 open investigations and 100 case have been closed since the last Board meeting.

**Litigation Counsel by Todd Hiatt:**

**Litigation Report**

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

#### IV. ADMINISTRATIVE PROCEEDINGS

(Varner, Gould) Recess open meeting and go into closed meeting to conduct administrative proceedings under the Kansas Administrative Procedures Act. Carried.

(Gould, Abebe) Recess closed meeting and to into open meeting for break. Carried.

(Heeb/Abebe) Recess open meeting and go into closed meeting to conduct administrative proceedings under the Kansas Administrative Procedures Act. Carried.

**Arshad P. Cheema, M.D., Docket #22-HA00029**– Conference Hearing on Petition for Discipline. Mr. Matthew Gaus appeared for the Board. Dr. Cheema appeared in person, and with counsel Kelli J. Stevens.

Recusals: Dr. Black, Dr. Durrett, Dr. Gould and Dr. Kelly.

Statement by Ms. Wattenbarger regarding her employment with the Department of Justice should the Applicant wish her to recuse from hearing his case. Applicant and his counsel do not object to Ms. Wattenbarger's participation in this matter.

(Varner, Abebe) Motion to recess into executive session for Attorney Client Consultation. Carried.

(Abebe, Varner) Return to closed hearing. Carried.

The participating Board members vote by 2/3 majority to grant Dr. Cheema an active license if he meets requirements with public censure. A poll is taken and Drs. Varner and DeGrado dissent.

(Abebe, Gould) Motion to return to open meeting. Carried.

**Discussion regarding draft letter HB 2280: General discussion regarding response to Dr. Steffen's Facebook posting and letter to Licensees.**

(Durrett, Varner) Motion to go into executive session for 20 minutes pursuant to K.S.A. 75-4319(b)(2) for Attorney-Client consultation. Carried.

(Durrett, Gould) Motion to return to open meeting. Carried.

(Settich, Abebe) Motion to proceed with response letter as amended and upon further direction from the Board.

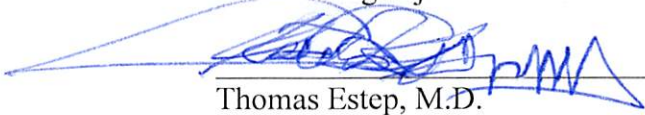
(Durrett, Abebe) Motion to go into executive session for 20 minutes pursuant to K.S.A. 75-4319(b)(2) to discuss pending legislative matters. Carried.

(\_\_\_\_\_, \_\_\_\_\_) Motion to return to open meeting. Carried.

**V. ADJOURNMENT**

(Balderston, Abebe) Motion to adjourn meeting. Carried.

The meeting adjourned at 11:51 a.m.

  
\_\_\_\_\_  
Thomas Estep, M.D.  
President

  
\_\_\_\_\_  
Susan Gile  
Acting Executive Director