

Approved 6-6-2014

**Board Meeting Minutes
April 4, 2014**

Board Members Present

James R. Behan
Dennis Franks
Dr. Joel Hornung
Director Deb Kaufman
Dr. David Kingfisher
Comm. Mike Lewis
Comm. Keith Olsen
Shane Pearson
Director Chad Pore
Director John Ralston

Attorney General Staff

Sarah Fertig

Board Members Absent

Senator Oletha Faust-
Goudeau
Rep. Broderick Henderson
Dr. Denise Miller
Rep. Vern Swanson

Guests

Kathy Dooley
Eric Voss
Carman Allen
Jon Friesen
Dalene Deck
Skylar Swords
Wendy Gronau
Dave Johnston
Brad Sisk
Frank Williams
Ken Keller
Kerry McCue
Jeb Burress
Derek Sobelman
Kathy Coleman
Gary Winter
Jim LeBaron
Sabina Braithwaite
Nelson Krueger
Marguerite Underhill
Dan Hudson
Marvin VanBlaricon
Jason Bolt
Terry David
David Adams
Jeri Smith
Zach Bieghler
Eden Lord
Craig Divall
Michaela Isch

Representing

SKEMS
Concordia Fire
KDHE
HCC EMS/Region III
SCEMS/Region III
Finney County EMS
Lincoln Co EMS
KEMSA/SCEMS
GCCC/SKEMS/Reg. II
Life Team
AMR
Region I/Ellis Co EMS
BCC
Olathe Fire
Miltonvale EMS
Region I
Hutch. Comm. College
Sedgwick Co. EMS
Leading Edge, Ltd
Washburn Tech
KU Hospital
Clay Co EMS/Reg. IV
Region VI/KEMTA
Rice Co EMS
Pottawatomie Co. EMS
Ark City Fire
Rice Co. EMS
Acute Adrenal
KSOEC
KSOEC

Staff

Steve Sutton
Joseph House
Curt Shreckengast
Suzette Smith
Dave Cromwell
Georganne Lovelace
Rashelle Fowler
Christine Hannon
Danielle Buchheister

CALL TO ORDER

Chairman Behan called the Board Meeting to order on Friday April 4 at 9:04 a.m. He first announced a new agenda item, which was recognizing Senator Jay Emler for his service to the board. Chairman Behan thanked Senator Emler for all of his contributions of commitment and hard work to the board and wished him well in his future endeavors. The Senator was presented with a plaque. Senator Emler thanked the board and said he enjoyed working with them.

Chairman Behan also recognized Commissioner Mike Lewis, thanked him for his service to the board and presented him with a roll call certificate. Chairman Behan announced that a plaque would follow later.

APPROVAL OF MINUTES

The next order of business was to approve meeting minutes from the December 6, 2013 Board meeting and the two special teleconferences December 17, 2013 and February 14, 2014

Commissioner Lewis made a motion to approve all three sets of board meeting minutes; Director Kaufman seconded the motion. No discussion. No opposition noted. The motion carried.

COMMITTEE REPORTS AND POSSIBLE ACTIONS

Planning and Operations Committee

Chairman Behan called upon Chief Pearson to give the Planning and Operations Committee report. Chief Pearson reported to the Board:

- There was no update from Joe Moreland on KEMSIS
- Darlene Whitlock provided an update to the committee that she was done with her part on the sample protocols. She informed the committee that everything she and the committee were working on has been provided to board staff. The committee presented her with a certificate of appreciation for all the work she has done on these. She extended her thanks for the opportunity to work on this project.
- K.A.R.109-2-2 became law on January 3, 2014. He stated that Dave Cromwell reported some concerns the board needs to discuss regarding online renewal for ambulance services and the declaration of whether they have a long term vehicle maintenance program or not. The plans being turned in are based on mileage rather than a time frame. Mr. Cromwell clarified the circumstances for the board.
- K.A.R. 109-2-7 was published for the 60 day comment period and there were a couple of non-substantive changes. He then asked Dave Cromwell to touch on the details.

Mr. Cromwell explained to the board:

- The non-substantive changes included removing a strikethrough and changing the name of a course because the name changed to “Transport Professionals Advanced Trauma Course

(TPATC)”. Neither KanAAMS nor this Committee had any problems with adding the course “Advanced Care and Trauma Transport (ACTT)” to the list on page 5 subsection (4).

- The Joint Committee on Rules and Regulations (JCARR) recommended language changes. The only changes to K.A.R. 109-2-7, agreed upon by this committee, were to change the word neonate to neonatal for consistency.
- The JCARR had no problem with K.A.R. 109-2-13 so it will continue as previously stated.
- The JCARR’s final recommendation was to mirror the language on page 6 & 7 of 37 in regulation 109-2-7 regarding adoption of ACLS and PALS. Now it will read they have to have an ALS course and a Pediatric Life Support course. The committee also suggested putting the same language in 109-2-11 page 18 of 37 subsections (A&B). The P&O committee agreed to the change. Sarah indicated that it can be expedited so it can be published in a couple weeks and then 15 days from then it becomes law.
- K.A.R. 109-3-5 had neither public comment nor any recommendations by the JCARR so it will continue through the process.

Chief Pearson continued to report on New Business:

- The P & O committee had a discussion regarding the inspection policy. Many services felt that staff should document minor issues, such as a tag light out that does not affect patient care, but should not send a letter to superiors.
- The committee heard a brief update from Dave Johnston of KEMSA on the staffing committee that met Wednesday afternoon. They have a temporary fix that they want the MAC to review and then will bring it back to P & O for further review. There was some concern about going directly to the MAC. After discussion this was cleared up.
- Dave Johnston reported that the regulation pursuant to the Chy Miller bill went through and KEMSA is putting together a resource kit for the health care providers in Kansas.
- The committee also heard an update from Brad Sisk on the KEMTA conference.

Chair Behan stated that the variance request by Hutchinson Regional Medical Center needed to be voted on.

Director Kaufman made a motion to move the variance forward; Commissioner Lewis seconded the motion. No discussion. No opposition noted. The motion carried.

Chair Behan proposed to remove the 30 day requirement on variance requests to have the paperwork in the office. Some board members agreed. This will be discussed further going forward.

Director Sutton questioned if the inspection policy should be modified. After a brief discussion it was decided that it will take further discussion by the committee and input from other service directors before any modifications will be put in place.

Education, Examination, Training and Certification Committee

Chairman Behan called upon Director Kaufman to give the EETC report. Director Kaufman reported to the board:

- Mr. Shreckengast gave the committee a transition update that they are still moving forward with the completion of the transition. There were no new courses identified during the audits that had issues. There is documentation for one course that has been on the table for a while and continues to be under review.
- Regulations K.A.R. 109-15-2 Legal Recognition of Non-Kansas Credentials and K.A.R. 109-16-1 Graduated Sanctions became effective January 17, 2014.
- The committee discussed three variances that staff had already approved which are provided for information. She mentioned the last two variances involve technicians moving out of state and now wanting to regain certification in Kansas but were not sure which regulation to apply under: K.A.R. 109-15-1 or K.A.R. 109-15-2. There is some confusion between the two regulations. The information was provided to the board in the packet.

Director Kaufman made a motion to approve those two variances and also give staff the direction to handle future variances that are identical to these in the same manner; Director Ralston seconded the motion. No discussion. No opposition noted. The motion carried.

- The committee had discussion with the examination vendor for BLS exams in the state. The committee recommends a one year renewal with the current vendor.

Director Kaufman made a motion to extend the contract for one year with the current vendor; Director Pore seconded the motion. No discussion. No opposition noted. The motion carried.

- The committee had discussion on the Educator Proposal implementation. The committee had previously asked permission of the board to move forward a section of regulations for language changes. However, because sections of the legislative packet were pulled back that dealt with the definition of a trainer and the duties they could perform; it is premature to move those regulations forward. As a result:

Director Kaufman made a motion to withdraw K.A.R. 109-1-1, K.A.R. 109-5-3, K.A.R. 109-8-1, K.A.R. 109-9-4, K.A.R. 109-10-1f, K.A.R. 109-10-3, and K.A.R. 109-13-1 from the process and close those regulations; Director Pore seconded the motion. No discussion. No opposition noted. The motion carried.

- The committee looked at K.A.R. 109-10-2 Long-term accreditation of training programs conducting initial courses of instruction. The committee found there was more interest in the state than they originally thought. At this time, they will not recommend revocation of this regulation. They will be receiving more information at the June meeting to reconsider.
- A group is working on the AEMT Educational Standards as well as the EMT/EMR and will be reporting back to the committee. The EDTF reported that they currently have a large work load, but the committee does want to continue to disseminate information to them to maintain transparency.

- Legal counsel, Sarah Fertig clarified the difference between retroactive and prior approved continuing education. The process is somewhat unclear in the regulations. Because of this the committee would like to bring forward a motion to open K.A.R. 109-5-1, K.A.R. 109-5-2, K.A.R. 109-5-3, and K.A.R. 109-1-1 to clarify that process.

Director Kaufman made a motion to open K.A.R. 109-5-1, K.A.R. 109-5-2, K.A.R. 109-5-3, and K.A.R. 109-1-1 to clarify that process. Commissioner Lewis seconded. No discussion. No opposition noted. The motion carried.

- The Recertification Process Report showed the numbers for attendants are remaining consistent.
- The committee continued discussion of reinstatement of attendant's certification and recommends opening the regulation to address this.

Director Kaufman made a motion to open K.A.R. 109-15-1 to address reinstating attendant certification after expiration; Commissioner Olsen seconded. No discussion. No opposition noted. The motion carried.

- The committee heard a report from Curt Shreckengast that the EDTF has developed a subcommittee to focus on the topic of Kansas Continued Competency and Dr. Braithwaite will assist them with categories of required education. There is still some surveying the rest of the state to be done and then it will come back to the committee.
- Information on Scenarios for use at the BLS examination site was included in the packet for the board. Director Kaufman thanked the EDTF for their work on these and reported that there is a new set at the examination site after several revisions. Also they have a set of scenarios back from the vendor with comments so the work will be ongoing to ensure a good product.

Executive Committee

Chairman Behan called upon Dr. Kingfisher to give the Executive Committee report. Dr. Kingfisher reported to the board:

- The committee discussed the Legislative Packet. SB320 did not pass and HB2509 had a hearing March 18th. On March 20th, the Senate committee recommended it be passed but it has not been passed yet. It is on the agenda and they will get to it when they resume from break at the end of April.
- The committee heard no MAC reports but did have two sets of meeting minutes in the packet.
- There was a lengthy discussion regarding disclaimer language. A Medical Advisory report did go out and there were three samples submitted for the committee for review, one without a disclaimer on the opinion and two had disclaimers included. Some services interpreted the opinion as policy. The physicians on the committee thought the MAC opinion, as written, was full of disclaimer and found it difficult to understand how anyone could misconstrue the opinion to be binding policy. Staff is working on getting a disclaimer check box on the website after an IT person is hired.

- After very much effort and work, the protocols are completed. The committee felt these should be distributed directly to the board for review with no action required.
- Because of all of the changes in health care laws, a future Strategic Plan would have to have some of that reflected in it. So the committee felt they should readdress the issue of a Strategic Plan by getting copies of all the previous original plan documents that go back to 2001. There are three or four plus updates so they will be made available to all of the board members and then the issue will be readdressed.
- The Attorney General's opinion on investigations was made available to the committee and to the public. Sarah Fertig later made a presentation on this.
- Director Pore gave a report to the committee on the KRAF process.
- The committee discussed the AG Opinion on scope of practice; it will be finalized and submitted to legal counsel for review and changes, then submitted to the Attorney General. Dr. Kingfisher then deferred to Chair Behan for clarification on the role of the Executive Committee as a board planning committee.

Chairman Behan clarified that he had made a motion in February to grant the Executive Committee authority to act on the board's behalf anytime in between meetings going forward or until someone wants it changed.

Dr. Kingfisher continued to report:

- Data Element Monitoring was discussed. The process of accumulating the data has been executed. A compliance or incentive policy to get a significant amount of data is not in place. The committee believes that the prioritization of the data should be part of the Strategic planning goal process.
- ACEP Article – Dr. Allin was going to present but was unable to attend the meeting; he is welcome to come and address that in the future. A copy of the article was provided in the packet.

Director Sutton mentioned that the board needs to take action to ratify the KRAF Award.

Commissioner Olsen made a motion to ratify the KRAF Awards; Director Kaufman seconded. Discussion yielded questions and clarification of the process. These items were addressed by Director Pore and Director Sutton; no opposition voiced, the motion carried.

Investigations Committee

Chairman Behan called upon Dr. Hornung to give the Investigations Committee Report. Dr. Hornung reported to the board:

- The committee discussed three cases in regards to applications disclosing a felony and two other cases regarding certification. The committee accepted staff recommendations and closed those cases.
- Another case regarding felony domestic violence, in which the committee initially proposed action based upon a felony conviction, had the charges reduced to a misdemeanor status and the committee decided to go ahead and open it to a formal investigation.

- The committee discussed graduated sanctions that are in effect.
- There was discussion of modifications to the forms and to the Investigations policy.

Dr. Hornung deferred to Director Sutton for clarification.

Director Sutton explained to the board that after consulting with legal staff on this, he clarified that the change would be that if board staff had not received all the documents within 90 days, the Investigations Committee would have the authority to close the case for an incomplete application and inability to provide documentation within a timely manner.

Director Sutton points out that the committee is using folks that are not on the investigations committee as hearing officers. The committee discussed the need for a cost analysis to have a board member attend as the hearing officer.

Director Ralston made a motion to change the Investigations Policy with the changes Director Sutton presented; Mr. Dennis Franks seconded. No discussion. No opposition noted. The motion carried.

Dr. Hornung concluded his report that the committee discussed their process of conducting meetings and reviewed the AG's opinion on Kansas Administrative Procedures Act vs. the Kansas Open Meetings Act.

Office Update

Chairman Behan called on Director Sutton to give the office update. Director Sutton reported to the board:

- Mark Grayson is the new Investigator and due to his retirement timeline at his current job, he will be starting on a part time contractual basis and then full time in July.
- A certificate was presented to Darlene Whitlock at the committee meeting as a result of her efforts in the protocol project.
- Windows are being replaced in the Landon building.
- Two staff members are attending the KEMTA conference for a panel discussion on Saturday at the Ramada Inn in Hutchinson. Board members are invited to participate in the panel discussion. KBEMS will reimburse for mileage and hotel.
- Bob Boaldin is resigning from the 911 Coordinating Committee so we will be looking for a replacement.
- Regarding the Massachusetts Heroin epidemic, they are distributing auto injectors to the public so any lay person can administer Narcan as an antidote to opioid overdose. Due to this Director Sutton received a national survey from NASEMSO that asks us questions about if we have rules specific to the administration of Narcan. Also they want to know at what levels in the EMS hierarchy are our attendants allowed to administer that drug.

Chairman Behan called on legal counsel, Sarah Fertig to provide a briefing on the Kansas Open Meetings Act (KOMA). Ms. Fertig handed out a booklet to the board members titled "A

Citizens guide to KOMA/KORA”. KORA is Kansas Open Records Act. Ms. Fertig presented to the board:

- Announced that this document can be found on the AG’s website under Legal Services then Open Government.
- Ms. Fertig went through each section of the booklet
- It’s a common misperception that the KOMA requires public boards to have an agenda; it does not require this. If an agenda is created it has to be available to anyone that asks for it.
- Another common misperception is that minutes are required; they are not. The only exception is in executive session.
- Another common misperception is that Roberts Rules of Order has to be followed; this is not true unless the board formally adopted that as a way to do business as a board.
- Two main requirements are the meeting has to be open to the public and the time and place has to be provided to whomever requests it.
- This board is going beyond what the law requires. Most boards require people that want notice to submit the request in writing, there is no requirement to post it on the website.
- The meeting does not have to accommodate everyone that wants to attend but the room has to be large enough that some of the public can observe.
- The board does not have to allow public comment. The right of the public is to sit and listen that is all. They do not have the right to speak or to be placed on the agenda; that is a courtesy
- PA system and microphones are not required under the law.
- A camera and recording is allowed as long as it is not disruptive.
- If “DO NOT REPLY TO ALL” is at the top of an email adhere to that or you will be committing a KOMA violation.
- The Executive Director cannot be used as an intermediary to dodge KOMA requirements.
- Topics that can be discussed by a majority outside of the meeting are when and where to have the next meeting and who can attend.
- A majority can attend a conference or event but are not to discuss board business.
- Executive session must be announced by making a motion along with the time that the open meeting will resume and the subject must be announced. No binding decision can be made in executive session; it must be done in the open meeting.
- An overview was given of subjects that can be discussed such as non-elected personnel reviews.
- AG’s office investigates open meetings violations. A court can invalidate whatever action was taken and a fine of \$500 can be assessed to each board member per violation. Civil case only, the board member would not have a misdemeanor on their record.
- Open records were discussed briefly.
- Question and answer session

Chairman Behan thanked Ms. Fertig for all of her work on this and asked her to also briefly discuss the AG Opinion No. 2014-07. Ms. Fertig presented to the board:

- A plain English summary was handed out to the board.
- This opinion applies mainly to the Investigations Committee.
- Clarification was provided of when the Investigations Committee meeting is required to be open to the public and when it is not.
- Clarification was provided on whether the meeting is being conducted under KOMA or KAPA. When operating under KAPA, KOMA rules do not apply.
- Question and answer session

Chairman Behan announced that he is not a candidate for re-election; he will not seek reappointment to the board in May. Chairman Behan called for nominations for Board Chair.

Director Kaufman nominated Dr. Hornung for Chairman of the Board; Director Ralston seconded.

Chief Pearson nominated Director Pore for Chairman of the Board. Hearing no second and no further nominations, Chairman Behan called for a vote to elect Dr. Hornung as Chairman of the Board. The Motion passed unanimously.

The gavel was passed to Dr. Hornung to continue the meeting as the new Chairman of the Board. Chairman Hornung called for nominations for Vice Chairman.

Commissioner Olsen nominated Director Pore for Vice Chairman; Dennis Franks seconded.

Director Kaufman nominated Dr. Kingfisher for Vice Chairman; J.R. Behan seconded.

Hearing no other nominations Chairman Hornung called for a vote to elect Director Pore as Vice Chairman of the Board. The vote was indicated by raised hands. There were four in favor of Director Pore.

Chairman Hornung called for a vote to elect Dr. Kingfisher as Vice Chairman of the Board. The vote was indicated by raised hands. There were three in favor of Dr. Kingfisher. Director Pore abstained from voting.

Chairman Hornung announced that Director Pore is the new Vice Chairman of the Board.

Public Comment

Chairman Hornung called on Eden Lord for public comment.

Eden Lord discussed her daughter's rare condition with Adrenal Insufficiency. She made a plea to the board to provide Solu-Cortef, the medication that saves the lives of people with this condition, on Kansas ambulances. She asks the board to put the protocol in place to address this issue. Ms. Lord answered questions of the board members.

Chairman Hornung called on Carman Allen from KDHE for public comment.

Ms. Allen thanked the EMS Services and Hospitals for responding to the pediatric survey and provided a handout with the results. She also reminded everyone of the upcoming Region meetings. She provided information on regional representative openings and on an opening for the Trauma Program Director position at the request of Mindee Reece.

Chairman Hornung called on Craig Divall for public comment.

Mr. Divall and Derick Vore discussed public safety broadband network and mentioned they would like to attend the regional meetings. Mr. Divall answered questions of the board members.

Chairman Hornung called on Michaela Isch for public comment.

Ms. Isch mentioned she is also from Kansas Office of Emergency Communications on the training side. She announced that regarding the State's Interoperability Communications Plan there is a need for outreach and education across the state for the PSVN that's coming. They will provide onsite training on the system and on the radios. They will also be attending the regional meetings and Ms. Isch provided her business cards to the board.

Chairman Hornung announced an Executive Session and called for a motion to enter into Executive Session to discuss non-elected personnel.

Commissioner Lewis motioned that the board convene into Executive Session at 11:20am for 30 minutes then the board will call in Director Sutton; Commissioner Lewis seconded. No discussion. No opposition noted. The motion carried.

Commissioner Lewis motioned to continue the Executive Session at 11:50am for 15 minutes with Director Sutton; Direct Ralston seconded. No discussion. No opposition noted. The motion carried.

Director Pore motioned to continue the Executive Session at 12:05pm with Director Sutton for 15 minutes; Commissioner Lewis seconded. No discussion. No opposition noted. The motion carried.

At 12:20pm the open meeting resumed. No binding action was taken during the executive session. Chairman Hornung asked for any discussion or new business from the Board Members; hearing none other than a motion and second to adjourn: ***the meeting adjourned at 12:23pm***

The next meetings are scheduled for June 5 & 6, 2014.