

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
CIVIL DIVISION**

ARIA MEDICAL CLINIC, LLC, a
Kansas domestic professional limited
liability company, on its own and on
behalf of its patients; and ELYSE
GILBERT, CNM, on her own and on
behalf of her patients.

Plaintiffs,

v.

KANSAS STATE BOARD OF
NURSING; ANDREA WATSON, in
her official capacity as president of the
Kansas State Board of Nursing;
CAROL MORELAND, in her official
capacity as executive administrator of
the Kansas State Board of Nursing;
KRIS KOBACH, in his official
capacity as Attorney General of the
State of Kansas; MARC BENNETT, in
his official capacity as District
Attorney for Sedgwick County.

Defendants.

Proceeding Pursuant to Chapter 60
K.S.A.

Case No. SN-2025-CV-298
Division No. 3

**DEFENDANTS' MOTION TO STAY PROCEEDINGS PENDING
RECONSTITUTION OF THE KANSAS STATE BOARD OF NURSING
AND REQUEST FOR EXPEDITED BRIEFING**

Defendants Kansas State Board of Nursing, Andrea Watson, Carol Moreland, Kris Kobach, and Marc Bennett (collectively, "State Defendants"), by and through undersigned counsel, respectfully move this Court for an order staying all proceedings in this action pending the reconstitution of the Kansas State Board of Nursing. The Board is in a state of institutional upheaval: it has lost a majority of its members, lacks the quorum required under Kansas law to conduct official business,

and has lost both its president and its executive administrator, two of the named Defendants in this action. In practical terms, the State Defendants do not have a functioning client capable of directing this litigation. This situation is temporary and not of Defendants' making; legislation already enacted establishes a clear timeline for the Board's reconstitution. Plaintiffs, who did not seek preliminary injunctive relief and have not pursued expeditious prosecution of this case, will suffer no cognizable prejudice from a brief, structured stay. Defendants further request that the Court set an expedited briefing schedule on this motion. Plaintiffs oppose this motion.

BACKGROUND

This action was filed approximately one year ago by Plaintiffs Aria Medical Clinic, LLC and Elyse Gilbert, CNM, challenging the constitutionality of certain regulations governing advanced practice registered nurses. The Court denied Defendants' motion to dismiss in early 2026, and the parties thereafter negotiated and entered an Agreed Case Management Order on March 6, 2026, setting a roughly one-year discovery timeline, with discovery to close on or before February 1, 2027, and a pretrial conference scheduled for July 13, 2027.

Since entry of the Case Management Order, the Kansas State Board of Nursing has been thrown into institutional turmoil due to controversy over HB 2528, recently enacted by the Kansas Legislature. The Board, which is composed of eleven members, has been reduced to five members. As a result, the Board does not have a quorum. Under the Kansas Open Meetings Act, the Board requires a quorum

of six members to conduct official business, and it currently cannot hold a meeting, direct litigation strategy, or authorize discovery responses binding on the institution.

Two of the named Defendants have departed. Defendant Andrea Watson has resigned from the Board and is no longer serving as Board President, the capacity in which she was named in this action. Defendant Carol Moreland, the Board's Executive Administrator, retired effective April 10, 2026.

The Board's current operational continuity rests with Adrian Guerrero, the Director of Operations, who has been appointed by the Board to handle operational matters in the interim. Mr. Guerrero does not hold an administrator title, which requires a nursing degree; his authority is operational rather than clinical or regulatory. Before it lost its quorum, the Board delegated certain administrative authority to an "Operations Committee" consisting of three remaining board members, but that committee was not delegated authority to direct the lawsuit or make litigation decisions.

Pursuant to HB 2528, The Board's membership is expected to undergo wholesale turnover in the coming months. It is anticipated that by July 1, 2026, and pursuant to HB 2528, the remaining Board members may term out, at which point temporary Board members may be appointed subject to Senate confirmation pursuant to HB 2528. Those temporary members would then be removed effective January 1, 2027, when the incoming Governor selects a new, permanent Board. This timeline creates significant uncertainty over the next twelve months as to the

composition and leadership of the institution that is the primary defendant in this action.

ARGUMENT

I. The Court Should Stay This Case Pending Reconstitution of the Board.

A court has inherent authority to manage its docket and to stay proceedings when the interests of justice so require. *See Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) (“[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.”); *see also Matter of Marriage of Shockman & Stockman*, 460 P.3d 397 (Kan. Ct. App. 2020) (same). A stay is warranted here because the Board of Nursing is unable to function as a litigant.

The Board currently lacks the quorum required under Kansas law to conduct official business. It cannot hold a meeting, authorize litigation strategy, or execute interrogatory responses that would be binding on the institution. Two of the named Defendants, Board President Andrea Watson and Executive Administrator Carol Moreland, have departed their positions. The remaining operational authority rests with a Director of Operations who lacks the title and authority of an administrator and an ad hoc Operations Committee of three members operating without the benefit of the Board’s ordinary deliberative structure.

In practical terms, the State Defendants do not have a functioning client capable of directing this litigation. Any discovery responses produced by the Board in its current diminished state would be of uncertain legal validity, as there is no

properly constituted body or duly designated representative to verify them. Any litigation decisions made in the interim risk being revisited once the Board is reconstituted, wasting the resources of the parties and the Court. Forcing the defense to proceed under these circumstances would compromise the integrity of the proceedings and risk prejudice to Defendants.

This situation is not of Defendants' making and is not indefinite. HB 2528 establishes a clear timeline for the Board's reconstitution. Temporary Board members are anticipated to be appointed on or around July 1, 2026, and the permanent Board is expected to be fully reconstituted by January 1, 2027. Defendants propose that the parties submit a joint status report within thirty days of the appointment of the interim Board, anticipated on or around July 1, 2026, advising the Court whether a quorum exists and the Board is in a position to proceed. If a quorum has not been achieved by that time, the parties would submit a further status report by January 30, 2027, 30 days after the anticipated date of the permanent Board's full reconstitution.

II. Plaintiffs Will Suffer No Cognizable Prejudice from a Stay.

A stay will not prejudice Plaintiffs. Plaintiffs did not seek a preliminary injunction at the outset of this case, indicating that the relief they seek is not so urgent as to require immediate adjudication. And neither party has engaged in extensive discovery. The case remains in its early stages.

Moreover, the Agreed Case Management Order sets deadlines extending well into 2027, with discovery not closing until February 1, 2027, and a pretrial conference scheduled for July 13, 2027. A temporary stay of several months will not

materially alter the trajectory of this litigation. The deadlines in the Case Management Order can be adjusted upon reconstitution of the Board to ensure that Plaintiffs' claims are resolved in a timely manner.

Plaintiffs' own conduct confirms the absence of urgency. Defendants' counsel requested a meet-and-confer regarding this motion on April 9, 2026. Plaintiffs did not confer with defense counsel until April 24, 2026, and then waited an additional week, until May 1, 2026, to communicate their position, at which time they indicated their opposition to a stay. This leisurely pace of engagement undercuts any suggestion that Plaintiffs would be harmed by a brief, structured stay.

III. The Court Should Expedite Briefing on This Motion.

Given the Board's inability to conduct official business or respond to discovery, and the resulting prejudice to Defendants from any delay in resolving this motion, Defendants respectfully request that the Court set an expedited briefing schedule. Defendants propose that Plaintiffs be given seven (7) days from the date of this motion to file any response, and that Defendants have three (3) days thereafter to file a reply. This schedule is warranted by the practical reality that the Board cannot meaningfully participate in discovery while this motion is pending, and the parties should not be required to incur the expense and uncertainty of proceeding with litigation activity whose validity may later be called into question. The expedited schedule is further justified by Plaintiffs' own delay in conferring with Defendants on this issue: Defendants raised the stay with Plaintiffs' counsel on April 9, 2026, Plaintiffs did not confer until April 24, 2026, and did not communicate their position until May 1, 2026. Plaintiffs have had ample

opportunity to consider the issues presented and should be prepared to respond promptly.

CONCLUSION

For the foregoing reasons, Defendants respectfully request that the Court enter an order:

1. Staying all proceedings in this matter, including all discovery obligations and deadlines, pending the reconstitution of the Kansas State Board of Nursing;
2. Directing the parties to file a joint status report on or before July 30, 2026, advising the Court whether a quorum of the Board has been established and whether the Board is in a position to proceed with litigation;
3. In the event the Board has not been properly reconstituted by that date, directing the parties to file a second joint status report on or before January 30, 2027, following the anticipated appointment of the permanent Board; and
4. Setting an expedited briefing schedule on this motion, with Plaintiffs' response due within seven (7) days of the filing of this motion and Defendants' reply due within three (3) days thereafter.

Dated: May 1, 2026

Respectfully submitted by:

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*Admitted *pro hac vice*

CERTIFICATE OF SERVICE

I certify that on May 1, 2026, the above and foregoing were electronically filed with the Clerk of the Court using the Court's Electronic Filing System, which will send notice of electronic filing to all counsel of record.

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