

**TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS
BOARD MEETING MINUTES
March 25, 2013**

The Texas Board of Veterinary Medical Examiners met for a regularly scheduled meeting on Tuesday, March 25, 2013 in Room, #2-225 of the William P. Hobby, Jr. Building, 333 Guadalupe, Austin, Travis County, Texas. Bud Alldredge, D.V.M., President, called the meeting to order at 9:10 a.m. Board Members present were, J. Todd Henry, D.V.M., Vice-President; Joe Mac King, D.V.M., Secretary; Richard Bonner, Janie A. Carpenter, D.V.M., John Clader, D.V.M., and David Rosberg, D.V.M.. Board Staff present were: Nicole Oria, Executive Director; Laura Moriarty, General Counsel; Ina Franz, Director of Licensing; Debi McKay, Chief Fiscal Officer; Karen Phillips, Director of Enforcement; and Loris Jones, Executive Assistant.

Agenda Item 1, Call to Order, Roll Call, and Vote on Absences. Dr. Clader moved, Dr. Henry seconded, and the motion passed to approve the absences of Mamie Salazar-Harper and Chad Upham.

Agenda Item 2, Consideration and Approval of the October 30, 2012 Minutes. Dr. Rosberg moved, Dr. Clader seconded and the motion passed to approve the October 30, 2012 minutes.

Dr. Alldredge introduced the new Receptionist, Miriam "Mimi" Rosas.

Agenda Item 3, Citizen Comments. Dr. Alldredge called for citizen comments, Doug Smith and Carl Mitz with the Equine Dental Providers of America addressed the Board.

Dr. Henry moved, Dr. Clader seconded and the motion passed to go into Executive Session at 9:25 a.m. for private consultation and advice of counsel concerning pending or contemplated litigation or settlement offer and/or possible disciplinary action under the authority of the Open Meetings Act, GOVERNMENT CODE, §551.071; OCCUPATIONS CODE §801.407(d); and Attorney General's Opinion No. H-484. Open session resumed at 9:44 a.m. and it was announced that no action was taken. A certified agenda was made.

Agenda Item 4, Discussion, recommendation and possible action on petition(s) to waive the CCT and be allowed to take the State Board Exam.

a. Phillip Farber, DVM Dr. Farber is a 1966 graduate of Purdue University, College of Veterinary Medicine. He took and passed the NBE (National Board Examination) in June of 1966. The CCT (Clinical Competency Test) was not offered at the time. Dr. Farber has not been in private practice in a number of years. In 2005, he took and failed the NAVLE, the new national examination. Dr. Farber wishes to purchase a veterinary clinic in Texas, but apparently does not have any intentions to practice in Texas.

After discussion, **Dr. Clader moved, Dr. King seconded and the motion passed with Dr. Carpenter and Dr. Rosberg voting against the waiving of the CCT and allowing Dr. Farber to take the State Board Exam within one year.**

b. Lyle Jackson, DVM Dr. Jackson is a 1979 graduate of Purdue University, College of Veterinary Medicine. He took and passed the NBE (National Board Examination) in May of 1979. The CCT (Clinical Competency Test) was not offered at the time. Dr. Jackson has not been in private practice in a number of years.

After discussion, **Dr. Clader moved, Dr. Rosberg seconded and the motion passed to waive the CCT and allow Dr. Jackson to take the State Board Exam within one year.**

Agenda Item 5, Discussion, recommendation and possible action on petition to reinstate retired license, waive the CCT and be allowed to take the Texas State Board Exam.

a. Cynthia Rayner, DVM Dr. Rayner is a 1976 graduate of the Colorado State University, College of Veterinary Medicine. After graduation, she took and passed the NBE (National Board Examination). The CCT (Clinical Competency Test) was not offered at the time. In

1985, Dr. Rayner sought and earned a license in the State of Texas, fulfilling the requirements for licensing at that time.

During the 2011 renewal period, Dr. Rayner retired her Texas veterinary license. On March 23, 2011, Dr. Rayner was mailed a letter reminding her that, according to the rules, she can come out of retirement status by no later than December 31, 2011, should she desire to do so. After that time period, her license is considered 'permanently and totally' retired. A follow-up letter was sent on November 10, 2011, giving her one more opportunity to come out of retirement.

In the fall of 2012, Dr. Rayner contacted the licensing department for reinstatement of her Texas veterinary medical license. According to rule 571.54(c), Dr. Rayner is petitioning the Board to be allowed to retake the State Board Examination for licensing to regain her Texas license. Dr. Rayner is also petitioning the Board to have the CCT requirement waived. Dr. Rayner has not practice veterinary medicine since 2011. She has not attended any formal CE venues, but has worked as a veterinary technician.

After discussion, **Dr. Carpenter moved, Dr. Clader seconded and the motion passed to waive the CCT and allow Dr. Rayner to reinstate her Texas veterinary license under certain terms and conditions. Dr. Rayner must pass of the State Board Exam within one year and complete an additional seventeen (17) hours of continuing education by December 31, 2013.**

Agenda Item 6, Discussion, recommendation and possible action on petition to take the State Board Exam.

b. Margaret Klein, DVM Dr. Klein was not in attendance and after discussion, **Dr. Clader moved, Dr. Carpenter seconded and the motion passed to table this petition until such time as Dr. Klein is able to appear before the Board at a regularly scheduled meeting.**

a. David Murphy, DVM Dr. Murphy answered 'yes' to the question if he had been a party to an administrative hearing or proceeding before another licensing jurisdiction. Dr. Murphy was sanctioned by the Florida Board of Veterinary Medicine.

After discussion, **Dr. Rosberg moved, Dr. Henry seconded and the motion passed to allow Dr. Murphy to take the State Board Exam within 1 year.**

c. Constance Sack Ms. Sack answered 'yes' to the question if she had been convicted or indicted of a criminal offense and she attached pertinent documentation for review and consideration, as the information furnished showed several incidents.

After discussion, **Dr. Henry moved, Dr. Clader seconded and the motion passed to allow Ms. Sack to take the State Board Exam within 1 year. In addition, Ms. Sack is required to be evaluated by the Board's Peer Assistance Program and follow the recommendations of the Peer Assistance Coordinator.**

Agenda Item 7, Consideration and approval of Agreed Orders. Dr. King moved and the motion passed to approve the following agreed orders: *Alan Chastain, DVM; Ali Rohani, DVM; Ana C. Alborta, DVM; Brady Bennett, DVM; Britton Conklin, DVM; Cecilia Guerrero, DVM; Charles Jameson, DVM; Cole P. Sciba, DVM; Darr Wilson, DVM; David Guitar, DVM; David H. Stephens, DVM; Don B. Farrell, DVM; Eddie J. Hayes, DVM; Elaine Knape, DVM; Emberly Henson, DVM; Eunice Ohashiegbula-Iwunze, DVM; Frank L. Pace, DVM; Gary Brackeen, DVM; Gary Crouch, DVM; George B. Hill, DVM; Jay K. Meyer, DVM (2 orders); Jessica Marziani, DVM; John S. Burch, DVM; Jon D. Michler, DVM; Jonathan Dyes, DVM; Joseph Quinn, III, DVM; Justin T. High, DVM; Kathie Digilio, DVM; Kheli Greenamyler, DVM; Lewis K. Knowles, DVM; Lori A. Fornea, DVM; Lori Hill, DVM; Lynn Stucky, DVM; M. Alese Eichhorn, DVM; M. Gordon Parham, DVM; Marilyn Maltby, DVM; Martin Brillhart, DVM; Michael C. Becker, DVM; Mikel Athon, DVM;*

Patricia Gale Thompson, DVM; Rebecca Heaton, DVM; Rena Dunahoo, DVM; Robert C. Tiller, DVM; Robert Spitz, DVM (2 orders); Robert Tiller, DVM; Ronald S. Hines, DVM; Ronnie Carter, DVM; Stanley Brandon, DVM; Stephen Tucker, DVM; Thomas Hooper, Jr., DVM; Travis A. Cigainero, DVM; Vincent P. Alexis, DVM; Walter Anderson, DVM; Warren Criswell, DVM; William A. Boyd, DVM; Wylie Skelton, DVM

Agenda Item 8, Consideration and approval of Cease and Desist Orders. After discussion, **Dr. Carpenter moved, Dr. Clader seconded and the motion passed to approved the following Cease and Desist Orders:** 10-231, 11-395, 11-393, 12-002, 12-027, 12-163, 12-193, 12-230, 12-337, 12-234, and 12-351.

Agenda Item 9, Report from the Rules Committee.

- a. Public Hearing, consideration and possible action on rules to be adopted.** The following individuals presented public comment on the rules to be adopted:

Elizabeth Choate, Texas Veterinary Medical Association
Russell Ueckert, DVM, Texas Veterinary Medical Association
Chris Copeland, Texas Veterinary Medical Association
Jed Ford, DVM, Texas Veterinary Medical Association
Nick Moore, DVM, International Association of Equine Dentistry

After public comments, Ms. Moriaty presented the changes proposed at the October 30, 2012 meeting regarding changes to the following rules:

§575.10 Costs of Administrative Hearings

§575.20 Board Proceedings Relating to Licensure Eligibility

§575.28 Complaints—Investigations

§575.29 Informal Conferences

§575.30 Contested Case Hearings at SOAH

§575.50 Criminal Convictions

After discussion, **Dr. Clader moved, Dr. Rosberg seconded and the motion passed to adopt the amendments with minor clerical corrections as recommended by the Rules Committee.**

b. Discussion, recommendation and possible action on adoption of Chapter 575 Rule Review. Ms. Moriaty presented information on the Rule Review of Chapter 575 explaining that agencies are required to review their rules every four years. After discussion, **Dr. Clader moved, Dr. Rosberg seconded and the motion passed to adopt the Rule Review of Chapter 575.**

c. Discussion, recommendation and possible action on proposed rules. Ms. Moriaty presented the rules that are being considered for proposal. After discussions, **Dr. Carpenter moved, Dr. Clader seconded and the motion passed to approve the proposed amendments as written to §§ 573.10, 573.14, 573.19, 573.20, 573.70, and 573.80 and to publish the proposed preambles and amendments in the *Texas Register* in accordance with law for public comment.**

d. Discussion, recommendation and possible action on Petition for Rulemaking. Ms. Moriaty presented information on a petition for rulemaking submitted by the Leichter Law Firm regarding modification or termination of agreed orders and disciplinary orders. After discussion, **Dr. Carpenter moved, Dr. King seconded and the motion passed to accept the petition for rulemaking and to publish the proposed preamble and new rule in the *Texas Register* in accordance with law for public comment.**

Agenda Item 11, Discussion, recommendation and possible action regarding policies.

a. Continuing Education Venue approvals. Ms. Franz presented background information regarding the approval of continuing education (CE) venues as well as a listing of

previously approved CE venues. After discussion, **Dr. Henry moved, Dr. Clader seconded and the motion passed to approve the policy, the previously approved venues and to add the Texas Equine Veterinary Association for veterinarians and equine dental providers, and the American Association of Equine Providers as CE venues for equine dental providers.**

- b. Division of Responsibilities Between Board and Staff.** Ms. Moriarty presented the policy, noting that this was already in place and at this time was being ratified and will be placed on the agency website. After discussion, **Dr. Clader moved, Dr. Rosberg seconded and the motion passed to adopt the policy as presented.**

- c. Use of Technological Solutions to Improve Board Functions.** Ms. Moriarty presented the policy, noting that this was already in place and at this time was being ratified and will be placed on the agency website. After discussion, **Dr. Henry moved, Dr. Rosberg seconded and the motion passed to adopt the policy as presented.**

- d. Training of Agency Employees.** Ms. Moriarty presented the policy, noting that this was already in place and at this time was being ratified and will be placed on the agency website. After discussion, **Dr. King moved, Dr. Clader seconded and the motion passed to adopt the policy as presented.**

Agenda Item 9, Presentation by Wes Bonner, DVM on Feed Lot Medicine.

Agenda Item 13, Appointment of Equine Dental Provider Continuing Education Advisory Committee. Dr. Alldredge appointed Dr. Carpenter to the committee and will appoint additional members once they have confirmed they will be able to serve. The names of the members will be brought to the Board at the July 16, 2013 meeting.

Agenda Item 14, Appointment or reappointment of veterinarian member to the Equine Dental Provider Advisory Committee. Dr. Alldredge reappointed Larry Kimberlin, DVM.

Agenda Item 15, Appointment of Equine Dental Provider Certifying Entity Committee. Dr. Alldredge appointed Dr. Clader, Dr. Rosberg, and Mr. Upham.

Agenda Item 16, Appointment of members to a Licensure Committee. Dr. Alldredge appointed Dr. Henry, Dr. King, one public member on a rotating basis, with Dr. Alldredge serving as a licensee member alternate.

Dr. Rosberg moved, Dr. Clader seconded and the motion passed to approve the following agenda items:

17. Consideration and Approval of November 7, 2012 Executive Disciplinary Committee Minutes, regarding Marilyn Maltby, D.V.M., Temporary Suspension Without Notice.
18. Consideration and Approval of November 20, 2012 Enforcement Committee Minutes, regarding Marilyn Maltby, D.V.M., Temporary Suspension With Notice.
19. Consideration and Approval of December 7, 2012 Executive Disciplinary Committee Minutes, regarding Marilyn Maltby, D.V.M., Temporary Suspension Without Notice.
20. Consideration and Approval of December 17, 2012 Enforcement Committee Minutes, regarding Marilyn Maltby, D.V.M., Temporary Suspension With Notice.

Agenda Item 17, Executive Director's Report

- a. Report on Health Professions Council (HPC) Activities.** Ms. Oria discussed the recent turnover within HPC and possibility of a web administrator position being added to HPC during the current legislative session.
- b. Report on 2013 License Renewals.** Ms. Franz discussed the renewals as of February 28, 2013 noting that there continues to be an increase each year in the number of online renewals. Ms. Franz also noted that in addition to the renewal reminder postcards that are sent to all licensees at the beginning of the calendar year, the

- agency staff will also sent out two mass email renewal reminder to all licensees who have provided a valid email address to the agency.
- c. Report on State Board Exams.** Ms. Franz noted that there was a 100% pass rate for both the October and December 2012 exams.
 - d. Status of FY2013 Operating Budget.** Ms. McKay gave a brief overview of the FY2013 budget noting that we are on schedule and have spent approximately 50% of our allocated budget.
 - e. Board Performance Update.**
 - 1. Enforcement Report:**
 - A. Investigations.** Ms. Phillips discussed the Enforcement side of the agency and noted that the current focus is on the remaining older cases and once those cases are completed, the investigation resolution times will improve.
 - B. Legal.** Ms. Moriaty discussed the Legal side of the agency, noting that there are three cases in State Court and two cases currently filed at the State Office of Administrative Hearings.
 - 2. Licensing and Examinations Report.** Ms. Franz discussed the statistics related to Licensing and Examinations noting that as of February 28, 2013 we had 7,995 licensed veterinarians in all categories.
 - 3. Peer Assistance Report:** Ms. McKay mentioned that there are currently twenty veterinarians under contract with the Peer Assistance Program, ten by order and 10 voluntary.
 - f. Report on Discussions with Texas Veterinary Medical Association.** Ms. Oria reported on the ongoing discussions with and support by TVMA of possible legislation regarding Peace Officer Status and Licensure of Registered Veterinary Technicians. Ms. Oria also discussed the TVMA annual meeting held in College Station.
 - g. Legislative Update.** Ms. Oria discussed several pieces of legislation that may have an impact on veterinarians and TBVME, such as bills that would add the opportunity for

peace officer status for investigators employed by TBVME, the regulation of veterinary technicians, and changes to the way open meetings of the Board may be held.

There being no further business, the meeting adjourned at 1:45 p.m.