

**TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS
BOARD MEETING MINUTES
October 30, 2012**

The Texas Board of Veterinary Medical Examiners met for a regularly scheduled meeting on Tuesday, October 30, 2012 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, David Rosberg, D.V.M., Vice-President; J. Todd Henry, D.V.M., Secretary; Richard Bonner, Janie A. Carpenter, D.V.M., John Clader, D.V.M., Joe Mac King, D.V.M., and Mamie Salazar-Harper. Board Staff present were: Nicole Oria, Executive Director; Laura Moriaty, 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 absence of Chad Upham.

Agenda Item 2, Consideration and Approval of the July 24, 2012 Minutes. Dr. Rosberg moved, Dr. Clader seconded and the motion passed to approve the July 24, 2012 minutes.

Ms. Moriaty introduced new Attorney, Jonathan Crabtree.

Ms. Phillips introduced new Investigator, Karen Hudson.

Ms. McKay introduced new Fiscal Administrative Assistant, Teresa Long.

Dr. Henry moved, Dr. Rosberg seconded and the motion passed to go into Executive Session at 9:14 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 9:23 a.m. and it was announced that no action was taken. A certified agenda was made.

Agenda Item 4, Consideration and approval of settlement documents regarding TBVME v. Ernest J. Bailes, IV. Ms. Moriarty presented a proposed Agreed Permanent Injunction. After discussion, **Dr. Rosberg moved, Dr. Carpenter seconded and the motion passed to approve the Agreed Permanent Injunction.**

Agenda Item 3 Citizen Comments. No one signed up to make citizen comments.

Agenda Item 7, Report from the Rules Committee.

c. Discussion, recommendation, and possible action on Petitions for Rulemaking.

1. §573.20 Request from Harris County Public Health & Environmental Services asking to remove VCPR requirement for rabies vaccine. Ms. Moriarty presented an overview of the petition and rule proposed. The following members of the public provided comments on the petition and proposed rule:

Elizabeth Choate, Texas Veterinary Medical Association
Chris Copeland, Texas Veterinary Medical Association
Linda Czisny, DVM, City of Austin Animal Center/TVMA Shelter Medicine Committee
Tamra Walthall, DVM, Humane Society of Central Texas/La Vega Veterinary Clinic
Katie Broaddus, DVM, Austin Humane Society
Russell Ueckert, DVM, Texas Veterinary Medical Association
Dawn Blackmar, DVM, Harris County Public Health – Veterinary Public Health

After discussion, **Dr. Carpenter moved, Dr. Rosberg seconded to send the petition back to the Rules Committee for further discussion, the vote failed.** After further discussion, **Dr. Clader moved, Dr. Rosberg seconded and the motion passed to deny the petition for rulemaking.**

Agenda Item 5, Consideration and Approval of Agreed Orders. Dr. Alldredge requested to pull Agreed Orders 2012-96 and 2012-129 for discussion.

Dr. Henry moved, Ms. Salazar-Harper seconded and the motion passed to go into Executive Session at 11:10 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 11:29 a.m. and it was announced that no action was taken. A certified agenda was made.

Agenda item 5 continued. After discussion, **Dr. Rosberg moved, Dr. Clader seconded and the motion passed to send Agreed Order 2012-96 for modifications and to present the revised Agreed Order to the Respondent.**

Dr. Carpenter moved, Dr. Henry seconded, and the motion passed to approve the Agreed Orders on the following: *Michael Paclik, DVM; Michael Mixon, DVM; Ivan Chaparro, DVM; Frank Moffett, DVM; Sarah Womack, DVM; David Youngblood, DVM; Sarah Nederhouser, DVM; Jessica Clemans, DVM; Karen Shill, DVM; Ryan Royse, DVM; Jane Rowlands, DVM; C.M. Hadash, DVM; David McGookey, DVM; Robyn Palmer, DVM; Kimberly Boone, DVM; Bill McGehee, Jr., DVM; Joseph Miga, DVM; Claudia Whippo, DVM; Dipa Brahmhatt, DVM; Thomas Martin, DVM; Scott Bagwell, DVM; Chad Dickson, DVM; Terry Litsey, DVM; Roberto Trevino, DVM; Erin West, DVM; Jason Brewer, DVM; Claude Jernigan, DVM; Kimberly Klein, DVM; John Manning, DVM; Douglas Johnson, DVM; James Kaaz, DVM.*

Agenda Item 6, Consideration and approval of Cease and Desist Orders. **Dr. Carpenter moved, Dr. Rosberg seconded and the motion passed to approve the Cease and Desist Orders on the following case numbers:** *12-023, 12-093, 12-051, 11-061, 11-061 and 12-346.*

Agenda Item 7, Report from the Rules Committee (continued.)

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

Cathy Tabor, Perfect Pooch Grooming
James Soper, Perfect Pooch Grooming
Caroline Soper, Perfect Pooch Grooming
Elizabeth Choate, Texas Veterinary Medical Association
Orlando Garza, Texas Veterinary Medical Association
Kara Johnson, attorney representing Lorie Dodd (Texas Tooth Fairy, LLC)
Lori Dodd, Texas Tooth Fairy, LLC

After public comments, Ms. Moriarty presented the changes proposed at the July 24, 2012 meeting regarding changes to §573.19 Dentistry and addressed comments received from the public. After discussion, **Dr. Clader moved, Dr. Carpenter seconded**

and the motion passed to adopt the amendments to §573.19 as recommended by the Rule Committee.

Agenda Item 9, Presentation by Gary D. Norsworthy, DVM, DABVP on Injection Site Sarcoma.

Dr. Alldredge welcomed and introduced Dr. Gary Norsworthy. Dr. Norsworthy is a 1972 graduate from Texas A&M University and has been practicing veterinary medicine for over 40 years. Dr. Norsworthy began writing professionally in 1975 and has published over 50 articles in various veterinary journals. He is an accomplished lecturer for veterinary associations. Dr. Norsworthy presented an overview of Injection Site Sarcomas.

Agenda Item 7, Report from the Rules Committee (continued.)

- a. **Public Hearing, consideration and possible action on rules to be adopted.** Ms. Moriarty presented the remaining amendments to rules that were proposed at the July 24, 2012 meeting. After discussion, **Dr. Henry moved, Dr. Clader seconded and the motion passed to adopt the amendments to the following rules as recommended by the Rules Committee: §§573.10, 573.43, 573.71, 573.80, and 577.15.**

- b. **Discussion, recommendation and possible action on Chapter 575 Rule Review.** Ms. Moriarty presented the proposed Rule Review and proposed changes to the following sections of Chapter 575: §§575.10, 575.20, 575.28, 575.29, 575.30, and 575.50. After discussion, **Dr. Carpenter moved, Dr. Clader seconded and the motion passed to approve the proposed amendments as written to §§575.10, 575.20, 575.28, 575.29, 575.30, and 575.50 and to publish the proposed preambles and amendments in the *Texas Register* in accordance with law.**

Agenda Item 8, Discussion, recommendation and possible action regarding Policy on Continuing Education Rollover. Ms. Moriarty presented policy on calculating the number of continuing education hours and how excess hours may be carried over to the following year.

After discussion, **Dr. Clader moved, Dr. Henry seconded and the motion passed to approve the policy as amended.**

Agenda Item 10, Executive Director's Report

- a. Report on Health Professions Council (HPC) Activities.** Ms. Oria discussed the petition for rulemaking the HPC submitted to and was subsequently denied by the State Office of Administrative Hearings. Ms. Oria also discussed that agency staff will be receiving training on the encryption of email.
- 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.
- g. Report from American Association of Veterinary State Boards Annual Meeting.** Ms. Oria and Dr. Alldredge both attended the AAVSB Annual Meeting and the Fairness to Pet Owners Act of 2011 filed by Representative Jim Matheson of Utah.
- b. Report on 2012 License Renewals.** Ms. Franz discussed the renewals as of October 5, 2012 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 send out a 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 96% pass rate for the August 2012 exam.
- d. Status of FY2012 Operating Budget.** Ms. McKay gave a brief overview of the FY2012 budget noting that we would lapse back \$339.03 to General Revenue. Ms. McKay also gave a brief overview on the revenue projection for FY2013.

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. Ms. Phillips also discussed the on-site compliance inspection at Texas A&M.

B. Legal. Ms. Moriaty discussed the Legal side of the agency, noting that there are four cases in State Court and one case 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 there was a record number of provisional licenses and the Licensing Division is currently giving provisional exams every other week. As of August 31, 2012 we had 7,938 licensed veterinarians in all categories and expect to have over 8,000 by the beginning of calendar year 2013.

3. Peer Assistance Report: Ms. McKay mentioned that there are currently sixteen veterinarians under an Agreed Order and under contract with the Peer Assistance Program.

Agenda Item 11, Discussion, recommendation and possible action regarding the ratification of the 2013 – 2017 Strategic Plan, 2014 – 2015 Legislative Appropriations Request, and the 2012 Annual Financial Report. Ms. Oria briefly discussed the Strategic Plan and the Legislative Appropriations Request and Ms. McKay briefly discussed the Annual Financial Report. After discussion, **Dr. Carpenter moved, Dr. Clader seconded and the motion passed to ratify these documents.**

Agenda Item 12, Election of Officers. Dr. Alldredge called for nominations for the positions of Vice President and Secretary. After discussion, **Dr. Rosberg nominated Dr. Henry for Vice**

President, Dr. Clader seconded the nomination and the motion passed. Dr. Clader nominated Dr. King for Secretary, Dr. Rosberg seconded the nomination and the motion passed.

Agenda Item 13, Appointment of Committees. Dr. Alldredge made the following committee appointments.

Executive Disciplinary Committee: Dr. Alldredge, Dr. King, Mr. Bonner, with Dr. Rosberg serving as the licensee alternate, and Ms. Salazar-Harper serving as the public member alternate.

Enforcement Committee: Dr. Henry, Dr. King, one public member on a rotating basis, with Dr. Alldredge serving as a licensee member alternate.

Rules Committee: Dr. Carpenter (Chair), Dr. Rosberg, Mr. Upham, and Dr. Clader.

Agenda Item 14, Discussion, recommendation and possible action regarding the employment and evaluation of the Executive Director. Dr. Clader moved, Dr. Henry seconded and the motion passed to go into Executive Session at 3:54 p.m. for private consultation and advice of counsel concerning settlement offers, and/or disciplinary action under the authority of the Open Meetings Act, Government Code, §551.071 and Occupations Code §801.407(d); and Attorney General's Opinion No. H-484; and to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee under the authority of the Open Meetings Act, Government Code, §551.074. Open session resumed at 3:55 p.m. and it was announced that no action was taken. A certified agenda was made.

There being no further business, the meeting adjourned at 3:56 p.m.