

**TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS
BOARD MEETING MINUTES
March 22, 2010**

The Texas Board of Veterinary Medical Examiners met for a regularly scheduled meeting on Monday, March 22, 2010 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 8:38 a.m. Board Members present were David Heflin, D.V.M., Vice-President; John Clader, D.V.M., Secretary; Patrick Allen, D.V.M.; Janie Carpenter, D.V.M., Mr. David Kercheval, Mr. Paul Martinez, and David Rosberg, D.V.M. Board Staff present were: Dewey E. Helmcamp III, JD, Executive Director; Nicole Oria, General Counsel; Ina Franz, Director of Licensing; Keith Cole, Chief Fiscal Officer; Peter Hartline, Director of Enforcement; and Loris Jones, Executive Assistant.

Dr. Heflin moved, Mr. Martinez seconded and the motion passed to approve the absence of Cynthia Diaz.

Agenda Item 2, Approval of Minutes. Mr. Martinez moved, Dr. Clader seconded and the motion passed to approve the minutes of the December 8, 2009 Board meeting.

Agenda Item 3, Citizen Comments. Dr. Alldredge called for citizen comments. There were no individuals wishing to address the Board.

Agenda Item 4, Licensure Petitions.

a. Discussion, recommendation and possible action on petitions to take the State Board Exam.

1. Debra A. Nossaman, DVM. Dr. Nossaman is a 1985 graduate of Colorado State University, College of Veterinary Medicine. She passed the NBE and CCT offered in 1985. During that year, Dr. Nossaman earned a veterinary license in Arizona and Colorado. During the processing of Dr. Nossaman's application for the Texas State Board Exam, it came to light that she had two board orders filed against her by the Arizona Veterinary Examining Board. In 2000, the Arizona Board's investigation showed that an animal's records did not show examination results of the cat's condition, nor diagnosis. There was no explanation of the lack of a complete pre-teeth cleaning exam. The patient records did not show the strength of medications administered. The Arizona Board

sanctioned Dr. Nossaman for inadequate record keeping. In 2002, the Arizona Board sanctioned Dr. Nossaman again for violations concerning inadequate record keeping. After discussion, **Mr. Kercheval moved, Dr. Rosberg seconded and the motion passed to** allow Dr. Nossaman to take and pass the State Board Examination within one year.

2. Karen Sue Harrington, DVM. Dr. Harrington is a 1986 graduate of Washington State University, College of Veterinary Medicine. She took and passed the NBE and CCT in 1986. In 1986 and 1987, she earned a veterinary license in Washington, Idaho and Montana. All licenses have expired. Dr. Harrington has been employed by the Bryan ISD since 1998. In 2002, she earned a Health Science Technology Teacher Certification. During the processing of Dr. Harrington's application to take the Texas State Board Exam, it was found that she has not been practicing veterinary medicine, nor attained any continuing education in veterinary medicine since 1998. After discussion, **Dr. Carpenter moved, Mr. Kercheval seconded and the motion passed to** allow Dr. Harrington to take and pass the State Board Examination within one year of the approval and upon completion of certain terms and conditions:

1. Submit for approval prior to commencing the practice of veterinary medicine, the name of a monitoring licensed veterinarian to the Executive Director of the Board.
2. The approved monitor must submit a letter to the Board acknowledging that they have been made aware of the terms and conditions placed on Applicant's license, and their responsibility to submit quarterly reports.

The Board further ordered that Dr. Harrington must complete the following after obtaining her Texas Veterinary License:

1. Applicant must obtain 50 hours of Continuing Education within 2 years to be completed within 24 months of the date her license is issued.
2. Applicant must work under the general supervision of the approved monitor for a period of twenty-four (24) months.
3. It is the responsibility of the Applicant to ensure that the approved monitor submits 4 reports at quarterly intervals to begin 3 months from the date of licensure and continuing for the term of this order regarding Applicant's proficiency and attesting to Applicant's:

- a. Adherence to the laws and rules;
- b. Veterinary skills; and
- c. Proper record keeping.

b. Discussion, recommendation and possible action on petitions to waive the Clinical Competency Test and be allowed to take the Texas State Board Exam.

- 1. Joseph H. Boecker, DVM.** Dr. Boecker is a 1974 graduate of the Ohio State University, College of Veterinary Medicine. He took the NBE in 1974, but the CCT was not offered at the time. In 1974, he earned a license to practice veterinary medicine in Texas which was cancelled in 1993 for failure to renew as required by law. He also earned a license in Ohio, Kentucky and Oklahoma. In 1995, the State of Ohio sanctioned Dr. Boecker for non-renewal of his Ohio license and therefore practicing in that state without a valid license. Dr. Boecker is currently focusing on equine dentistry, ambulatory and emergency services. After discussion, **Dr. Rosberg moved, Mr. Martinez seconded and the motion passed to approve the waiver** with the following conditions: Dr. Boecker is required to take and pass the State Board Examination within one year of the approval of his waiver.
- 2. Stephen A. Tucker, DVM.** Dr. Tucker is a 1977 graduate of Auburn University, College of Veterinary Medicine. He took and passed the NBE in 1977. The CCT was not given at the time. After graduation, he attained a veterinary license in Virginia where he practiced for two years. In 1979, he earned a veterinary license in Arizona and practiced there for the following 15 years. During that time period, he earned a veterinary license in 6 other states. In 1988, Dr. Tucker appeared before the Arizona board due to the violation of several Arizona statutes, including but not limited to, substance abuse. He was placed on probation with the Arizona board. Subsequently, he violated the terms of his probation and an amended order was filed. Dr. Tucker violated the terms of the amended order and his license was revoked in May of 1994. Dr. Tucker admits to alcoholism, his attempts at sobriety and various forms of

rehabilitation since his license revocation in Arizona. In 2006, he was hospitalized due to his alcoholism and returned to Alcoholics Anonymous. Dr. Tucker states that he has been sober ever since. He has been working as a veterinary technician since February of 2009 at the Briarcrest Veterinary Clinic in Houston, but desires to return to the practice of veterinary medicine. After discussion, **Mr. Kercheval moved, Dr. Rosberg seconded and the motion passed to approve the waiver** with the following conditions:

Upon passage of the State Board Exam and completion of the following terms and conditions shall be granted a Texas Veterinary License.

1. Applicant must submit for approval, prior to commencing the practice of veterinary medicine, the name of a monitoring licensed veterinarian to the Executive Director of the Board.
2. The approved monitor must submit a letter to the Board acknowledging that they have been made aware of the terms and conditions placed on Applicant's license, and their responsibility to submit quarterly reports.
3. Applicant must enter into a five (5) year contract with the Texas Veterinary Medical Association's Peer Assistance Program. The program administrator must:
 - a. Submit verification that Applicant is participating in the program; and
 - b. Submit regular reports of the Applicant's progress in the program.
4. Applicant must submit a letter of recommendation from a veterinarian licensed in Texas

The Board further ordered that:

1. Applicant must obtain 50 hours of Continuing Education within 2 years to be completed within 24 months of the date his license is issued.
2. Applicant must work under the general supervision of the approved monitor for a period of twenty-four (24) months.
3. It is the responsibility of the Applicant to ensure that the approved monitor submits 4 reports at quarterly intervals to begin 3 months from the date of licensure and continuing for the term of this order regarding Applicant's proficiency and attesting to Applicant's:
 - a. Adherence to the laws and rules;
 - b. Veterinary skills; and
 - c. Proper record keeping.

Agenda Item 5, Consideration and Approval of Agreed Orders. Mr. Martinez moved, Dr. Allen seconded, and the motion passed to approve the Agreed Orders on the following: *Gregor A. Ulteig, DVM, John P. Kottenstette, DVM, Efthia Giannopoulos, DVM, Ladona Wyatt, DVM, Randal L. Boeckman, DVM, James L. Brooks, DVM, Robert D. Lewis, DVM, Gary F. Parker, DVM, George B. Hill, DVM, Raymond L. Brown, DVM, Steven Hull, DVM, Larry K. Bryant, DVM, R. Jay Bickers, DVM, Patricia A. Brown, DVM, Diann M. Smith, DVM, Dennis A. Wendt, DVM, Vance W. Murphy, DVM, Janice Wolf, DVM, Aaron L. Schultze, D.V.M., Christine Ludwig, DVM, Kelly B. Sandell, DVM, Randal K. Daniels, DVM, and Susan C. Boeving, DVM*

Agenda Item 6, Consideration and Approval of Cease and Desist Orders. Mr. Kercheval moved, Dr. Carpenter seconded, and the motion passed to approve the Agreed Orders on the following cases numbers: *07-136, 09-195, 09-247, 09-298, and 10-001.*

Agenda Item 7, Consideration and approval of Proposals for Decision on Jeff Lore. Mr. Lore did not appear, Ms. Nicole Oria represented the board. Ms. Oria presented a summary of the case history and the Proposals for Decision. After discussion, **Dr. Rosberg moved, Mr. Martinez seconded and the motion passed to adopt the Findings of Fact and Conclusions of Law recommended by the Administrative Law Judge in the Proposal for Decision and for staff to issue the appropriate Cease and Desist Order.**

Agenda Item 5 continued. Lou Stevens, the attorney representing John McCarroll, DVM made a statement for Dr. McCarroll regarding a settlement offer. After discussion, **Dr. Heflin moved, Mr. Martinez seconded and the motion passed to go into Executive Session at 9:33 a.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.** Open session resumed at 10:11 a.m. and it was announced that no action was taken. A certified agenda was made.

After further discussion, **Dr. Clader moved, Mr. Kercheval seconded and the motion passed to adopt the settlement offer presented by Dr. McCarroll's attorney. Dr. Allen and Dr. Alldredge were recused.** The settlement offer includes the following:

1. Formal Reprimand;
2. One year suspension, all of which is probated; and
3. \$5,000 administrative penalty

Mr. Helmcamp made a brief introduction of the newly hired staff attorney, Laura Moriarty.

Agenda Item 8, Report from the Rules Committee. The rules committee met as part of the full Board meeting, Ms. Oria presented the rules that were up for adoption.

a. Discussion, recommendation, and possible action on rules to be adopted. The following changes to Board rules were proposed at the October 26, 2009 Board meeting and were considered for adoption:

1. 573.51, Rabies Control
2. 573.69, Reporting of Criminal Activity
3. 575.26, Complaint Form
4. Rule Review of Chapter 577

After discussion by the Board, **Dr. Heflin moved, Mr. Martinez seconded and the motion passed to adopt the proposed amendments to §§573.51, 573.69, 575.26, and the Rule Review of Chapter 577.**

b. Discussion, recommendation, and possible action on rules to be proposed:

1. 571.1, Criminal History Evaluation Letters
2. 571.3, Eligibility for Examination and Licensure
3. 573.24, Issuance of Certificates Through Direct Knowledge Only
4. 573.65, Definitions
5. 573.75, Notification of Licensee Addresses
6. 575.281, Complaints – Appeals

7. 575.35, Temporary License Suspension Proceedings
8. 577.15, Fee Schedule
9. 573.17, Dentistry

Ms. Oria presented an overview of each rule as presented for proposal. After discussion, **Mr. Martinez moved, Dr. Heflin seconded and the motion passed to approve the proposed amendments to §§571.1 Criminal History Evaluation Letters, 571.3 Eligibility for Examination and Licensure; 573.24 Issuance of Certificates Through Direct Knowledge Only, 573.75, Notification of Licensee Addresses, 575.281 Complaints – Appeals, 575.35 Temporary License Suspension Proceedings, and 577.15 Fee Schedule and to publish the proposed preambles and amendments in the *Texas Register* in accordance with law.**

The Board recessed for lunch at 11:57 a.m. and reconvened at 1:42 p.m.

After further discussion, **Dr. Clader moved, Dr. Rosberg seconded and the motion passed to reject 573.17 Dentistry as written and to refer the rule back to the Rules Committee for further discussion.**

After discussion, **Dr. Heflin moved, Dr. Clader seconded and the motion passed to approve the amendments to 573.65 Definitions and to publish the proposed preambles and amendments in the *Texas Register* in accordance with law.**

Agenda Item 9, Consideration and Approval of the February 12, 2010 Rules Committee Minutes. Dr. Heflin moved, Dr. Rosberg seconded and the motion passed to approve the minutes of the February 12, 2010 Rules Committee meeting.

Agenda Item 10, Consideration and possible action on possible *Board Notes* article. Mr. Helmcamp gave a brief background on the possible article then turned to Mr. Kercheval for

further information regarding a possible *Board Notes* article on Ten Ways to Stay Out of Trouble with the Board. After discussion, no action was taken.

Agenda Item 18, Executive Director's Report.

- a. **Report on Health Professions Council (HPC) Activities.** Mr. Helmcamp gave a brief update on HPC activities.
- b. **Report on 2010 License Renewals.** Ms. Franz discussed the annual renewals as of March 10, 2010.
- c. **Report on State Board Exams.** Ms. Franz discussed the results of the December 7, 2009 State Board Exam, noting the 100% pass rate for each exam.
- d. **Status of FY2010 Operating Budgets.** Mr. Keith Cole, Chief Fiscal Officer, gave a brief overview of the FY2010 budget.
- e. **Board Performance Update.**
 1. **Enforcement Report:** Mr. Helmcamp discussed the Enforcement side of the agency and noted that there has been a trend of increased number of complaints.
 2. **Licensing and Examinations Report:** Mr. Helmcamp discussed the statistics related to Licensing and Examinations, as of March 10, 2010 we had 7,194 licensed veterinarians in all categories.
 3. **Peer Assistance Report:** Mr. Helmcamp mentioned that there are currently fourteen veterinarians under the Peer Assistance program.
- f. **Report on discussion with Texas Veterinary Medical Association.** Mr. Helmcamp mentioned that discussions with the TVMA have been ongoing and continue to be productive.

There being no further business, the meeting was adjourned at 2:45 p.m.