

**TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS  
BOARD MEETING MINUTES  
October 18, 2011**

The Texas Board of Veterinary Medical Examiners met for a regularly scheduled meeting on Tuesday, October 18, 2011 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 9:23 a.m. Board Members present were, John Clader, D.V.M., Vice-President; David Rosberg, D.V.M., Secretary; Richard Bonner, J. Todd Henry, D.V.M., Joe Mac King, D.V.M., and Chad Upham. Board Staff present were: Nicole Oria, Executive Director; Laura Moriaty, General Counsel; Ina Franz, Director of Licensing; Keith Cole, Chief Fiscal Officer; Karen Phillips, Director of Enforcement; and Loris Jones, Executive Assistant.

**Dr. Clader moved, Dr. Rosberg seconded and the motion passed to approve the absences of Janie Carpenter, D.V.M. and Paul Martinez.**

Dr. Alldredge introduced Joe Mac King, D.V.M. and Chad Upham, newly appointed Board members. Dr. Alldredge also introduced Emilio Morales, newly hired investigator for the Board.

**Agenda Item 2, Consideration and Approval of the June 28, 2011 Minutes. Dr. Rosberg moved, Dr. Clader seconded and the motion passed to approve the minutes of the June 28, 2011 Board meeting.**

**Agenda Item 3, Election of Officers. Dr. Clader moved, Dr. Henry seconded and the motion passed to elect Dr. Rosberg as Vice-President. Dr. Clader moved, Dr. Rosberg seconded and the motion passed to elect Dr. Henry as Secretary.**

**Agenda Item 4, Appointment of Committees. Dr. Alldredge recommended for approval the following:**

- a. **Executive Disciplinary Committee: Dr. Alldredge, Dr. Rosberg, and Mr. Upham with Dr. Clader as a licensee alternate and Mr. Bonner as a public member alternate;**  
**Enforcement Committee: Dr. Rosberg, Dr. Henry and one public member on a rotating basis with Dr. Alldredge as a licensee alternate;**

**Rules Committee: Dr. Clader (chair), Mr. Bonner, Dr. King and Mr. Upham.**

**Advisory Committee on Equine Dental Provider Schools: Dr. Clader, Dr. Michael Joyner, and Mr. Carl Mitz.**

**Agenda Item 5, Citizen Comments.** Dr. Alldredge called for citizen comments. John Morton, DVM addressed the Board.

**Agenda Item 6, Licensure Petitions.**

**a. Discussion, recommendation and possible action on petition(s) to take the State Board Exam.**

1. **Norman Ward, DVM.** Dr. Ward is a 1984 graduate of Purdue University. He has taken and passed the NBE and CCT, the two national examinations. Dr. Ward has held a license in Arizona, Indiana, Kentucky and Illinois. Based on information submitted, only his Arizona license is active at this time. His license in Arizona has been sanctioned, and he was on probation for a period of time. Information received from the Executive Director of the Arizona Veterinary Medical Examining Board, Ms. Jenna Jones, states that he has fulfilled the terms of his probation in Arizona. The Illinois Veterinarian Licensing and Disciplinary Board reprimanded Dr. Ward, based on his probation with Arizona.

Upon applying to this agency to be able to take the Texas State Board Examination for licensing, Dr. Ward submitted explanations as to several occurrences during his practice of veterinary medicine in Arizona. The information was reviewed by the licensing staff, as well as the legal staff. The information and material submitted is confusing and contradicts itself at times.

Dr. Ward appeared on his own behalf to answer questions the Board may have of him. After discussion, **Dr. Rosberg moved, Dr. Clader seconded and the motion passed** to require Dr. Ward to take and pass the State Board Examination within one year of the approval of his waiver.

**Agenda Item 7, Consideration and Approval of Agreed Orders.** Dr. Rosberg moved, Dr. Henry seconded, and the motion passed to approve the Agreed Orders on the following: *Jim Airhart, DVM; Lloyd Jarmon, DVM; Douglas Stribling, DVM; Michael Pavlov, DVM; Gary Brackeen, DVM; Marilyn Maltby, DVM; Lu Ann Ervin, DVM; Melanie Mercer, DVM; Ronnie Mohr, DVM; Byron Germann, DVM; Debra Jackson, DVM; Bryan Shedd, DVM; Lane Arrendell, DVM; Carl Reicher, DVM; Rachel Roark, DVM; Jennifer Nollman, DVM; Brian Mountain, DVM; David Costello, DVM; Bernie Page, DMV; Paul Young, DVM; Alice Dodge, DVM; Charles Marsh, DVM; Ronald W. Mangum, DVM; Luis F. Urrea, DVM; Jeffrey Foland, DVM; and Mary Jane Grant, DVM.*

**Agenda Item 8, Consideration and approval of Cease and Desist Orders.** Dr. Henry moved, Dr. Rosberg seconded and the motion passed to approve the Cease and Desist Orders on the following case numbers: *07-270, 10-298, and 11-293.*

**Agenda Item 9, Consideration and approval of Proposal for Decision on Randal Daniels.** Dr. Daniels did not appear, Mr. Tyler Vance represented the board. Mr. Vance presented a summary of the case history and the Proposal for Decision. After discussion, **Dr. Rosberg moved, Clader 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 that Dr. Daniels' license be revoked.**

**Agenda Item 10, Consideration and approval of Proposals for Decision non-licensees and related Cease and Desist Orders on Lora Vergott and Fidel Benavides.** Ms. Laura Moriaty represented the board. Ms. Moriaty presented a summary of the case history and the Proposals for Decision. After discussion, **Dr. Rosberg moved, Dr. Henry 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 that Cease and Desist Orders be issued in each case.**

**Agenda Item 12, Consideration and Approval of the Policy Regarding Written Citizen Comments for Board Meetings.** Ms. Oria presented the policy for consideration. After discussion, **Dr. Rosberg moved, Dr. Clader seconded and the motion passed to approve the policy as presented.**

**Agenda Item 13, Consideration and Approval of 2012 Board Meeting Dates.** The Board approved the March 27, June 26 and October 23, 2012 meeting dates.

**Agenda Item 14, Executive Director's Report.**

- a. **Report on Health Professions Council (HPC) Activities.** Ms. Oria discussed upcoming audits of the agency and work that will be done with a new programmer on the agency licensee database.
- b. **Report on 2011 License Renewals.** Ms. Franz discussed the renewals as of August 31, 2011.
- c. **Report on State Board Exams.** Ms. Franz discussed the results of the June 6<sup>th</sup> and August 8<sup>th</sup> State Board Exam, noting the 98% and 100% pass rate respectively.
- d. **Status of FY2011 Operating Budget.** Mr. Cole gave a brief overview of the FY2011 and the FY2012 budgets.
- e. **Board Performance Update.**
  1. **Enforcement Report:** Ms. Phillips discussed the Enforcement side of the agency and noted that the investigators have been able to make on-site compliance inspections again at the end of the fiscal year.

- 2. Licensing and Examinations Report.** Ms. Franz discussed the statistics related to Licensing and Examinations. As of August 31, 2011 we had 7,721 licensed veterinarians in all categories.
- 3. Peer Assistance Report:** Ms. Oria mentioned that there are currently fifteen veterinarians under the Peer Assistance program.

**Agenda Item 11(d) Discussion, recommendation and possible action on Petitions for Rulemaking.**

**Robert Rogers, DVM petitioned the Board for three (3) separate new rules to be considered.**

- 1. Use of Vaccines**
- 2. Requirement of 2 hours of subject specific Continuing Education**
- 3. Continuing Education approval requirements.**

Dr. Rogers presented his petition for rulemaking and reasons behind his request. Ms. Moriarty presented Board staff's response to the petition and recommendation against proposing these rules. After discussion, **Dr. Rosberg moved, Dr. Henry seconded the motion to accept staff's recommendations and reject the petitions for rulemaking.** After further discussion, **Dr. Rosberg moved, Dr. Clader seconded and the motion passed to amend the prior motion and add that continuing education on the use of vaccinations as proposed by Dr. Rogers is not accepted in all veterinary communities in the state and that we should not dictate what types of continuing education must be taken or dictate who may offer continuing education.**

**The Texas Veterinary Medical Association petitioned the Board for amendments to be made to §573.64 regarding Continuing Education.** Chris Copeland, Executive Director of the TVMA presented opening comments and background information on the petition. Dr. John August presented information on the continuing education he currently provides in an online based setting and request to amend the rule to allow for all required continuing

education hours to be obtained through online web based conferences. Ms. Moriatty presented staff's response and agreed that the quality of online seminars has improved, however, staff's recommendation is that the petition be rejected and that seven (7) hours still be required to be obtained in live seminars. After discussion, **Dr. Rosberg moved, Dr. Henry seconded and the motion passed to accept staff's recommendations and reject the petition for rulemaking as it is the Board belief that all seventeen (17) hours of required continuing education should not be obtained through online seminars and that the current requirement of seven (7) hours be obtained through live seminars is still valid.**

**Don Ferrill, DVM petitioned the Board for amendments to be made to §573.22 regarding Professional Standard of Humane Treatment.** Dr. Ferrill did not appear to present his petition for rulemaking and in his absence, Ms. Moriatty presented his petition to the Board requesting that the Board rescind §573.22 of its rules as it is his belief that this section is unconstitutional and exceeds the Board's statutory authority by sanctioning veterinarians who commit only one offense and has not shown gross malpractice or a pattern of acts. Ms. Moriatty presented staff's response and recommendation that the Board reject this petition for rulemaking. After discussion, **Dr. Rosberg moved, Dr. Henry seconded and the motion passed to accept staff's recommendation and reject the petition for rulemaking as it is the belief that the Board has not exceeded its statutory authority as the Veterinary Licensing Act §801.402 authorizes the Board to discipline a person for seventeen (17) separate items that are not dependent on each other.**

#### **Report from the Rules Committee.**

**a. Discussion, recommendation, and possible action on rules to be proposed.**

Ms. Moriatty presented an overview of each rule as presented for proposal. After discussion, **Dr. Clader moved, Dr. Rosberg seconded and the motion passed to propose the amendments as presented to §§571.1, 571.5, 571.6, 571.7, 571.9, 571.11, 571.13, 571.15, 571.21, 571.23, 571.25, 571.54, 571.55, 571.56, 571.59, 571.60, 571.61, 571.62,**

**571.63, 571.64, 575.8, 575.22, 575.24, 575.25, 575.27, 575.28, 575.29, 575.35, 575.36, 575.40, 575.50, 575.61 and to publish the proposed preambles and amendments in the *Texas Register* in accordance with law.**

**c. Discussion, recommendation and possible action on proposed rule review of Chapter 573.** Ms. Moriaty presented the repeal and replace of Chapter 573. After discussion, **Dr. King moved, Dr. Clader seconded and the motion passed to recommend that the Rule Review of Chapter 573 be submitted to the *Texas Register* for public comment.**

**b. Discussion, recommendation, and possible action on rules to be adopted.** Changes to the following Board rules were proposed at the June 28, 2011 Board meeting and were considered for adoption. After discussion, the following motions were made:

**Dr. Rosberg moved, Dr. Henry seconded and the motion passed to adopt new §571.27 Disability Accommodations as presented. Dr. Henry moved, Mr. Upham seconded and the motion passed to adopt the repeal of §573.17 Dentistry. Dr. Rosberg moved, Mr. Upham seconded and the motion passed to adopt the amendments to §575.5 Subpoenas/Witness Expenses as presented. Dr. Rosberg moved, Dr. Henry seconded and the motion passed to adopt the amendments to §575.25 Recommended Schedule of Sanctions as presented. Dr. Rosberg moved, Dr. Henry seconded and the motion passed to adopt the repeal of §575.26 Complaint Form. Dr. Rosberg moved, Dr. Clader seconded and the motion passed to adopt the amendments to §575.27 Complaint—Receipt as presented. Mr. Upham moved, Dr. Rosberg seconded and the motion passed to adopt the amendments to §577.15 Fee Schedule as presented.**

There being no further business, the meeting was adjourned at 3:39 p.m.