TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS BOARD MEETING MINUTES August 3rd, 2021

The Texas Board of Veterinary Medical Examiners met for a scheduled meeting on Tuesday, August 3rd, 2021, at 1:00pm. virtually via a Zoom conference call that was broadcast live on YouTube.

Agenda Item 1. Full Board Call to Order, Roll Call.

Jessica Quillivan, DVM, Board President, called the meeting to order at 1:00pm. Board Members present were Jessica Quillivan, DVM; Keith Pardue, Vice President; Lynn Criner, DVM, Secretary; Samantha Mixon, DVM; Michael White, DVM; Randall Skaggs, DVM; Sue Allen, LVT; Victoria Whitehead; and Raquel Olivier. Board Staff present were: Executive Director, John Helenberg; Operations Director, Candice Simon; General Counsel, Brittany Sharkey; Enforcement Supervisor, Mike Tacker; Chief Financial Officer, Ernesto Palacios, and Executive Assistant, Patricia Prentice.

Agenda Item 2. Consideration and Approval of the May 13, 2021, Minutes.

There were no corrections or discussions regarding the May 13th, 2021, minutes.

Dr. White made a motion to approve the May 13th, 2021, minutes, Dr. Criner seconded the motion, and the motion was unanimously approved.

Agenda Item 3. Executive Director's Report.

Mr. Helenberg began his report by introducing Raquel Olivier, who was newly appointed to the Board in July of 2021. Raquel Olivier, of Houston, is the President and CEO of Olivier, Inc., a consulting firm and is a Certified Public Accountant. She is a member of the Texas Society of Certified Public Accountants, American Public Transportation Association, Conference of Minorities in Transportation, and Airport Minority Advisory Council. Additionally, Raquel serves on the American Public Transportation Association's Business Member Board of Governors as Finance/Budget Chair and the American Public Transportation Foundation and is a member of the Alpha Kappa Alpha Sorority, Inc. (AKA). Olivier received a Bachelor of Business Administration in Accounting and Management from the University of Houston and a Master of Business Administration from Texas A&M University.

Mr. Helenberg continued his report with an update on the new data system and explained the features that have been implemented. The Licensee Portal is now active for renewals, new applications, and licensee searches. We are receiving feedback from the public and licensees. Staff continues to make minor technical corrections found after data migration. We currently have 520 users in the system which is a significant increase from the 150 users reported last meeting. Licensees renewing a license online are now moved to the new system. Licensees are seeing issues on renewals if they are not eligible to renew or the use an invalid payment method. Texas.Gov is the State of Texas contracted payment processor and Inlumon is the database vendor. We are working with the developers and Texas.Gov to resolve any system communications issues between the two providers. In the agency's transition from paper to digital applications, the processing time is running from 30-45 days on applications without issues. Applications that are missing transcripts or other information are processed as soon as the missing documents are received.

Enforcement Supervisor, Mike Tacker then gave an update on the Enforcement Inspection process as of September. Mr. Tacker stated that as of September the inspectors will resume inspections with a focus on what the Enforcement team has deemed high-risk inspections—including any licensee who has not had an inspection in the past 10 years or has had a certain number of complaints filed against them. There is a standardized inspection process that utilizes a standard form and all inspectors have been trained in this process. Mr. Helenberg commented that the inspection process was one of the main causes for concern in the 2017 Sunset Review of the agency. Major changes were made in 2018 & 2019, and as a result the inspection process was one of the most commended aspects of the most recent Sunset review.

The current status of the suspension of continuing education requirements due to the pandemic was discussed. Mr. Helenberg reported that TBVME has recently met with and discussed the availability of continuing education classes with TVMA. The parties felt with the passage of the proposed rule allowing licensees to obtain their continuing education in whatever format they choose, the suspension of the continuing education requirements would likely be lifted in early 2022.

In conclusion, Mr. Helenberg presented information on current agency operations, including fiscal and individual department updates and overviews.

Agenda Item 4. Discussion, recommendation, and possible action regarding proposed rule changes to be published in the Texas Register.

- a. 571.62 License Surrender (New)
- b. 573.52 Veterinarian Patient Record Keeping (Amendment)
- c. 573.40 Labeling of Medications Dispensed (Amendment)
- d. 573.75 Duty to Cooperate with Board (Amendment)

571.62 License Surrender—The Board discussed information presented by the ad hoc Rules Committee. The Board discussed the rule at length and concerns over possible coercion or misuse of the rule were raised. After discussion the Board was not ready to vote on this rule without further research. Staff was asked to investigate how other states handle this situation and report back to the Board for further deliberation.

573.52 Veterinarian Patient Record Keeping—The board discussed information presented by the ad hoc Rules Committee on the patient record keeping rule. One correction was proposed that verbiage be the same identifying "patient, herd, flock or other collective term" to ensure the rule is fairly applied to large animal practitioners.

Dr. Quillivan then asked for a motion for Rule 573.52 Veterinarian Patient Record Keeping be posted to the Texas Register. Dr. Criner made the motion to post the rule, Dr. Mixon seconded the motion, Dr. Skaggs was opposed to posting the rule. The motion passed.

573.40 Labeling of Medications Dispensed—The board discussed information presented by the ad hoc Rules Committee. The board agreed to also add in the clarification of identifying "patient, herd, flock or other collective term."

Dr. Quillivan asked for a motion for Rule 573.40 Labeling of Medications Dispensed be posted to the Texas Register. Dr. Criner made the motion to post the rule, Dr. White seconded the motion, and the motion was unanimously approved.

573.75 Duty to Cooperate with Board—The board discussed information and recommendations presented by the ad hoc Rules Committee.

Dr. Quillivan then asked for a motion for Rule 573.75 Duty to Cooperate with Board be posted to the Texas Register. Dr. White made the motion to post the rule, Dr. Criner seconded the motion, and the motion was unanimously approved.

Agenda Item 5. Discussion, recommendation, and possible action regarding adoption of rule changes to be published in the Texas Register.

- a. 571.15 Temporary Licenses (Amendment)
- b. 573.27 Honesty Integrity and Fair Dealing (Amendment)
- c. 573.65 Proof of Acceptable Continuing Education (Amendment)

The board voted on the above rules for adoption to be posted to the Texas register.

Dr. Quillivan then asked for a motion for Rule 571.15 Temporary License be posted to the Texas Register. Dr. Criner made the motion to post the rule, Dr. White seconded the motion, and the motion was unanimously approved.

Dr. Quillivan then asked for a motion for Rule 573.27 Honesty Integrity and Fair Dealing be posted to the Texas Register. Dr. Mixon made the motion to post the rule, Dr. Criner seconded the motion, and the motion was unanimously approved.

Dr. Quillivan then asked for a motion for Rule 573.65 Proof of Acceptable Continuing Education be posted to the Texas Register. Dr. Criner made the motion to post the rule, Ms. Whitehead seconded the motion, and the motion was unanimously approved.

Agenda Item 6. Discussion regarding Alternative Therapies Rule.

Dr. Mixon asked the board to send her a list of all the alternative therapies that they have in the past or currently run across in the field. Dr. Mixon would ultimately like to devise a rule to be presented to the Board for discussion regarding the use of alternative therapies.

Agenda Item 7. Discussion regarding the handling of complaints for practices that utilize the term "nurse" in staff descriptions.

Ms. Allen addressed section 801.002 in the Texas Veterinary License Act which includes three different titles for technicians and assistants in the Veterinary field. Those titles are licensed Veterinary technician, Veterinary assistant, and certified Veterinary assistant. Another term brought to discussion is Veterinary nurse. Education was discussed to ensure that proper terminology is used but as these titles come from statute, any changes in titles or enforcement authority for the use of titles must come from the legislature.

Agenda Item 8. Discussion regarding CE hours for case reviewers.

Dr. Criner brought to discussion granting continuing educations hours to licensed veterinarians who conduct medical reviews on Board complaints. Dr. Criner stated that as board members they receive a limit of two hours of continuing education for reviewing cases but wanted to know what compensation non-Board member reviewers receive. Dr. Criner stated that these reviews are labor intensive and can be very educational.

Dr. Skaggs agreed that a lot of education can be obtained from these case reviews and suggested that case reviewers earn two hours per case reviewed and up to a maximum of eight hours per license renewal year.

Dr. Skaggs made a motion to provide case reviewers with two hours per case and up to a maximum of eight hours per year. Dr. Criner seconded the motion, and the motion was unanimously approved.

Agenda Item 9. Consideration and approval of Agreed Orders.

Case#	<u>Name</u>	License #	Practice City
CP18-309	Michael Deason, DVM	2594	Corpus Christi, TX
Non-voting m	embers: N/A		
CP18-335	D. Wade Johnson, DVM	6023	Little Elm, TX
Non-voting m	embers: N/A		
CP19-148	Devendernath Mandava, DVM	12305	Keller, TX
Non-voting members: N/A			

The following dismissals were pulled for executive session; CP18-335.

Dr. Criner made a motion that the board approve the above agreed orders, with the exceptions of the few cases that were pulled for executive session, Dr. Mixon seconded the motion, and the motion was unanimously approved.

Agenda Item 10. Consideration and approval of cases recommended for dismissal by Informal Conference.

Casa#	Name	I iconso#	Dunation City
Case#	Name	<u>License#</u>	Practice City
CP18-317			
Non-voting members:	N/A		
CP19-071			
Non-voting members:	N/A		
CP19-150			
Non-voting members:	N/A		
CP19-163			
Non-voting members:	N/A		
CP19-181			
Non-voting members:	N/A		
CP19-260			

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Non-voting members:	N/A
CP19-267	
Non-voting members:	N/A
CO19-272	
Non-voting members:	N/A
CP19-274	
Non-voting members:	N/A
CP19-276	
Non-voting members:	N/A
CP19-288	
Non-voting members:	N/A
CP19-291	
Non-voting members:	N/A
CP19-294	
Non-voting members:	N/A
CP19-326	
Non-voting members:	N/A
CP19-333	
Non-voting members:	N/A
CP19-339	
Non-voting members:	N/A
CP19-355	
Non-voting members:	N/A
CP19-376	
Non-voting members:	N/A
CP19-378	
Non-voting members:	N/A
CP19-380	
Non-voting members:	N/A
CP20-007	
Non-voting members:	N/A
CP20-029	
Non-voting members:	N/A
CP20-030	
Non-voting members:	N/A
CP20-031	
Non-voting members:	N/A
CP20-086	
Non-voting members:	N/A
CP20-087	
Non-voting members:	N/A
CP20-120	
Non-voting members:	N/A

The following dismissals were pulled for executive session; CP19-181, CP19-260, CP19-272, CP19-276, CP19-288, CP19-291, CP19-294, CP19-339, CP20-031, CP20-086, CP20-087, and CP20-120.

Dr. Mixon made a motion that the board approve the above informal conference dismissals, with the exceptions of the few cases that were pulled for executive session, Dr. White seconded the motion, and the motion was unanimously approved.

Reconsideration Vote—Mrs. Whitehead made a motion to reconsider the vote to add cases pulled by Dr. White. CP19-260, CP19-272, CP19276, CP19-339, CP20-031, CP20-086 and CP20-120 Dr. Skaggs seconded the motion, and the motion was unanimously approved.

After reconsideration, Dr. Criner made a motion that the board approve the above informal conference dismissals, with the exceptions of the few cases that were pulled for executive session, Dr. Skaggs seconded the motion, and the motion was unanimously approved.

Agenda Item 11. Consideration and approval of cases recommended for dismissal by Medical Review.

Review.			
Case #	<u>Name</u>	<u>License #</u>	Practice City
CP19-141			
Non-voting members:	Michael White, DVM		
CP19-159			
Non-voting members:	Samantha Mixon, DVM		
CP19-160			
Non-voting members:	Michael White, DVM		
CP19-235			
Non-voting members:	Michael White, DVM		
CP19-296			
Non-voting members:	Michael White, DVM		
CP19-346			
Non-voting members:	Lynn Criner, DVM		
CP19-362			
Non-voting members:	Randall Skaggs, DVM		
CP20-078			
Non-voting members:	Samantha Mixon, DVM		
CP20-125			
Non-voting members:	Michael White, DVM		
CP20-164			
Non-voting members:	Lynn Criner, DVM		
CP20-188			
Non-voting members:	Randall Skaggs, DVM		
CP20-194			
Non-voting members:	Lynn Criner, DVM		
CP20-215			

Case #	Name	License #	Practice City
Non-voting members:	Michael White, DVM		
CP20-216			
Non-voting members:	Michael White, DVM		
CP20-217			
Non-voting members:	Michael White, DVM		
CP20-272			
Non-voting members:	Lynn Criner, DVM		
CP20-276			
Non-voting members:	Lynn Criner, DVM		
CP20-288			
Non-voting members:	Michael White, DVM		
CP20-289			
Non-voting members:	Randall Skaggs, DVM		
CP20-306			
Non-voting members:	Michael White, DVM		
CP20-342			
Non-voting members:	Michael White, DVM		
CP20-388			
Non-voting members:	Lynn Criner, DVM		
CP20-406			
Non-voting members:	Lynn Criner, DVM		
CP20-412			
Non-voting members:	Randall Skaggs, DVM		
CP21-042			
Non-voting members:	N/A		
CP21-057			
Non-voting members:	Randall Skaggs, DVM		
CP21-067			
Non-voting members:	Lynn Criner, DVM		
CP21-068			
Non-voting members:	Lynn Criner, DVM		
CP21-147			
Non-voting members:	Lynn Criner, DVM		
CP21-150			
Non-voting members:	Michael White, DVM		
CP21-151			
Non-voting members:	Michael White, DVM		
CP21-163			
Non-voting members:	Lynn Criner, DVM		
CP21-173			
Non-voting members:	Lynn Criner, DVM		
CP21-182			
Non-voting members:	Michael White, DVM		

Case #	Name	License #	Practice City
CP21-277			
Non-voting members:	Michael White, DVM		

The following dismissals were pulled for executive session; CP20-164, CP20-188, CP20-412, CP21-042.

Dr. Criner made a motion that the board approve the above staff dismissals, with the exceptions of the few cases that were pulled for executive session, Dr. Skaggs seconded the motion, and the motion was unanimously approved.

Agenda Item 12. Consideration and approval of cases recommended for dismissal by Staff.

Case #	Name	License #	Practice City
CP20-178			
Non-voting members:	N/A		
CP20-277			
Non-voting members:	N/A		<u> </u>
CP20-408			
Non-voting members:	N/A		
CP20-417			
Non-voting members:	N/A		
CP21-188			
Non-voting members:	N/A	<u> </u>	<u> </u>
CP21-278			
Non-voting members:	N/A		
CP21-271			
Non-voting members:	N/A		· ·
CP21-280			
Non-voting members:	Samantha Mixon, DVM		
CP21-282			
Non-voting members:	N/A		1
CP21-308			
Non-voting members:	N/A		· · · · · · · · · · · · · · · · · · ·
CP21-361			
Non-voting members:	N/A		•
CP21-370			
Non-voting members:	N/A	<u> </u>	
CP21-382			
Non-voting members:	N/A		
CP21-383			
Non-voting members:	N/A		l l

The following dismissals were pulled for executive session; CP21-282.

Dr. Criner made a motion that the board approve the above staff dismissals, with the exceptions of the few cases that were pulled for executive session, Mrs. Whitehead seconded the motion, and the motion was unanimously approved.

Agenda Item 13. Consideration and approval of Cease-and-Desist letters.

Case #	Name	License #	Practice City
CP20-278			
CP21-232			
CP21-340			

No cease-and-desist letter were pulled for Executive Session.

Dr. Criner made a motion that the board approve the above staff dismissals, Dr. Mixon seconded the motion, and the motion was unanimously approved.

Agenda Item 14. Citizen Comments.

Jodi Ware—Ms. Ware spoke about her disappointment with TBVME practices and procedures.

Agenda Item 15. Discussion of possible agenda items and dates for future Board meetings.

The board discussed that the next upcoming board meeting is scheduled for October 28th, 2021, at 9:00 AM in person at the Hobby Building in Austin.

Dr. Skaggs asked for an update at the next meeting of the licensee lookup tool on the website as well as an update on the general progress of migration over to our new database system.

Agenda Item 16. Executive Session to discuss pending and contemplated litigation and personnel matters.

The board entered Executive Session at 3:13 pm.

Agenda Item 9. Consideration and approval of Agreed Orders.

The following dismissals was pulled for executive session; CP18-335.

The following cases were pulled for vote:

CP18-335—Approval for this case passed.

Agenda Item 10. Consideration and approval of cases recommended for dismissal from Informal Conference.

The following dismissals were pulled for executive session; CP19-181, CP19-260, CP19-272, CP19-276, CP19-288, CP19-291, CP19-294, CP19-339, CP20-031, CP20-086, CP20-087, and CP20-120.

The following cases were pulled for vote:

CP19-181-- Dr. Criner made a motion that the board approve the above staff dismissals, Dr. Mixon seconded the motion, Dr. Skaggs was opposed to dismiss this case. The motion carried and was approved for dismissal.

CP19-260-- Dr. Mixon made a motion that the board approve the above staff dismissals, Mrs. Whitehead seconded the motion, and the motion was unanimously approved.

CP19-272-- Dr. Criner made a motion that the board approve the above staff dismissals, Dr. Mixon seconded the motion, and the motion was unanimously approved.

CP19-276-- Dr. Criner made a motion that the board approve the above staff dismissals, Dr. Mixon seconded the motion, and the motion was unanimously approved.

CP19-288-- Dr. Criner made a motion that the board approve the above staff dismissals, Dr. Mixon seconded the motion, Dr. Skaggs was opposed to dismiss this case. The motion carried and was approved for dismissal.

CP19-291—Mrs. Whitehead made a motion that the board approve the above staff dismissals, Dr. Mixon seconded the motion, Dr. Criner was opposed to dismiss this case. The motion carried and approved.

CP19-294-- Dr. Criner made a motion that the board approve the above staff dismissals, Dr. Mixon seconded the motion, Dr. Skaggs, Dr. White, and Ms. Allen were opposed to dismiss this case. The motion carried and was approved for dismissal.

CP19-339—Dr. Criner made a motion that the board approve the above staff dismissals, Dr. Mixon seconded the motion, and the motion was unanimously approved.

CP20-031—Dr. Criner made a motion that the board approve the above staff dismissals, Dr. Mixon seconded the motion, and the motion was unanimously approved.

CP20-086-- Dr. Criner made a motion that the board approve the above staff dismissals, Dr. Mixon seconded the motion, and the motion was unanimously approved.

CP20-087-- Dr. Criner made a motion that the board approve the above staff dismissals, Dr. Mixon seconded the motion, Dr. Skaggs was opposed to dismiss this case. The motion carried and was approved for dismissal.

CP21-120-- Dr. Criner made a motion that the board approve the above staff dismissals, Dr. Mixon seconded the motion, and the motion was unanimously approved.

Agenda Item 11. Consideration and approval of cases recommended for dismissal from Medical Review.

The following dismissals were pulled for executive session; CP20-164, CP20-188, CP20-412 and CP21-042.

The following cases were pulled for vote:

CP20-164-- Dr. Mixon made a motion that the board approve the above staff dismissals, Ms. Allen seconded the motion, and the motion was unanimously approved.

CP20-188-- Dr. Mixon made a motion that the board approve the above staff dismissals, Dr. Criner seconded the motion, and the motion was unanimously approved.

CP20-412-- Dr. Criner made a motion that the board approve the above staff dismissals, Dr. Mixon seconded the motion, and the motion was unanimously approved.

CP21-042-- Dr. Mixon made a motion that the board approve the above staff dismissals, Dr. Criner seconded the motion, and the motion was unanimously approved.

Agenda Item 12. Consideration and approval of cases recommended for dismissal from Staff.

The following dismissals was pulled for executive session; CP21-282

The following cases were pulled for vote:

CP21-282--Dr. Criner made a motion that the board approve the above staff dismissals, Dr. Mixon seconded the motion, and the motion was unanimously approved.

Agenda Item 13. Consideration and approval of Cease-and-Desist letters.

No Cease-and Desist letters were pulled for Executive Session.

Agenda Item 17. Return from Executive Session to report or discuss further actions to be taken following Executive Session. Possible action on items discussed in Executive Session.

Executive Session ended at 4:17 pm

No Action was taken in Executive Session.

Agenda Item 18. Adjourn.

Dr. Criner made a motion to adjourn the August 3rd, 2021, board meeting. Mrs. Whitehead seconded, and the motion was unanimously passed.

Dr. Quillivan adjourned the meeting at 4:24pm.