



TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

Board Meeting Agenda

333 Guadalupe, Room 2-225

Austin, Texas

Tuesday, January 16, 2018

9:00 A.M.

The Texas Board of Veterinary Medical Examiners will consider and act, if necessary, on matters within the jurisdiction of the Board which are listed on this agenda. The Board may meet from time-to-time in executive session with respect to the agenda items as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code.

1. Full Board call to order, roll call, vote on absences. (*Dr. Quillivan*) (**TAB 1**)
2. Consideration and Approval of December 5, 2017 Minutes (*Dr. Quillivan*) (**TAB 2**)
3. Executive Director's Report (*Mr. Helenberg*) (**TAB 3**)
 - a. Update on complaints over 180 days
4. Discussion, recommendation and possible action regarding proposed rule changes to be published in the Texas Register. (*Ms. Griffin*) (**TAB 4**)
 - a. 575.27 Complaints--Receipt (Repeal of Existing Rule)
 - b. 575.27 Complaints (New Rule)
 - c. 575.28 Complaints--Investigations (Repeal of Existing Rule)
 - d. 575.28 Investigations (New Rule)
 - e. 575.29 Informal Conferences (Repeal of Existing Rule)
 - f. 575.29 Informal Conferences (New Rule)
 - g. 575.40 Cease and Desist Procedures (Repeal of Existing Rule)
5. Discussion and direction to staff regarding medical review process in complaint investigations. (*Ms. Griffin*) (**TAB 5**)
6. Discussion, recommendation and possible action regarding permissible uses of titles and letters for veterinary assistants. (*Dr. Quillivan*)
7. Discussion, recommendation and possible action regarding training on compliance with controlled substance statutes and rules, including possible continuing education requirements. (*Dr. Quillivan*)
8. Discussion and recommendation regarding potential creation of rules committee. (*Dr. Quillivan*) (**TAB 6**)
9. Discussion and recommendation regarding agency management of disaster and emergency relief responses. (*Dr. Quillivan*) (**TAB 7**)

10. Discussion, recommendation and possible action regarding future Board meeting dates. (*Dr. Quillivan*) (**TAB 8**)
 11. Discussion of possible agenda items for future Board meetings. (*Dr. Quillivan*) (**TAB 9**)
 12. Consideration and approval of Agreed Orders. (*Ms. Griffin*) (**TAB 10**)
 13. Citizen Comments (*Dr. Quillivan*) (**TAB 11**)
 14. Executive Session to discuss pending or contemplated litigation, settlement offers, and personnel issues, pursuant to sections 551.074 and .071 of the Texas Government Code, Open Meetings Act.
 15. Return from Executive Session to report or discuss further actions to be taken following Executive Session. Possible action on items discussed in Executive Session.
 16. Adjourn.
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Persons requiring special accommodations, including the use of an interpreter, due to a disability should contact the Board office at least five working days prior to the Board meeting.

Las personas que necesiten servicios especiales, incluyendo los de un intérprete, debido a un impedimento físico, llamen la oficina de la Junta por lo menos cinco días antes de la reunión de la Junta.

Board Members:

Jessica Quillivan, DVM, President
Keith Pardue, Vice-President
Sandra “Lynn” Criner, DVM, Secretary
Carlos Chacon
Samantha Mixon, DVM
Michael White, DVM
Randy Skaggs, DVM

AGENDA ITEM 1

TAB 1

CALL TO ORDER, ROLL CALL AND VOTE ON ABSENCES

This meeting of the Texas Board of Veterinary Medical Examiners is now called to order, the time is _____.

- Welcoming Statement from Board President (*Dr. Quillivan*)

Dr. Criner, may I have a roll call please.

MEMBER NAME	ATTENDANCE NOTATION*
Carlos Chacon	_____
Sandra "Lynn" Criner, DVM, Secretary	_____
Samantha Mixon, DVM	_____
Keith Pardue, Vice-President	_____
Jessica Quillivan, DVM, President	_____
Randy Skaggs, DVM	_____
Michael White, DVM	_____

If there are any absences...

- Do I have a motion to approve or deny the absences?
 - I move that we approve the absence(s) of _____.
 - I move that we deny the absence(s) of _____.
- Is there a second?
- Is there any discussion?

*

✓ = In Attendance

X = Absent (Please indicate if Not Excused)

AGENDA ITEM 2

TAB 2

CONSIDERATION AND APPROVAL OF THE DECEMBER 5, 2017 MINUTES.

The minutes of the December 5, 2017 meeting were sent to you earlier for review.

- Do I have a motion to approve the minutes?
 - I move that we approve the minutes as presented.
 - I move that we approve the minutes with corrections as discussed.

- Is there a second?

- Is there any discussion?

- All in favor, say aye.

- All opposed, say nay.

TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

BOARD MEETING MINUTES

December 5, 2017

The Texas Board of Veterinary Medical Examiners met for a scheduled meeting on Tuesday, December 5, 2017, at 8:00 a.m. in Room #2-225 of the William P. Hobby, Jr. Building, 333 Guadalupe, Austin, Travis County, Texas.

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

Jessica Quillivan, DVM, Board President, called the meeting to order at 8:02 a.m. Board Members present were: Carlos Chacon, Lynn Criner, DVM, Secretary; Samantha Mixon, DVM; Keith Pardue, Vice-President; Randy Skaggs, DVM; and Michael White, DVM. Board Staff present were: Executive Director, John Helenberg, Michelle Griffin, General Counsel; Director of Operations, Candice Simon, Chief Financial Officer, Arlethia Middleton, Matthew West, Director of Enforcement; Wanda Bennett, Licensing Program Supervisor, Elaine Crease, Legal Administrative Assistant; and Teresa Long, Accountant.

Agenda Item 2. Consideration and Approval of the October 10, 2017 Minutes.

Dr. Criner pointed out the error whereby she was listed as having recused herself from several cases, which she had not. Mr. Pardue moved, Dr. Criner seconded and the motion passed unanimously to approve the October 10, 2017 minutes with any reference to recusals by Dr. Criner removed.

Agenda Item 3. Executive Director's Report.

a. Announcement of personnel changes. Mr. Helenberg reported that Blake Roach, the agency's contact with the Governor's Office, would be moving to the Governor's Appointments Office, and that Seth Christianson would be temporarily replacing Mr. Roach. He also introduced Ms. Simon, the new Director of Operations, and Ms. Middleton, the new Chief Financial Officer, and reported that Wanda Bennett had been promoted to Licensing Program Supervisor.

b. Guidance on methods of communication with Board Members. Mr. Helenberg described the Agency Executive Summary document that he has begun to send to staff on a weekly basis, noting upcoming events and other agency-wide issues. The Board expressed that they would like to receive this document on a weekly basis also.

b. Pending Litigation Update. Dr. Criner moved, Mr. Pardue seconded and the motion passed unanimously to go into Executive Session at 8:15 a.m. for private consultation and advice of counsel concerning pending or contemplated litigation, including administrative proceedings, or settlement offers 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 8:32 a.m. and it was announced that no action was taken. A certified agenda was made.

c. Finance Department Report. There were no questions from the Board Members regarding the Budget Report and Revenue Reports provided to them prior to the meeting.

Agenda Item 4. Consideration and approval of Agreed Orders.

Dr. Criner made a motion to pull the following cases to be discussed in Executive Session: 2017-018; 2017-148; 2017-183; and 2017-194. Dr. Skaggs seconded the motion, and the motion passed unanimously to go into Executive Session at 8:36 a.m. for private consultation and advice of counsel concerning pending or contemplated litigation, including administrative proceedings, or settlement offers 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 8:52 a.m. and it was announced that no action was taken. A certified agenda was made.

After discussion, Dr. Skaggs moved that the Board Orders listed on Agenda Item #4 be approved as written. Dr. Criner seconded, and the motion passed unanimously. The Board Orders approved are as follows, with recusals noted.

<u>Docket #</u>	<u>Name</u>	<u>Case #</u>
2017-102	<i>Claudia Orso-Sims, DVM</i>	CP16-421
Recusals: Quillivan, Pardue		
2017-157	<i>Lauri Jehl, DVM</i>	CP16-397
Recusals: Quillivan, Pardue		
2016-183	<i>Douglas Lange, DVM</i>	CP16-185
Recusals: Quillivan, Pardue		
2017-193	<i>Steven Susaneck, DVM</i>	CP16-306
Recusals: Quillivan, Pardue		
2017-194	<i>Paul Axtell, DVM</i>	CP16-415
Recusals: Quillivan, Pardue		
2017-018	<i>Bethany Butler, DVM</i>	CP16-295
Recusals: Quillivan, Pardue		
2017-111	<i>Carl Bello, DVM</i>	CP17-067

Agenda Item 5. Discussion, recommendation and possible action regarding adoption of proposed Board Rule amendment.

a. 577.15 Fees (Amendment)

Ms. Griffin presented a proposed rule change that was ready to be adopted after the proposal had been published in the *Texas Register* for public comment on November 3, 2017. This amendment consisted of an increase in fees that the agency assesses for various licensing actions, and was presented with no changes to the proposed version. After discussion, **Mr. Chacon moved to file the adopted amendment to §577.15 and its preamble with the *Texas Register*, in accordance with the Administrative Procedure Act. Dr. Criner seconded the motion, and it passed unanimously.**

Agenda Item 6. Committee Appointments.

a. Executive Committee. Dr. Criner, Dr. Quillivan, and Mr. Pardue were appointed.

b. Enforcement Committee. Dr. Criner and Dr. Quillivan were appointed. Mr. Chacon and Mr. Pardue will rotate as Public Members, and Dr. Skaggs was appointed to be a veterinarian alternate.

c. Licensing Committee. Dr. White and Mr. Pardue were appointed.

d. Finance Committee. Dr. Criner, Dr. Mixon, and Mr. Chacon were appointed.

e. Advisory Committees

1. Equine Dental Provider Advisory Committee. No new appointments. Larry Kimberlin, DVM, Doug Smith, DVM, and Carl Mitz, EDP will continue their appointments.

2. Licensed Veterinary Technician Advisory Committee. David Sessum, LVT, Cindy Dittmar, LVT, Michael White, DVM, Eden Myers, DVM, Steven Gala, DVM, and Mr. Carlos Chacon were appointed.

Agenda Item 7. Discussion, recommendation and possible action regarding future board meeting dates. After discussion, it was agreed that the next three regular board meeting dates would be January 16, April 10, and July 31, 2018.

Agenda Item 8. Discussion of possible agenda items for future board meeting dates.

a. Discussion of possible Rules Committee.

b. Update on cases past the 180-day mark.

c. Agency emergency/disaster preparedness relief/management.

Agenda Item 9. Citizens Comments.

Judy Santerre presented comments on behalf of herself related to a complaint she had filed against a licensee.

Jodi Ware presented comments on behalf of herself related to a complaint she had filed against a licensee.

Agenda Item 10. Adjourn.

There being no further business, the meeting adjourned at 9:20 a.m.

AGENDA ITEM 3

TAB 3

EXECUTIVE DIRECTOR'S REPORT (*Mr. Helenberg*)

- a. Update on complaints over 180 days.

This item is informational only, no vote needed.



Texas Board of Veterinary Medical Examiners

Executive Director's Report

January 2018 Board Meeting

1. Agency Summary

December was a slower month due to the Holidays. We are continuing to work on refining processes and using common sense in our procedures. This last month has been devoted to our enforcement division and related procedures. We have made major changes to the internal way we handle complaints and refined the process our investigators use when reviewing complaints. The field investigators will be in the week of the 15th for training on managing cases and conducting inspections of veterinary practices with an emphasis on voluntary compliance.

We are planning a series of regional meetings to solicit input from the regulated community and public over the next three months. We are planning on having at least four meetings in different areas of the state to facilitate open communications with our stakeholders. The meetings will have time allotted for a presentation of the agency's direction and to receive comments or ideas from our stakeholders. It would be beneficial to have a few Board Members at each of the meetings to participate in the discussions.

After the meetings a final presentation to the Board would occur in April.

2. Staff Changes and Additions

General Counsel, Michelle Griffin has assumed the position of General Counsel which she has served as the interim since November 2016. Michelle joined the Texas Board of Veterinary Medical Examiners in 2015 from the Ethics Commission where she worked as a staff attorney. During her time Michelle has represented the agency well assisting the Attorney General at District Court and numerous SOAH hearings over the past two years. Michelle's attention to detail and her candor make her the ideal choice for our General Counsel.

3. Budget Status

The agency's current percent of budget expended is 21.21%.

The current lapse of the fiscal year is 33%.

As of December 31, 2017 we were under our spending projections for the Fiscal Year.

The final version of the state budget has been released and it does reflect some positive changes for our agency. Although this was expected it is always good to see it reflected on paper.

Below are a few important changes:

<u>Comparison</u>	<u>May 22, 2017 Version</u>	<u>Final September 12 Version</u>
FTE:	21	22
GR Funded	1,388,982	1,443,792
Salary Budgeted	974,832	1,028,832

The final budget document is located at:

[http://www.lbb.state.tx.us/Documents/GAA/General Appropriations Act 2018-2019.pdf](http://www.lbb.state.tx.us/Documents/GAA/General_Appropriations_Act_2018-2019.pdf)

Our information is found on page 833-836.

4. **New Sunset Recommendations Implemented**

Recommendation 2.2, Modified — Direct the agency to clearly define and consistently implement its enforcement procedures.

Enforcement Report January 2018 Board Meeting

TBVM Performance Measurements - Enforcement for Fiscal Year 2018

	Q1 2018	Q2 2018	Q3 2018	Q4 2018	FY2018	Target
Average Time for Complaint Resolution	370	31	0	0	342	180
Jurisdictional Complaints Received	80	25	0	0	105	420
Compliance Inspections	42	1	0	0	43	750
Complaints Resolved	56	5	0	0	61	430
Licenses with No Recent Violations	96.56%	96.95%	0.00%	0.00%	96.75%	97%
Complaints Resulting in Disciplinary Action	82.14%	0.00%	0.00%	0.00%	75.41%	33.40%
Recidivism Rate For Those Receiving Disciplinary Action	25.58%	0.00%	0.00%	0.00%	25.58%	10%
Documented Complaints Resolved within Six Months	Database Reporting Error					40%

TBVM Complaints Statistics, Between 09/01/2017 & 01/10/2018

Complaints Closed: by Period

Jurisdictional	62
Non-Jurisdictional	8
Total Complaints Closed	70

Complaints Closed: Jurisdictional

Average Days (Received less Closed Date)	337
Within 6 months of Date Received	20.97%
Closed to Board Order, Against Licensee	74.19%
Repeat Offenders(*)	1.89%

Complaints Received: by Period

Jurisdictional	105
Non-Jurisdictional	0
Total	105

Closed to Board Order, Against Licensee within Last 3 Years

Licenses Have Not Incurred this Infraction	96.57%
Licenses Total with Infraction	375

Compliance Inspections: 43

PRN Report:

Board Ordered: 10

Volunteered Veterinarians 9

Total Enrolled: 19

TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

Summary of Expenses as of December 31, 2017

OPERATING

OBJECT OF EXPENSE	BUD 2018	EXP 2018	AVAILABLE	BUD AVG	ACTUAL AVG
1001 SALARIES & WAGES	\$ 974,832.00	\$ 214,629.17	\$ 760,202.83	\$ 81,236.00	\$ 53,657.29
1002 OTHER PERSONNEL COSTS	\$ 23,066.00	\$ 6,660.33	\$ 16,405.67	\$ 1,922.17	\$ 1,665.08
2001 PROFESSIONAL FEES & SERVICES	\$ 62,700.00	\$ 4,231.82	\$ 58,468.18	\$ 5,225.00	\$ 1,057.96
2003 CONSUMABLE SUPPLIES	\$ 9,000.00	\$ 526.04	\$ 8,473.96	\$ 750.00	\$ 131.51
2004 UTILITIES	\$ 1,550.00	\$ 665.20	\$ 884.80	\$ 129.17	\$ 166.30
2005 TRAVEL	\$ 47,800.00	\$ 2,661.46	\$ 45,138.54	\$ 3,983.33	\$ 665.37
2006 RENT - BUILDING	\$ 1,400.00	\$ 179.04	\$ 1,220.96	\$ 116.67	\$ 44.76
2007 RENT - MACHINE/EQUIPMENT	\$ 5,500.00	\$ 1,344.36	\$ 4,155.64	\$ 458.33	\$ 336.09
2009 OTHER OPERATING COSTS	\$ 124,134.00	\$ 28,675.85	\$ 95,458.15	\$ 10,344.50	\$ 7,168.96
5000 CAPITAL EXPENDITURES	\$ -	\$ -	\$ -	\$ -	\$ -
TRANSFERS OUT - H.P.C.	\$ (26,403.00)				
TOTAL:	\$ 1,223,579.00	\$ 259,573.27	\$ 964,005.73	\$ 104,165.17	\$ 64,893.32

Excess Revenue Collected for 13001 0.00
TOTAL AVAILABLE BUDGET/CASH **\$ 964,005.73**

NON-OPERATING

PEER ASSISTANCE

2001 PROF SERVICES (7253 & 7806)	\$ 42,000.00	\$ 10,500.00	\$ 31,500.00	\$ 3,500.00	\$ 3,500.00
(GAA is \$45,000 but contract is \$42,000)					

TEXAS.GOV (TXNICUSA)

2009 OTHER OPERATING EXP (7219)	\$ 40,000.00	\$ 3,012.00	\$ 36,988.00	\$ 3,333.33	\$ 1,004.00
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CAPPS (Centralized Acc/Pay/Pers System)

5000 Capital Expenditures	\$ 54,000.00	\$ -	\$ 54,000.00	\$ 4,500.00	\$ -
TOTAL:	\$ 1,359,579.00	\$ 273,085.27	\$ 1,086,493.73	\$ 115,498.50	\$ 69,397.32

AGENDA ITEM 4

TAB 4

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

- a. 575.27 Complaints--Receipt (Repeal of Existing Rule)
- b. 575.27 Complaints (New Rule)
- c. 575.28 Complaints--Investigations (Repeal of Existing Rule)
- d. 575.28 Investigations (New Rule)
- e. 575.29 Informal Conferences (Repeal of Existing Rule)
- f. 575.29 Informal Conferences (New Rule)
- g. 575.40 Cease and Desist Procedures (Repeal of Existing Rule)

I move that we approve the proposed rule changes as presented and direct staff to publish the proposed rule changes and their preambles in the *Texas Register* for a 30-day comment period, in accordance with the Administrative Procedure Act.

I move that we approve the proposed rule changes corrections as discussed and direct staff to publish the proposed rule changes and their preambles in the *Texas Register* for a 30-day comment period, in accordance with the Administrative Procedure Act.

I move that we reject the proposed rule changes and send them back to staff for further consideration.

- Is there a Second?
- Is there any discussion?
- All in favor, say aye.
- All opposed, say nay.

~~RULE §575.27 Complaints—Receipt~~

~~(a) Complaints against licensees.~~

~~(1) All complaints filed by the public against Board licensees must shall be submitted to the Board in writing on a the complaint form provided by the Board and signed by the complainant. The Board approved complaint form can be obtained free of charge from the Board office or downloaded from the Board's website at <http://www.veterinary.texas.gov>. If a complaint is transmitted to the Board orally or by means other than in writing and the complaint alleges facts showing a continuing or imminent threat to the public welfare, the requirement of a written complaint may be waived until later in the investigative process.~~

~~(2) The Board may file a complaint on its own initiative.~~

~~(3) Complaints by the Board's enforcement section shall be initiated by the opening of a complaint file.~~

~~(4) Anonymous written complaints will normally not be investigated, but may be investigated if sufficient information exists for the Board to file a complaint under paragraph (2) of this subsection.~~

~~(5) The Board shall utilize violation code numbers to distinguish between categories of complaints.~~

~~(6) The Board may not consider a complaint that is filed with the Board after the fourth anniversary of the latest date:~~

~~(A) the act that is the basis of the complaint occurred; or~~

~~(B) the earlier of when the complainant discovered, or in the exercise of reasonable diligence should have discovered, the occurrence of the act that is the basis of the complaint.~~

~~(7) If the Board receives multiple complaints regarding the same licensee and the same alleged facts, the Board may combine the complaints into one investigation and one file. The director of enforcement may elect to divide multiple complaints regarding the same licensee and the same alleged facts into multiple cases based upon the timing of the receipt of such complaints.~~

~~(b) Complaints against non licensees. Complaints against persons alleged to be practicing veterinary medicine or equine dentistry without a license may be investigated and resolved informally by the executive director with the consent of the non licensee, or the Board may utilize formal cease and desist procedures specified in §801.508, Occupations Code. Complaints not resolved by the executive director may be referred to a local prosecutor or the attorney general for legal action, as well as addressed in §801.508 of the Occupations Code.~~

~~(c) Report to the Board of dismissed complaints. The executive director or the executive director's designee shall advise the Board at each scheduled meeting of the complaints dismissed since the last meeting.~~

~~(d) Use of Private Investigators. The executive director may approve the use of private investigators to assist in investigation of complaints where the use of Board investigators is not feasible or economical or where private investigators could provide valuable assistance to the Board investigators. Private investigators may be utilized in cases involving honesty, integrity and fair dealing; reinstatement applications; solicitation; fraud; dangerous drugs and controlled substances; and practicing veterinary medicine or equine dentistry without a license. Private investigators will be utilized in accordance with existing purchasing rules of the Comptroller of Public Accounts.~~

RULE §575.27 Complaints

(a) Initiation.

(1) Complaints submitted to the Board by the public shall be in writing on the complaint form provided by the Board. Complaints shall contain at least the following information:

(A) the complainant's name and contact information;

(B) the name of the person against whom the complaint is submitted;

(C) the date and place of the alleged violation; and

(D) a description of the facts or conduct alleged to violate the Act or Board rules.

(2) The Board may investigate violations on its own initiative.

(b) Preliminary Investigation.

(1) A preliminary investigation may be conducted to determine:

(A) whether the Board has jurisdiction over the complaint; and

(B) whether the matter has been resolved as part of a previous complaint.

(2) The Board has jurisdiction over a complaint if it alleges conduct that, if true, would constitute a violation of the Act or Board rules.

(3) The Board does not have jurisdiction over a complaint that is received after the fourth anniversary of the latest date:

(A) the alleged violation occurred; or

(B) the earlier of when the complainant discovered, or in the exercise of reasonable diligence should have discovered, the alleged violation.

(4) If the preliminary investigation shows that the Board does not have jurisdiction over the complaint, or that the matter has been resolved as part of a previous complaint, the Board may decline to initiate an official investigation. The complainant shall be notified of the reason that the Board declined to initiate an official investigation.

(c) If the Board receives multiple complaints regarding the same respondent and the same alleged violation, the Board may combine the complaints. If the Board receives a complaint with multiple alleged violations, the Board may divide the complaint as needed.

(d) A complainant may withdraw a complaint by submitting a written request to the Board.

~~RULE §575.28 Complaints--Investigations~~

~~Investigation of complaints.~~

~~(1) Policy. The policy of the Board is that the investigation of complaints shall be the primary concern of the Board's enforcement program, and shall take precedence over all other elements of the enforcement program, including compliance inspections.~~

~~(2) Priority. The Board shall investigate complaints based on the following allegations, in order of priority:~~

~~(A) acts or omissions, including those related to substance abuse, that may constitute a continuing and imminent threat to the public welfare;~~

~~(B) acts or omissions of a licensee that resulted in the death of an animal;~~

~~(C) acts or omissions of a licensee that contributed to or did not correct the illness, injury or suffering of an animal; and~~

~~(D) all other acts and omissions that do not fall within subparagraphs (A)–(C) of this paragraph.~~

~~(3) Upon receipt of a complaint, a letter of acknowledgment will be promptly mailed to the complainant unless the complainant is the Board.~~

~~(4) Complaints will be reviewed every thirty (30) days to determine the status of the complaint. Parties to a complaint will be informed on the status of a complaint at approximately 45 day intervals.~~

~~(5) Upon receipt of a complaint, the director of enforcement, or their designee, will review it and may interview the complainant to obtain additional information. If the director of enforcement concludes that the complaint resulted from a misunderstanding, is outside the jurisdiction of the Board, has been addressed as part of a previously filed complaint and related investigation regarding the same licensee and the same alleged facts, or is without merit, the director of enforcement shall recommend through the general counsel to the executive director that an investigation not be initiated. If the general counsel concurs with the recommendation, the complainant will be so notified. If the general counsel does not concur with the recommendations, an investigation will be initiated.~~

~~(6) The director of enforcement will assign a member of board staff to investigate the complaint. A summary of the allegations in the complaint will be sent to the licensee who is the subject of the complaint, along with a request that the licensee respond in writing within 21 days of receipt of the request. The licensee will also be asked to provide a copy of the relevant patient records with the response. The licensee is entitled on request to review the complaint submitted to the Board unless board staff determines that allowing the licensee to review the complaint would jeopardize an active investigation.~~

~~(7) After the licensee's response to the complaint is received, board staff shall send a copy of the licensee's response to the complainant, unless the complainant is the Board, along~~

~~with notification that the complainant may submit additional comments and other evidence, if any, at any time during the investigation to the Board. Board staff shall provide any response provided by the complainant to the licensee, unless board staff determines that allowing the licensee to review the response from the complainant would jeopardize an active investigation, and provide a single opportunity for the licensee to respond to the Board within ten days of receipt. No further responses from either the licensee or the complainant will be provided to either party.~~

~~(8) Further investigation may be necessary to corroborate the information provided by the complainant and the licensee. During the investigation, board staff shall attempt to interview by telephone the complainant, and if unable to contact the complainant shall document such in the file. Other persons, such as second opinion or consulting veterinarians, may be contacted. Board staff may request additional medical opinions, supporting documents, and interviews with other witnesses.~~

~~(9) Upon the completion of an initial investigation, board staff shall prepare a report of investigation (ROI) for review by the director of enforcement.~~

~~(A) If the director of enforcement determines from the ROI that the probability of a violation involving medical judgment or practice exists, the director of enforcement will forward the ROI to the executive director. If the executive director concurs that the probability of a violation involving medical judgment or practice exists, the director of enforcement shall forward a copy of the ROI and complaint file to two veterinary licensee board members (veterinarian members) who will determine whether or not the complaint should be closed, further investigation is warranted, or if the licensee and complainant should be invited to respond to the complainant at an informal conference at the board offices.~~

~~(B) If the director of enforcement determines from the ROI that the probable violation does not involve medical judgment or practice (example: administrative matters such as continuing education and federal and state controlled substances certificates), the director of enforcement shall forward the complaint file to a committee of the executive director, director of enforcement, member of board staff assigned to investigate the complaint, and general counsel (the "staff committee"), which shall determine whether or not the complaint should be dismissed, investigated further, or settled.~~

~~(C) If the veterinarian members determine that a violation has not occurred, the executive director or the executive director's designee, shall notify the complainant and licensee in writing of the conclusion and that the complaint is dismissed.~~

~~(D) If the veterinarian members conclude that a probable violation(s) exists, the executive director or the executive director's designee, shall invite the licensee and complainant, in writing, to an informal conference to discuss the complaint made against the licensee. If the veterinarian members cannot agree to dismiss or refer the complaint to an informal conference, the complaint will be automatically referred to an informal conference. The letter invitation to the licensee must include a list of the specific allegations of the complaint.~~

~~(E) A complaint considered by the staff committee shall be referred to an informal conference if:~~

~~(i) the staff committee determines that the complaint should not be dismissed or settled;~~

~~(ii) the staff committee is unable to reach an agreed settlement; or~~

~~(iii) the licensee who is the subject of the complaint requests that the complaint be referred to an informal conference.~~

RULE §575.28 Investigations

(a) Upon the initiation of an official investigation, complaints shall be classified into one or more of the following complaint categories:

(1) Complaints alleging acts or omissions that may constitute a continuing or imminent threat to the public welfare;

(2) Complaints that require medical expertise to review;

(3) Complaints that do not require medical expertise to review; or

(4) Complaints alleging the practice of veterinary medicine or equine dentistry without a license.

(b) The complainant and respondent shall be notified of the projected time requirements for the complaint, unless the notice would jeopardize an investigation.

(c) The executive director may approve the use of a private investigator to assist in the investigation of a complaint where the use of Board investigators is not feasible or economical or where private investigators could provide valuable assistance to the Board investigators.

~~RULE §575.29 — Informal Conferences~~

~~(a) The informal conference is the last stage in the investigation of a complaint. The licensee has the right to waive his or her attendance at the conference. The licensee may be represented by counsel.~~

~~(b) The Board may be represented at the informal conference by two veterinarian members and one public member of the Board's Enforcement Committee. Public members of the Enforcement Committee shall attend informal conferences on a rotating basis. The Board president may appoint a veterinarian member of the Board to serve in the place of an Enforcement Committee member with a conflict in a particular case. The complainant and the licensee and the licensee's legal counsel may attend the conference. Any other attendees are allowed at the discretion of the executive director. The executive director, general counsel, or the director of enforcement shall conduct the conference.~~

~~(c) Procedure. Subject to the discretion of the executive director, the following procedure will be followed at the informal conference. The executive director, general counsel, or director of enforcement shall explain the purpose of the conference and the rights of the participants, lead the discussion of the allegations of the complaint, and explain the possible courses of action at the conclusion of the conference. The licensee will be asked to respond to the allegations. The complainant will be allowed to make comments relevant to the allegations. Comments of the licensee and complainant must be addressed to the person conducting the conference and not to each other. In the interest of maintaining decorum, the licensee or complainant may be asked to leave the room while the other is talking with the committee. Comments by the licensee may be used in furtherance of the current case against the licensee, any other case or investigation, and/or to initiate a new complaint or investigation. The Enforcement Committee members may ask questions of the licensee and complainant in order to fully develop the complaint record. The licensee or complainant may provide evidence to the Enforcement Committee that will be considered by the Enforcement Committee and become part of the investigation file.~~

~~(d) At the conclusion of the informal conference, the Enforcement Committee shall determine if a violation has occurred. If the Enforcement Committee determines that a violation has not occurred, the Enforcement Committee, or their designee, will dismiss the complaint, and will advise all parties of the decision and the reasons why the complaint was dismissed.~~

~~(e) If the Enforcement Committee determines that a violation has occurred and that disciplinary action is warranted, the executive director, or their designee, will advise the licensee of the alleged violations and offer the licensee a settlement in the form of an agreed order that specifies the disciplinary action and monetary penalty. With the agreement of the licensee, the Enforcement Committee may recommend that the licensee refund an amount not to exceed the amount the complainant paid to the licensee instead of or in addition to imposing an administrative penalty on the licensee. The executive director, or their designee, must inform the licensee that the licensee has a right to a hearing before an administrative law judge on the finding of the occurrence of the violation, the type of disciplinary action, and/or the amount of the recommended penalty.~~

~~(f) Within the time period prescribed, the licensee must submit a written response to the Board:~~

- ~~(1) accepting the settlement offer and recommended disciplinary action; or~~
- ~~(2) requesting a hearing before an administrative law judge.~~

~~(g) Additional negotiations may be held between Board staff and the licensee or the authorized representative. In consultation with the Board representatives, as available, the recommendations~~

~~of the Board representatives may be subsequently modified based on new information, a change of circumstances, or to expedite a resolution in the interest of protecting the public.~~

~~(h) The Board representative(s) shall be consulted and must concur with any subsequent substantive modifications before any recommendations are sent to the full Board for approval.~~

~~(i) Board staff may communicate directly with the Board representative(s) after the informal conference for the purpose of discussing settlement of the case.~~

~~(j) If the licensee accepts the settlement offer by signing the agreed order, the agreed order will be docketed for Board action at the next regularly scheduled Board meeting.~~

~~(k) The recommendations may be adopted, modified, or rejected by the Board.~~

~~(l) If the Board approves the agreed order with amendments, the executive director, or their designee, shall mail the amended agreed order to the licensee and the licensee shall have fourteen (14) days from receipt to accept the amended agreed order by signing and returning it to the Board. If a licensee does not sign an amended agreed order or does not respond within the fourteen (14) days, the complaint will be scheduled for a hearing before an administrative law judge. If the Board rejects the agreed order, the complaint may be scheduled for a hearing before an administrative law judge, or the Board may direct the executive director to take other appropriate action.~~

RULE §575.29 Informal Conferences

- (a) Reasonable written notice of the time, date, and location of an informal conference shall be provided to the respondent and complainant, if applicable. The notice shall include a statement of the alleged violation(s) to be considered by the informal conference panel.
- (b) The respondent and complainant shall each be provided with an opportunity to be heard by the informal conference panel, and may be represented by counsel. Deliberations by the informal conference panel are confidential.
- (c) The general counsel or a representative of the attorney general shall be present during an informal conference to advise the informal conference panel.
- (d) Informal conferences regarding complaints requiring medical expertise shall be conducted by an informal conference panel comprised of two veterinarian Board members and one public Board member.
- (e) Informal conferences regarding complaints not requiring medical expertise may be conducted by an informal conference panel comprised of Board staff. The Executive Director may designate the members of this panel.

~~RULE §575.40 — Cease and Desist Procedures~~

~~(a) Purpose. The purpose of a cease and desist proceeding is to determine whether a person has engaged in acts or practices that constitute the practice of veterinary medicine or the practice of equine dentistry without a license ("respondent") in violation of Chapter 801 of the Occupations Code ("Veterinary Licensing Act") and whether the Board should issue a cease and desist order in accordance with the Veterinary Licensing Act, §801.508. The purpose of this section is to establish procedures for the handling of complaints regarding the unlicensed practice of medicine and other violations of the Veterinary Licensing Act, a rule adopted by the Board, or another statute relating to the practice of veterinary medicine or equine dentistry by a person who is not licensed by the Board in accordance with Chapter 801 of the Veterinary Licensing Act.~~

~~(b) Form of Complaint. Notwithstanding §575.27 of this title (relating to Complaints Receipt) to the contrary, a complaint of someone practicing veterinary medicine or equine dentistry without a license does not have to be submitted on a complaint form utilized by the Board. However, a complainant must submit some form of written documentation to the Board.]~~

~~(c) Staff Committee Action.~~

~~(1) Upon the Board's receipt of a complaint and after a determination that a respondent may have engaged in the unlicensed practice of veterinary medicine or the practice of equine dentistry, a staff committee as defined in §575.27 of this title may propose an agreed cease and desist order ("the order") to be presented to the respondent.~~

~~(2) If the respondent signs the order, it shall be effective and enforceable against the respondent upon receipt by the Board, but it shall not become final until approved by the Board.~~

~~(d) Informal Conference.~~

~~(1) If the Respondent chooses not to sign the order and requests a conference, or if the respondent does not respond after receipt of the order, the complaint shall be referred to an informal conference as defined by §575.27 of this title. If the conference committee determines that a violation of the Veterinary Licensing Act has occurred, it may propose an agreed cease and desist order with such settlement terms as it considers appropriate.~~

~~(2) If the respondent declines to sign the order, the Board may refer the complaint and investigative file to the State Office of Administrative Hearings for a contested case proceeding. Following the proceeding and issuance of a proposal for decision by the administrative law judge, the Board may take such action as appropriate.~~

AGENDA ITEM 5

TAB 5

Discussion and direction to staff regarding the medical review process in complaint investigations

AGENDA ITEM 6

Discussion, recommendation and possible action regarding permissible uses of titles and letters for veterinary assistants. (*Dr. Quillivan*)

AGENDA ITEM 7

Discussion, recommendation and possible action regarding training on compliance with controlled substance statues and rules, including possible continuing education requirements. (*Dr. Quillivan*)

AGENDA ITEM 8

TAB 6

Discussion and recommendation regarding potential creation of rules committee. (*Dr. Quillivan*)

AGENDA ITEM 9

TAB 7

Discussion and recommendation regarding agency management of disaster and emergency relief responses. (*Dr. Quillivan*)

AGENDA ITEM 10

TAB 8

Discussion, recommendation and possible action regarding future Board meeting dates. (*Dr. Quillivan*)

AGENDA ITEM 11

TAB 9

Discussion of possible agenda items for future Board meetings. (*Dr. Quillivan*)

AGENDA ITEM 12

TAB 10

CONSIDERATION AND APPROVAL OF AGREED ORDERS

Are there any Agreed Orders that need to be pulled for discussion?

If yes:

I move that we go into Executive Session for private consultation and advice of counsel concerning pending or contemplated litigation, including administrative proceedings, 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.

RETURN TO OPEN SESSION STATEMENT:

There was no final action, decision, or vote with regard to any matter considered or discussed in executive session. The executive session ended at (____) on (____). A certified agenda of the executive session was made.

Motion to approve all orders:

I move that we approve all Agreed Orders as presented.

Motion regarding orders that were pulled and not approved as a group:

I move that we do not approve Agreed Order(s) _____ and direct staff to _____.

- Is there a Second?
- Is there any discussion?
- All in favor, say aye.
- All opposed, say nay.

STANDARD OF CARE ORDERS

IN THE MATTER OF § TEXAS BOARD OF
THE LICENSE OF § VETERINARY
██████████ D.V.M. § MEDICAL EXAMINERS

Received
DEC 13 2017

AGREED ORDER

On this day the Texas Board of Veterinary Medical Examiners ("Board") considered the matter of the license of ██████████ D.V.M. ("Respondent").

Respondent, without admitting the truth of the Findings of Fact and Conclusions of Law set out in this Order, waived notice and hearing and agreed to the entry of this Order. Accordingly, the Board makes the following Findings of Fact and Conclusions of Law and enters this Order as set forth below.

FINDINGS OF FACT

1. Respondent, ██████████ D.V.M., of Centerville, Texas, holds Texas veterinary license ██████████.
2. Respondent works as an independent contractor for ██████████ providing services including embryo transfer, ultrasound-guided transvaginal oocyte aspiration, non-surgical embryo flushing, and ultrasound pregnancy checking and processing of recipients. Respondent agreed to provide the necessary level of supervision and follow up care for these procedures.
3. Respondent provided his veterinary license number to ██████████ to be used for the ordering of prescription drugs.
4. ██████████ is not owned solely by veterinarians licensed in the State of Texas.
5. On December 3, 2015, ██████████ a non-licensed employee of ██████████ performed an epidural and oocyte aspiration procedure on a Beefmaster Cow (hereinafter "Donor 37"). Respondent was present on the property when this procedure was performed, but did not examine Donor 37 or supervise the procedure.
6. Donor 37 had difficulty recovering from the epidural and exhibited hind end ataxia and difficulty rising when moving from the chute to the holding pen. Respondent was not asked to examine or treat Donor 37 until the following day, December 4, 2015. Respondent provided medical care and treatment, and referred Donor 37 to another veterinarian for further diagnostics and treatment. Donor 37 was later transported to Texas A&M, where radiographs were taken and multiple ruptured stifle ligaments were observed. Donor 37's owner made the decision to euthanize

the cow. Donor 37's owner was not aware that a veterinarian was not providing the services for which she hired [REDACTED].

7. On January 11, 2016, [REDACTED] performed an oocyte collection on a cow (hereinafter "Donor 9141"). Respondent was not present on the property when this procedure was performed. Donor 9141 was transported home by trailer following the procedure. Donor 9141 exhibited lameness upon returning to the owner's property. Respondent discussed possible differentials with Donor 9141's owner by telephone and recommended the cow be transferred to a local veterinarian. Donor 9141 was later transferred to another veterinarian and euthanized. Respondent did not create medical records for Donor 9141.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Chapter 801, the Board has jurisdiction over this matter. Respondent is required to comply with the provisions of the Veterinary Licensing Act, Chapter 801, Texas Occupations Code, and with the Board's Rules. Respondent received notice as required by law.
2. Respondent has violated Board Rule 573.10 of the Board's Rules of Professional Conduct.
3. Respondent has violated Board Rule 573.21 of the Board's Rules of Professional Conduct.
4. Respondent has violated Board Rule 573.52 of the Board's Rules of Professional Conduct.
5. Respondent has violated Section 801.352 of the Veterinary Licensing Act, Texas Occupations Code.
6. Respondent has violated Section 801.402(6) of the Veterinary Licensing Act, Texas Occupations Code.
7. Respondent is subject to disciplinary action under Texas Occupations Code, Sections 801.401(a), and 801.451.
8. Pursuant to Board Rule 575.25, Respondent's violations are Class B violations, and Respondent is subject to disciplinary action under that Rule.

TERMS OF ORDER

Now, therefore, the Board and Respondent agree to the following terms:

1. REPRIMAND
 - a. Respondent is hereby formally reprimanded by the Board. This formal reprimand may be published in the Board's newsletter and routinely reported to the American Association of Veterinary State Boards (AAVSB) for inclusion in the national reporting database.

2. ADMINISTRATIVE PENALTY

- a. Respondent shall pay an administrative penalty of one thousand dollars (\$1,000.00) within 30 days of the date the Board approves this Order. Payment shall be made directly to the Texas Board of Veterinary Medical Examiners at 333 Guadalupe Street, Suite 3-810, Austin, Texas 78701. Partial payments will not be accepted.
- b. If Respondent does not timely pay the administrative penalty, the Board may deny a request to renew Respondent's license until the outstanding administrative penalty is received, pursuant to Board Rule 573.62(b). Any monetary funds paid to the Board to renew a license shall first be applied to any outstanding unpaid administrative penalties, pursuant to Board Rule 571.57. Additionally, the matter may be referred to the Attorney General for collection, pursuant to Texas Occupations Code, Section 801.458.

3. CONTINUING EDUCATION

- a. In addition to the annual continuing education required for license renewal, Respondent shall complete three (3) hours of continuing education in the area of recordkeeping within one year of the date the Board approves this Order. Respondent shall submit documentation of the completed continuing education penalty and the required annual continuing education to the Board within one year and 30 days of the date the Board approves this Order. Documentation shall be submitted directly to the Texas Board of Veterinary Medical Examiners at 333 Guadalupe Street, Suite 3-810, Austin, Texas 78701.

4. ADHERENCE TO THE LAW AND BOARD RULES

- a. Respondent shall abide by the Board's Rules of Professional Conduct, the Texas Veterinary Licensing Act, and the laws of the State of Texas and the United States.
- b. Respondent shall cooperate with the Board's attorneys, investigators, compliance officers and other employees and agents investigating Respondent's compliance with this Order.
- c. Failure by Respondent to comply with the terms of this Order, or with any other provisions of the Veterinary Licensing Act or the Board Rules, may result in further disciplinary action.

The effective date of the terms of this Order shall be the date it is adopted by the Board, unless stated otherwise.

Certification and signature page follows.

RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Order. I waive ~~representation by counsel.~~ I have reviewed this Order and understand the Findings of Fact and Conclusions of law set forth herein. I neither admit nor deny the violation(s) herein. I understand that this Order contains the entire agreement, and there is no other agreement of any kind. I waive the right to any further proceedings, including a formal hearing, and the right to seek judicial review of this Order.

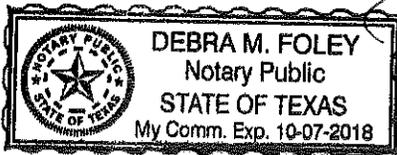
I understand that this Order is subject to approval by the Board. I understand that the terms and conditions of this Order become effective upon approval by the Board. A copy of the approved Order will be mailed to me. By signing this Order, I agree to satisfactorily comply with the terms and conditions of the Order in a timely manner. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and appropriate disciplinary action as a result of my noncompliance.

Signed this 4 day of December, 2017.



Sworn and subscribed before me this 4th day of December, 2017.

SEAL:



Debra M. Foley

Notary Public

THEREFORE, the Texas Board of Veterinary Medical Examiners does hereby adopt this Order. This Order is effective and final on this _____ day of _____, 20____.

Jessica Quillivan, D.V.M., Presiding Board Member

IN THE MATTER OF § TEXAS BOARD OF
THE LICENSE OF § VETERINARY
██████████ D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this day the Texas Board of Veterinary Medical Examiners ("Board") considered the matter of the license of ██████████ D.V.M. ("Respondent").

Respondent, without admitting the truth of the Findings of Fact and Conclusions of Law set out in this Order, waived notice and hearing and agreed to the entry of this Order. Accordingly, the Board makes the following Findings of Fact and Conclusions of Law and enters this Order as set forth below.

FINDINGS OF FACT

1. Respondent, ██████████, D.V.M., of Dallas, Texas, holds Texas veterinary license # ██████████.
2. On September 20, 2013, ██████████ called the Bastrop Veterinary Hospital ("the clinic") for treatment of a laceration on the right front leg of her ten-year-old Quarter Horse gelding, named Harvey. Before bringing Harvey to the clinic, ██████████ administered 10ml of Banamine at home.
3. Respondent examined Harvey and noted that he exhibited grade two lameness with moderate tissue damage and swelling, and had a temperature of 100.8°F. Harvey was mildly sedated, and the wound was sutured. Respondent stated that the wound closed easily on caudal aspect, but was very tight on cranial aspect and did not close completely. Respondent applied a bandage to keep the wound covered and closed. Respondent dispensed antibiotics and gave ██████████ instructions to perform hydrotherapy once a day and continue the Banamine as needed. Respondent stated that she cautioned ██████████ that the sutures might not hold, and advised keeping the wound bandaged. Respondent did not adequately evaluate whether there was joint involvement in the wound.
4. Harvey returned to Respondent for a recheck on September 28, 2013. Respondent stated that no significant lameness was observed, but that some of the sutures had come out, and the wound was not completely closed. The wound was very thickened, and Respondent observed mild hemorrhagic and purulent discharge. Respondent stated that she was unable to suture the wound due to swelling, but cleaned, treated, and rebandaged it. Respondent stated that she discussed hospitalizing Harvey for daily wound care, as well as antibiotic injections, but the medical records do not indicate that hospitalization or injectable antibiotics were offered or declined. Respondent

dispensed additional antibiotics, and gave [REDACTED] instructions to continue the hydrotherapy and change the bandage daily with Granulex.

5. Respondent did not see Harvey again until November 8, 2013. The medical records state that Respondent was the attending physician on that date. However, [REDACTED] states that [REDACTED] D.V.M., another veterinarian at the clinic, was the only veterinarian she spoke to on that day. The medical records state that Harvey's right front fetlock was swollen and painful, but that no significant lameness, drainage, or discharge from the wound was observed. Radiographs were taken to evaluate bone or joint involvement, which revealed significant soft tissues swelling with narrow joint space. Respondent states that she believes she consulted with another veterinarian about the radiographs, but [REDACTED] denies that this occurred. Respondent states that she recommended an ultrasound and joint tap at this time and [REDACTED] declined. This conversation was not documented in the medical records, and [REDACTED] denies that it occurred. Respondent sent Harvey home with instructions to continue the antibiotics, to continue the anti-inflammatory medicines as needed, and for hydrotherapy and rest. Respondent did not refer Harvey to a specialist or to another veterinarian for additional evaluation or treatment.

6. Respondent did not examine Harvey again after November 8, 2013. He was later referred to Texas Veterinary Medical Center at Texas A&M, and transferred there on December 4, 2013. Harvey was eventually euthanized on April 24, 2014, after several months of care for a severe joint infection.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Chapter 801, the Board has jurisdiction over this matter. Respondent is required to comply with the provisions of the Veterinary Licensing Act, Chapter 801, Texas Occupations Code, and with the Board's Rules. Respondent received notice as required by law.
2. Respondent has violated Board Rule 573.22, Professional Standard of Care, of the Board's Rules of Professional Conduct.
3. Respondent has violated Board Rule 573.24, Responsibility of a Veterinarian to Refer a Case, of the Board's Rules of Professional Conduct.
4. Respondent has violated Board Rule 573.52, Veterinarian Patient Record Keeping, of the Board's Rules of Professional Conduct.
5. Respondent has violated Section 801.402(6) of the Veterinary Licensing Act, Texas Occupations Code.
6. Respondent is subject to disciplinary action under Texas Occupations Code, Sections 801.401(a), and 801.451.
7. Pursuant to Board Rule 575.25, Respondent's violations are Class B violations, and Respondent is subject to disciplinary action under that Rule.

TERMS OF ORDER

Now, therefore, the Board and Respondent agree to the following terms:

1. REPRIMAND

- a. Respondent is hereby formally reprimanded by the Board. This formal reprimand may be published in the Board's newsletter and routinely reported to the American Association of Veterinary State Boards (AAVSB) for inclusion in the national reporting database.

2. ADMINISTRATIVE PENALTY

- a. Respondent shall pay an administrative penalty of two thousand dollars (\$2,000.00) within 30 days of the date the Board approves this Order. Payment shall be made directly to the Texas Board of Veterinary Medical Examiners at 333 Guadalupe Street, Suite 3-810, Austin, Texas 78701. Partial payments will not be accepted.
- b. If Respondent does not timely pay the administrative penalty, the Board may deny a request to renew Respondent's license until the outstanding administrative penalty is received, pursuant to Board Rule 573.62(b). Any monetary funds paid to the Board to renew a license shall first be applied to any outstanding unpaid administrative penalties, pursuant to Board Rule 571.57. Additionally, the matter may be referred to the Attorney General for collection, pursuant to Texas Occupations Code, Section 801.458.

3. CONTINUING EDUCATION

- a. In addition to the annual continuing education required for license renewal, Respondent shall complete three (3) hours of continuing education in the area of patient record keeping and three (3) hours in wound management within one year of the date the Board approves this Order. These hours shall be in addition to Respondent's annual continuing education requirements. Respondent shall submit documentation of the completed continuing education penalty and the required annual continuing education to the Board within one year and 30 days of the date the Board approves this Order. Documentation shall be submitted directly to the Texas Board of Veterinary Medical Examiners at 333 Guadalupe Street, Suite 3-810, Austin, Texas 78701.

4. ADHERENCE TO THE LAW AND BOARD RULES

- a. Respondent shall abide by the Board's Rules of Professional Conduct, the Texas Veterinary Licensing Act, and the laws of the State of Texas and the United States.
- b. Respondent shall cooperate with the Board's attorneys, investigators, compliance

officers and other employees and agents investigating Respondent's compliance with this Order.

- c. Failure by Respondent to comply with the terms of this Order, or with any other provisions of the Veterinary Licensing Act or the Board Rules, may result in further disciplinary action.

The effective date of the terms of this Order shall be the date it is adopted by the Board, unless stated otherwise.

Certification and signature page follows.

RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Order. I waive representation by counsel. I have reviewed this Order and understand the Findings of Fact and Conclusions of law set forth herein. I neither admit nor deny the violation(s) herein. I understand that this Order contains the entire agreement, and there is no other agreement of any kind. I waive the right to any further proceedings, including a formal hearing, and the right to seek judicial review of this Order.

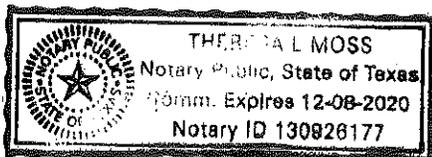
I understand that this Order is subject to approval by the Board. I understand that the terms and conditions of this Order become effective upon approval by the Board. A copy of the approved Order will be mailed to me. By signing this Order, I agree to satisfactorily comply with the terms and conditions of the Order in a timely manner. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and appropriate disciplinary action as a result of my noncompliance.

Signed this 18th day of December, 2017.



Sworn and subscribed before me this 18th day of December, 2017.

SEAL:



Theresa L Moss
Notary Public

THEREFORE, the Texas Board of Veterinary Medical Examiners does hereby adopt this Order. This Order is effective and final on this _____ day of _____, 20____.

Jessica Quillivan, D.V.M., Presiding Board Member

DOCKET NO. 2017-199

IN THE MATTER OF § TEXAS BOARD OF
THE LICENSE OF § VETERINARY
██████████, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this day the Texas Board of Veterinary Medical Examiners ("Board") considered the matter of the license of ██████████ D.V.M. ("Respondent").

Respondent, without admitting the truth of the Findings of Fact and Conclusions of Law set out in this Order, waived notice and hearing and agreed to the entry of this Order. Accordingly, the Board makes the following Findings of Fact and Conclusions of Law and enters this Order as set forth below.

FINDINGS OF FACT

1. Respondent, ██████████ D.V.M., of Lindale, Texas, holds Texas veterinary license ██████████.
2. On July 25, 2016, ██████████ presented his seven year old Shih Tzu, T.J., to Respondent for examination of a growth on his right hind leg. Respondent recommended removing the growth, repairing an abdominal hernia, and cleaning T.J.'s teeth.
3. On July 27, 2016, ██████████ presented T.J. to Respondent to perform the recommended procedures. Respondent's medical records do not include details necessary to document the examination and surgical procedures. When ██████████ returned to pick up T.J., he noted that T.J. was coughing. Respondent's staff told ██████████ that the coughing was due to throat irritation from the trachea tube.
4. On July 28, 2016, T.J. continued to cough. ██████████ contacted Respondent's facility at 9 a.m. and 3 p.m. Again, Respondent's staff told ██████████ not to be concerned. ██████████ contacted the facility again at 10 p.m. and was instructed by another veterinarian to take T.J. to an emergency facility. Respondent's medical records do not include details regarding these client communications.
5. ██████████ presented T.J. to an emergency facility at approximately 11:30 p.m. the same day. The examining veterinarian observed fluid in T.J.'s lungs. The veterinarian suspected aspiration and administered a furosemide injection to reduce fluid. ██████████ brought T.J. home at approximately 1 a.m. on July 29, 2016. At approximately 8 a.m. the same morning, ██████████ discovered that T.J. had died.

6. Respondent consulted with his staff regarding the case and was told that vomited food was found in the back of the cage that held T.J. on the evening of July 27, 2016. This information is not reflected in the medical records.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Chapter 801, the Board has jurisdiction over this matter. Respondent is required to comply with the provisions of the Veterinary Licensing Act, Chapter 801, Texas Occupations Code, and with the Board's Rules. Respondent received notice as required by law.
2. Respondent has violated Board Rule 573.52, Veterinarian Patient Record Keeping, of the Board's Rules of Professional Conduct.
3. Respondent has violated Section 801.402(6) of the Veterinary Licensing Act, Texas Occupations Code.
4. Respondent is subject to disciplinary action under Texas Occupations Code, Sections 801.401(a), and 801.451.
5. Pursuant to Board Rule 575.25, Respondent's violations are Class C violations, and Respondent is subject to disciplinary action under that Rule.

TERMS OF ORDER

Now, therefore, the Board and Respondent agree to the following terms:

1. REPRIMAND
 - a. Respondent is hereby informally reprimanded by the Board. This informal reprimand will not be published in the Board's newsletter and will not be routinely reported to the American Association of Veterinary State Boards (AAVSB) for inclusion in the national reporting database. A copy of this informal reprimand will be forwarded to the AAVSB if specifically requested by that organization.
2. CONTINUING EDUCATION
 - a. In addition to the annual continuing education required for license renewal, Respondent shall complete three (3) hours of continuing education in the area of patient recordkeeping within one year of the date the Board approves this Order. These hours shall be in addition to Respondent's annual continuing education requirements. Respondent shall submit documentation of the completed continuing education penalty and the required annual continuing education to the Board within one year and 30 days of the date the Board approves this Order. Documentation shall be submitted directly to the Texas Board of Veterinary Medical Examiners at 333 Guadalupe Street, Suite 3-810, Austin, Texas 78701.

3. ADHERENCE TO THE LAW AND BOARD RULES

- a. Respondent shall abide by the Board's Rules of Professional Conduct, the Texas Veterinary Licensing Act, and the laws of the State of Texas and the United States.
- b. Respondent shall cooperate with the Board's attorneys, investigators, compliance officers and other employees and agents investigating Respondent's compliance with this Order.
- c. Failure by Respondent to comply with the terms of this Order, or with any other provisions of the Veterinary Licensing Act or the Board Rules, may result in further disciplinary action.

The effective date of the terms of this Order shall be the date it is adopted by the Board, unless stated otherwise.

Certification and signature page follows.

RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Order. I waive representation by counsel. I have reviewed this Order and understand the Findings of Fact and Conclusions of law set forth herein. I neither admit nor deny the violation(s) herein. I understand that this Order contains the entire agreement, and there is no other agreement of any kind. I waive the right to any further proceedings, including a formal hearing, and the right to seek judicial review of this Order.

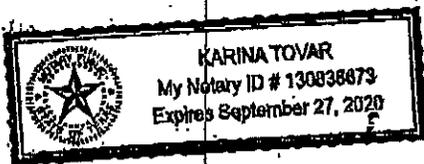
I understand that this Order is subject to approval by the Board. I understand that the terms and conditions of this Order become effective upon approval by the Board. A copy of the approved Order will be mailed to me. By signing this Order, I agree to satisfactorily comply with the terms and conditions of the Order in a timely manner. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and appropriate disciplinary action as a result of my noncompliance.

Signed this 26 day of December, 2017.



Sworn and subscribed before me this 26th day of December, 2017.

SEAL:



Karina Tovar
Notary Public

THEREFORE, the Texas Board of Veterinary Medical Examiners does hereby adopt this Order. This Order is effective and final on this _____ day of _____, 20____.

Jessica Quillivan, D.V.M., Presiding Board Member

AGENDA ITEM 13

TAB 11

Citizens Comments (*Dr. Quillivan*).

If there is anyone in the audience who wishes to address the Board and has not completed one of the Witness Cards, please do so at this time.

Individuals wishing to comment on the rules to be adopted will be recognized during the time the rules are addressed.

The Board will now recognize _____, please limit your comments to **3 minutes**.

CITIZEN COMMENT

JODI WARE

To: The Texas Board of Veterinary Medical Examiners (TBVME) Board Members and Staff

From: Dr. Jodi Ware

Date: January 8, 2018

Subject: Citizen Comments for January 16, 2018 Board Meeting

On December 8, 2016, the Sunset Advisory Commission reported its decisions regarding the TBVME: http://tlcsenate.granicus.com/MediaPlayer.php?view_id=40&clip_id=11491. Several Board members and staff have since departed, but those who remain surely remember that day. Regardless, all representatives of the agency should watch the archived streaming video on at least three separate occasions. Content pertinent to the TBVME starts ~59 minutes into the webcast and lasts ~1 hour. Three views for a sum total of 3 hours per party will be an invaluable use of time, I assure you—I pick up something new every time I tune in. A major theme of discussion was the agency’s sin of inaction.

As the Sunset Advisory Commission was reporting its decisions, I was driving from Houston to Austin to attend my very first TBVME meeting... and what an experience that was! Given my history with the agency, I found it satisfying (albeit uncomfortable) to witness the disruption firsthand. Many changes followed, but disappointingly no substantive reform has occurred as of yet, at least that I’ve noted. Issues with transparency, inconsistencies, excuses, delays, and inaction still persist today. Blame has been attributed to evolving legislation and insufficient staff and Board members, which is nonsensical to me when it comes to many of the issues; however, I’m the first to admit that despite educating myself, liaising with legislators and Board staff, and so carefully following all things TBVME, I still don’t understand how this agency operates. An agency whose first priority is reportedly to protect the public seems to instead protect its licensees.

In the interest of keeping track of the duration of time that has elapsed since I first filed my complaint, today marks 662 days. The interminable inaction by the TBVME puts the citizens of Texas and their pets at risk. As Representative Flynn stressed during the Sunset Advisory Commission decisions meeting, “Inaction is just as egregious.” And, as Representative Burkett emphasized “[The agency’s] inaction is inexcusable and must be corrected.” On that note, 2018 is a new year, and I remain hopeful that correction is in store. I came across the following recently and pray that it rings true:

“According to the Chinese Zodiac, 2018 is the year of the Dog and its characteristic word is ACTION!”

– <https://www.thechinesezodiac.org/horoscope-2018/>

Happy New Year, Board members and staff. I look forward to action in 2018.

CITIZEN COMMENT

JULIE CATALANO

Citizen Comments Submitted for the TBVME Public Board Meeting 1/16/18

My name is Julie Catalano and I am the founder of vetabusenetwork.com, a consumer advocacy web site that I established in 2000 to help veterinary victims in Texas and elsewhere navigate the complaint system in Texas, monitor (with other Texas advocates) the policies and procedures of the TBVME, and give hope that no matter how deeply flawed these systems are that are supposed to be protecting us and our pets, that we can – and will – continue to tell our stories of veterinary incompetence, negligence, and abuse.

When my cat Suki was killed by a Texas veterinarian in April 1999 I was plunged into a nightmare that not even the most imaginative horror writer could have conjured. Apart from having to live with the knowledge that a vet misused his education and skills to actually harm rather than help a family pet – which was horrifying enough – I also had to deal with a board system that ensured that there would never be justice for Suki.

I refused to accept that fate, and instead chose to go public with Suki's Story (vetabusenetwork.com/sukistory) that told chapter and verse, with supporting documentation from his own records, how Edward J. Nichols of Crestway Animal Clinic in San Antonio had mistreated my innocent cat so badly and for so long that to this day, not one veterinarian on this planet has ever been able to explain why this vet did what he did. Not even the vet himself. Instead he resorted to revisionist history, blame shifting, personal and professional defamation, threats and lies—all tactics that he has used for almost two decades, including filing an abusive SLAPP suit in 2005 in a years-long failed attempt to enforce prior restraint through a permanent (unconstitutional) injunction which was denied by the courts and affirmed at the appellate level (vetabusenetwork.com/WhoDidThis.html). Try as he might and despite his millions, Suki's killer cannot suppress the truth.

But it wasn't surprising that he thought he could. After all, he had help from a system that deliberately looked the other way. Like so many BadVets before and since, he walked scot free from all accountability despite a mountain of verifiable evidence ranging from repeated breaches of the Professional Standard of Humane Treatment to insanely egregious record keeping violations. According to the reviewing Board secretary (and now thankfully license-free vet due to his own problems with controlled substance record keeping), Suki was “an old cat.” Later, when I asked the board attorney at what age is an animal patient no longer entitled to the Professional Standard of Humane Treatment—I really needed to know so that I could pass on that information to others who also needed to know—he was silent. He remained silent during all the subsequent times I asked him that question.

Maybe you, as a board, can choose to be silent when tough questions asked of you are too uncomfortable or unanswerable, but we, as victims, cannot. The Texas veterinary board system failed Suki and me, and if the last almost 19 years are any indication, it continues to fail many people who had no idea that incompetent, negligent, and abusive vets can and do get away with inflicting pain, loss, grief and yes, horror, first on our pets and then on us, using a board system that has repeatedly proven its allegiance to its own industry instead of the public that they are charged with protecting.

When vet victims experience the double whammy of 1) losing a pet to veterinary malfeasance and then 2) watching a state agency use their power to protect a veterinarian rather than the public, there's not much to reassure veterinary victims.

Except this: These are hopeful times. Real life horror stories of abuse of power that were once untold, unacknowledged, and carefully protected from public view are being exposed. You may have the power, but we have the truth. We will speak that truth to power forever and we will do it in the disinfectant of daylight, so that the veterinary consumers of Texas can decide for themselves which side is more interested in protecting their animal companions.

Thank you for your time.

Julie Catalano

Member, American Society of Journalists and Authors

Member, Authors Guild

January 8, 2018

AGENDA ITEM 14

Executive Session to discuss pending or contemplated litigation, settlement offers, and personnel issues, pursuant to sections 551.074 and .071 of the Texas Government Code, Open Meetings Act.

AGENDA ITEM 15

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

AGENDA ITEM 16

Adjourn.