

**TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS
BOARD MEETING MINUTES
June 11, 2009**

The Texas Board of Veterinary Medical Examiners met for a regularly scheduled meeting on Thursday, June 11, 2009 in Room, #2-225 of the William P. Hobby, Jr. Building, 333 Guadalupe, Austin, Travis County, Texas. Bud Alldredge, D.V.M., President, called the meeting to order at 8:31 a.m. Board Members present were Patrick Allen, D.V.M., Vice-President; Janie Carpenter, D.V.M., Secretary; John Clader, D.V.M.; David Heflin, D.V.M., Ms. Cynthia Diaz, Mr. David Kercheval, Mr. Paul Martinez, and David Rosberg, D.V.M. Board Staff present were: Dewey E. Helmcamp III, JD, Executive Director; Paul Guinn, Assistant General Counsel; Ina Franz, Director of Licensing; Peter Hartline, Director of Enforcement; and Loris Jones, Executive Assistant.

Agenda Item 2, Approval of Minutes. Dr. Clader moved, Mr. Kercheval seconded and the motion passed to approve the minutes of the February 12, 2009 Board meeting.

Agenda Item 3, Citizen Comments. Dr. Alldredge called for citizen comments. Ms. Julie Catalano, Mr. Greg Munson, Ms. Cindy Munson and Ms. Betty Garrity addressed the Board.

Agenda Item 4, Licensure Petitions.

a. Discussion, recommendation and possible action on petitions to have license reissued upon passage of the State Board Exam.

1. Jonathan W. Brooke, D.V.M. Dr. Brooke appeared with counsel, Cathy Tabor, to petition the Board to allow him to sit for the State Board Examination for licensing to regain his Texas veterinary license. Dr. Brooke was originally licensed August 25, 1978, and on June 14, 2007 his license was revoked by this Board pursuant to Section 53.021 of the Texas Occupations Code.

2. Jonathan K. K. Stone, D.V.M. Dr. Stone previously appeared at the February 12, 2009 meeting, at which time the Board voted to allow Dr. Stone to sit for the State Board Exam with the following conditions: Dr. Stone was required to:

- Complete the requirements of his suspension in North Carolina;
- Complete 17 hours of Continuing Education;

- Provide information regarding his peer assistance history in both Texas and North Carolina,

Agenda Items 5 and 6, Consideration and Approval of Agreed Orders and Consideration and Approval of Cease and Desist Orders, Mr. Kercheval and Mr. Martinez moved and the motion passed to approve the Agreed Orders on the following: *2008-83, Gena Viator, DVM; 2009-19, Bruce Hardesty, DVM; 2009-31, Emberly S. Henson, DVM; 2009-32, Eddy T. Soranaka, DVM; 2009-33, Robert D. Langley, DVM; 2009-34, Marcus Alexander, DVM; 2009-36, Mary Brown, DVM; 2009-37, Jon Johnson, DVM; 2009-38, Fred G. Fergusson, DVM; 2009-39, Carlos Zamora, DVM; 2009-40, Wendi Carter, DVM; 2009-41, Penny Kelso, DVM; 2009-42, Patricia Davis, DVM; 2009-43, James Bell, DVM; 2009-44, James Cox, DVM; 2009-45, James Cox, DVM; 2009-46, Amber Crossland, DVM; 2009-47, Christie Cornelius, DVM; 2009-48, David Rundell, DVM; 2009-49, Eunice Ohashiegbula, DVM; 2009-50, David Imke, DVM; 2009-51, H. Dean Clardy, DVM; 2009-52, Lynn A. Bluhm, DVM; 2009-53, Amy Southerland, DVM; 2009-54, Jolynn Joyce, DVM; 2009-55, James T. Morgan, DVM; 2009-56, Anna Bennett-Gildner, DVM; 2009-57, Robert Langley, DVM; 2009-58, David Coleman, DVM; 2009-60, C. Russell Pryor, DVM; 2009-61, Carlos Zamora, DVM*

and the following Cease and Desist Orders: *08-013, 08-171, 08-191, 08-192, 08-207, 08-213, 08-219, 08-244, 08-311, 08-242, 08-400, and 09-024.*

Dr. Carpenter moved and Dr. Clader seconded and the motion passed to go into Executive Session at 9:48 a.m. for private consultation and advice of counsel concerning settlement offers, and/or disciplinary action under the authority of the Open Meetings Act, Government Code, §551.071 and Occupations Code §801.407(d); and Attorney General's Opinion No. H-484. Open session resumed at 11:04 a.m. and it was announced that no action was taken. A certified agenda was made.

After discussion, **Dr. Carpenter moved, Mr. Kercheval seconded and the motion passed to have the veterinary license of Jonathan Brooke reissued under certain terms and conditions as**

outlined in Agreed Licensure Order 2009-63 and upon passage of the State Board Exam. After further discussion, **Dr. Carpenter moved, Mr. Kercheval seconded and the motion passed to have the veterinary license of Jonathan K.K. Stone reissued under certain terms and conditions as outlined in Agreed Licensure Order 2009-64 and upon passage of the State Board Exam.** Dr. Stone is also required to comply fully with any terms and conditions placed upon his license to practice veterinary medicine in North Carolina.

b. Discussion, recommendation and possible action on petitions to waive the Clinical Competency Test.

1. **Joseph M. Cummins, DVM** is a 1966 graduate of the College of Veterinary Medicine at Ohio State. Upon graduation, Dr. Cummins took and passed the National Board Examination (NBE) in Ohio. He served in the US Army for a number of years and eventually went on to earn his Master of Science Degree (1977) and his PhD degree (1978), both in microbiology, from the University of Missouri. Over the years, Dr. Cummins built and operated three animal hospitals in Ohio; taught virology to veterinary students at the University of Illinois; conducted basic research at the Texas A & M University Agricultural Experiment Station in Amarillo; conducted more than 100 clinical studies in animal and man; filed 21 patent applications; published over 50 scientific publications; conducted hundreds of seminars and meetings in a dozen countries, and raised \$40 million for a biotech company. Currently, Dr. Cummins is the President and CEO of Amarillo Biosciences, Inc. in Amarillo, Texas. Dr. Cummins is petitioning the Board to waive the CCT prerequisite, as this exam was not offered when he first sought a license in veterinary medicine. After discussion, **Mr. Kercheval moved and Mr. Martinez seconded and the motion passed to approve the waiver with the** following conditions: Dr. Cummins is required to take and pass the State Board Examination within one year of the approval of this waiver.

2. **Dawn A. Metzger, DVM** is a 1975 graduate of the College of Veterinary Medicine at Colorado State. Upon graduation, Dr. Metzger took and passed the National Board Examination (NBE) in Arizona. The CCT was not available at that time. For the past 24 years, Dr. Metzger owned and operated a veterinary practice in Denver, Colorado which she sold in 2008. Dr. Metzger is petitioning the Board to waive the CCT prerequisite, as it was not offered in 1975. She wishes to pursue an employment opportunity in the Houston area. After discussion, **Dr. Rosberg moved, Mr. Kercheval seconded and the motion passed to approve the waiver with the** following conditions, Dr. Metzger is required to take and pass the State Board Examination within one year of the approval of this waiver.

3. **Jeffrey D. Phillips, DVM** is a 1983 graduate of the College of Veterinary Medicine at Mississippi State. Upon graduation, Dr. Phillips took and passed the National Board Examination (NBE) in Mississippi. Even though the CCT was available at that time, Mississippi considered it “experimental” and did not require this test for licensing. Over the years, Dr. Phillips held licenses in several other states. In 1983, Dr. Phillips opened and operated a mixed animal practice in Mississippi where he remained for three years. For one year, in 1986, Dr. Phillips worked as a VMA for USDA/APHIS here in Austin as part of the Public Veterinary Practice Careers Program. He then returned to small animal private practice until 1997. In 1997, he sold his practice and joined VetSmart (now Banfield) in Oregon, then in Florida and Colorado. Dr. Phillips is still employed with Banfield in Alabama. During his employment with Banfield, he has held several positions at that organization that ranged from Chief of Staff to Vice President of Medical Leadership. Additionally, over the past twelve years, he has given lectures both inside and outside of the Banfield organization. Dr. Phillips is petitioning the Board to waive the CCT prerequisite, as this exam was not required for his original, initial licensure in veterinary medicine. Dr. Phillips has received employment offers from Drs. Mays and Cox in Dallas, Texas and wishes to re-enter private veterinary practice. After discussion, **Mr. Martinez moved, Dr. Rosberg seconded and the motion passed to approve the waiver with the**

following conditions, Dr. Phillips is required to take and pass the State Board Examination within one year of the approval of this waiver.

4. **Gale D. Taylor, DVM** is a 1957 graduate of the College of Veterinary Medicine at the University of Illinois. Upon graduation, Dr. Taylor took and passed the National Board Examination (NBE) in Indiana. The CCT was not available at that time. In 1957, Dr. Taylor opened a general veterinary practice in Illinois, where he remained until 1961 when he was drafted into the military as a Captain in the US Air Force. During his service in the Air Force, Dr. Taylor was selected to participate in the graduate program for Laboratory Animal Medicine. Later, he enrolled in the School of Aerospace Medicine in San Antonio, Texas, and at the University of Minnesota in the environmental health/toxicology program. He graduated with a PhD and a MPH degree. In 1982, he retired from the Air Force. Since that time, he has, among other things, lectured as head of the University of Illinois' laboratory animal medicine program, served on the AAALAC Council on Accreditation, and he served on the board of the American College of Laboratory Animal Medicine. In 2002, he gained employment at the Center for Comparative Medicine at Baylor College of Medicine, where he remained until 2008. He is currently working as a consultant with the Texas Heart Institute. Dr. Taylor is petitioning the Board to waive the CCT prerequisite, as it was not offered in 1957. Two of Dr. Taylor's children are veterinarians in Texas. An opportunity in Houston has arisen which would allow him to provide his expertise with pocket pets as an adjunct to the general veterinary practice. After discussion, **Mr. Martinez moved, Dr. Clader seconded and the motion passed to approve the waiver with the following** conditions, Dr. Taylor is required to take and pass the State Board Examination within one year of the approval of this waiver.

5. **Patricia W. Varner, DVM** is a 1979 graduate of the College of Veterinary Medicine at the University of Missouri. Upon graduation, Dr. Varner took and passed the National Board Examination (NBE) in Missouri. The CCT was not available at that time. Dr. Varner earned a veterinary license in New Mexico, Missouri and Kentucky. As her husband is also a

veterinarian, she sought employment where available while he pursued his professional training in equine reproduction. In 1986, Dr. Varner moved to College Station, Texas, where she pursued her professional interests in aquatic medicine. This included her attaining a Masters in Veterinary Microbiology and her PhD in Veterinary Pathology. In 1996, she became employed at the Texas Veterinary Medical Diagnostic Lab as an aquatic veterinary pathologist with the creation of its aquatic diagnostic service. In 1999, she became a certified fish pathologist. Presently, she is the chair for the technical standards committee for the American Fisheries Society. Recently, the TVMDL experienced a reduction in force associated with reallocation of funds and her position has been terminated. The special license she had to attain in order to work for the TVMDL expires the last day of her employment which is June 10th. She would like to pursue a regular, full license to enable her to perform aquatic consulting work in Texas. Dr. Varner is petitioning the Board to waive the CCT prerequisite, as it was not offered in 1979. **Dr. Heflin moved, Dr. Rosberg seconded and the motion passed to approve the waiver with the following** conditions, Dr. Varner is required to take and pass the State Board Examination within one year of the approval of this waiver.

c. Discussion, recommendation and possible action on petitions to take the State Board Examination.

- 1. Diana Marcela Escobar Brandon, DVM.** In 2002, Dr. Brandon graduated from the University of Caldas in Columbia. After graduation, Dr. Brandon was self-employed in that country until October, 2002. According to paperwork submitted for review, Dr. Brandon moved to Elgin, Texas, where she worked at the Elgin Veterinary Hospital, Equine Division from March 2003 until April 2005. From April 2005 until April 2007, she was employed at the Block House Creek Animal Hospital in Cedar Park, Texas. In April 2007, she once again gained employment at Elgin Veterinary Hospital, this time in the Small Animal Division, where she is still employed today. During her employment at Elgin Veterinary Hospital, it came to the board's attention that she was practicing veterinary medicine without a

license at that facility. In December, 2008, she signed a Cease and Desist Order. In February of this year, she completed the ECFVG program and in April, 2009, she passed the NAVLE. She is now eligible to apply for the Texas State Board Examination. In light of the fact that Dr. Brandon previously practiced veterinary medicine in this State without license, she is petitioning the board to allow her to take the State Board Exam in August of this year to attain a license to practice veterinary medicine in Texas. After discussion, **Mr. Kercheval moved, Mr. Martinez seconded and the motion passed to approve the petition and allow Dr. Brandon to take the State Board Examination.**

Agenda Item 7, Consideration and approval of Proposal for Decision, Louis Farr, DVM. Dr. Farr did not appear, Mr. Paul Guinn represented the board. Mr. Guinn presented a summary of the case history and the Proposal for Decision. After discussion, **Mr. Kercheval moved, Mr. Martinez seconded and the motion passed to adopt the Findings of Fact and Conclusions of Law recommended by the Administrative Law Judge in the Proposal for Decision.**

Agenda Item 8, Discussion, recommendation and possible action regarding Termination of Suspension Petitions.

- 1. Christopher S. Arnold, DVM.** Mr. Guinn presented information regarding the suspension of Dr. Christopher Arnold's license and the options available to the Board on terminating the suspension. Dr. Arnold addressed the board regarding his petition to have the suspension on his license terminated. After discussion, **Dr. Clader moved, Mr. Kercheval seconded and the motion passed to require Dr. Arnold to enter into a contract with the Texas Veterinary Medical Association's Peer Assistance Program. Dr. Arnold must also ensure that a progress report is submitted to the Executive Director prior to the October meeting of the TBVME.** Dr. Arnold must also appear before the Board at the October 2009 meeting unless he has not complied with the requirements set forth or the recommendations of the Peer Assistance Program.

Agenda Item 9, discussion and possible action regarding request from Lauren Pinchbeck, DVM to allow temporary and/or special licensure for out of state veterinarians who would be practicing in her clinic as a relief veterinarian during her absence. After discussion, Mr. Kercheval moved, Dr. Allen seconded and the motion passed to take no action on this matter.

Agenda Item 10, Report from the Rules Committee. The rules committee met as part of the full Board meeting, Mr. Guinn presented the rules that were up for adoption.

- a. **Discussion, recommendation, and possible action on rules to be proposed.** After discussion, Ms. Diaz moved, Dr. Clader seconded and the motion passed to approve proposed amendments to §§571.56, Military Service Fee Waiver; 573.10, Supervision of Non-Licensed Employees; 573.24, Issuance of Certificates Through Direct Knowledge Only; 575.25, Recommended Schedule of Sanctions; 575.28, Complaints – Investigations; and 577.15, Fee Schedule; and to publish the proposed preambles and amendments in the *Texas Register* in accordance with law.

Agenda Item 11, Discussion, recommendation and possible action regarding relief mobile ultrasound consultation services to be performed by veterinarians licensed in a state other than Texas. After discussion, the Board directed staff to notify the individual inquiring that present rules allowed for their relief mobile ultrasound services since a Texas licensed veterinarian would exercise direct supervision over any out of state veterinarian.

Agenda Item 12, Consideration and Approval of the May 7, 2009 Rules Committee Minutes. Dr. Clader moved, Mr. Martinez seconded, and the motion passed to approve the minutes of the May 7, 2009 Rules Committee.

Agenda Item 13, Executive Director's Report.

- a. **Report on Health Professions Council (HPC) Activities.** Mr. Helmcamp gave a brief update on HPC activities.

- b. Report on 2009 License Renewals.** Ms. Franz discussed the annual renewals as of May 22, 2009.
- c. Report on State Board Exams.** Ms. Franz discussed the results of the April 6, 2009 State Board Exam, noting the 99% pass rate.
- d. Status of FY2009 Operating Budgets.** Mr. Keith Cole, Chief Fiscal Officer, gave a brief overview of the FY2009 budget.
- e. Board Performance Update.**
 - 1. Enforcement Report:** Mr. Hartline discussed the Enforcement side of the agency and noted that they have been conducting on-site compliance visits and that there has been a trend of increased number of complaints received with only a slight increase in the average resolution time. The Board also directed staff to breakout the resolution time on cases that are filed at the State Office of Administrative Hearings.
 - 2. Licensing and Examinations Report:** Mr. Helmcamp discussed the statistics related to Licensing and Examinations, as of May 22, 2009 we had 7,156 licensed veterinarians in all categories.
 - 3. Peer Assistance Report:** Mr. Helmcamp mentioned that there are currently eleven veterinarians under the Peer Assistance program which is down from the previous fifteen. Mr. Helmcamp also noted that there have been a few veterinarians who have been dropped from the Peer Assistance program due to non-compliance.
- f. Report on discussion with Texas Veterinary Medical Association.** Mr. Helmcamp mentioned that discussions with the TVMA have been ongoing and continue to be productive.
- g. Update on the 81st Legislative Session.** Mr. Helmcamp mentioned several bills which were introduced during the session that impacted the TBVME, however, only two of the bills passed. Mr. Helmcamp also discussed the General Appropriations Bill (SB 1) which increased the funding for the agency and adds two additional investigators, one

full time administrative assistant for the Enforcement Division as well as an administrative assistant to the Chief Fiscal Officer.

- h. Discussion and possible action on AAVSB proposed by-laws changes.** Mr. Helmcamp mentioned that he had received and had available a copy of the proposed changes for anyone to review.

Agenda Item 14, Discussion and possible action regarding Executive Director's salary. Mr. Kercheval moved, Dr. Allen seconded and the motion passed to increase Mr. Helmcamp's salary to \$80,500 annually effective September 1, 2009 as set out in SB1.

There being no further business, the meeting was adjourned at 3:02 p.m.