

TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS
BOARD MEETING MINUTES
January 23, 2017

The Texas Board of Veterinary Medical Examiners met for a scheduled meeting on Monday, January 23, 2017, in Room #2-225 of the William P. Hobby, Jr. Building, 333 Guadalupe, Austin, Travis County, Texas. Jessica Quillivan, DVM, Board President, called the meeting to order at 8:04 a.m. Board Members present were: Janie Carpenter, DVM; Lynn Criner, DVM; James McAdams; and Keith Pardue. Board Staff present were: Rudy Calderon, Interim Executive Director; Matthew West, Interim Director of Enforcement; Michelle Griffin, Interim General Counsel; Marilyn Hartman, Director of Licensing; Loris Jones, Executive Assistant; and Teresa Long, Chief Fiscal Officer.

Agenda Item 2, Consideration and Approval of the October 18, 2016 Minutes. Dr. Criner moved, Mr. McAdams seconded and the motion passed to approve the October 18, 2016 minutes.

Agenda Item 3, Consideration and Approval of the December 8, 2016 Minutes. Mr. McAdams moved, Mr. Pardue seconded and the motion passed to approve the December 8, 2016 minutes.

Agenda Item 4, Discussion, recommendation and possible action regarding the ratification of the appointment of the Interim Executive Director and the Interim General Counsel. Dr. Criner moved, Mr. Pardue seconded, and the motion passed to ratify the appointment of Rudy Calderon as Interim Executive Director and Michelle Griffin as the Interim General Counsel.

5. Citizen Comments. Dr. Quillivan called for citizen comments. Sam Miller, DVM presented comments on behalf of the Texas Veterinary Medical Association.

Dr. Criner moved, Dr. Carpenter seconded and the motion passed to go into Executive Session at 8:18 a.m. for private consultation and advice of counsel concerning pending or contemplated litigation 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. Open session resumed at 9:28 a.m. and it was announced that no action was taken. A certified agenda was made.

Agenda Item 5 continued. Tom D'Amura, DVM presented comments regarding agency compliance inspections.

Agenda Item 6, Consideration and Approval of Agreed Orders. After discussion, **Dr. Carpenter moved, Dr. Criner seconded and the motion passed to approve agreed orders on the following licensees:** *Nelson McKinney, DVM and Michael Thomas, DVM.*

Dr. Quillivan moved, Mr. Pardue seconded and the motion passed to go into Executive Session at 3:09 p.m. for private consultation and advice of counsel concerning pending or contemplated litigation 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. Open session resumed at 3:15 p.m. and it was announced that no action was taken. A certified agenda was made.

Agenda Item 7, Consideration and Approval of Cease and Desist Orders. After discussion, **Dr. Carpenter moved, Mr. Pardue seconded, and the motion passed to approve the cease and desist order on Walker Fletcher.**

Agenda Item 8, Consideration and approval of cases dismissed at Staff Conference. After discussion, **Dr. Criner moved, Dr. Carpenter seconded and the motion passed to approve the dismissal of the following cases:** CP16-343, CP16-474, CP16-098, CP16-145, CP16-358, CP16-144, CP16-142, CP16-095, CP16-143, CP17-002, CP17-024, CP16-307, CP16-272, CP16-361, CP16-493, CP16-433, CP16-327, CP16-359, CP17-019, and CP16-140.

Agenda Item 9a, Public Hearing, consideration and possible action on rules to be adopted. Ms. Griffin presented the changes proposed at the October 18, 2016 meeting and comments received regarding changes to the following rules: §§571.1, 571.15, 573.51, and 573.64.

After discussion, **Dr. Carpenter moved, Mr. Pardue seconded and the motion passed to adopt the amendment to §571.1.** After further discussion, **Dr. Criner moved, Mr. Pardue seconded, and the motion passed to table §571.15.** After further discussion, **Dr. Carpenter moved, Mr. Pardue seconded, and the motion passed to send §573.51 back to the Rules Committee for further review.** After further discussion, **Dr. Carpenter moved, Dr. Criner seconded and the motion passed to adopt the amendment to §573.64.**

Agenda Item 9b, Discussion, recommendation and possible action on proposed rules. Ms. Griffin presented proposed changes to §573.43 regarding Controlled Substances Registration. After discussion, **Mr. Pardue moved, Mr. McAdams seconded and the motion passed to publish the proposed preamble and amendments to §573.43 in the *Texas Register* in accordance with law for public comment.**

Agenda Item 9c, Discussion, recommendation and possible action on adoption of the Rule Review Plan of Chapter 575. Ms. Griffin presented information on the plan to review Chapter 575, noting that there were no comments received. After discussion, **Dr. Criner moved, Dr. Carpenter seconded, and the motion passed to adopt the Rule Review Plan of Chapter 575.**

Agenda Item 10, Election of Officers. **Dr. Quillivan nominated, Mr. McAdams seconded, and the nominations of Mr. Pardue for Vice-President and Dr. Criner for Secretary passed.**

Agenda Item 11, Appointment of Committees. Dr. Quillivan made the following committee appointments:

Executive Disciplinary Committee: Dr. Quillivan, Dr. Criner, and Mr. Pardue with Dr. Carpenter serving as the licensee alternate and Mr. McAdams as the public member alternate.

Enforcement Committee: Dr. Quillivan, Dr. Carpenter, one public member on a rotating basis, with Dr. Criner serving as the licensee alternate.

Executive Search Committee: Dr. Quillivan (chair), Dr. Criner, and Mr. Pardue.

DVM Examination Committee: The DVM Examination Committee was formed with Dr. Carpenter and Dr. Criner. Additional members are to be added and approved at a later board meeting.

Equine Dental Provider Advisory Committee: Carl Mitz, EDP is reappointed for a term to expire February 1, 2023. Dr. Quillivan noted that the Equine Dental Provider Continuing Education Advisory Committee and the Equine Dental Provider Certifying Entity Committee will be abolished and this committee will serve in those capacities as well as the Equine Dental Provider Examination Committee.

Staff Relations Committee: Mr. McAdams (chair), Dr. Criner, and Dr. Carpenter.

In addition to these committee changes, it was noted that the Licensed Veterinary Technician Advisory Committee will serve as the Licensed Veterinary Technician Examination Committee.

Agenda Item 12, Discussion, recommendation and possible action regarding the repeal of Board Policy Regarding Department of Public Safety Controlled Substances Registration. Ms. Griffin explained that now that the DPS Controlled Substances Registration is no longer in existence and the changes to board rules related to this have been adopted, there is no longer a need for this policy. After discussion, **Dr. Carpenter moved, Dr. Criner seconded, and the motion passed to repeal this policy.**

Agenda Item 13, Information and discussion regarding the Director of Finance and Investigator vacant positions. Ms. Long introduced Mark Patterson who is serving as a contractor assisting in the Finance Division. Mr. Patterson discussed what he has helped the Finance Division accomplish in the two months he has been with us. Mr. Patterson feels that the Director of Finance position could be a part time position should the right candidate be found.

Mr. West discussed the two open investigator positions. It was noted that it would be beneficial and cost effective to have these positions as home based in specific regions of the state.

Agenda Item 14, Information and discussion regarding proposed new agency organizational chart and the creation of an Operations Department and Director position of that department.

Mr. Calderon presented two possible organizational charts, one with the number of Full Time Equivalents (FTEs) at our current cap of 20, and one reflecting the proposed reduction of one FTE by Senate Bill 1 and House Bill 1. Both charts reflect the creation of an Operations Department. Mr. Calderon also discussed the need for a Director of Operations to oversee this department. He noted that since the duties that would fall under this position are those currently performed by the current executive assistant, his recommendation would be to divide the duties of the current executive assistant and reclassify her as the Director of Operations and move the executive director support to the legal administrative assistant.

Agenda Item 15, Discussion, recommendation and possible action regarding the placement of Temporary Clinic Notifications on agency website. Dr. Criner was wanting more information on the logistics and feasibility of placing temporary clinic notices received on the website. Systems Analyst, Joel Rierson, noted that at this time the information we receive is uploaded into our database but there is no real clean way to put that information on the website other than in the format of a spreadsheet. After discussion, the Board directed staff to discuss and research further options for placing these notifications on the agency website.

Agenda Item 16, Discussion, recommendation and possible action regarding the creation of a workgroup to review and develop guidelines on continuing education to include alternative medicine continuing education. Dr. Criner discussed the approval of alternative medicine continuing education (CE) and whether there was a need for a workgroup to review and develop guidelines on the approval of alternative medicine CE. Ms. Hartman noted that most alternative medicine CE courses are currently approved, all or in part, through the American Association of Veterinary State Boards RACE program.

Agenda Item 17, Discussion, recommendation and possible action regarding the frequency of board meetings. Mr. Calderon discussed that for the foreseeable future due to the recommendations by the Sunset Commission and related work to be done pursuant to those recommendations, the Board hold monthly instead of quarterly meetings. The members of the Board agreed with this recommendation with dates to be set at a later time. Once dates were agreed upon and meeting space reserved, the Board directed staff to publish the dates on the agency website.

Agenda Item 18, Discussion, recommendation and possible action regarding Sunset Commission report and recommendations.

a. Standard Data Elements for PMP reporting. Ms. Griffin discussed the standard data items that had been discussed with the Texas State Board of Pharmacy. These items include but are not limited to the animal's name, species, and estimated date of birth as well as the owner's name and a differentiation between animal and human dispensing.

b. Continuing Education audits as part of renewal process. Ms. Hartman discussed the new procedure in which a random audit of continuing education (CE) will be performed. The process will include sending a letter to randomly selected licensees that requests documentation to show completion of CE hours used to meet license renewal requirements. The letter will include instructions on how to comply with the request.

c. SOAH's current guidance on scope of the owner and designated caretaker exemptions.

Ms. Griffin discussed the SOAH decision issued in TBVME v. Ellen Jefferson, D.V.M. regarding the exemption found in Section 801.004(1) of the Veterinary Licensing Act. Ms. Griffin gave an overview of the guidance offered by SOAH and the preliminary investigative process developed by Staff to implement that guidance.

d. Board member training. Mr. Calderon discussed the option of having in house training for board members that the American Association of State Veterinary Boards (AAVSB) provides. The cost for that training is \$4,995 plus expenses for the presenters. AAVSB staff will be in Austin the week of April 3, 2017 for investigator training and could do this training at that time. After the discussion, the Board directed staff to see if it is possible to have this training at a reduced cost since they are in Austin already; as well as reach out to other agencies in the building to see if there is interest in this training for their board members.

e. Schedule of Sanctions. Ms. Griffin presented information on proposed schedule of sanctions for the more frequent violations such as continuing education, substance abuse, controlled substance logs, patient records and violations of the standard of care.

f. Other Sunset Recommendations. Mr. Calderon noted that the first quarterly report was due on January 31, 2017 and that the members of the board would receive the draft copy for their review by Friday, January 28, 2017.

Agenda Item 19, Executive Director's Report.

a. Report on agency personnel and staffing. Mr. Calderon reported on his one on one interviews with staff as well as the subsequent surveys. He reported that staff morale and job satisfaction was extremely poor as a result of poor management, poor communication, outdated procedures, low pay and distrust between departments. While not all staff felt the same way about all issues the agency faces, nearly all agreed that the agency was broken.

b. Report on Health Professions Council Activities. Mr. Calderon reported that at this time there is nothing to report.

c. Enforcement Department Report. Mr. West discussed the statistics of the enforcement division, specifically noting that the current average resolution time was 249 days. Mr. West also reported that the investigators would be attending an upcoming training by the USDA and the Texas Animal Health Commission as well as a driving safety course.

Ms. Griffin discussed the legal statistics noting that there are approximately forty-three (43) cases pending informal conference, seven (7) cases pending filing at the State Office of Administrative Hearings (SOAH), and one (1) case currently filed at SOAH. Ms. Griffin also noted that there are currently nineteen (19) peer assistance clients, eight (8) by board order and eleven (11) voluntary.

d. Finance Department Report. Ms. Long discussed the budget and revenue reports, noting that the majority of the funds we were having to lapse back to the state were due to unexpended salaries due to staff turnover.

e. Licensing Department Report. Ms. Hartman discussed licensing department statistics, noting that 95% of licensees renewed online in 2016, all veterinarian applicants who took the state board exam between September 1 and December 31, 2016 passed and all but six (6) licensed veterinary technician applicants who took their state board exam during that same timeframe passed. Ms. Hartman further discussed the criminal history information reports are being run quarterly and given to enforcement for review and that she is working with the enforcement and legal divisions on workflow processes between these divisions.

f. Operations Department Report. Ms. Jones discussed customer outreach noting that since November 23, 2016, eight (8) email blasts have been sent out and that feedback has been favorable. This outreach will continue with new emails being sent out at least once per month.

Ms. Jones noted that there will be monthly staff meetings which should help with communication throughout the agency as well as “lunch and learn” trainings with one currently scheduled for February 16, 2017. The recommendation from the Sunset Commission regarding an agency career ladder has been completed. The career ladder has been incorporated into the agency employee handbook and that handbook has been distributed to all staff. Ms. Jones further discussed the Personnel Policy and Procedure Review that is done every six years by the

Civil Rights Division of the Texas Workforce Commission. It was discovered that we were notified incorrectly that our review was to happen in fiscal year 2017 when it is actually scheduled for fiscal year 2018.

Ms. Jones further discussed the upgrade to our Neubus document storage system which will move us over to a document management system. With our current system we only have licensure files scanned and with the increased functionality we will be adding the other divisions as well.

Ms. Jones discussed legislation being tracked, noting that the Senate Finance Committee hearing is scheduled for February 14, 2017 and there is currently only one bill that would specifically touch the Veterinary Licensing Act. The bill would require live streaming of any open meetings of the board. Ms. Jones further noted she has reached out to create an HPC Legislative Workgroup to discuss and collaborate on bills that affect our individual agencies and bills that impact all HPC agencies.

There being no further business, the meeting adjourned at 5:11 p.m.