

TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

BOARD MEETING MINUTES

April 19, 2016

The Texas Board of Veterinary Medical Examiners met for a regularly scheduled meeting on Tuesday, April 19, 2016, in Room #2-225 of the William P. Hobby, Jr. Building, 333 Guadalupe, Austin, Travis County, Texas. Roland Lenarduzzi, DVM, Board President, called the meeting to order at 9:17 a.m. Board Members present were, Dan Craven, DVM, Vice-President; Joe Mac King, DVM, Secretary; Janie Carpenter, DVM; Lynn Criner, DVM; James McAdams; Keith Pardue; Jessica Quillivan, DVM and Chad Upham. Board Staff present were: Nicole Oria, Executive Director; Maggie Griffith, General Counsel; Michelle Griffin, Staff Attorney; Marilyn Hartman, Director of Licensing; Loris Jones, Executive Assistant.

Agenda Item 2, Introduction of new board members. Dr. Lenarduzzi introduced Sandra “Lynn” Criner, DVM and Jessica Quillivan, DVM.

Agenda Item 3, Introduction of new staff members. Ms. Phillips introduced Troy Willmon, Investigator; and Ms. Hartman introduced Narcissa Pena, License & Permit Specialist.

Agenda Item 4, Consideration and Approval of the January 26, 2016 Minutes. Dr. Carpenter moved, Dr. King seconded and the motion passed to approve the January 26, 2016 minutes.

Agenda Item 5, Citizens Comments. Dr. Lenarduzzi called for citizen comments. Sam Miller, DVM presented comments on behalf of the Texas Veterinary Medical Association.

Agenda Item 4, Discussion, recommendation and possible action on petition(s) to waive the passing score of the NBE and be granted a temporary license.

- a. **Douglas Winter, DVM** Dr. Winter wishes to petition the Board for approval of a temporary license so that he can treat a great ape at the Houston Zoo. This great ape has a dental procedure that needs to be performed that is out of the comfort zone of the zoo’s veterinary dentist (see email below). However, upon review of his application, we realized

that Dr. Winter did not obtain the Texas-required passing score of 75 on the NBE when he took the exam in 1987 (his score was 73). He did pass the CCT with a score of 80.

Dr. Winter obtained a license in Kansas in 1987 and has been licensed in Kansas since that date with no history of disciplinary action. He is also a board-certified specialist of the American Veterinary Dental College. Dr. Chandra Miles of Gulf Coast Veterinary Specialists will be performing the procedure with Dr. Winter. Ms. Hartman has spoken with Dr. Miles on the phone and she told Ms. Hartman that she has limited options for a veterinary dentist with experience with great apes. She specifically sought out Dr. Winter for his skills and experience and will be at the board meeting to speak on behalf of Dr. Winter. Due to budget restraints at the Houston Zoo, it is not feasible to pay to fly Dr. Winter in for the board meeting, and then pay to fly him in again to perform the procedure on the ape.

After discussion, **Dr. Carpenter moved, Dr. Craven seconded and the motion passed to waive the passing score requirement and allow Dr. Winter to receive a temporary license.** Justification for the waiver is based upon Dr. Winter being board certified in his specialty, he has had no disciplinary action taken by the Kansas Board of Veterinary Examiners, he will be working alongside of a Texas licensed veterinarian who is also board certified and knows Dr. Winter's skills and experience surpass her own.

Dr. Craven moved, Dr. Quillivan seconded and the motion passed to go into Executive Session at 9:45 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 10:10 a.m. and it was announced that no action was taken. A certified agenda was made.

Agenda Item 7, Consideration and approval of Agreed Orders. After discussion, **Dr. Carpenter moved, Dr. King seconded and the motion passed to pull Docket 2016-028** and dismiss the case as no violation. After further discussion, **Dr. Carpenter moved, Dr. Quillivan seconded and the motion passed to pull the following agreed orders and send them back for further investigation:** 2016-001, 2016-031, 2016-033, 2016-039, 2016-051, 2016-066, 2016-067, 2016-068, 2016-069, 2016-077, 2016-078, 2016-079, 2016-082, 2016-094, 2016-097, 2016-105, 2016-106, 2016-112, 2016-114, and 2016-115. After further discussion, **Dr. Carpenter moved, Dr. King seconded and the motion passed to approve the agreed orders on the following licensees:** *Wayne Koski, DVM; Herman Rathke, DVM; Cynthia Garrett, DVM; Bud Alldredge, III, DVM; William Rasch, DVM; Braden Boening, DVM; Glen Campbell, DVM; Lisa Daniel, DVM; Donna Henry, DVM; Ashley Folsom, LVT; Thomas Martin, DVM; Kimberly Simpson, DVM; Sarah McCabe, DVM; Jaime Presley, DVM; Abra Wright, DVM; and Joel Miskimins, DVM.*

Agenda Item 8, Consideration and approval of Cease and Desist Orders. After discussion, **Dr. Carpenter moved, Dr. Quillivan seconded and the motion passed to approve the Cease and Desist Orders on the following individuals:** *Jamie Bakke and Katia Marquez.*

Agenda Item 9, Discussion, recommendation and possible action on Proposal for Decision on Janek Vluggen, DVM. Dr. King and Mr. Upham were recused from discussion and voting on this agenda item. Mr. Vlugegen did not appear and was not represented at the meeting. Michelle Griffin represented the Board. Judge Catherine Egan from the State Office of Administrative Hearings appeared and presented the Proposal for Decision (PFD) and her explained her findings. Ms. Griffin presented a summary of the case history and the staff's recommendation. After discussion, **Dr. Quillivan moved, Dr. Craven seconded and the motion passed to adopt the PFD and issue a Cease & Desist Order.**

Agenda Item 10, Report from the Rules Committee.

- a. **Public Hearing, consideration and possible action on rules to be adopted.** Ms. Griffith presented the changes proposed at the January 26, 2016 meeting regarding changes to the following rules: §§571.59, 571.60 and 577.20. After discussion, **Dr. Criner moved, Dr. King seconded and the motion passed to adopt the amendments to §571.59. Dr. Craven then moved, Dr. Criner seconded and the motion passed to adopt the amendments to §571.60 with a non-substantive clerical correction. Mr. Pardue then moved, Dr. Craven seconded and the motion passed to adopt the amendments §577.20.**

- b. **Discussion, recommendation and possible action on proposed rules.** Ms. Griffith presented changes to proposed rules §§573.10, 573.14, 573.15, 573.29, 573.41, 573.44, 573.45, 573.51, 573.52, 573.53, 573.65, 573.69, 573.82, and 577.15. After discussion, **Dr. Criner moved, Dr. King seconded and the motion passed to publish the proposed preamble and amendments to §573.10 in the *Texas Register* in accordance with law for public comment. Dr. Quillivan then moved, Mr. Pardue seconded and the motion passed to publish the proposed preamble and amendments to §573.14 in the *Texas Register* in accordance with law for public comment. Mr. Pardue then moved, Dr. Craven seconded and the motion passed to publish the proposed preambles and amendments to §§573.15, 573.29, 573.41, 573.44, 573.45, 573.51, 573.52, 573.53, 573.65, 573.69, 573.82, and 577.15 in the *Texas Register* in accordance with law for public comment.**

- c. **Discussion, recommendation and possible action on adoption of the Rule Review of Chapter 571.** Ms. Griffith presented the rule review of Chapter 571. After discussion, **Dr. Carpenter moved, Dr. King seconded and the motion passed to adopt the rule review of Chapter 571.**

Agenda Item 11, Report on Stakeholder Meetings. Ms. Griffith provided a report on the four (4) stakeholder meetings regarding the definition of designated caretaker. These stakeholder

meetings were held with representatives from the farm and ranch industry, animal rescue groups, animal shelters, and veterinarians who are interested in this issue.

Agenda Item 12, Appointment of Committees, Dr. Lenarduzzi appointed the following committees:

Executive Disciplinary Committee: Dr. Lenarduzzi, DVM; Dr. King, DVM, and Mr. Upham. Dr. Craven will serve as the licensee alternate and Mr. McAdams will serve as the public member alternate.

Enforcement Committee: Dr. Lenarduzzi, Dr. Carpenter, and one public member on a rotating basis. Dr. Craven will serve as the licensee alternate.

Rules Committee: Dr. Carpenter (chair), Dr. Criner, Dr. Quillivan, and Mr. Pardue.

Equine Dental Provider Certifying Entity Committee: Dr. Lenarduzzi, Dr. Criner, and Mr. Upham.

Equine Dental Provider Continuing Education Advisory Committee: Dr. Craven, Dr. Criner, and Dr. Cleet Griffin.

Licensed Veterinary Technician Advisory Committee: Cindy Dittmar, LVT; Steve Golla, DVM; Jessica Quillivan, DVM; David Sessums, Gary Stamp, DVM; and Rick Wall, DVM.

Agenda Item 13, Executive Director's Report

- a. **Report on Health Professions Council Activities.** Ms. Oria discussed that we continue to work with them and they are being helpful with the upcoming change to an updated telephone system noting that when the actual switch to the new system the agency's phones will be down. During the down time we will have some telephone lines will be forwarded to cell phones so the agency staff can still be reached.
- f. **Report on Discussions with Texas Veterinary Medical Association.** Ms. Oria stated that discussions with TVMA are ongoing and we expect to work with them on other issues that come before the board. Ms. Oria noted that they have been helpful during

the designated caretaker stakeholder meetings and that we greatly appreciate their input.

b. Enforcement Report:

1. Investigations. Ms. Phillips discussed the enforcement statistics noting that as of March 31, 2016, the investigators had completed 492 onsite inspections and they are on track to reach the goal of 750 onsite compliance inspections for fiscal year 2016 by July.

2. Legal: Ms. Griffith discussed the legal side of the agency. Ms. Griffith provided information regarding the legal department's activities noting that there have been four (4) days of informal conferences held since January 25, 2016, and that there are three (3) cases docketed at SOAH pending hearing, and 7 (seven) cases currently pending docketing at SOAH.

3. Peer Assistance: Ms. Griffith discussed the peer assistance information stating that there are currently nineteen (19) veterinarians in the Peer Assistance Program with seven (7) of those being by board order and twelve (12) voluntary participants.

c. IT Report: Mr. Rierson presented information related to a newly created deposit module in our database that will assist our Finance Division.

d. Finance Report: Ms. Long presented information on the status of the budget and revenue for fiscal year 2016.

e. Licensing Report:

1. Report on 2016 License Renewals. Ms. Hartman discussed the statistics related to Licensing and Examinations, noting that as of March 31, 2016, the online renewals were at 94%.

2. Licensing and Examinations Report. Ms. Hartman noted that there are 10,105 licensees in all categories

3. Report on State Board Exams. Ms. Hartman presented information on the State Board Examination that was given on April 11, 2016, at Texas A&M, noting that

there were 2 who failed. Ms. Hartman further reported that the on-demand testing was working well.

There being no further business, the meeting adjourned at 11:23 a.m.