

**TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS  
BOARD MEETING MINUTES  
December 13, 2010**

The Texas Board of Veterinary Medical Examiners met for a regularly scheduled meeting on Monday, December 13, 2010 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 8:45 a.m. Board Members present were, John Clader, D.V.M., Vice-President; David Rosberg, D.V.M., Secretary; Janie Carpenter, D.V.M., Ms. Cynthia Diaz, Dr. J. Todd Henry, D.V.M., David Heflin, D.V.M., Mr. David Kercheval, and Mr. Paul Martinez. Board Staff present were: Dewey E. Helmcamp III, JD, Executive Director; Nicole Oria, General Counsel; Laura Moriarty; Assistant General Counsel; Ina Franz, Director of Licensing; Keith Cole, Chief Fiscal Officer; and Loris Jones, Executive Assistant.

**Dr. Clader moved, Dr. Rosberg seconded and the motion passed to approve the absence of Paul Martinez.**

**Agenda Item 2, Approval of Minutes. Dr. Rosberg moved, Dr. Henry seconded and the motion passed to approve the minutes of the September 10, 2010 Board meeting with the correction of a typographical error.**

**Agenda Item 3, Approval of Rules Committee Minutes. Dr. Clader moved, Dr. Henry seconded and the motion passed to approve the minutes of the September 10, 2010 Rules Committee meeting with a correction of a typographical error.**

**Agenda Item 4, Approval of Rules Committee Minutes. Dr. Henry moved, Dr. Heflin seconded and the motion passed to approve the minutes of the November 15, 2010 Rules Committee meeting with a correction of a typographical error.**

**Agenda Item 5: Citizen Comments.** Dr. Alldredge called for citizen comments. Mr. Greg Munson addressed the Board.

**Agenda Item 4, Licensure Petitions.**

**a. Discussion, recommendation and possible action on petitions to waive the CCT and be allowed to take the State Board Exam.**

- 1. Rhonda Aliah, DVM.** Dr. Aliah is a 1976 graduate of Michigan State University, College of Veterinary Medicine. Upon graduation, Dr. Aliah took and passed the NBE. The CCT was not offered at the time. Dr. Aliah has been practicing for the past 34 years. For the last 30 of those years, she owned the Skyline Animal Clinic in Idaho Falls.

Dr. Aliah would like for the Board to waive the CCT prerequisite so that she may take the Texas State Board Examination for veterinary licensing. Upon receipt of a Texas veterinary license, Dr. Aliah would like to work as a relief veterinarian, primarily in small animal clinics, zoos or conservatories.

After discussion, **Dr. Heflin moved, Dr. Rosberg seconded and the motion passed to waive the CCT and require Dr. Aliah to take and pass the State Board Examination within one year of the approval of her waiver.**

- 2. John A. Smith, Jr., DVM.** Dr. Smith is a 1976 graduate of Kansas State University, College of Veterinary Medicine. Upon graduation, Dr. Smith took and passed the NBE. The CCT was not offered at the time. Dr. Smith has been practicing for the past 34 years. For the last 31 of those years, he's been practicing in Oklahoma as a small animal practitioner.

Dr. Smith is petitioning the Board to waive the CCT prerequisite so that he may take the Texas State Board Examination for veterinary licensing.

After discussion, **Dr. Rosberg moved, Dr. Carpenter seconded and the motion passed to waive the CCT and require Dr. Smith to take and pass the State Board Examination within one year of the approval of his waiver.**

- 3. James B. McKee, Jr. DVM.** Dr. McKee is a 1980 graduate of the University of Tennessee, College of Veterinary Medicine. Upon graduation, Dr. McKee took and passed the NBE. The CCT was not offered at the time. Upon licensing in Tennessee and Kentucky, Dr. McKee practiced small and large animal veterinary medicine in both states, until he recently took a position with FarmVet, a supplier of equine supplies, supplements and pharmaceuticals.

Dr. McKee is petitioning the Board to waive the CCT prerequisite so that he may take the Texas State Board Examination for veterinary licensing.

After discussion, **Dr. Heflin moved, Dr. Henry seconded and the motion passed to** waive the CCT and require Dr. Smith to take and pass the State Board Examination within one year of the approval of his waiver.

**a. Discussion, recommendation and possible action on petitions to take the State Board Exam.**

- 1. Maureen C. Adams, DVM.** Dr. Adams is a 1995 graduate of the Ohio State University, College of Veterinary Medicine. Upon graduation, Dr. Adams took and passed the NBE and CCT also in Ohio in 1995. During that year, she also attained a license in Ohio which she allowed to expire. In 1996, Dr. Adams was licensed in Nevada, and has been practicing in that State since 1996.

Since 2000, Dr. Adams has been disciplined by the Nevada Board of Veterinary Medical Examiners on four (4) separate occasions. As recent as July 2010, Dr. Adams was placed on two years of probation for the latest violations.

After discussion, **Dr. Heflin moved, Dr. Clader seconded and the motion passed to** deny Dr. Adams' petition until the completion of her probation with the Nevada Board of Veterinary Medical Examiners.

**Agenda Item 7 and 8, Consideration and Approval of Agreed Orders and Cease and Desist Orders. Dr. Heflin moved, Dr. Rosberg seconded, and the motion passed to approve the Agreed Orders on the following:** *Janice Owensby-Coston, DVM; Robert Rosebrock, DVM;; Brenda Paduch, DVM; Michael J. Dodd, DVM; Larry Miller, DVM; Lauren Robins, DVM; Marlena Smith, DVM; Harvey Hilley, Jr., DVM; D'Lynn A. Thompson, DVM; George T. Kidd, DVM; John S. Killiam, DVM; Lynn Stucky, DVM; Eric Cagle, DVM; Enrique Carlo, DVM; Tom Bonner, DVM; Sally Bywaters, DVM; Richard Forgason, DVM; Douglas Stribling, DVM; James Tiemann, DVM; Tamila S. Reynolds, DVM* **and approve the Cease and Desist Orders on the following case numbers:** *09-057, 09-077, 09-258(a), 09-258(b), 09-287(a), 09-287(b), 10-142(a), 10-142(b), 10-171, 10-337, and 10-446.*

**Agenda Item 9(a), Consideration and approval of Proposals for Decision on Lewis Hanks, DVM.** Mr. Brian Bishop appeared representing Dr. Hanks and Ms. Laura Moriarty represented the board. Ms. Moriarty presented a summary of the case history and the Proposal for Decision. Mr. Bishop made a brief presentation for Dr. Hanks. After discussion, **Dr. Rosberg moved, Dr. Clader 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 and approve the Final Order dismissing this case with no violation found and no action taken.**

**Agenda Item 9(b), Consideration and approval of Proposals for Decision on Todd Murphy, DVM.** Dr. Murphy did not appear. Ms. Laura Moriarty represented the board. Ms. Moriarty presented a summary of the case history and the Proposal for Decision. After discussion, **Dr. Rosberg moved, Dr. Henry 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, except Conclusion of Law #6 which is modified to reflect the correct citations of the Veterinary Licensing Act; in addition, Conclusion of Law #8 is not adopted because it is a recommendation, and the determination of any final action regarding sanctions is reserved to the Board; and that we approve the Final decision and Order as presented by Board Staff.** Dr. Clader, Dr. Carpenter and Dr. Heflin were recused from the vote.

**Dr. Clader moved and Dr. Carpenter seconded and the motion passed to go into Executive Session at 10:10 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; and to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee under the authority of the Open Meetings Act, Government Code, §551.074; and to deliberate a test item or information to individuals who seek to obtain or renew a license under the authority of the Open Meetings Act, Government Code, §551.088.** Open session resumed at 10:36 a.m. and it was announced that no action was taken. A certified agenda was made.

**Agenda Item 7 continued Consideration and Approval of Agreed Orders.** Dr. Clader moved, Dr. Rosberg seconded, and the motion passed to approve the Agreed Orders on the following: *Ricky C. Rogers, DVM; Sidney Zarges, DVM; John G. Manning, DVM; William Yarbrough, DVM; and Kim Herndon, DVM.*

**Agenda Item 10, Report from the Rules Committee.** Ms. Oria presented the rules that were up for adoption.

- a. Discussion, recommendation, and possible action on rules to be adopted.** The following changes to Board rules were proposed at the September 10, 2010 Board meeting and were considered for adoption:
- i. §571.19, Temporary Licensure During Declared State of Emergency
  - ii. §571.62, Default on Student Loans
  - iii. §571.63, Default on Child Support
  - iv. §573.77, Default on Student Loan and Child Support Payments
  - v. §575.28, Complaints—Investigations

vi. §577.20, Employee Education and Training

After discussion by the Board, **Dr. Heflin moved, Dr. Carpenter seconded and the motion passed to withdraw the proposed amendments to §§571.19, 571.62, and 571.63 as they are being incorporated with the proposed Rule Review of Chapter 571. Dr. Heflin moved, Dr. Carpenter seconded and the motion passed to adopt the amendments to Board Rules §§573.77, 575.28, and 577.20 as presented.**

**Dr. Clader moved and Dr. Carpenter seconded and the motion passed to go into Executive Session at 10:58 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; and to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee under the authority of the Open Meetings Act, Government Code, §551.074; and to deliberate a test item or information to individuals who seek to obtain or renew a license under the authority of the Open Meetings Act, Government Code, §551.088. Open session resumed at 11:45 a.m. and it was announced that no action was taken. A certified agenda was made.**

**b. Discussion, recommendation, and possible action on rules to be proposed:**

Ms. Oria presented an overview of each rule as presented for proposal.

- i. §573.10, Supervision of Non-Licensed Employees
- ii. §573.17, Dentistry
- iii. §573.65, Definitions
- iv. §577.15, Fee Schedule

After discussion, **Dr. Heflin moved, Mr. Kercheval seconded and the motion passed to not propose the amendments as written to §§573.10 and 573.65. Dr. Heflin moved, Dr. Carpenter seconded and the motion passed to approve the proposed new rule §573.17 and**

**to publish the proposed preamble and new Rule in the *Texas Register* in accordance with law.**

**c. Discussion, recommendation, and possible action on rules rule review of Chapter 571:**

Ms. Oria presented an overview of rule review as presented for proposal. After discussion, **Dr. Rosberg moved, Dr. Clader seconded and the motion passed to approve the proposed Rule Review with a minor modification and to approve the proposed amendments to §577.15 and to publish the proposed preamble and new rules in the *Texas Register* in accordance with law.**

**Dr. Clader moved and Dr. Carpenter seconded and the motion passed to go into Executive Session at 2:19 p.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; and to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee under the authority of the Open Meetings Act, Government Code, §551.074.** Open session resumed at 3:55 p.m. and it was announced that no action was taken. A certified agenda was made.

**Agenda Item 11, Discussion, recommendation and possible action on Memorandum of Understanding between the Department of State Health Services and the Texas Board of Veterinary Medical Examiners.** After discussion, **Dr. Heflin moved, Dr. Carpenter seconded and the motion passed to approve the Memorandum of Understanding as presented.**

**Agenda Item 12, Discussion, recommendation and possible action on request from Texas A&M Small Animal Clinical Sciences to increase the number of online continuing education credit hours.** This item was tabled at the request of Dr. August who was requesting consideration of this issue by the board.

**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 2010 License Renewals.** Ms. Franz discussed the renewals as of August 31, 2010.
- c. **Report on State Board Exams.** Ms. Franz discussed the results of the October 11, 2010 State Board Exam, noting the 100% pass rate.
- d(i) **Status of FY2010 Operating Budgets.** Mr. Helmcamp gave a brief overview of the FY2010 budget. Mr. Helmcamp further discussed budget cuts that each state agency is having to develop and potential ways the TBVME will achieve the required cuts.
- d(ii) **Budget Reductions.** Mr. Helmcamp gave a brief overview of the recommendations for the 2.5% budget reduction. After discussion, **Dr. Henry moved, Dr. Clader seconded and the motion passed to approve the recommendations for the 2.5% budget reduction.**
- e. **Board Performance Update.**
  - 1. **Enforcement Report:** Mr. Hartline discussed the Enforcement side of the agency and noted that there has been a trend of increased number of complaints. Ms. Moriarty reviewed cases pending action at the State Office of Administrative Hearings.
  - 2. **Licensing and Examinations Report.** Ms. Franz discussed the statistics related to Licensing and Examinations. As of November 20, 2010 we had 7,529 licensed veterinarians in all categories.
  - 3. **Peer Assistance Report:** Mr. Helmcamp mentioned that there are currently fifteen veterinarians under the Peer Assistance program.

- 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. Efforts by staff to "Go Green."** Mr. Helmcamp discussed several ways that agency staff is working towards reducing the amount of paper and printed materials that are used by agency staff.

**Dr. Clader moved and Dr. Carpenter seconded and the motion passed to go into Executive Session at 4:46 p.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; and to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee under the authority of the Open Meetings Act, Government Code, §551.074.** Open session resumed at 5:06 p.m. and it was announced that no action was taken. A certified agenda was made.

There being no further business, the meeting was adjourned at 5:08 p.m.