

TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS
BOARD MEETING MINUTES
April 09, 2019

The Texas Board of Veterinary Medical Examiners met for a scheduled meeting on Tuesday, April 09, 2019 at 10:00 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 10:00 a.m. Board Members present were Jessica Quillivan; Lynn Criner, DVM, Secretary; Carlos Chacon; Samantha Mixon, DVM; Michael White, DVM; Randy Skaggs, DVM; and Sue Allen, LVT. Board Staff present were: Executive Director, John Helenberg, General Counsel, Michelle Griffin; Operations Director, Candice Simon; Executive Assistant, Patricia Prentice; Enforcement Supervisor, Mike Tacker; Staff Attorney, Stephen White; Compliance Investigator Jerod Honrath and Legal Secretary Valerie Mitchell. Mr. Keith Pardue, Vice President was absent at the beginning of the meeting. Mr. Chacon moved to accept the absence, Dr. Skaggs seconded, and the motion was passed unanimously.

Agenda Item 2. Consideration and Approval of the January 29, 2019 Minutes.

Dr. White moved, Mr. Chacon seconded, and the motion passed unanimously to approve the January 29, 2019 minutes.

Agenda Item 3. Executive Director's Report.

Mr. Helenberg reported on agency updates on the second quarter of FY19; Legislative session with current House and Senate bills and their status; fingerprinting updates; and individual department statistics. Mr. Helenberg noted that Mr. George Antuna resigned from the board.

Agenda Item 4. Information and discussion on recent Court of Criminal Appeals of Texas decision regarding the Open Meetings Act, Section 551.143.

Ms. Griffin gave a brief synopsis on the letter Governor Abbott provided regarding the Open Meetings act.

Agenda Item 5. Committee Appointments.

Dr. Quillivan made the following committee appointments:

- a. Executive Committee—With there being new members on the Board, officers will be elected in January of 2020. Mr. Pardue will remain Vice President and Dr. Criner will remain Secretary until that time.
- b. Enforcement Committee—This committee will stay the same with Dr. Quillivan as chair, Dr. Criner as the second DVM and Mr. Pardue and Mr. Chacon as the rotating public member for this committee. The third public member position is currently vacant.
- c. Licensing Committee—This committee will stay the same with current members Dr. White as the DVM, and Mr. Pardue as the public member. The licensing committee will add Ms. Allen to fill the LVT position. Dr. White was appointed as chair.
- d. Finance Committee—Will stay the same with current members Dr. Criner, Mr. Chacon and Dr. Mixon. Dr. Quillivan appointed Dr. Criner as the chair for this committee.
- e. Advisory Committees

1. Equine Dental Provider Advisory Committee—Carl Mitz, EDP, was reappointed. Rebecca Green EDP, and Samantha Mixon DVM were newly appointed. Dr. Quillivan designated Carl Mitz, EDP as presiding officer.
2. Licensed Veterinary Technician Advisory Committee—This committee will stay the same with David Sessum, LVT, Cindy Dittmar, LVT, Dr. White, DVM, Mr. Chacon, Eden Myers, DVM and Steven Golla, DVM.

Agenda Item 6. Discussion, recommendation and possible action regarding permissible uses of titles and letters, scope of practice, and supervision issues for Licensed Veterinary Technicians, certified veterinary assistants, veterinary assistants and other unlicensed personnel.

Ms. Allen discussed board rule number 801.364. Board discussed the possibility of broadening the scope of practice for LVTs and CVAs. Also discussed a more standardized education process. Ms. Griffin spoke about the possibility of clarifying the rules. The LVT committee will be assessing the statute and potential rulemaking in the coming months and will report back to the Board on this matter at a later board meeting.

Agenda Item 7. Discussion, recommendation and possible action regarding potential policy or rulemaking to define the scope of permissible telemedicine and telehealth services in the practice of veterinary medicine.

Dr. Criner and Dr. Mixon presented research on telemedicine. Discussed a possible rule proposal for the next board meeting. Dr. Mixon requested that a draft rule for consideration at the next board meeting. Public comment was received from Lori Teller, DVM with TAMU and she explained some of the upcoming courses TAMU will be offering through the Veterinary program at the university.

Agenda Item 8. Discussion, recommendation and possible action regarding proposed rule changes to be published in the Texas Register.

- a. 577.15 Fee Schedule (Amendment)

Ms. Griffin presented rule 577.15 for proposal. A budget rider under consideration by the Legislature would require a fee increase in order to spend additional appropriations. The proposed rule would increase fees if the budget rider is approved. This rule will be up for adoption in July, then go into effect on Sept 1, 2019. Dr. Skaggs moved to propose the rule 577.15. Mr. Chacon seconded, and the motion passed unanimously.

Agenda Item 9. Discussion, recommendation and possible action regarding adoption of rule changes to be published in the Texas Register.

- a. 571.61 Inactive License Status (Amendment)

Ms. Griffin presented rule 571.61 for adoption. The amendment will remove the 9-year limitation and cleans up the rule for easier reading. Dr. Skaggs made a motion to approve rule 571.61 for adoption to the Texas Register. Mr. Chacon seconded the motion and it passed unanimously.

Agenda Item 10. Discussion, recommendation and possible action on Proposal for Decision in SOAH Docket No. 578-18-5124, TBVME Docket No. DK2018-061, regarding Kerry Cline, DVM.

Ms. Griffin presented an introduction to the discussion. T, the Administrative Law Judge was not present. TBVME Staff Attorney Stephen White spoke. Attorney to Kerry Cline, DVM spoke. The Board discussed case number DK2018-061 regarding Kerry Cline, DVM.

11:26 The board entered closed session to seek counsel and deliberate.

12:45 pm The board returned to open session. No action was taken in closed session.

Dr. Criner moved that the board adopt the proposal for decision but modify the recommended penalty to a 5-year suspension with 2 years enforced, retroactive to include the time of suspension, with a \$2,500 administrative penalty, and monitoring by a supervising veterinarian for 3 years. There was no second and the motion failed.

Mr. Chacon moved that the board adopt the proposal for decision but modify the recommended penalty to a 5 years suspension, 2 years enforced, retroactive to include the time of suspension. \$2,500 AP. Dr. Criner seconded. The motion did not pass.

Mr. Chacon moved to add 5 hours of community service. Mixon seconded the amendment. Dr. Quillivan, Ms.Allen, Mr. Chacon and Dr. Mixon voted aye. Dr. White, Dr. Criner, Dr. Skaggs and Mr. Pardue voted nay. The motion did not pass.

The Board discussed the possibility of entering into an agreed order as proposed by Dr. Cline. The Board discussed breaking for lunch to allow staff and Dr. Cline to discuss a settlement.

1:15pm Dr Mixon motioned to adjourn for lunch until 2:15pm. Dr. Criner seconded and the motion passed unanimously.

2:37pm The Board entered open session after the lunch break.

Staff presented an agreed order signed by Dr. Cline as an alternative to the proposal for decision. Dr. Skaggs made a motion to approve the agreed order. Mr. Chacon seconded, Mr. Pardue, Dr. Criner, Dr. Skaggs, Dr. White, Dr. Mixon and Mrs. Allen voted aye, Dr. Quillivan voted nay. The motion passed.

Agenda Item 11. Consideration and approval of Agreed Orders.

<u>Docket #</u>	<u>Case#</u>	<u>Name</u>	<u>License #</u>	<u>Practice City</u>
<u>CD2018-068</u>	<u>CP18-080</u>	<u>Brooklyn Mason</u>	<u>N/A</u>	<u>N/A</u>
<i>Non-voting members:</i>		N/A		
<u>CD2018-070</u>	<u>CP17-266</u>	<u>Sady Worthington</u>	<u>N/A</u>	<u>N/A</u>
<i>Non-voting members:</i>		N/A		
<u>CD2019-074</u>	<u>CP18-204</u>	<u>Angel Jimenez</u>	<u>N/A</u>	<u>N/A</u>
<i>Non-voting members:</i>		N/A		

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<u>Docket #</u>	<u>Case#</u>	<u>Name</u>	<u>License #</u>	<u>Practice City</u>
DK2017-117	CP16-393	Kerry Kores, DVM	11910	Dallas, TX
<i>Non-voting members:</i>		Dr. Quillivan, Mr. Pardue		
DK2017-158	CP16-402	Jennifer Kapp, DVM	7361	Carrollton, TX
<i>Non-voting members:</i>		Dr. Quillivan, Mr. Pardue		
DK2017-204	CP17-132	Jonathan Dyes, DVM	7446	San Antonio, TX
<i>Non-voting members:</i>		Dr. Quillivan, Dr. Criner, Mr. Chacon		
DK2017-226	CP17-163	Mendi Al Gburi, DVM	8548	Crandall, TX
<i>Non-voting members:</i>		N/A		
DK2018-235	CP17-249	Eliza Wilby, DVM	10932	Round Rock, TX
<i>Non-voting members:</i>		N/A		
DK2018-007	CP17-276	John Michler, DVM	10037	Jasper, TX
<i>Non-voting members:</i>		Dr. Quillivan, Dr. Criner, Mr. Pardue		
DK2018-055	CP18-023	Barbara Powers, DVM	5342	San Antonio, TX
<i>Non-voting members:</i>		Dr. Mixon, Dr. White, Mr. Chacon		
DK2018-059	CP17-387	James Kang, DVM	7126	Irving, TX
<i>Non-voting members:</i>		Dr. Quillivan, Dr. Criner		
DK2018-066	CP17-355	Jimmy Rook, DVM	5424	Midlothian, TX
<i>Non-voting members:</i>		Dr. Quillivan, Dr. Criner, Mr. Chacon		
DK2018-074	CP18-222	Amanda Wilson, LVT	N/A	N/A
<i>Non-voting members:</i>		N/A		
DK2019-013	CP18-085	Stephen Harris, DVM	5308	Austin, TX
<i>Non-voting members:</i>		N/A		
DK2019-025	CP18-064	Jerri Nokes, DVM	8200	Lewisville, TX
<i>Non-voting members:</i>		Dr. White		
DK2019-029	CP18-349	Stephen Johnson, DVM	4732	Aledo, TX
<i>**Please note that due to a clerical error, this order was not identified in the January 2019 Board Agenda. A vote to approve this Order constitutes a vote to ratify the Agreed Order as signed by the Board President in January 2019.</i>				
<i>Non-voting members:</i>		N/A		
DK2019-030	CP19-083	Christina Johnson, DVM	7559	Leakey, TX
<i>Non-voting members:</i>		N/A		
DK2019-031	CP18-260	Mohammed Ansari, DVM	4880	Cypress, TX
<i>Non-voting members:</i>		N/A		
DK2019-032	CP19-059	Rodney Lee, DVM	2633	San Antonio, TX
<i>Non-voting members:</i>		N/A		
DK2019-035	CP18-319	Joshua Harvey, DVM	10402	Decatur, TX
<i>Non-voting members:</i>		N/A		
DK2019-036	CP19-100	David Behrends, DVM	4485	Blanco, TX
<i>Non-voting members:</i>		N/A		
DK2019-037	CP19-101	Dana Boehm, DVM	9524	Taylor, TX
<i>Non-voting members:</i>		N/A		
DK2019-044	CP19-104	Shelby Key, DVM	10821	Kerrville, TX

<u>Docket #</u>	<u>Case#</u>	<u>Name</u>	<u>License #</u>	<u>Practice City</u>
<i>Non-voting members:</i>		N/A		
LA2018-083	CP18-315	Elizabeth Lopez-Rees	N/A	N/A
<i>Non-voting members:</i>		Dr. White, Mr. Pardue, Ms. Allen		

The following agreed orders were pulled for executive session; CD2018-070, CD2019-074, DK2018-235.

Dr. Quillivan, Dr. Criner, Mr. Chacon did not vote on DK2017-204 and DK2018-066.

Dr. Quillivan, Dr. Criner, Mr. Pardue did not vote on DK2018-007

Dr. Mixon, Dr. White and Mr. Chacon did not vote on DK2018-055

Dr. White, Mr. Pardue and Ms. Allen did not vote on LA2018-083

Dr. Quillivan and Mr. Pardue did not vote on DK2017-117 and DK2017-158

Dr. Quillivan and Dr. Criner did not vote on DK2018-059

Dr. White did not vote on DK2019-025

Mr. Chacon made a motion that the board approve the above agreed orders, with the exceptions of the few cases that were pulled for executive session, Dr. Skaggs seconded the motion, and the motion was unanimously approved.

Agenda Item 12. Consideration and approval of cases recommended for dismissal by staff.

<u>Case #</u>	<u>Name</u>	<u>License #</u>	<u>Practice City</u>
CP16-138	[REDACTED]	[REDACTED]	[REDACTED]
CP16-354	[REDACTED]	[REDACTED]	[REDACTED]
CP17-081	[REDACTED]	[REDACTED]	[REDACTED]
CP17-103	[REDACTED]	[REDACTED]	[REDACTED]
CP17-105	[REDACTED]	[REDACTED]	[REDACTED]
CP17-349	[REDACTED]	[REDACTED]	[REDACTED]

Dr. Criner recused herself from CP17-349.

Mr. Chacon made a motion to approve dismissal of the above cases. Dr. White seconded that motion, and the motion was unanimously approved.

Agenda Item 13. Consideration and approval of cases recommended for dismissal by Enforcement.

<u>Case #</u>	<u>Date Received</u>	<u>Case Type</u>	<u>Date Completed</u>	<u>Disposition</u>
CP17-331	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
CP18-321	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
CP18-333	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
CP18-351	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19-09-023	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19-11-102	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19-12-106	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19-12-118	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19-01-124	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19-01-125	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19-01-126	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19-01-127	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19-10-129	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19-01-143	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19-01-145	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19-01-147	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19-01-153	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19-01-151	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19-01-154	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19-02-162	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19-02-166	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19-02-179	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

CP18-333 and 19-02-179 were pulled for Executive Session.

Mr. Chacon made a motion to approve dismissal of the above cases, except those that have been pulled for executive session, Dr. Mixon seconded the motion and it passed unanimously.

Agenda Item 14. Consideration and approval of cases recommended for dismissal by Staff regarding continuing education.

<u>Case #</u>	<u>Name</u>	<u>License #</u>	<u>Practice City</u>
<u>CP17-245</u>	[REDACTED]	[REDACTED]	[REDACTED]
<u>CP17-247</u>	[REDACTED]	[REDACTED]	[REDACTED]

Mr. Chacon made a motion to approve dismissal of the above cases, Dr. White seconded that motion, and the motion was unanimously approved.

Agenda Item 15. Consideration and approval of cases recommended for dismissal from Medical Review.

<u>Case #</u>	<u>Name</u>	<u>License #</u>	<u>Practice City</u>
<u>CP17-206</u>	[REDACTED]	[REDACTED]	[REDACTED]
<i>Non-voting members:</i>		<i>Dr. Quillivan & Dr. Criner</i>	
<u>CP18-114</u>	[REDACTED]	[REDACTED]	[REDACTED]
<i>Non-voting members:</i>		<i>Dr. Mixon</i>	
<u>CP18-132</u>	[REDACTED]	[REDACTED]	[REDACTED]
<i>Non-voting members:</i>		<i>Dr. Mixon</i>	
<u>CP18-133</u>	[REDACTED]	[REDACTED]	[REDACTED]
<i>Non-voting members:</i>		<i>Dr. Mixon</i>	
<u>CP18-166</u>	[REDACTED]	[REDACTED]	[REDACTED]
<i>Non-voting members:</i>		<i>Dr. Mixon</i>	
<u>CP18-275</u>	[REDACTED]	[REDACTED]	[REDACTED]
<i>Non-voting members:</i>		<i>Dr. Mixon</i>	

Dr. Mixon did not vote on CP18-114, CP18-132, CP18-133, CP18-166 and CP18-275

Dr. Quillivan and Dr. Criner did not vote on CP17-206

Mr. Chacon made a motion to approve dismissal of the above cases, Ms. Allen seconded that motion, and the motion was unanimously approved.

Agenda Item 16. Consideration and approval of cases recommended for dismissal from Informal Conferences.

<u>Docket #</u>	<u>Case #</u>	<u>Name</u>	<u>License #</u>	<u>Practice City</u>
DK2019-020				
<i>Non-voting members:</i>		Dr. Quillivan, Dr. Criner, Mr. Pardue		

Dr. Quillivan, Dr. Criner and Mr. Pardue did not vote on DK2019-020

Mr. Chacon made a motion to approve dismissal of the above cases, Dr. Mixon seconded that motion, and the motion was unanimously approved.

Agenda Item 17. Citizen Comments

No citizen comments were submitted for this meeting.

Agenda Item 18. Discussion of possible stake holder meetings following the conclusion of the 86th Legislature.

The board discussed details that would be needed to conduct a stake holder meeting after the 86th Legislature concludes. Ms. Allen suggested holding a meeting at the TVMA spring Conference or symposium to ensure maximum attendance from the veterinary field state wide. Elizabeth Choate spoke on behalf of TVMA and assured the board they could set up a time slot at the conference should the board approve.

Agenda Item 19. Discussion of possible agenda items for future Board meetings.

The board discussed that they would like to consider telemedicine in July. Dr. Criner suggested that she would like to discuss rule 573.27, regarding Honesty, Integrity, and Fair Dealing, at the July meeting. Dr. Quillivan would also like to discuss whether the Board needs to be individually approving continuing education hours received from other state and federal agencies.

Agenda Item 20. Executive Session to discuss pending and contemplated litigation and to conduct deliberations relating to a disciplinary action.

The board entered into closed session to discuss items 11-16 at 3:05 p.m.

Agenda Item 21. Return from Executive Session to report or discuss further actions to be taken following Executive Session. Possible action on items discussed in Executive Session.

The board returned from Executive Session at 3:22 p.m. No action was taken in closed session.

Agenda Item 11. Approval of Agreed Orders

Mr. Chacon made a motion to approve CD2018-070, CD2019-074 and DK2018-335. Dr. Mixon seconded the motion and it passed unanimously.

Agenda Item 13. Enforcement Dismissals

Mr. Chacon made a motion to approve CP18-333 and 19-02-179. Dr. Mixon seconded the motion and it passed unanimously.

Agenda Item 22. Adjourn.

Dr. Mixon made a motion to adjourn the April 9, 2019 board meeting. Mr. Chacon seconded, and it passed unanimously. Board meeting adjourned at 3:23pm.