

**TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS
BOARD MEETING MINUTES
February 8, 2007**

The Texas Board of Veterinary Medical Examiners met for a regularly scheduled meeting on Thursday, February 8, 2007 in Room, #2-225 of the William P. Hobby, Jr. Building, 333 Guadalupe, Austin, Travis County, Texas. Dr. Bud Alldredge, Jr., Vice President, called the meeting to order at 8:30 a.m. Board Members present were Guy W. Johnsen, D.V.M., Secretary; Patrick Allen, D.V.M.; Janie Carpenter, D.V.M., Ms. Cynthia Diaz, David W. Heflin, D.V.M., Mr. Paul Martinez, and Ms. Dawn Reveley. Robert Lastovica, D.V.M. was not present. Board Staff present were: Dewey E. Helmcamp III, JD, Executive Director; Lee Mathews, General Counsel; Peter Hartline, Director of Enforcement; Ina Franz, Director of Licensing; and Julie Barker, Executive Assistant.

Agenda Item A.2. Approval of Agenda. Upon motion by Dr. Johnsen, second, and an affirmative vote, the agenda was approved.

Agenda Item A.3. Approval of Minutes. Upon motion by Dr. Johnsen, second, and an affirmative vote, the minutes of the October 12, 2006 meeting of the Board were approved and signed.

Agenda Item A.4. Citizen Comments. Dr. Alldredge called for citizen comments. Ellis Gilliland and Mrs. Julie Catalano addressed the Board.

Agenda Item B.1. Agreed Orders. Upon a motion by Dr. Heflin, second and an affirmative vote, the Board approved the Agreed Orders on the following: Shelley Blair, D.V.M.; Nancy Bozeman, D.V.M.; Gary Brackeen, D.V.M.; Jon L. Gregory, D.V.M.; Patrick Griffin, D.V.M.; Kimberly Havelka, D.V.M.; H. Shannon Hicks, D.V.M., Reuben Loggins, D.V.M.; Betty McDaniel, D.V.M.; Isabel Ramos-Helaire, D.V.M.; H. Dan Sanders, D.V.M.; David Stephens, D.V.M.; Herman Swann, D.V.M.; Raymond Tarpley, D.V.M.; John Taylor, D.V.M.; David Warren, D.V.M.; Claude White, D.V.M.

Upon a motion by Dr. Johnsen, second and an affirmative vote, the motion passed to go into Executive Session at 8:57 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 9:30 a.m. and it was announced that no action was taken. A certified agenda was made.

Upon a motion by Dr. Heflin, second and an affirmative vote, the Board approved the Agreed Order on Anne Barns, D.V.M.

Agenda Item B.2. Discussion and Possible Adoption of Order Concerning the Voluntary Surrender and Revocation of License No. 4563, Issued to Mary B. McPherson, D.V.M., Docketed Case No. 2007-

11. Dr. McPherson allegedly violated Board Rule 571.61 requiring a person to acquire at least 34 hours of continuing education in the 12-month period following re-activation of a license. Dr. McPherson acquired only 19 of the required 34 hours and agreed to voluntarily relinquish her license to practice veterinary medicine in lieu of disciplinary action. Upon a motion by Dr. Johnsen, second and an affirmative vote, the Board approved the Order Pertaining to Revocation of License No. 4563.

Agenda Item B.3. Discussion and Possible Adoption of Order Concerning the Revocation of License

No. 9312, Issued to Wendi Davidson, D.V.M., Docketed Case No. 2007-21. Dr. Davidson was convicted of murder, a first degree felony by the 51st Judicial District Court of Tom Green County, Texas on October 16, 2006. Pursuant to §53.021 of the Texas Occupations Code, a license holder's license is revoked by operation of law upon the license holder's imprisonment. Upon a motion by Dr. Johnsen, second and an affirmative vote, the Board approved the Order Pertaining to Revocation of License No. 9312. Dr. Davidson, upon discharge from prison, may apply for re-licensure in the same manner as a person applying for a new license, and further shall be subject to the requirements of Board Rule 575.22 relating to license reinstatement.

Agenda Item C. General Business

Agenda Item C.1. Consideration and Action on Petitions to Waive the Clinical Competency Test

- 1. Todd B. Friedland, DVM,** requested that the Board waive the Clinical Competency Test (CCT) required to obtain a Texas license. Dr. Friedland graduated from Cornell University College of Veterinary Medicine, in 1972. The CCT was not available at that time. Dr. Friedland was not present. Dr. Friedland is currently licensed in three states and currently practicing in Connecticut. Upon motion by Dr. Johnsen, second and an affirmative vote, the Board approved the waiver with the following conditions: Dr. Friedland is required to take and pass the State Board Examination within one year of the approval of his waiver.
- 2. Alan J. Herron, DVM,** requested that the Board waive the Clinical Competency Test (CCT) required to obtain a Texas license. Dr. Herron graduated from Purdue University School of Veterinary Medicine in 1975. The CCT was not available at that time. Dr. Herron was present and spoke to the Board regarding his request. Upon motion by Dr. Johnsen, second and an affirmative vote, the Board approved the waiver with the following conditions: Dr. Herron is

required to take and pass the State Board Examination within one year of the approval of his waiver.

- 3. Lyle L. Warden, DVM**, requested that the Board waive the Clinical Competency Test (CCT) required to obtain a Texas license. Dr. Warden graduated from Iowa State University College of Veterinary Medicine in 1968. The CCT was not available at that time. Dr. Warden is currently licensed in two states. Dr. Warden was present and spoke to the Board regarding his request. Upon motion by Dr. Johnsen, second and an affirmative vote, the Board approved the waiver with the following conditions: Dr. Warden is required to take and pass the State Board Examination within one year of the approval of his waiver.

Agenda Item C.2. Consideration and Possible Action on Petition to Reinstate a Retired License and Waive the Clinical Competency Test.

- 1. Robert R. Taylor, DVM** requested that the Board reinstate his retired license and waive the Clinical Competency Test (CCT) required to obtain a Texas license. Dr. Taylor graduated from Texas A&M University College of Veterinary Medicine in 1973. The CCT was not available at that time. Dr. Taylor retired his Texas Veterinary license in 1998. Dr. Taylor was present and spoke to the Board regarding his request. Upon motion by Johnsen, second and an affirmative vote, the Board approved the reinstatement and waiver of the CCT with the following requirements: Dr. Taylor is required to take and pass the State Board Examination within one year of the approval of his waiver.

Agenda Item C.3. Adopted Rules. The following changes to Board rules were proposed at the October 12, 2006 Board meeting and were considered for adoption:

A. Discussion and action on rules to be adopted:

- 1. Chapter 575.27, Complaints.** One amendment concerns the practice of veterinary medicine without a license. The amendment states that such practice can be handled informally, by which the non-licensee voluntarily agrees to cease illegal acts, or formally by cease and desist procedures set out in §801.508, Occupations Code. Other changes reflect the current roles and functions of the Board's investigators and the director of enforcement in processing complaints. Finally, upon receipt of a complaint, and before the licensee receives a copy of the complaint against him, the Board will request a copy of the licensee's records pertaining to the patient in question. This is a change from the previous practice in which the licensee first received a copy of the complaint and then was required to send a copy of the patient records to the Board.

Written comments were received. Ms. Julie Catalano, Mr. Greg Munson, Dr. Guy Shepherd presented oral comments. Upon motion by Johnsen, second and an affirmative vote, the Board adopted the amendments as indicated.

2. Chapter 573.10, Supervision of Non-Licensed Employees. These amendments facilitate the gathering of blood samples by a livestock owner's employees or technicians for those situations where cattle, instead of being shipped to a sales barn where Brucellosis testing is conducted, are moved directly to slaughter from an originating location, usually a ranch. These cattle must be tested at the ranch location. Often these locations do not have locally available veterinarians to collect the blood samples prior to shipment, but trained persons approved by the Texas Animal Health Commission are available to collect blood samples for testing under the general supervision of a veterinarian. The amendments allow these persons to collect the samples and send them to the appropriate laboratory for testing. Written comments were received. Dr. Guy Shepherd presented oral comments. Upon motion by Ms. Diaz, second and an affirmative vote, the Board adopted the amendments as indicated.

B. Discussion and action on rules to be proposed:

1. Chapter 575.25, Recommended Schedule of Sanctions. These amendments allow the Board to determine from a statutory menu of penalties the appropriate penalty to assess, depending on the seriousness of the offense, in cases where a license holder has been convicted of a felony under 485.032, Chapter 481 (relating to controlled substances) or Chapter 483 (relating to dangerous drugs) of the Health and Safety Code. The amendment allows the Board to exercise its discretion in determining the licensee's penalty, which may include a reprimand, an administrative penalty, suspension of license, probation of suspension, and revocation of license. Upon motion by Ms. Reveley, second and an affirmative vote, the Board directed staff to publish the proposed preamble and amendments in the *Texas Register* in accordance with law.

2. Chapter 573.77, Cease and Desist Procedures. These amendments authorize the Board to issue a cease and desist order to a person who is found to be engaging in the practice of veterinary medicine without a license. The amendments also allow the Board to consider complaints about the unauthorized practice of veterinary medicine that are not submitted on a standard complaint form as required by Board Rule 575.27. While some form of written documentation is required, this documentation may be no more than a notation of a telephone conversation with the potential violator, or a business card indicating the illegal practice. The Board can then investigate the

complaint further to determine if it has merit. The rule also provides for the process the Board may utilize in the review of the complaint. Upon motion by Ms. Reveley, second and an affirmative vote, the Board directed staff to publish the preamble and the proposed amendments in the *Texas Register* in accordance with law.

3. Chapter 577.1, Officers. This amendment provides that the Governor shall appoint the presiding officer of the Board. Upon motion by Mr. Martinez, second and an affirmative vote, the Board directed staff to publish the preamble and the proposed amendment in the *Texas Register* in accordance with law.

Agenda Item C.3. Discussion and possible action on proposals to amend rule 575.27 by Mr. Greg Munson: Mr. Greg Munson presented proposals to amend rule 575.27 regarding the complaint process and procedures. The Board directed staff to refer these proposals to the Rules Committee to be considered at the June 2007 meeting.

Agenda Item C.4. Discussion and possible action on publicizing and expunging records of disciplinary actions by the board. Dr. Johnsen made a presentation regarding the possible expunction of informal reprimands on licensees who have not had any further disciplinary action within three years. This is something that the Board does not currently have statutory authority to do and this would require a legislative change. This was an informational item only, no action was necessary.

Agenda Item C.5. Consideration and possible action on veterinary practice and standards for emergency practice. Dr. Alldredge made a presentation regarding practice management issues and questioned the proper function of emergency veterinary clinics: Are they responsible for stabilizing and referring on to the regular veterinarian, or are they responsible for stabilizing, treating and curing the animal in their care? The Board would like to call upon TVMA to establish a committee to define for TBVME and TVMA some standards of care and practice philosophy of emergency clinics so there will be some standardization among the clinics which will ultimately assist when cases are brought before the disciplinary committee. This was an informational item only, no action was necessary.

Agenda Item C.6. Discussion of rule 573.10, Supervision of Non-Licensed Employees. Dr. Alldredge made a presentation regarding discussions between TBVME, TAHC and the USDA relating to Brucellosis vaccinations. The suggestion has been made that if a memorandum has been issued by the USDA and other states would accept this practice, then under the general supervision of a veterinarian, certified or

accredited lay-help could administer Brucellosis vaccinations. This is a practice that if passed by the USDA, TAHC and other states that we export cattle to accept this, it would require a legislative change to the Veterinary Practice Act. Once Texas has achieved Brucellosis Certified Free status then the vaccinations will decrease. This was an informational item only, no action was necessary.

Agenda Item C.7. Discussion on a policy pertaining to the application of sanctions in disciplinary cases. Dr. Johnsen made a presentation regarding standardizing administrative penalties by the Board. Upon motion by Dr. Johnsen, second and an affirmative vote, the Board directed the staff enforcement committee and the Enforcement Committee of the Board to track disciplinary sanctions over the next few months and draft input to be presented to the Rules Committee at the June 2007 meeting. The Board further directed staff to research past sanction history and to formulate guidelines in conjunction with the Rules Committee and Enforcement Committee to be presented to the full Board at the June 2007 meeting.

Agenda Item C.8. Discussion and possible action concerning new methodology used for proposal and adoption of rules for board meetings. Dr. Johnsen made a presentation regarding streamlining the process for the proposal and adoption of rules during board meetings. After discussion and upon motion by Dr. Johnsen, second and an affirmative vote, the Board adopted the methodology for streamlining the rule proposal and adoption process.

Agenda Item C.9. Discussion and possible action on Program for the Assessment of Veterinary Education Equivalence (PAVE). Dr. Guy Shepherd made a presentation regarding information on accreditation of foreign veterinary medical schools. TVMA recommended that TBVME remove PAVE as an alternative route to licensure. After discussion and upon motion by Dr. Johnsen, second and an affirmative vote, the Board directed staff to place an item on the agenda during the June 2007 meeting to discuss this further after additional information has been gathered.

Agenda Item C.11. Discussion and possible action relating to unauthorized practice.

- A. Board position relating to unauthorized practice, including but not limited to equine dentistry, by non-licensed (TBVME) individuals.** Ms. Reveley presented information regarding unauthorized practice of veterinary medicine. Dr. Guy Shepherd and Chris Copeland with TVMA presented comments. After discussion and upon motion by Ms. Reveley, second and an affirmative vote, the Board directed staff to be more vigilant in enforcing the Veterinary Practice Act as it relates to unauthorized practice by non-licensed individuals.

Agenda Item C.10. Update on activities relating to the 80th Legislative Session and discussion on the 2008-2009 Legislative Appropriation Request. Mr. Dewey Helmcamp made a presentation regarding the current activities related to recent appearances at the Senate Finance Committee on January 30th and the House Appropriations Subcommittee on Regulatory on February 7th as well as recent meetings with the Governor's Budget personnel and the Legislative Budget Board. The TBVME has also been called upon to attend the House Agriculture and Livestock Committee on Tuesday, February 13th and if available we would like any Board members who are available to attend as well. Mr. Helmcamp passed out to members the exceptional item priority list from the TBVME Legislative Appropriation Request. After discussion and upon motion by Dr. Johnsen, second and an affirmative vote, the Board directed staff to draft the revised LAR exceptional item priority list and cover letter to be forwarded to the House Appropriations Committee Regulatory Subcommittee.

Agenda Item C.12. Discussion and action on agency annual risk assessment, to be submitted to the State Auditor's Office by March 31, 2007. Ms. Barker presented information on the agency's annual risk assessment and asked for any recommendations the Board has on the assessment. Upon motion by Mr. Martinez, second and an affirmative vote, the Board voted to approve the agency risk assessment and submit it to the State Auditor's Office.

Dr. Alldredge presented Ms. Barker with a plaque for her service to the Board and thanked her for her continued service and wished her the best for the future.

Agenda Item C.13. Executive Director's Report. Mr. Helmcamp thanked the Board for the opportunity that they have given him as Executive Director of the TBVME and mentioned that he could not do the job as well as he has without the dedicated and professional staff.

- A. Report on Health Professions Council (HPC) Activities.** Mr. Helmcamp discussed the LaserFiche system that the HPC owns and that the TBVME may be able to utilize as a tool in maintaining agency files.
- B. Report on 2007 License Renewals.** Mr. Helmcamp discussed the annual renewals as of January 25, 2007. He noted that Ms. Franz has been an invaluable staff member and with her support the agency has reached approximately an 80% online renewal amount.
- C. Report on December 5, 2006 State Board Exam.** Mr. Helmcamp discussed the results of the December 5, 2006 State Board Exam, noting that there were no failures on the exam.

D. Status of FY2007 Operating Budget. Mr. Helmcamp mentioned that the budget numbers look good and we are on track and he and the staff are watching the budget closely and will not expend any money that the agency does not have.

E. Board Performance Update.

1. Enforcement Report: Mr. Helmcamp discussed the Enforcement side of the agency and noted that they are working well and everything seems to be on track. One item under the Enforcement side of the agency that will be watched closer is the number of days it takes to resolve a case. Mr. Helmcamp discussed the possibility of having more of the board members involved in the Informal Settlement Conferences and asked that they consider this and get back to him with their thoughts. Mr. Helmcamp further discussed the possibility of the use of veterinary specialists during the times that additional expertise is needed during investigations. Dr. Carpenter mentioned that she has had several veterinarians who have offered to review investigation cases if additional expertise is needed, and she stated that since we have those resources we need to utilize them.

2. Licensing and Examinations Report: Mr. Helmcamp discussed the statistics related to Licensing and Examinations, as of January 25, 2007 we had 6740 licensed veterinarians in all categories. We are experiencing approximately a 2% growth each year. Ms. Franz discussed the decrease of approximately 290 from last fiscal year to this fiscal year which is related to a rule passed in late 2005 regarding retired practitioners.

3. Peer Assistance Report: Mr. Helmcamp mentioned that there are currently fifteen veterinarians under the Peer Assistance program and we have collected \$7,192.00 for the program. This seems to be on track for what we expect to collect each year.

F. Report on discussion with Texas Veterinary Medical Association. Mr. Helmcamp mentioned that information regarding discussions with the TVMA have been discussed throughout the day and there is no need to further discuss them at this time.

There being no further business, the meeting was adjourned.