

## **BOARD OF VETERINARY MEDICAL EXAMINERS**

### **Minutes**

Date: April 21, 2010

Time: 9:00 a.m., C.S.T.

Location: Iris Room  
227 French Landing, Suite 150  
Heritage Place MetroCenter  
Nashville, TN 37243

Members Present: James C. Lyons, D.V.M., President  
Bryan W. Bondurant, D.V.M., Vice-President  
Janet Jones, L.V.M.T  
Valisa Thompson, Consumer Member  
Forrest W. Reynolds, D.V.M.  
Joseph Kendrick, D.V.M., Secretary  
Tiffani D. Rogers, D.V.M.

Members Absent: Charles Hatcher, D.V.M., State Veterinarian, Ex-officio Member

Staff Present: Rita Buckner-Shelton, Board Administrator  
Lisa Lampley, Board Director  
Elizabeth Miller, Director, Health Related Boards  
Sara A. Whitehead, Board Attorney

Upon roll call and determination of a quorum being present, the Board meeting was called to order by Dr. Lyons at 9:10 a.m.

A moment of silence was observed in memory of Drs. Ralph C. Mobley, DVM ; John W. Evans, DVM ; and Kathryn Gilpatric, DVM.

### **Approval of Minutes**

After reviewing the minutes from the December 9, 2009 and February 26, 2010 board meetings, Dr. Kendrick moved to approve the minutes as presented. Dr. Bondurant seconded the motion. The motion carried.

### **Licensure Applicant Interview**

Donna M. Davidson, CAET

The Board reviewed an application for certification as an animal euthanasia technician submitted by **Donna M. Davidson**. Ms. Davidson answered “yes” to questions on the application regarding conviction of a felony or misdemeanor other than a minor traffic offense and pending legal action. Ms. Davidson was present to answer any questions from members of the Board. After discussion and review of the documentation provided by the applicant, Ms. Jones made a motion, seconded by Dr. Bondurant, to approve the application. The motion carried.

#### **Progress Report – William Baber, DVM**

As per the Order approved by the Board on December 13, 2007, Dr. Baber appeared before the Board for his annual appearance. He informed the Board that he was not, as prohibited during the period of probation, practicing veterinary medicine in an animal control agency or animal shelter.

#### **Progress Report – Kevin Cox, DVM**

As per the Order approved by the Board on January 31, 2007, Dr. Cox appeared before the Board to provide a status report. He informed the Board that he was still employed as a staff veterinarian for the Tennessee Farmers’ Cooperative. The issue of Dr. Cox obtaining an Order of Compliance was discussed and a determination was made that he could obtain an Order of Compliance if he were to have completed all the required steps.

#### **Progress Report – Louis Graham, III, DVM**

As per the Order approved by the Board on December 9, 2009, Dr. Graham appeared before the Board to submit updated policies regarding employee supervision and employee duties. Upon review, the Board requested that Dr. Graham add job descriptions to the policy manual. Dr. Bondurant made a motion, seconded by Dr. Kendrick, to waive Dr. Graham’s August 2010 appearance before the Board. The motion carried.

#### **Agreed Order – Billy K. Walker, DVM**

Dr. Billy Walker, DVM was not present and was represented by Attorney Jamie D. Winkler. Ms. Sara Whitehead, Assistant General Counsel, presented the Agreed Order to the Board for ratification. Dr. Walker’s license to practice veterinary medicine in Tennessee was revoked by the Board in November, 2005. The State alleges that Dr. Walker continued to perform the duties of a licensed veterinarian from approximately November 2005 until at least January 2008. During this time, Dr. Walker advertised the name “Woodbury Veterinary Clinic” on the front of a building he owned and displayed a sign on his building with “Billy K. Walker, DVM”. Dr. Walker agreed that he will not practice veterinary medicine on animals that are owned by other individuals; that he shall not work or assist or otherwise provide veterinary services in any veterinary facility; and that he shall immediately place his office for sale. Dr. Walker agreed to pay civil penalties in the amount of two thousand dollars (\$2,000.00) and costs. Dr. Bondurant made a motion, seconded by Ms. Jones, to accept the Agreed Order. The motion carried.

### **Agreed Order – William J. Mitchell, DVM**

Dr. William Mitchell, DVM, was not present and was represented by Attorney Daniel D. Warlick. Ms. Sara Whitehead, Assistant General Counsel, presented the Agreed Order to the Board for ratification. Dr. Mitchell failed to maintain drug logs and failed to keep adequate patient records. While working as a relief veterinarian, he took drugs from the narcotic safe without authorization. Dr. Mitchell agreed that his license be placed on probation for a period of two (2) years with the following conditions: no ownership or operation of a solo veterinary practice throughout the disciplinary period; provide a copy of the Agreed Order to any and all employers; obtain ten (10) additional hours of continuing education – five (5) hours must be in the subject area of recordkeeping and office management and five (5) hours must be in the area of prescribing controlled substances; no prescribing controlled drugs to own animals during disciplinary period; maintain good and lawful conduct and any violation of law will be a violation of the terms of this Order; petition the Board for an Order of Compliance at the end of the probationary period. He agreed to pay civil penalties in the amount of one thousand dollars (\$1,000.00) and costs of the proceedings. Dr. Kendrick made a motion, seconded by Ms. Thompson, to accept the Agreed Order. The motion carried with Dr. Bondurant opposed. The Board requested that Dr. Mitchell appear before the Board at the end of one year to provide a progress report.

### **Agreed Order – Edmond A. Watts, DVM**

Dr. Edmond Watts, DVM, was not present and was not represented by counsel. Ms. Sara Whitehead, Assistant General Counsel, presented the Agreed Order to the Board for ratification. Dr. Watts was issued a conditional license in May 2005. In violation of the conditional license, Dr. Watts failed to provide proof of completion of forty (40) hours of Continuing Education (CE) for years 2007 and 2008; has not been in the employ of another veterinarian since December 2007; and prescribed prescription drugs during the years 2007-2009. Dr. Watts agreed that his license be suspended until completion of the following requirements at which time he must petition for an Order of Compliance for the lifting of the suspension: submit evidence of completion of CE courses equal to the number of hours annually required by the Board dating back to 2007 until the time he petitions for an Order of Compliance lifting the suspension; find a veterinarian who will employ and supervise him during the period of Probation and must submit the name and address of this veterinarian along with evidence that the veterinarian agrees to said employment and supervision; pay all licensure fees and privilege taxes required to restore his license to active status. Dr. Watts further agreed that, upon the suspension being lifted, his license would be placed on probation for a period of not less than five (5) years with the following conditions: complete an additional ninety (90) CE hours during the period of probation; only practice veterinary medicine while under the employment of another licensed veterinarian and not operate an individual veterinary practice during the probationary period; not reapply for nor maintain an active Drug Enforcement Administration (DEA) registration; annual appearance before the Board; submit a letter from his employer on annual basis; promptly advise the Board in writing of any changes in address, employment, or compliance with terms of probation. Dr. Kendrick made a motion, seconded by Dr. Rogers, to accept the Agreed Order. The motion carried with Drs. Bondurant and Lyons opposed.

### **Consent Order – Jerry L. Bancroft, DVM**

Dr. Jerry Bancroft, DVM, was not present and was not represented by counsel. Ms. Sara Whitehead, Assistant General Counsel, presented the Consent Order to the Board for ratification. Dr. Bondurant recused himself. While employed at the Bradley Veterinary Hospital, Dr. Bancroft allowed an unlicensed individual to perform the duties of a licensed veterinarian from August 2005 until at least December 2006. Dr. Bancroft agreed to pay civil penalties in the amount of four thousand dollars (\$4,000.00) and costs. Dr. Rogers made a motion, seconded by Dr. Kendrick, to accept the Consent Order. The motion carried.

### **Consent Order – James H. Burkhart, DVM**

Dr. James Burkhart, DVM, was not present and was not represented by counsel. Ms. Sara Whitehead, Assistant General Counsel, presented the Consent Order to the Board for ratification. Dr. Burkhart has operated a veterinary facility without a premise permit since approximately July, 2000; and, for a period of time including at least November 2009, stored controlled drugs on open shelves in his veterinary facility and in the trunk of his car. Dr. Burkhart agreed that his license be placed on probation for a period of not less than five (5) years with the following conditions: complete two (2) hours of Board-approved CE in the subject area of controlled substances for each year of the disciplinary period – these hours are in addition to the twenty (20) hours required each year to maintain licensure; maintain good and lawful conduct and any violation of law will be a violation of the terms of this Order; petition the Board for an Order of Compliance at the end of the probationary period. Dr. Burkhart agreed to pay civil penalties in the amount of five thousand and fifty dollars (\$5,050.00) and costs. Dr. Kendrick made a motion, seconded by Dr. Rogers, to accept the Consent Order. The motion carried.

### **Consent Order – Earl F. Calfee, III, DVM**

Dr. Earl Calfee, DVM, was not present and was not represented by counsel. Ms. Sara Whitehead, Assistant General Counsel, presented the Consent Order to the Board for ratification. Dr. Calfee operated a veterinary facility without a valid premise permit from approximately May 2008 until approximately September 2009. Dr. Calfee agreed to pay civil penalties in the amount of seven hundred and fifty dollars (\$750.00) and costs. Ms. Jones made a motion, seconded by Dr. Kendrick, to accept the Consent Order. The motion carried.

### **Agreed Citation – Michael Boley, DVM**

Dr. Michael Boley, DVM, was not present and was not represented by counsel. Ms. Sara Whitehead, Assistant General Counsel, presented the Agreed Citation to the Board. Dr. Boley failed to obtain seventeen (17) hours of required continuing education. Dr. Boley agreed to pay civil penalties in the amount of eight hundred and fifty dollars (\$850.00) and to obtain a total of thirty-four (34) hours of continuing education within one (1) year. Dr. Bondurant made a motion, seconded by Dr. Rogers, to accept the Agreed Citation. The motion carried.

### **Financial Report**

Ms. Christy Allen, Assistant Commissioner, Bureau of Health Licensure and Regulation, presented and reviewed a detailed financial report which reflected actual revenue and

expenditures as of June 30, 2009. The report reflected a -\$3,738.14 balance as of June 30, 2009 for FY 2009 and a -\$109,790.35 cumulative carryover as of June 30, 2009. Ms. Allen also presented a report which reflected revenue collections in the amount of \$285,424.00 for the period of July 1, 2009 thru December 31, 2009. The Board expressed their appreciation to Ms. Allen for the newly formatted financial report and information.

### **Discussion – Licensure Fee Increases**

The Board voted to table the discussion regarding licensure fee increases until the August 2010 board meeting in order to allow members of the Board to fully review the new financial information distributed by Ms. Allen.

### **Discussion – Interpretation of T.C.A. § 63-12-133(a)(6) and T.C.A. § 63-12-135(b)**

The Board was asked to provide an interpretation of T.C.A. § 63-12-133(a)(6) and T.C.A. § 63-12-135(b) as they pertain to the duties which may be performed by a veterinary assistant. Ms. Whitehead explained this is a common question frequently received by Board staff and is an issue when reviewing complaints. The language contained in the statutes is very broad. The Board discussed the terms “auxiliary and supporting assistance” and “responsible supervision”. The Board declined to vote to interpret the law. Staff was instructed to continue to direct individuals with questions to the applicable statutes to read and interpret for themselves.

### **Rulemaking Hearing**

Ms. Whitehead stated the recently enacted Public Chapter 804 made significant changes to the practice act. She recommended withdrawing the current rulemaking package as it contained inconsistencies with the new law. She proposed to rewrite the rules and submit a draft for review by the Board at the August meeting. Dr. Bondurant made a motion, seconded by Dr. Kendrick, to withdraw the rulemaking package. The motion carried.

### **Office of General Counsel (OGC) Report**

Ms. Sara Whitehead, Board Attorney, reported that the Office of General Counsel currently has seventeen (17) open disciplinary cases pertaining to the Board of Veterinary Medical Examiners.

### **Legislation**

Ms. Sara Whitehead, Board Attorney, reviewed the following legislation and informed the Board of the status of each bill:

SB2454/HB2608 – This bill extends the Board’s termination date to June 30, 2013.

SB2561/HB2581 – This bill revises reporting requirements concerning persons obtaining or attempting to obtain controlled substances.

SB2796/HB3749 – This bill provides immunity from civil liability to individuals, veterinarians, employees of veterinarians, and animal control agencies and the employees of animal control

agencies that provide, render, or obtain medical treatment for non-livestock animals that are stray or otherwise loose from the control of their owner.

SB3060/HB3491 – This bill expands the scope of practice for veterinarians and establishes specific requirements for consulting veterinarians and for a veterinarian-client-patient relationship.

### **Investigations and Disciplinary Report**

Ms. Juanita Stone, Disciplinary Coordinator, reported that there are currently twenty-one (21) open complaints in the Office of Investigations. An analysis of newly filed complaints categorized by allegation and month received and by geographical area and month received was included. The disciplinary report indicated that twenty-one (21) individuals are currently being monitored for compliance with Board orders.

### **Inspection Status Report**

Dr. Taylor reported that a total of one hundred sixty-five (165) inspections were conducted during the period of November 2009 – March 2010.

### **Director's Report**

Ms. Lampley expressed her appreciation to Dr. Lyons for all his hard work and contributions to the Board. Dr. Lyons' term expires July 31, 2010.

Ms. Lampley will be speaking to the graduating students of the veterinary technology program at Columbia State Community College on April 27, 2010 about the licensure process. The Veterinary Technician National Examination (VTNE) was administered to twenty-one (21) candidates on January 15, 2010. Thirteen (13) candidates successfully completed the exam. The exam will be taken on a computer beginning in June, 2010.

Report of Total Active Licensees as of March 31, 2010:

Veterinarians:	1,876
Veterinary Medical Technicians:	392
Veterinary Facilities:	663
Certified Animal Euthanasia Technicians:	219
Certified Animal Control Agencies:	61

### **Continuing Education (CE) Audit Report**

During the audit period January – December 2009, a total of forty-four (44) veterinarians were audited with one (1) licensee found to be non-compliant with continuing education requirements. A total of eighteen (18) veterinary medical technicians were audited during this period with one (1) licensee found to be non-compliant with continuing education requirements.

## Continuing Education Course Approval

The following requests for approval of continuing education hours were reviewed:

A request from **Bayer Animal Health** for approval of two (2) continuing education hours for a presentation entitled **“Ask the Expert: Canine Heartworm Disease in the Mississippi Delta”** held November 5, 2009 in Memphis, TN.

A request from **Benchmark Leadership Training** for approval of forty-eight (48) continuing education hours (4 hours per month) for the course entitled **“Bullet Proof Manager”** to be held over a 12-month period in 3 Tennessee locations (Chattanooga, Nashville, Knoxville).

A request from **Bluepearl Veterinary Partners** for approval of continuing education hours for the following presentations held in Brentwood, TN:

February 11, 2010 – **“Orthopedic Surgery, Rehabilitation and Conditioning”** – 2 hrs.

March 11, 2010 – **“The Coughing Dog, Working Together on Cases”** – 2 hrs.

March 13, 2010 – **“ECG Interpretation”** – 1 hr.

April 8, 2010 – **“Medicine Case Studies”** – 2 hrs.

April 10, 2010 – **“Urinalysis 101”** – 1 hr.

May 13, 2010 – **“How Do I Close this Hole? Options for Wound Care”** – 2 hrs.

May 15, 2010 – **“Anesthesia – The Basics”** – 1 hr.

June 10, 2010 – **“Cardiopulmonary Cerebral Resuscitation – CPR”** – 2 hrs.

June 12, 2010 – **“CPR & Hands-on Wetlab”** – 1 hr.

A request from **Boehringer Ingelheim Vetmedica, Inc.** for eight (8) continuing education hours for a seminar held April 18, 2010 in Nashville, TN on the following topics:

**“Improving the Quality of Life in the Chronic Care Patient”**

**“Taming the Curve: New Approaches in Feline Diabetes”**

**“Emergency Management of Diabetic Ketoacidosis”**

**“Blood, Sugar, Food, Magic: Nutritional Management of Diabetes Mellitus”**

**“Super-sized Pets: Challenges & Pitfalls of Managing Morbidly Obese Dogs and Cats”**

**Digital Imaging Atlas Software (DIA) Lecture and Demonstration**

A request from **Pfizer Animal Health** for approval of six (6) continuing education hours for a presentation held January 30, 2010 in Nashville, TN on the following topics:

**“Effective Inventory Management”** – 2 hrs.

**“Bark Back at the Economy”** – 2 hrs.

**“Reversing the Decline of Feline Visits”** – 1 hr.

**“How Can I Compete with Low-Cost Clinics and \$4 Generics?”** – 1 hr.

A request from **Pfizer Animal Health** for approval of one (1) continuing education hour for a presentation entitled **“A Balanced Approach to Analgesia and Anesthesia”** to be held April 15, 2010.

A request from **Pfizer Animal Health** for approval of two (2) continuing education hours for a presentation entitled **“Leptospirosis in Small Animals”** to be held May 5, 2010.

A request from **Tennessee Cattlemen’s Association** for approval of six (6) continuing education hours for the **2010 Tennessee Cattlemen’s Association Annual Convention and Trade Show** held January 21 – 23, 2010 in Murfreesboro, TN.

A request from **Veterinary Tactical Group** for approval of seven (7) continuing education hours for a course entitled **“Tactical Canine Casualty Care”** held March 27, 2010 in Clarksville, TN.

A motion was made by Ms. Jones, seconded by Dr. Rogers, to request more information regarding the veterinary topics presented at the 2010 Tennessee Cattlemen’s Association Annual Convention and Trade Show and to approve all other courses as submitted. The motion carried.

### **Continuing Education Waiver Request**

The Board reviewed a request for a waiver of continuing education hours for calendar year 2010 due to military deployment submitted by **Caroline M. Goss, DVM**. Dr. Bondurant made a motion, seconded by Dr. Kendrick, to grant a waiver of ten (10) of the twenty (20) required continuing education hours for calendar year 2010 and to grant an extension of time until December 31, 2011 for obtainment of the remaining ten (10) continuing education hours for calendar year 2010. The motion carried.

### **File Review**

The Board reviewed an application for certification as an animal euthanasia technician submitted by **Marilou W. Jones**. Ms. Jones’ fingerprints were electronically scanned two (2) times with each time resulting in unreadable prints. She has no criminal record. Dr. Bondurant made a motion, seconded by Ms. Jones, to approve the application. The motion carried.

### **Ratifications**

A motion was made by Dr. Kendrick, seconded by Dr. Rogers, to approve the presented list of newly licensed/certified or reinstated veterinarians, veterinary medical technicians, veterinary facilities, certified animal euthanasia technicians, and certified animal control agencies. The motion carried.

### **Board Correspondence**

The Board reviewed all correspondence and requested that appropriate notification be given of any action taken or any comments made.

### **Discussion – 2010 American Association of Veterinary State Boards (AAVSB) Annual Conference**

Upon discussion, the Board voted to send Dr. Bondurant and Ms. Lampley to the 2010 AAVSB Annual Conference scheduled to be held September 16 – 18, 2010 in Baltimore, Maryland.

### **Adjournment**

There being no further business, the Board moved to adjourn at 1:40 p.m.

**These minutes were ratified at the meeting held on August 25, 2010.**