

## **BOARD OF VETERINARY MEDICAL EXAMINERS**

### **Minutes**

Date: April 22, 2009

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

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

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

Members Absent: Philip Gordon, D.V.M., Ex-officio Member (Acting State Veterinarian)

Staff Present: Rita Buckner-Shelton, Board Administrator  
Shiva K. Bozarth, Board Attorney  
Lisa Lampley, Board Director  
Elizabeth Miller, Director, Health Related Boards  
Robert Taylor, D.V.M., Board Consultant/Inspector  
Sara Whitehead, Board Attorney

Upon roll call and determination of a quorum being present, the Board meeting was called to order by Dr. Thompson at 9:05 a.m.

### **Conflict of Interest Policy**

Mr. Shiva Bozarth, Board Attorney, reviewed the conflict of interest policy and stated that a signed copy of the policy was included in each member's board book. Mr. Bozarth introduced Ms. Sara Whitehead, Assistant General Counsel, to the Board. Mr. Bozarth informed members of the board that, due to his recent promotion within the Department of Health, Ms. Whitehead would be assuming his duties as the Board's attorney. The Board welcomed Ms. Whitehead.

## **Approval of Minutes**

After reviewing the minutes from the February 18, 2009 board meeting, Ms. Jones moved to approve the minutes as presented. Dr. Rogers seconded the motion. The motion carried.

## **Licensure Applicant Interview**

The Board reviewed an application for licensure as a veterinarian submitted by **Jeffery Jackson Courtney, DVM**. Dr. Courtney answered “yes” to questions on the application regarding disciplinary action in another state and conviction of a felony or a misdemeanor other than a minor traffic offense. Dr. Courtney was present to answer any questions from members of the Board. After discussion and review of the documentation provided by the applicant, Dr. Kendrick made a motion, seconded by Dr. Rogers, to grant the license. The motion carried.

## **Request for Licensure Exemption – Spay/Neuter Memphis**

Ms. Eleanor Gipson, Spay/Neuter Memphis, appeared before the Board to request an exemption pursuant to Tenn. Code Annotated § 63-12-133 for faculty and students of the Mississippi State College of Veterinary Medicine to perform free spays/neuters on May 28 – 30, 2009, in Memphis, TN . The surgeries would be performed in a mobile unit belonging to the Mississippi State College of Veterinary Medicine under the direct supervision of veterinarians licensed in Tennessee. Upon being informed of the requirement for a premise permit for the mobile unit and the requirements necessary to obtain the premise permit, Ms. Gipson withdrew her request. The Board advised Ms. Gipson that documentation of local veterinary support should also be provided with any future requests.

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

As per the Order approved by the Board on December 19, 2007, Dr. Baber appeared before the Board to provide a status update. 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.

## **Contested Case – Paul E. Truitt, DVM**

Dr. Paul Truitt, DVM was present and was represented by Chris Van Atta, Esquire. Mr. Shiva K. Bozarth, Assistant General Counsel, represented the State. The proceedings were presided over by Mary M. Collier, Administrative Law Judge. Dr. Truitt was charged with violations of the Board’s laws and rules related to failing to euthanize dogs and cats in accordance with the methods required by the Non-Livestock Animal Humane Death Act (T.C.A. 44-17-301 *et seq.*) and failing to euthanize dogs and cats in accordance with the standards of practice for veterinary medicine in the state of Tennessee. The State presented videos which contained footage of Dr. Truitt performing euthanasia at the Metro (Nashville) Animal Control Facility, his place of employment. Dr. Lisa M. Chassy, DVM, testified on behalf of the State as an expert witness on the methods of euthanasia by injection. Dr. Chassy testified that it was her expert opinion that the methods used in the performance of euthanasia by Dr. Truitt did violate the standards of practice for veterinary medicine in Tennessee. Dr. Paul Truitt, DVM, testified on his own behalf. Closing arguments were then presented by both sides.

Upon deliberation, a motion was made by Dr. Lyons, seconded by Dr. Kendrick, to find the Respondent not guilty of any violations. The motion carried.

**Order of Compliance – Sharon E. Folsom, DVM**

Mr. Shiva Bozarth, Board Attorney, presented an Order of Compliance to the Board. Dr. Folsom had previously appeared before the Board at the December 11, 2008 board meeting. Dr. Bondurant made a motion, seconded by Dr. Kendrick, to approve the Order of Compliance. The motion carried.

**Order of Compliance – Jerry A. Truitt, DVM**

Mr. Shiva Bozarth, Board Attorney, presented an Order of Compliance to the Board. Dr. Truitt had previously appeared before the Board at the December 11, 2008 board meeting. Dr. Bondurant made a motion, seconded by Dr. Kendrick, to approve the Order of Compliance. The motion carried.

**Consent Order – James H. Kuhlmann, DVM**

Dr. James Kuhlmann, DVM, was not present and was not represented by counsel. Mr. Shiva K. Bozarth, Assistant General Counsel, represented the State. Pursuant to a settlement agreement reached previously by the Board's screening panel, Mr. Bozarth presented a Consent Order to the Board for ratification. Dr. Thompson recused himself. Dr. Kuhlmann improperly restrained a canine while attempting to remove stitches from the canine's ear. The canine became unresponsive and stopped breathing and was unable to be revived. Dr. Kuhlmann failed to appropriately perform a spay on a cat resulting in additional medications and surgeries being required. He failed to appropriately perform an ear cropping on a dog resulting in additional medications and surgeries being required. Additionally, he failed to maintain appropriate medical records and anesthesia logs for the dog. Dr. Kuhlmann failed to properly maintain equipment and premises in a clean and sanitary manner. Dr. Kuhlmann's license to practice veterinary medicine shall be permanently retired. Costs of the proceedings were also assessed. Ms. Jones made a motion, seconded by Dr. Kendrick, to accept the Consent Order. The motion carried.

**Consent Order – Jack L. Upchurch, DVM**

Dr. Jack Upchurch, DVM, was not present and was not represented by counsel. Mr. Shiva K. Bozarth, Assistant General Counsel, represented the State. Pursuant to a settlement agreement reached previously by the Board's screening panel, Mr. Bozarth presented a Consent Order to the Board for ratification. Dr. Thompson recused himself. Dr. Upchurch practiced in a veterinary facility without a valid premise permit from approximately December 2004 until at least January 2009. Dr. Upchurch was assessed total civil penalties in the amount of two thousand five hundred dollars (\$2,500.00) and costs of the proceedings. Dr. Bondurant made a motion, seconded by Dr. Kendrick, to accept the Consent Order. The motion carried.

### **Consent Order – Susan D. Sterling, DVM**

Dr. Susan Sterling, DVM, was not present and was not represented by counsel. Mr. Shiva K. Bozarth, Assistant General Counsel, represented the State. Pursuant to a settlement agreement reached previously by the Board's screening panel, Mr. Bozarth presented a Consent Order to the Board for ratification. Dr. Thompson recused himself. Dr. Sterling practiced on a lapsed license from approximately January 2006 until at least February 2007 and practiced in a veterinary facility without a valid premise permit from approximately February 2006 until at least February 2007. Dr. Sterling was assessed total civil penalties in the amount of eighteen hundred dollars (\$1,800.00) and costs of the proceedings. Dr. Kendrick made a motion, seconded by Ms. Jones, to accept the Consent Order. The motion carried.

### **Consent Order – Jane Kiker, Unlicensed**

Ms. Jane Kiker, Unlicensed, was not present and was not represented by counsel. Mr. Shiva K. Bozarth, Assistant General Counsel, presented a Consent Order to the Board for ratification. During October 2007, Ms. Kiker, while employed at All Paws Bed and Bath, administered vaccinations to animals. Ms. Kiker was ordered to cease and desist practicing veterinary medicine and was assessed total civil penalties in the amount of two hundred dollars (\$200.00) and costs of the proceedings. Dr. Kendrick made a motion, seconded by Dr. Lyons, to accept the Consent Order. The motion carried.

### **Consent Order – Amy L. Fraze, DVM**

Dr. Amy Fraze, DVM, was not present and was not represented by counsel. Mr. Shiva K. Bozarth, Assistant General Counsel, presented a Consent Order to the Board for ratification. Dr. Fraze performed an improper spay on a canine which resulted in the canine subsequently becoming pregnant and later required a future surgery to remove the left horn and ovary of the canine. Dr. Fraze ordered controlled substances for the facility in which she was employed in noticeable excess of other veterinarians at the facility and intercepted the delivery of such orders; ordered controlled substances in the name of her own pets, and took delivered orders to her personal residence; appropriated the DEA number of another veterinarian for additional orders of controlled substances; demonstrated a pattern of administering dosages of controlled substances that were inappropriate for animals' weights; and diluted Hydromorphine to less than 1% of its concentration. Dr. Fraze has undergone treatment for alcohol abuse and entered treatment for polysubstance and opiate dependence. Dr. Fraze's license to practice veterinary medicine is placed on probation for a period of no less than four (4) years or for the length of her contract with the Tennessee Medical Foundation (TMF), whichever is longer, with the following conditions: must maintain the advocacy of the TMF throughout the disciplinary period with quarterly reports from the TMF regarding compliance or non-compliance with this Consent Order and/or any other recommendations proposed by TMF; may not prescribe, order, administer or handle any narcotic or controlled substances, except for emergency treatment which will allow for acute dosing only as administered in the presence of other emergency personnel and reviewed and approved by another veterinarian within a seven- (7) day period; may not reapply for her DEA certificate until after completion of the disciplinary period; shall not own or operate a solo veterinary practice throughout the disciplinary period; shall provide a copy of Consent Order to any and all employers; must petition the Board for an Order of Compliance following the conclusion of the probationary period. Dr. Fraze was assessed total civil penalties in the amount

of three thousand dollars (\$3,000.00) and costs of the proceedings. Ms. Gordon made a motion, seconded by Dr. Rogers, to accept the Consent Order. The motion carried.

### **Review/Discussion – Continuing Education Requirements**

The Board reviewed and discussed amendments to rules pertaining to Continuing Education (CE) that would require licensees to send proof of completion of annual CE requirements to the Board's administrative office each calendar year.

Upon review and discussion, the Board moved to table this discussion.

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

Mr. Shiva Bozarth, Board Attorney, informed the Board there are currently two (2) sets of rule amendments under review at the Office of the Attorney General, including the rules pertaining to the chemical capture of animals. Mr. Bozarth provided the Board an update in the matter regarding Ms. Bonnie Cady. He stated that an appeal of the Chancery Court's decision had been filed with the Tennessee Court of Appeals and that oral arguments in the matter have not been scheduled.

### **Investigations and Disciplinary Report**

Mr. Bozarth and Ms. Lampley reviewed the reports with the Board. The report indicated there are currently sixty-four (64) 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 nineteen (19) individuals are currently being monitored for compliance with Board orders.

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

Ms. Lampley reviewed the report with the Board. During the audit period August – December, 2008, a total of twenty-four (24) veterinarians were audited with one (1) licensee found to be non-compliant with CE requirements. A total of twenty-seven (27) veterinary medical technicians were audited during this period with five (5) licensees found to be non-compliant with CE requirements.

### **Inspection Status Report**

Ms. Lampley reviewed the inspection report. A total of one hundred fifty-nine (159) inspections were conducted during the period of December, 2008 – March, 2009.

### **Director's Report**

Ms. Lampley expressed her appreciation to the Tennessee Veterinary Medical Association (TVMA) for the opportunity to participate in the Music City Veterinary Conference held February 26 – March 2, 2009 at the Cool Springs Marriott in Franklin, TN.

Board members were informed that the Veterinary Technician National Examination (VTNE) was administered on January 16, 2009 to twenty-four (24) candidates. A total of nineteen (19) candidates passed the examination.

Ms. Lampley spoke to the graduating students of the veterinary technology program at Columbia State Community College on March 5<sup>th</sup>, and students at Lincoln Memorial University on March 31<sup>st</sup>, about the upcoming June 19<sup>th</sup> exam administration and the licensure process.

Report of Total Active Licensees as of March 31, 2009:

Veterinarians:	1,826
Veterinary Medical Technicians:	375
Veterinary Facilities:	639
Certified Animal Euthanasia Technicians:	222
Certified Animal Control Agencies:	59

### **Financial Report**

A copy of the financial report was available for review. The report reflected a \$43,731.15 current year net at June 30, 2008 and a \$106,052.21 cumulative carryover at June 30, 2008.

### **Legislative Report**

The following proposed legislation being considered by the current Tennessee General Assembly was reviewed:

SB0107/HB0357 - Adds misrepresentation involving financial statements or activities to the grounds for denial, suspension or revocation of a license issued by the Board of Veterinary Medical Examiners. Amends § 63-12-124(a)(4).

SB0410/HB0544 - Tort Liability and Reform – Exempts from civil liability any person who in good faith and without compensation for services provided renders or obtains medical care or treatment for a non-livestock animal that is abandoned, injured or in distress due to an emergency, or for a stray non-livestock animal, if such person’s actions do not constitute malice, gross negligence, recklessness, or criminal misconduct. Does not limit in any way the application of, or supersede, T.C.A. § 63-12-142.

SB0915/HB0358 - Establishes the “Tennessee Rural Veterinary Services (TRVS)” incentive program for graduates of the University of Tennessee (UT) College of Veterinary Medicine to locate their veterinary practice in underserved rural Tennessee communities and meet the needs of livestock producers and rural Tennessee communities. An incentive award, no more than five (5) recipients per academic year in an amount to be established by UT, may be received for a maximum of five (5) years for each year of continuous full-time provision of veterinary services in an under-served rural area of Tennessee.

SB2107/HB2110 - Prohibits local governments from restricting the authorized practice of veterinary medicine. Provides authorization to local governments to regulate the time and place

of veterinary business operations provided that such regulation does not conflict with state laws or regulations governing the practice of veterinary medicine. Adds new section: T.C.A. § 63-12-145.

### **Continuing Education Course Approval**

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

A request from **Airport Pet Emergency Clinic** for approval of continuing education hours for the following seminars:

March 8, 2009 – **“Internal Medicine”** – Johnson City, TN – 6.0 hours

December 6, 2009 – **“Practice Management and Staff Involvement”** – Johnson City, TN – 6.0 hours

A request from **Ms. Linda Cooke** for approval of nineteen (19) continuing education hours for a conference entitled **“499 Ranch Days”** to be held May 12 – 13, 2009 in Sparta, TN.

A request from **Fort Dodge Animal Health** for approval of one (1) continuing education hour for a presentation entitled **“Leptospirosis”** to be held on May 6, 2009 in Nashville, TN.

A request from **Hill’s Pet Nutrition, Inc.** for approval of two (2) continuing education hours for a presentation entitled **“LUTD & Renal Disease: Evidence Based Nutritional Management”** held on February 4, 2009 in Chattanooga, TN.

A request from Dr. Thomas Bates, Dept. of Agriculture, for approval of continuing education hours for a **Department of Homeland Security** certification course entitled **“Agriculture Emergency Responder Training”**.

A request from **J. T. James, DVM**, for approval of sixteen (16) continuing education hours for the **2009 Sound Horse Conference** held March 20 – 21, 2009 in Gainesville, FL.

A request from **Nutramax Laboratories** for approval of two (2) continuing education hours for presentations entitled **“Joint Health Management: Practical Use of Nutraceuticals”** and **“The Beauty of Bugs: The Benefits and Use of Probiotics”** held on April 21, 2009 in Cordova, TN.

A request from **Pfizer Animal Health** for approval of one (1) continuing education hour for a presentation entitled **“Making the Connection to the Pathophysiology of Obesity”** held on January 29, 2009 in Memphis, TN.

A request from **Pfizer Animal Health** for approval of one (1) continuing education hour for a presentation on **“Bordetella/Canine Infectious Respiratory Disease”** held on April 15, 2009 in Collierville, TN.

A request from **Lisa M. Chassy, DVM** for approval of four and one-half (4.5) continuing education hours for a workshop at the **5<sup>th</sup> Anniversary Rescue Waggin' Summit** entitled **“Population Management Challenges and the Life Saving Tools to Master your Herd”** to be held on May 7 – 8, 2009 in St. Louis, MO.

A request from **Lisa M. Chassy, DVM** for approval of nineteen (19) continuing education hours for the **“2<sup>nd</sup> Annual Veterinary Forensic Sciences Conference”** to be held on May 13 – 15, 2009 in Orlando, FL.

A request from **Lisa Twark, DVM** for approval of five (5) continuing education hours for attendance at the **“No Kill 2009 Conference”** to be held on May 2 – 3, 2009 in Washington D.C.

A motion was made by Dr. Rogers, seconded by Dr. Lyons, to grant approval of three (3) continuing education hours for the approval request from Ms. Linda Cooke for “499 Ranch Days”. The motion carried.

A motion was made by Dr. Rogers, seconded by Dr. Lyons, to grant approval of five (5) continuing education hours for the approval request from Lisa M. Chassy, DVM for the “2<sup>nd</sup> Annual Veterinary Forensic Sciences Conference”. The motion carried.

A motion was made by Dr. Lyons, seconded by Ms. Gordon, to deny the request for approval from Lisa Twark, DVM for attendance at the “No Kill 2009 Conference”. The motion carried.

A motion was made by Dr. Lyons, seconded by Dr. Kendrick, to approve all other courses as submitted. The motion carried.

### **File Review/Ratification**

Upon review, the Board moved to ratify all newly licensed/certified or reinstated veterinarians, veterinary medical technicians, veterinary facilities, certified animal euthanasia technicians, and certified animal control agencies and all applicant files closed pursuant to rule requirements.

### **Correspondence**

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

### **Adjournment**

There being no further business, the Board moved to adjourn at 7:46 p.m.

**These minutes were ratified at the meeting held on August 19, 2009.**