

BOARD OF VETERINARY MEDICAL EXAMINERS

Minutes

Date: August 19, 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.
Charles Hatcher, D.V.M., State Veterinarian, Ex-officio Member

Members Absent: Tiffani Rogers, D.V.M.

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 A. Whitehead, Board Attorney

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

Conflict of Interest Policy

Ms. Sara Whitehead, 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. Shiva Bozarth introduced Ms. Maryam Kassae, Assistant General Counsel, to the Board. The Board welcomed Ms. Kassae.

Approval of Minutes

After reviewing the minutes from the April 22, 2009 board meeting, Dr. Lyons moved to approve the minutes as presented. Dr. Kendrick seconded the motion. The motion carried.

Licensure Applicant Interview

Matthew Ryan Nimmo, DVM

The Board reviewed an application for licensure as a veterinarian submitted by **Matthew Ryan Nimmo, DVM**. Dr. Nimmo answered “yes” to the question on the application regarding conviction of a felony or a misdemeanor other than a minor traffic offense. Dr. Nimmo 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 Ms. Gordon, to grant the license. The motion carried.

Kendrell Clay McFarland, CAET

The Board reviewed an application for certification as an animal euthanasia technician submitted by **Kendrell Clay McFarland**. Mr. McFarland answered “no” to the question on the application regarding conviction of a felony or a misdemeanor other than a minor traffic offense. Mr. McFarland was present to answer any questions from members of the Board regarding multiple drug-related convictions. Mr. McFarland’s employing supervisor was also present and spoke on his behalf. After discussion and review of the documentation provided by the applicant, Dr. Lyons made a motion, seconded by Dr. Kendrick, to grant the certification with the requirement that random, quarterly drug screen reports be reported to the Board’s office for a period of two years. The motion carried.

Remand from Chancery Court – Colleen Beckwith, DVM

Dr. Colleen Beckwith, DVM, was present and was represented by Mr. Christopher M. Myatt, Attorney. Ms. Sara Whitehead, Assistant General Counsel, and Mr. Shiva K. Bozarth, Deputy General Counsel, represented the State. The proceedings were presided over by Administrative Law Judge Mary M. Collier. Dr. Beckwith had appeared before the Board for a contested case hearing on April 18, 2007. Dr. Beckwith appealed the Board’s decision to the Davidson County Chancery Court, and the Davidson County Chancery Court partially remanded the matter back to the Board for the purpose of taking the testimony of Ms. Alice Ford, R.N., Investigator for Health Related Boards (HRB), and to resolve a discrepancy regarding whether a letter was sent indicating that the matter had been concluded in 2004 and reopened three years later. The State presented testimony from Ms. Denise L. Moran, Director of Investigations, regarding the complaint process. Testimony was presented from Ms. Alice Ford, HRB Investigator, regarding the investigative process and her interviews with Dr. Beckwith. Dr. Beckwith testified on her own behalf.

Upon deliberation, a motion was made by Ms. Jones, seconded by Dr. Lyons, to find that the Respondent had received sufficient notice that the charges were still pending and actively being pursued by the Department of Health and not dismissed. The motion carried.

Welcome New Board Member

Dr. Thompson welcomed Dr. Charles Hatcher, DVM, State Veterinarian, to the Board. Dr. Hatcher replaces Dr. Ron Wilson, DVM. The State Veterinarian serves as an ex-officio member of the Board.

Order of Compliance – Timothy Dalpiaz, DVM

Ms. Sara Whitehead, Board Attorney, presented the Order of Compliance to the Board. Dr. Dalpiaz had previously appeared before the Board at the December 11, 2008 board meeting. Dr. Lyons made a motion, seconded by Dr. Kendrick, to approve the Order of Compliance. The motion carried.

Order of Compliance – Kristy Templin, LVMT

Ms. Sara Whitehead, Board Attorney, presented the Order of Compliance to the Board. Dr. Lyons made a motion, seconded by Ms. Jones, to approve the Order of Compliance. The motion carried.

Consent Order – Elizabeth R. Householder, LVMT

Ms. Elizabeth Householder, LVMT, was not present and was not represented by counsel. Ms. Sara Whitehead, Assistant General Counsel, presented the Consent Order to the Board for ratification. Ms. Householder practiced as a veterinary medical technician on a lapsed license from February 28, 2006 thru January 21, 2009. Ms. Householder agreed to pay civil penalties in the total amount of one thousand seven hundred and fifty dollars (\$1,750.00) and costs of the proceedings. Dr. Bondurant made a motion, seconded by Ms. Jones, to accept the Consent Order. The motion carried.

Consent Order – James K. Montgomery Jr., DVM

Dr. James K. Montgomery, 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. Montgomery administered ½ cc vaccinations to animals and administered B-12 injections to humans. Dr. Montgomery failed to maintain a record for each companion animal which accurately reflected the veterinary problems and interventions. Dr. Montgomery employed an unlicensed individual from June 2005 until February, 2008 who performed the duties of a licensed veterinarian, including diagnosing, treating, and performing surgery on animals. Dr. Montgomery agreed that his license is on probation for a period of no less than three (3) years with the following conditions: in addition to the continuing education hours required each year to maintain licensure, he must successfully complete five (5) additional hours in the subject area of professional ethics and practice management and five (5) additional hours in the area of prescribing and controlled drug practices; and he must petition the Board for an Order of Compliance following the conclusion of the probationary period. Dr. Montgomery agreed to pay civil penalties in the amount of two thousand dollars (\$2,000.00) and costs of the proceedings. Dr. Lyons made a motion, seconded by Dr. Kendrick, to accept the Consent Order. The motion carried.

Consent Order – R. Bruce Stewart, DVM

Dr. R. Bruce Stewart, 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. On March 14, 2006, Dr. Stewart pled guilty to one (1) count of casual exchange of a Schedule VI drug, a Class A misdemeanor; one (1) count of possession of drug paraphernalia, a Class A

misdeemeanor; and one (1) count of unlawful possession of a weapon, a Class C misdemeanor. Dr. Stewart ordered drugs for which he kept no controlled drug log. Dr. Stewart agreed that his license is on probation for a period of four (4) years with the following conditions: he may not prescribe, order, administer or handle any narcotic or controlled substances during the probationary period; he must surrender his Drug Enforcement Administration (DEA) certificate and shall not reapply for his DEA certificate until after completion of probationary period; he shall not own or operate a solo veterinary practice during the probationary period; he shall provide a copy of the Consent Order to any and all of his employers; and he must petition the Board for an Order of Compliance at the conclusion of the probationary period. Dr. Stewart agreed to pay civil penalties in the amount of \$2,500.00 and costs of the proceedings. Dr. Lyons made a motion, seconded by Dr. Bondurant, to accept the Consent Order. The motion carried.

Consent Order – Robert M. Thorpe, DVM

Dr. Robert Thorpe, 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. Thorpe allowed a former employee to work at his office as a veterinarian without a valid license issued by the Board from on or about July, 2007 until at least December, 2007. Dr. Thorpe agreed to pay civil penalties in the amount of four thousand five hundred dollars (\$4,500.00) and costs of the proceedings. Dr. Bondurant made a motion, seconded by Dr. Lyons, to accept the Consent Order. The motion carried.

Consent Order – Sharon L. Hensley, DVM

Dr. Sharon Hensley, 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 and Ms. Gordon recused themselves. While employed at Metro Animal Control, Dr. Hensley administered expired rabies vaccine from approximately October 2004 until February 2005. Dr. Hensley agreed to a reprimand. Dr. Hensley agreed to pay the costs of the proceedings. Ms. Jones made a motion, seconded by Dr. Kendrick, to accept the Consent Order. The motion carried.

Consent Order – Russell R. Barnett, DVM

Dr. Russell Barnett, 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. Barnett practiced veterinary medicine in a facility without a valid premises permit from January 1, 2007, until at least May 30, 2009. Dr. Barnett agreed to pay civil penalties in the amount of one thousand four hundred and fifty dollars (\$1,450.00) and costs of the proceedings. Dr. Kendrick made a motion, seconded by Dr. Lyons, to accept the Consent Order. The motion carried.

Consent Order – Leeann W. Blackford, DVM

Dr. Leeann Blackford, 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. Blackford practiced veterinary medicine in a facility without a valid premises permit from approximately March 2005 until at least June 2008. Dr. Blackford agreed to pay civil penalties

in the amount of two thousand dollars (\$2,000.00) and costs of the proceedings. Dr. Kendrick made a motion, seconded by Dr. Lyons, to accept the Consent Order. The motion carried.

Consent Order – John R. Chambers, DVM

Dr. John Chambers, 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. Chambers practiced veterinary medicine in a facility without a valid premises permit from October 2005 until at least October 2008. Dr. Chambers agreed to pay civil penalties in the amount of one thousand nine hundred dollars (\$1,900.00) and costs of the proceedings. Dr. Lyons made a motion, seconded by Ms. Jones, to accept the Consent Order. The motion carried.

Consent Order – James D. Moore, DVM

Dr. James Moore, 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. Moore practiced veterinary medicine in a facility without a valid premises permit from July 2000 until at least June 2009. Dr. Moore agreed to pay civil penalties in the amount of five thousand three hundred and fifty dollars (\$5,350.00) and costs of the proceedings. Dr. Lyons made a motion, seconded by Dr. Kendrick, to accept the Consent Order. The motion carried.

Consent Order – Christian J. Keller, DVM

Dr. Christian Keller, 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. Keller practiced veterinary medicine in a facility without a valid premises permit from approximately February 2005 until at least February 2009. Dr. Keller agreed to pay civil penalties in the amount of two thousand four hundred dollars (\$2,400.00) and costs of the proceedings. Dr. Lyons made a motion, seconded by Ms. Jones, to accept the Consent Order. The motion carried.

Consent Order – Bryan F. Bancroft, DVM

Dr. Bryan 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. Thompson recused himself. Dr. Bancroft performed the duties of a licensed veterinarian without a valid license issued by the Board from on or about August 2005 until at least December 2006. Dr. Bancroft agreed that his license is on probation for a period of no less than five (5) years with the following conditions: in addition to the continuing education hours required each year to maintain licensure, he must successfully complete ten (10) hours of Board-approved continuing education, five (5) of which must be in the subject area of professional management/ethics for each year of the probationary period; he must meet annually with the Board's consultant to demonstrate compliance and present evidence that he is in compliance with all terms and conditions of Order; he must attend a full board meeting annually to observe actions of the Board and to help him understand the importance of his role as a licensee; and he must petition the Board for an Order of Compliance at the end of the probationary period. Dr. Bancroft agreed to pay civil penalties in the amount of sixteen thousand dollars (\$16,000.00) and

costs of the proceedings. Dr. Kendrick made a motion, seconded by Ms. Gordon, to accept the Consent Order. The motion carried.

Consent Order – Linda Montgomery, DVM

Dr. Linda Montgomery, 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. Montgomery is licensed by the Alabama Board of Veterinary Medical Examiners as a veterinarian but does not hold a Tennessee license to practice veterinary medicine. Dr. Montgomery performed the duties of a licensed veterinarian while employed at a veterinary clinic in Tennessee. Dr. Montgomery agreed to immediately cease and desist from the practice of veterinary in Tennessee unless or until she is licensed by the Board. Dr. Montgomery agreed to pay the costs of the proceedings. A motion was made by Dr. Lyons, seconded by Dr. Kendrick, to deny the Consent Order. The motion carried.

Agreed Order – Pet Care Warehouse of Tennessee

Pet Care Warehouse of Tennessee was represented by J. Brent Nolan of the Knoxville Bar who was not present. An Agreed Order of Limited Remand was issued by the Davidson County Chancery Court for the limited purpose of permitting the Board to consider a proposed Agreed Order to resolve the case. Ms. Sara Whitehead, Assistant General Counsel, presented the Agreed Order with the following terms to the Board for ratification: the Order of the Board entered October 8, 2007 shall be set aside; the Respondent agrees to cease and desist practicing veterinary medicine and agrees to pay the costs of the proceedings. In consideration of and in exchange for the Board's approval of the Agreed Order, the pending Chancery Court petition for judicial review will be dismissed. A motion was made by Dr. Kendrick, seconded by Ms. Jones, to approve the Agreed Order. The motion carried with Dr. Bondurant opposed.

Review of Continuing Education Courses/Presentations

Dr. Kendrick and Ms. Jones agreed to review requests for approval of continuing education hours and make recommendations to the board regarding approval/disapproval. Dr. Kendrick and Ms. Jones replace Dr. Thompson on the review committee.

Discussion – American Association of Veterinary State Boards (AAVSB)

The Board agreed to accept the proposed amendments to the AAVSB Practice Act Model and proposed Bylaws changes. Ms. Lampley will be the voting delegate at the upcoming AAVSB Annual Conference scheduled to be held September 24 – 26, 2009, in Minneapolis, MN.

Discussion – Proposed NAVLE Policy

The National Board of Veterinary Medical Examiners (NBVME) requested that state boards consider adopting a policy which states that a candidate may not sit for the North American Veterinary Licensing Examination (NAVLE) more than five (5) times and may not sit for the examination at a date that is later than five (5) years after a candidate's initial attempt. Each of the final two attempts must be at least one year from the previous attempt. This policy took

effect beginning with the fall 2007 NAVLE administration. Upon discussion, the Board declined to adopt the policy.

Discussion – Proposed Amendment to Rules Chapter 1730-4 Certified Animal Control Agencies

Upon review and discussion, the Board proposed an amendment to rules governing Certified Animal Control Agencies to include the requirement that the agency/facility must provide a copy of the “Non-Livestock Animal Humane Death Act” (codified at T.C.A. § 44-17-301, et seq.) to all individuals performing euthanasia at the facility.

Office of General Counsel (OGC) Report

Ms. Sara Whitehead, Board Attorney, reported that there is currently one (1) set of rule amendments under review at the Office of the Attorney General. The Office of General Counsel currently has thirty-nine (39) open disciplinary cases pertaining to the Board of Veterinary Medical Examiners. Ms. Whitehead discussed and proposed to the Board that a letter be sent to those licensees that the Department of Revenue has identified as delinquent in payment of the professional privilege tax giving them the opportunity to rectify the matter prior to the revocation of their licenses to practice veterinary medicine. A motion was made by Dr. Kendrick, seconded by Dr. Lyons, to accept the proposal. The motion carried.

Investigations and Disciplinary Report

Ms Denise Moran, Director of Investigations, reported that there are currently thirty-eight (38) 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 seventeen (17) individuals are currently being monitored for compliance with Board orders. Ms. Moran informed the Board that the Office of Investigations currently has an eighty-seven (87%) to ninety-five (95%) percent collection rate on payments of fines/penalties.

Inspection Status Report

Dr. Taylor reported that a total of eighty-two (82) inspections were conducted during the period of April 2009 – July 2009.

Director’s Report

Ms. Lampley congratulated Dr. Charles (Charlie) Hatcher, DVM, on his appointment as the State Veterinarian and welcomed him to the Board. Appreciation was expressed to Dr. Thompson and Ms. Gordon, whose terms expired July 31, 2009, for all their hard work and contributions to the Board.

Board members were informed that the Veterinary Technician National Examination (VTNE) was administered on June 19, 2009, to thirty-two (32) candidates. A total of twenty-three (23) candidates passed the examination. The next testing window for the North American Veterinary Licensing Examination (NAVLE) will be November 16, 2009 – December 12, 2009.

Approximately sixty (60) licensure applications have been received from candidates wishing to take the exam through the TN licensing board.

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

Veterinarians:	1,861
Veterinary Medical Technicians:	377
Veterinary Facilities:	648
Certified Animal Euthanasia Technicians:	228
Certified Animal Control Agencies:	59

Financial Report

A copy of the financial report was available for review. The report reflected a \$43,731.15 balance as of June 30, 2008 for FY 2008 and a -\$106,052.21 cumulative carryover as of June 30, 2008.

Continuing Education Course Approval

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

A request from **Boehringer Ingelheim Vetmedica, Inc.** for approval of seven (7) continuing education hours for a “**Cardiology Symposium**” to be held June 23, 2009 in Memphis, TN.

A request from **Pfizer Animal Health** for approval of one (1) continuing education hour for a presentation entitled “**Compliance with CONVENIA**” held on June 04, 2009 in Cordova, TN.

A request from **Pfizer Animal Health** for approval of two (2) continuing education hours for a presentation entitled “**Advancements in Sedation and Analgesia for Dogs and Cats**” held on August 04, 2009 in Memphis, TN.

A request from the **Tennessee Veterinary Technicians Association** for approval of twelve (12) continuing education hours for the “**Annual Gatlinburg Conference**” to be held October 17 – 18, 2009 in Gatlinburg, TN.

A request from **VetMedConsulting.com** for approval of two (2) continuing education hours for an online course on the “**Veterinary Laws, Rules, Regulations and Statutes**”. A motion was made by Ms. Jones, seconded by Dr. Kendrick, to deny this request from VetMedConsulting.com for the online course on the “Veterinary Laws, Rules, Regulations and Statutes” and to approve all other courses as submitted. The motion carried.

File Review/Ratification

The Board reviewed a request for animal chemical capture certification submitted by **McKamey Animal Center**. Upon review and discussion, Dr. Kendrick made a motion, seconded by Dr. Lyons, to deny the application for failing to meet the definition of a “Certified Governmental Animal Control Agency” as defined in Tenn. Comp. R. & Regs. 1730-06-.02(2). The motion carried.

The Board passed a motion to approve the list presented of newly licensed/certified or reinstated veterinarians, veterinary medical technicians, veterinary facilities, certified animal euthanasia technicians, and certified animal control agencies and to approve the list of applicant files that were closed.

Correspondence

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

2010 Board Meeting Dates

The Board confirmed the following meeting dates for calendar year 2010:

April 21 – 22

August 25 – 26

December 15 – 16

Election of Officers

The Board elected the following officers:

President: James C. Lyons, DVM

Vice-President: Bryan W. Bondurant, DVM

Secretary: Joseph Kendrick, DVM

Adjournment

There being no further business, the Board moved to adjourn at 6:00 p.m.

These minutes were ratified at the meeting held on December 9, 2009.