

BOARD OF VETERINARY MEDICAL EXAMINERS

Minutes

Date: December 9, 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: 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.
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 9:12 a.m.

Welcome New Board Member

The Board welcomed Dr. Forrest W. Reynolds, DVM, who replaced Dr. Maben C. Thompson, DVM. His term expires July 31, 2014.

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.

Approval of Minutes

After reviewing the minutes from the August 19, 2009 and September 18, 2009 board meetings, Dr. Kendrick moved to approve the minutes as presented. Dr. Rogers seconded the motion. The motion carried.

Progress Report – Richard D. Hinson, DVM

As per the Order approved by the Board on August 24, 2005, Dr. Hinson appeared before the Board to present proof of continuing education and other requirements for maintaining licensure.

Progress Report – Gina M. May, DVM

As per the terms of the conditional license to practice veterinary medicine issued on April 24, 2008, Dr. May appeared before the Board to present proof of obtaining continuing education hours.

Progress Report – Mark Roberts, DVM

As per the Order approved by the Board on April 19, 2006, Dr. Roberts appeared before the Board to present proof of obtaining continuing education hours and compliance with other requirements for maintaining licensure.

Progress Report – Richard Smith, DVM

As per the Order approved by the Board on April 24, 2008, Dr. Smith appeared before the Board to apprise the Board of the status of his peer assistance contract.

Licensure Applicant Interview

Frances Renee Bertasi Smith, DVM

The Board reviewed an application for reinstatement of a retired license submitted by **Frances Renee Bertasi Smith, DVM**. Dr. Smith had not been engaged in the continuous practice of veterinary medicine while the license was retired. Dr. Smith presented proof of obtaining continuing education hours and answered questions from the Board. Dr. Bondurant made a motion, seconded by Ms. Jones, to approve the reinstatement of the license. The motion carried.

Consent Order – Linda Montgomery, DVM

Dr. Linda Montgomery, DVM, was not present and was represented by Attorney Robert Wheeler. 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 had 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 civil penalties in the total amount of two thousand dollars (\$2,000.00) and costs of the proceedings. Dr. Bondurant made a motion, seconded by Dr. Kendrick, to accept the Consent Order. The motion carried.

Consent Order – Rita E. Buice, LVMT

Ms. Rita Buice, 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. Dr. Bondurant recused himself. Ms. Buice practiced as a veterinary medical technician on a lapsed license from June 1, 2004 until August 26, 2008. Ms. Buice agreed that her license be placed on probation for a period of at least two (2) years after which she must petition the Board for an Order of Compliance at the end of the probationary period. She agreed to pay civil penalties in the amount of two thousand five hundred and fifty dollars (\$2,550.00) and costs of the proceedings. Ms. Jones made a motion, seconded by Dr. Rogers, to accept the Consent Order. The motion carried.

Consent Order – Arthur G. Conaway, DVM

Dr. Arthur Conaway, 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. In the year 2008, Dr. Conaway dispensed approximately 160 ml of Ketamine to an unlicensed individual. Dr. Conaway agreed that his license be placed on probation for a period of two (2) years with the following conditions: an annual appearance before the Board at its August meeting every year of the probation; 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 four thousand dollars (\$4,000.00) and costs of the proceedings. Dr. Kendrick made a motion, seconded by Ms. Jones, to accept the Consent Order. The motion carried.

Consent Order – Louis S. Graham III, DVM

Dr. Louis Graham III, 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 as a veterinarian, Dr. Graham x-rayed the hand of a human; prescribed Divan for a human; prescribed Keflex for humans; prescribed a Zithromax Z-Pack for a human; and instructed and allowed his employees to administer rabies shots and refill medications on Saturdays when he was not on the premises. Dr. Graham agreed that his license be placed on probation for a period of three (3) years with the following conditions: appear before the Board within six (6) months of the effective date of the Consent Order to submit updated policies regarding employee supervision and employee duties; an annual appearance before the Board at its August meeting every year of the probation; 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 four thousand dollars (\$4,000.00) and costs of the proceedings. Dr. Rogers made a motion, seconded by Dr. Kendrick, to accept the Consent Order. The motion carried.

Consent Order – Dean B. Martin, DVM

Dr. Dean Martin, 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. Dr. Martin practiced veterinary medicine in a facility without a valid premises permit from May 2005 until at least May 2009. Dr. Martin agreed to pay civil penalties in the amount of two thousand four hundred and fifty dollars (\$2,450.00) and costs of

the proceedings. Dr. Kendrick made a motion, seconded by Dr. Rogers, to accept the Consent Order. The motion carried.

Consent Order – Fatehkumar Pandya, DVM

Dr. Fatehkumar Pandya, 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. Dr. Pandya failed to perform any labwork or x-rays to diagnose a dog's illness during two (2) separate visits. The dog was subsequently treated at another veterinary clinic where it was determined that the animal was extremely septic and that a toothpick had perforated the dog's intestinal tract. The dog died two hours after surgery. Dr. Pandya's medical records for the dog provided very little information regarding the dog's medical condition. Dr. Pandya agreed that his license be placed on probation for a period of not less than four (4) years with the following conditions: an annual appearance before the Board at its August meeting every year of the probation; every September submit a list of patients treated during the first two (2) weeks of September to the Board's consultant, who will then pick ten (10) patient records to review and determine whether Dr. Pandya is keeping appropriate patient records; 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 two thousand dollars (\$2,000.00) and costs of the proceedings. Dr. Kendrick made a motion, seconded by Dr. Rogers, to accept the Consent Order. The motion carried.

Consent Order – Ralph W. Pope, Jr., DVM

Dr. Ralph Pope, Jr., 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 Pope Animal Clinic, Dr. Pope allowed an unlicensed individual to perform the duties of a licensed veterinarian from March 2008 until at least December 2008. Dr. Pope agreed to pay civil penalties in the amount of five thousand dollars (\$5,000.00) and costs of the proceedings. Ms. Jones made a motion, seconded by Dr. Reynolds, to accept the Consent Order. The motion carried.

Consent Order – Sandra A. Priest, DVM

Dr. Sandra Priest, 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. Priest practiced veterinary medicine in a facility without a valid premises permit from January 2004 until at least June 2009. Dr. Priest agreed to pay civil penalties in the amount of three thousand two hundred and fifty dollars (\$3,250.00) and costs of the proceedings. Dr. Bondurant made a motion, seconded by Dr. Kendrick, to accept the Consent Order. The motion carried.

Consent Order – Pamela J. Webb, DVM

Dr. Pamela Webb, 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. Webb failed to disclose during the application process that the Georgia State Board of Veterinary Medicine had reprimanded her Georgia veterinary license in October 2006 and that

she had a misdemeanor conviction in September 1980 in the State of Georgia. Dr. Webb agreed that her license be placed on probation for a period of not less than one (1) year with the following conditions: maintain good and lawful conduct and any violation of law (federal, state, or local) will be a violation of the terms of the Consent Order; petition the Board for an Order of Compliance at the end of the probationary period. She agreed to pay civil penalties in the amount of one thousand dollars (\$1,000.00) and costs of the proceedings. Dr. Bondurant made a motion, seconded by Ms. Thompson, to accept the Consent Order. The motion carried.

File Review

The Board reviewed an application for licensure by reciprocity as a veterinary medical technician submitted by **Ms. Karen Ball**. Ms. Ball holds an active license as a veterinary medical technician in the State of Georgia. Ms. Ball's application reflected that she practiced as a veterinary medical technician in Georgia during the period of 1999 – 2006 and had been performing the duties of a veterinary medical technician during the period of January 2006 – present while employed at a veterinary facility in Chattanooga, TN. Upon review and discussion, Dr. Bondurant made a motion, seconded by Dr. Kendrick, to grant the license. The motion carried with Dr. Rogers abstaining.

Discussion – Interpretation of T.C.A. § 63-12-133 relative to the Commercial Breeder Act

Ms. Alison Cleaves, Deputy General Counsel, Department of Health, appeared before the Board to request the Board's interpretation of T.C.A. § 63-12-133 relative to the Commercial Breeder Act which was recently enacted by 2009 Public Chapter No. 591. This law establishes a licensure program for commercial breeders and statutorily defines a "commercial breeder" as any person who possesses or maintains, under his or her immediate control, twenty (20) or more unsterilized adult female dogs or cats in this state for the purpose of selling the offspring as companion animals. The Board discussed the matter. A board member stated that to the extent that a commercial breeder owns the animal, that individual would be exempt from licensure pursuant to T.C.A. 63-12-133(a)(4) relative to administering to the ills and injuries of the person's own animals; however, relative to euthanasia, this would have to be performed by a licensed veterinarian or by an individual under the direct or responsible supervision of a licensed veterinarian. The board declined to vote to interpret the law, but no board member vocalized disagreement with this statement.

Review/Discussion – Proposed Rule Amendments

Ms. Sara Whitehead, Board Attorney, presented for review by the Board a draft of proposed rule changes relative to scope of practice and prerequisites to prescribing and qualifications for certification as a certified animal control agency. The proposed rules include definitions of the branches of veterinary medicine and treatment methods. The proposed rules require certified animal control agencies to show that they have provided a copy of the "Non-Livestock Animal Humane Death Act" to each employee who will perform euthanasia and maintain documentation of compliance. The Board reviewed and discussed the economic impact statement and the regulatory flexibility analysis. Upon review/discussion, Dr. Rogers made a motion, seconded by Dr. Kendrick, to accept the proposed rules packet as amended and to authorize a rulemaking hearing to be held at the April 21 – 22, 2010 board meeting.

Office of General Counsel (OGC) Report

Ms. Sara Whitehead, Board Attorney, reported that rule amendments sent to rulemaking hearing on June 27, 2007 became effective on December 9, 2009. The Office of General Counsel currently has twenty (20) open disciplinary cases pertaining to the Board of Veterinary Medical Examiners.

Investigations and Disciplinary Report

Ms. Juanita Stone, Disciplinary Coordinator, reported that there are currently nineteen (19) 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.

Inspection Status Report

Ms. Lampley reported that a total of fifty-nine (59) inspections were conducted during the period of August 2009 – October 2009.

Director's Report

Ms. Lampley welcomed Ms. Thompson and Dr. Reynolds to the Board and expressed appreciation for their willingness to serve.

Ms. Lampley attended the American Association of Veterinary State Boards (AAVSB) Annual Conference held September 24-26, 2009 in Minneapolis, MN.

Ms. Lampley spoke to the graduating students of the veterinary technology program at Chattanooga State Community College on October 14, 2009 about the upcoming exam and the licensure process. The Veterinary Technician National Examination (VTNE) will be administered to approximately thirty (30) candidates on January 15, 2010. This will be the last examination administered by board staff as the exam will be changing to a computer-based test beginning in June 2010.

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

Veterinarians:	1,875
Veterinary Medical Technicians:	393
Veterinary Facilities:	658
Certified Animal Euthanasia Technicians:	224
Certified Animal Control Agencies:	60

Continuing Education (CE) Audit Report

During the audit period January – June, 2009, a total of twenty-two (22) veterinarians were audited with all licensees found to be in compliance with continuing education requirements. A

total of twelve (12) veterinary medical technicians were audited during this period with one (1) licensee found to be non-compliant with continuing education requirements.

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 **Merial** for approval of two (2) continuing education hours for the following meetings/presentations:

“FELINE VACCINATION IN 2009: Progressive practices for progressive practices” – July 30, 2009 - Knoxville, TN and July 29, 2009 - Franklin, TN

“Pain and Its Management” – March 31, 2009 - Knoxville, TN

“Surviving and Thriving in this Economy” – April 24, 2009 - Knoxville, TN

“Practice Tips to Promote Cat Wellness and the Bottom Line (Doing the Right Thing)” – August 18, 2009 – Chattanooga, TN; August 19, 2009 – Knoxville, TN

“Flea Biology – Improving Client Compliance” – March 26, 2009 – Nashville, TN

“What’s New About an Old Disease? Heartworm – April 16, 2009 – Nashville, TN

A request from **Regional Institute for Veterinary Emergencies and Referrals (R.I.V.E.R.)** for approval of sixteen (16) continuing education hours for a continuing education meeting held on September 19 – 20, 2009 in Chattanooga, TN.

A request has been received from **Pfizer Animal Health** for approval of two (2) continuing education hours for each module of a three-module communication course entitled **“FRANK”** to be held September 10, October 7, and November 10, 2009 in Nashville, TN and November 10, December 3, and January, 2010 in Murfreesboro, TN.

A request from the **Hamilton County Disaster Animal Response Team** for approval of seven (7) continuing education hours for the **“Tri-State Animal Emergency Conference”** held on November 14, 2009 at Chattanooga State Community College.

A request from **Anne E. Stein, LVMT**, for approval of nine (9) continuing education hours for attendance at the **“Feline Forum: Practices and New Perspectives”** held September 24 – 26, 2009 in Chicago, IL.

A request from **Butler Animal Health Supply LLC** for approval of two (2) continuing education hours each for the following meetings to be held January 8 – 10, 2010 in Union City, TN:

“Can You Judge a Book by its Cover? Regulations and Standards of Pet Foods” – January 9, 2010

“Probiotics in Canines and Felines” – January 10, 2010

A request from **Pfizer Animal Health** for approval of three (3) continuing education hours for attendance at the **“Dexdomitor Pain Management Lecture and Wet Lab”** held October 7, 2009 at Appalachian Animal Hospital in Piney Flats, TN.

A request from **Ann Barrett-Thomason, DVM** for approval of fourteen (14) continuing education hours for completion of **“High-Volume Surgical Techniques Training”** on June 17-18, 2009 at the **Humane Alliance** in Asheville, NC.

A request from **Paula K. Hendrix, DVM, PhD** for approval of four (4) continuing education hours for a **“Veterinary Technician Continuing Education Seminar”** on the topics of: Anesthesia Machines and Breathing Equipment; Monitoring the Anesthetized Patient; Injectable Drugs in Anesthesia; and Cardiopulmonary Arrest and Resuscitation to be held in the Spring of 2010 in Nashville, TN.

A motion was made by Ms. Jones, seconded by Dr. Rogers, to grant five (5) continuing education hours for the request from Hamilton Co. Disaster Animal Response Team for the Tri-State Animal Emergency Conference and to grant six and one-half (6.5) hours for the request from Ms. Anne Stein, LVMT for attendance at the “Feline Forum: Practices and New Perspectives” 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 2009 submitted by **Nancy C. Goldston, DVM**. In accordance with the Policy Statement adopted by the Board on April 10, 2003, a motion was made by Dr. Bondurant, seconded by Dr. Rogers, to allow Dr. Goldston until December 31, 2010 to make up the deficit hours and to allow her to obtain twenty (20) of the forty (40) required hours via multi-media format. The motion carried.

Ratifications

A motion was made by Dr. Rogers, seconded by Dr. Bondurant, to approve the administrative revocation of **Ms. Renee Racey’s** license to practice as a veterinary medical technician due to insufficient funds. Ms. Jones recused herself. The motion carried.

A motion was made by Dr. Kendrick, seconded by Ms. Jones, 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. The motion carried.

Board Member Training

Ms. Sara Whitehead, Board Attorney, conducted board member training and reviewed the Board's purpose and the powers of the board.

Adjournment

There being no further business, the Board moved to adjourn at 5:05 p.m.

These minutes were ratified at the meeting held on April 21, 2010.