

BOARD OF VETERINARY MEDICAL EXAMINERS

Minutes

Date: April 18-19, 2007

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

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

Members Present: Mary Welch, D.V.M., President
C. Maben Thompson, D.V.M., Vice-President
Thomas Edmonds, D.V.M., Secretary
Janet Jones, L.V.M.T
James C. Lyons, D.V.M.
Tiffani Rogers, D.V.M.

Members Absent: Marie Gordon, Consumer Member
Ron Wilson, D.V.M., Ex-officio Member
Robbie Bell, HRB Director, Ex-officio Member

Staff Present: Lisa Lampley, Board Director
Rita Buckner-Shelton, Board Administrator
Nicole Armstrong, Advisory Attorney
Robert Taylor, D.V.M., Board Consultant/Inspector

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

Conflict of Interest Policy

Ms. Nicole Armstrong, Advisory 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 January 30-31, 2007 board meeting, Dr. Thompson motioned to approve the minutes as presented. Dr. Rogers seconded the motion. The motion carried.

Licensure Applicant Interviews

Tina Marie Czech, LVMT

Ms. Czech appeared before the Board for an interview pursuant to information contained in the licensure application. Ms. Czech answered “no” to questions pertaining to any conviction of a felony or misdemeanor other than a minor traffic offense. The results received from the criminal background check indicated a misdemeanor conviction in December, 1989 in Ohio. Pursuant to the documentation presented and responses received during the interview, Dr. Thompson made a motion, seconded by Ms. Jones, to grant the license. The motion carried.

Kenneth W. Ford, DVM

Dr. Ford appeared before the Board for an oral interview/examination pursuant to his request for reinstatement of a retired license. Dr. Ford has not been engaged in the active practice of veterinary medicine since December, 2003. Dr. Ford presented proof of continuing education hours and satisfactorily answered questions from the Board. Dr. Lyons made a motion, seconded by Dr. Thompson, to grant his request for reinstatement of licensure. The motion carried.

Progress Report – Mary Ensminger, DVM

As per the terms of the Order ratified by the Board on April 27, 2005, Dr. Ensminger appeared before the Board to present proof of continuing education and other requirements for maintaining licensure.

Contested Case – Colleen Beckwith, DVM

Dr. Colleen Beckwith, DVM, was present and was represented by Mr. William Jeter, Attorney. Ms. Brandi Bozarth, Assistant General Counsel, represented the State. The proceedings were presided over by Administrative Law Judge Bob Fellman. Dr. Beckwith was charged with providing treatment to animals which fell below the standard of care for veterinary medicine. The state presented testimony from Ms. Michelle Payne, a client of Dr. Beckwith, regarding her cat’s treatment and medical records. The State then presented testimony from Dr. “Kate” Zimmerman, DVM, regarding her medical records and the subsequent findings and treatment she provided to animals of Dr. Beckwith’s clients. The State also presented expert testimony from Dr. Walter Clark, DVM, on his findings after reviewing the medical records of Dr. Beckwith. Dr. Clark stated that it was his expert opinion that, in some instances, the treatment provided by Dr. Beckwith did fall below the standard of care. Mr. William Jeter, attorney for Dr. Beckwith, presented testimony from Ms. Gail Belfiore, a client of Dr. Beckwith, regarding the care provided by Dr. Beckwith. Dr. Colleen Beckwith, DVM testified on her own behalf. Closing arguments were then presented by both sides.

Upon deliberation, the Board found the Respondent guilty of unprofessional conduct; conduct reflecting unfavorably upon the profession of veterinary medicine; and failing to maintain accurate medical records. A motion was made and seconded to assess total civil penalties in the amount of \$1,500.00 and assess costs of the proceedings. The motion carried. A motion was

then made by Dr. Thompson to place the license on probation for three (3) years with annual appearances before the Board to present proof of completion of continuing education in which at least ten of the twenty-hour requirement pertained to surgery. Dr. Lyons seconded the motion. The motion carried, with Dr. Edmonds opposed.

Agreed Order – Charles Patrick, DVM

Dr. Charles Patrick, DVM, was present and was represented by Gail Vaughn Ashworth, Attorney. Ms. Brandi Bozarth, Assistant General Counsel, presented an Agreed Order to the Board for ratification. Dr. Patrick's license to practice veterinary medicine was revoked per an Agreed Order ratified by the Board in September, 2004. Dr. Patrick continued to practice veterinary medicine on a revoked license. Dr. Patrick subsequently signed an Agreed Order, effective December 2005, in which he was ordered to cease and desist his unlicensed practice and was assessed total civil penalties in the amount of \$4,000.00. On March 25, 2006, Dr. Patrick signed a Breeding Soundness Evaluation and on April 4, 2006, he performed manual pregnancy exams of beef cattle at the Middle Tennessee State University farm. Dr. Patrick was assessed total civil penalties in the amount of \$2,000.00 and costs of the proceedings and was ordered to immediately cease and desist the unlicensed practice of veterinary medicine in the State of Tennessee, including but not limited to: manual pregnancy evaluations; veterinary work for Middle Tennessee State University; and the signing of any document that is required by law or policy to be signed by a licensed veterinarian. Dr. Thompson made a motion, seconded by Dr. Rogers, to accept the Agreed Order. The motion carried.

Agreed Order – Connie Womack, LVMT

Ms. Connie Womack, LVMT, was not present and was not represented by counsel. Ms. Brandi Bozarth, Assistant General Counsel, presented an Agreed Order to the Board for ratification. Ms. Womack's license to practice as a veterinary medical technician expired on January 1, 1990. Ms. Womack has worked as a veterinary technician for the past thirteen years. Ms. Womack was assessed total civil penalties in the amount of \$3,250.00 and costs of the proceedings and ordered to immediately cease and desist unlicensed practice as a veterinary medical technician. Dr. Edmonds made a motion, seconded by Dr. Rogers, to accept the Agreed Order. The motion carried.

Office of General Counsel (OGC) Report

Ms. Nicole Armstrong, Advisory Attorney, reviewed the report with the Board. There are currently three sets of rules under review at the Office of the Attorney General. The Office of General Counsel currently has fourteen (14) open cases pertaining to the Tennessee Board of Veterinary Medical Examiners.

Inspection Status Report

Dr. Robert Taylor, Board Consultant/Inspector, reviewed the inspection report. A total of one hundred forty-two (142) inspections were conducted during the period of December, 2006 – March, 2007.

Director's Report

Board members were informed that Ms. Robbie Bell, Director of Health Related Boards, will be retiring from state government effective June 15, 2007. Appreciation was expressed to the TVMA for the opportunity to attend and participate in the 2007 Music City Veterinary Conference held March 2 – 4, 2007 in Franklin, TN. The Veterinary Technician National Examination (VTNE) was administered to eleven (11) candidates on January 19, 2007 with a total of five (5) candidates passing the examination. Ms. Lampley spoke to the graduating students of the veterinary medical technician programs at Columbia State Community College on February 27, 2007 and at Lincoln Memorial University on March 12, 2007 about the upcoming exam and licensure process. The VTNE will be administered on June 15, 2007 in the Conference Center at Metro Center. The next board member orientation session is scheduled to begin at 9:00 a.m. on Thursday, May 17, 2007 and will be held in the Poplar Room located here in the Conference Center. Letters will be mailed in the next few weeks to licensees (veterinarians and veterinary medical technicians) who have been randomly selected to participate in an audit of continuing education hours obtained during calendar year 2005. The Spring 2007 edition of the board's newsletter has been completed and is currently being reviewed by the Publications Committee and will hopefully be mailed to licensees within the next few weeks.

Status Report of Total Active Licensees as of March 31, 2007:

Veterinarians:	1,705
Veterinary Medical Technicians:	340
Veterinary Facilities:	607
Certified Animal Euthanasia Technicians:	172
Certified Animal Control Agencies:	48

Financial Report

No financial report was available for review. The board members were informed that a new financial report would be mailed out within the upcoming weeks.

Legislative Report

The following legislation was reviewed:

HB0306/SB0209 – Requires all dogs to be licensed annually

HB0307/SB0208 – Enacts the “Animal Population Control Act of 2007”

HB1168/SB0870 – Authorizes the chemical capture of companion animals by certified animal control agencies.

The Board also reviewed a proposed amendment to HB1168/SB0870 and requested that a letter be sent to the sponsors of the legislation expressing the board's concerns and the potential risks associated with the chemical capture of animals.

HB1447/SB1161 – Adds misrepresentation involving financial statements to the grounds for suspension or revocation of a license issued by the Board of Veterinary Medical Examiners.

HB1618/SB0692 – Enacts the “Uniform Emergency Volunteer Health Practitioners Act”

HB1988/SB1290 – Enacts the “Tennessee Equine Protection Act”

Continuing Education Course Approval

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

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

6.0 hrs. – **“Ophthalmology”** topics – March 16, 2008 – Johnson City, TN

6.0 hrs. – **“It’s What’s Up Front That Counts and More!”** – December 7, 2008 – Johnson City, TN

A request from **Bayer Animal Health** for approval of one (1) hour of continuing education for a presentation on new products **“Advantage Multi for Dogs”** and **“Advantage Multi for Cats”** to be held on April 3, 2007 in Memphis, TN.

A request from **Fort Dodge Animal Health** for approval of two (2) hours of continuing education for the presentation entitled **“Virulent Systemic Feline Calicivirus: An Emerging Pathogen”** to be held on the following dates and locations:

April 17th – Knoxville, TN

April 18th – Nashville, TN

April 19th – Memphis, TN

A request from **Jackson Pet Emergency Clinic** for approval of two (2) hours of continuing education for a presentation entitled **“Needy Knees”** to be presented by Drs. Terry Dew and R. Olavessen on April 18, 2007 in Jackson, TN.

A request from **Pfizer Animal Health** for approval of continuing education hours for the following events:

1.0 hr. – **“Heartworm Disease Education”** – March 8, 2007 – Nashville, TN

1.0 hr. – **“Veterinary Dentistry: The New Porphyromonas Vaccine and How to Grow Your Dental Franchise”** – January 24 and January 31, 2007 - Memphis, TN

3.0 hrs. - **“Feline Heartworm Disease: New Evidence That May Surprise You”** - April 17, 2007 – Memphis, TN

A request from the **Regional Institute for Veterinary Emergencies and Referrals** for approval of two (2) continuing education hours for a lecture to be presented on March 27, 2007 on the topics **“IMHA Workup & Treatment”** and **“Approach to Trauma”** and approval of eight (8) hours each for the following labs to be conducted on March 28, 2007:

DVM Lab: **“Emergency and Critical Care Techniques”**

Technician Lab: **“Emergency and Critical Care Procedures”**

A request from Lisa M. Chassy, DVM MS, for approval of fourteen (14) continuing education hours for the **Southern Regional S/N Leadership Conference** to be held September 14 -16, 2007 in Memphis, TN.

A motion was made by Dr. Edmonds, seconded by Dr. Thompson, to approve the courses. The motion carried.

Continuing Education Waiver Request

The following request for a waiver of continuing education hours was reviewed and granted by the Board:

Gail S. Brawner, DVM – Approval of continuing hours obtained through correspondence courses and internet interactive courses for calendar year 2006.

The board recessed at 7:05 p.m.

April 19, 2007

The meeting was called to order by Dr. Welch at 9:07 a.m.

Ms. Marie Gordon, Consumer Member, was in attendance at the meeting on the second day. Thomas Edmonds, DVM was absent on the second day.

Contested Case – James W. Robinson, DVM

Dr. James Robinson, DVM, was present and was not represented by counsel. Ms. Brandi Bozarth, Assistant General Counsel, represented the State. Administrative Law Judge Bob Fellman presided over the proceedings. Dr. Welch recused herself from the hearing. Dr. Robinson was charged with employing and permitting Timothy Dalpiaz, unlicensed at the time, to practice veterinary medicine from June 2003 until December 2005 at Robinson Animal Hospital. Ms. Alice Ford, HRB Investigator, presented testimony regarding her investigation and interviews with the Respondent. Dr. Robinson testified on his own behalf.

Upon deliberation, the Board found the Respondent guilty of permitting the unlicensed practice of veterinary medicine. Dr. Rogers made a motion, seconded by Ms. Jones, to assess total civil penalties in the amount of \$9,000.00 and costs of the proceedings. The motion carried.

Investigations and Disciplinary Report

Mr. Michael Sobowale, Office of Investigations, reviewed the reports with the Board. There are currently nine (9) 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-eight (28) individuals are currently being monitored for compliance with Board orders.

Discussion – American Association of Veterinary State Boards (AAVSB) Conference

Dr. Thompson was delegated to attend the Annual AAVSB Conference scheduled for September 28-30, 2007 in Charleston, SC.

File Review/Ratification

The Board reviewed an application for licensure as a certified animal euthanasia technician submitted by **Thomas D. Howard**. Mr. Howard answered “no” to conviction of a felony or misdemeanor other than a minor traffic offense. The criminal background check indicated **conviction of two misdemeanor offenses** in the State of Ohio. The Board had previously reviewed this file on December 13, 2006 and requested Mr. Howard’s appearance before the board for an interview; however, Mr. Howard was not present at the meeting. Ms. Lampley stated that she had been informed that Mr. Howard was no longer employed at the Humane Society of Cumberland County as listed on the application. Dr. Thompson made a motion, seconded by Dr. Lyons, to deny the application based on the convictions. The motion carried.

The Board reviewed an application for licensure as a certified animal euthanasia technician submitted by **William Thomas Kidd**. Mr. Kidd answered “yes” to conviction of a felony or a misdemeanor other than a minor traffic offense. Dr. Thompson made a motion, seconded by Dr. Rogers, to request Mr. Kidd’s appearance for an interview at the next scheduled next meeting. The motion carried.

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.

Discussion – Veterinary Practices/Premise Permit Requirements

The various types of veterinary practices now in existence and the current minimum standards/requirements for obtaining a premise permit were reviewed. Ms. Lampley and Ms. Armstrong discussed the need for amending existing facility rules taking into consideration these various types of veterinary practices. The board also reviewed the laws/rules of other state veterinary boards pertaining to minimum standards for veterinary facilities/practice types. Ms. Armstrong and Ms. Lampley will draft language for proposed rule amendments to be presented to the board at the next scheduled meeting.

Discussion – Veterinary Medical Technicians/Delegated Tasks

A brief discussion was held regarding the scope of practice of licensed veterinary medical technicians and the duties performed by veterinary assistants. The Board requested that a taskforce committee be formed to research the procedures performed by licensed veterinary medical technicians. The following were appointed to the taskforce committee: Mary Welch, DVM; Janet Jones, LVMT; Nicole Armstrong, Advisory Attorney; and Lisa Lampley, Board Director. Ms. Lampley will gather and compile information from other states and distribute the information to the committee members. A taskforce meeting will then be scheduled to review and discuss the material and develop proposed language which would clarify the procedures/duties to be performed by licensed veterinary medical technicians and the procedures/duties to be performed by veterinary assistants or other employees of a licensed veterinarian.

Rules Status Report

Mr. Jerry Kosten, Regulations Manager, reviewed proposed rule amendments pertaining to consulting veterinarians not licensed in Tennessee; the removal from rules of redundant and inconsistent language; addition of an approved certification agency for foreign graduates; revision to requirements for documentation of education; clarification and revision to examination requirements for licensure applicants; revision to application deadlines for examinations and licensure; addition to approved continuing education course providers; and a revision to the “use of titles” as relates to advertisements. The Board reviewed and discussed the economic impact or any contemplated impact on small businesses created by the proposed rule amendments. Dr. Thompson made a motion, seconded by Dr. Lyons, to authorize a rulemaking hearing. The motion carried. A hearing is scheduled to take place on June 27, 2007. Notices of rulemaking hearings are posted on the Internet and may be accessed via the Department of Health’s home page.

The Board reviewed the rule amendments becoming effective June 6, 2007 pertaining to the application process for candidates taking the Veterinary Technician National Examination (VTNE).

Adjournment

There being no further business to discuss, Dr. Rogers made a motion, seconded by Ms. Jones, to adjourn. The motion carried and the meeting was adjourned at 12:20 p.m.

These minutes were ratified at the board meeting held on August 22, 2007.