

MINUTES

**Board of Veterinary Medicine
General Business Meeting
Bohemian Hotel Celebration
700 Bloom Street
Celebration, FL 34741**

May 30, 2012

CALL TO ORDER

Dr. O'Neil called the meeting to order at 8:01 a.m.

MEMBERS PRESENT

Dr. Robert O'Neil, Chair
Dr. Joann Helm, Vice Chair
Dr. Raul Figarola
Dr. Guy Maxwell
Ms. Cynthia Lewis

MEMBERS ABSENT

None

OTHERS PRESENT

Juanita Chastain, Executive Director
Clark Jennings, Board Counsel
Elizabeth Henderson, Prosecuting Attorney
Linda Tinsley, Government Analyst
American Court Reporting, Heather K. Howard, 407.896.1813
Phil Hinkle, FVMA
Daniel Otero, DVM
David Turner, DVM
Catherine Deptula, DVM
Jerry Rayburn, DVM
Jerry Greene, DVM
John R. Bass, DVM
Geoffrey Gardner, DVM
Donald R. Gordon, DVM
Other Interested Parties

Dr. O'Neil asked Ms. Tinsley to call the probation roll. All were present but Dr. Britt.

Dr. O'Neil stated that he wanted to welcome Tim Vaccaro, Deputy Secretary of the Department of Business and Professional Regulation, Tim Nungesser, Legislative Affairs Director and Dr. John Bass, President of the FVMA.

APPROVAL OF MEETING MINUTES

March 6, 2012 – Meeting Minutes

MOTION: Dr. Figarola made a motion to approve the minutes as presented.

SECOND: Dr. Maxwell seconded the motion and the motion passed unanimously.

April 18, 2012 – PCP Reconsiderations

MOTION: Dr. Helm made a motion to approve the minutes as presented.

SECOND: Dr. Maxwell seconded the motion and the motion passed unanimously.

DISCIPLINARY HEARINGS

Roy L. Joyce, DVM: Case number 2011-020041

Ms. Henderson advised the board that Dr. Joyce's case was continued until the September 11, 2012 board meeting.

Anthony Remillard, DVM: Case number 2010-050423

Dr. Remillard was present at the meeting and was represented by counsel, Bryan Reynolds. Dr. Remillard was sworn in by the court reporter.

Ms. Lewis was recused due to her participation on the probable cause panel.

Ms. Henderson presented the case as an Informal Hearing. Ms. Henderson advised the board that the administrative complaint alleges that the Respondent practiced veterinary medicine below the standard of care. Ms. Henderson advised the board that the penalty recommendation was a two thousand dollar (\$2,000.00) fine, two hundred and twenty four dollars and sixty six cents ((\$224.66) in costs and one (1) year probation.

MOTION: Dr. Figarola made a motion to accept the findings of fact as the findings of fact of the board.

SECOND: Dr. Helm seconded the motion and the motion passed unanimously.

MOTION: Dr. Maxwell made a motion to accept the conclusions of law as the board's conclusions of law.

SECOND: Dr. Figarola seconded the motion and the motion passed unanimously.

After discussion by the board the following motion was made.

MOTION: Dr. Figarola made a motion to impose a two thousand dollar (\$2,000.00) fine, two hundred and twenty four dollars and sixty six cents (\$224.66) in costs and one (1) year probation.

SECOND: Dr. Helm seconded the motion and the motion passed unanimously.

Jonathan Rubinstein, DVM: Case number 2012-011289

Dr. Rubinstein was present at the meeting and was represented by counsel, Bryan Reynolds. Dr. Rubinstein was sworn in by the court reporter.

Ms. Henderson presented the case as a settlement stipulation. Ms. Henderson advised the board that probable cause was waived. She stated that a draft of the administrative complaint was in the board's material. She stated that the draft would have alleged that the Respondent committed acts of fraud, deceit, negligence, incompetency, or misconduct and practiced veterinary medicine below the standard of care. She advised the board that the department recommended a four thousand dollar (\$4,000.00) fine, two hundred and thirty two dollars and fifty one cents (\$232.51) in costs and one (1) year probation.

After discussion by the board the following motion was made.

MOTION: Ms. Lewis made a motion to accept the settlement stipulation as presented.

SECOND: Dr. Figarola seconded the motion and the motion passed unanimously.

Donald Denoff, DVM: Case number 2011-027274

Dr. Denoff was present at the meeting and was not represented by counsel. He was sworn in by the court reporter.

Ms. Lewis was recused due to her participation on the probable cause panel.

Ms. Duffy presented the case as a motion for waiver of rights and final order. She advised the board that the Respondent had not responded to the administrative complaint or filed and election of rights form. She advised the board that the administrative complaint alleges the Respondent fraudulently issued health certificates.

Mr. Jennings advised the board that the respondent was at the meeting and he asked Dr. Denoff if he disputed the material facts.

Dr. Denoff responded no to the question.

Mr. Jennings advised the board that the case would proceed as an informal hearing.

After discussion by the board the following motions were made.

MOTION: Dr. Helm made a motion to accept the findings of fact as the findings of fact of the board.

SECOND: Dr. Figarola seconded the motion and the motion passed unanimously.

MOTION: Dr. Helm made a motion to accept the conclusions of law as the board's conclusions of law.

SECOND: Dr. Maxwell seconded the motion and the motion passed unanimously.

MOTION: Dr. O'Neil made a motion to impose a three thousand dollar (\$3,000.00) fine, four hundred and twenty nine dollars and nine cents (\$429.09) in costs, one (1) year probation with four (4) board appearances and take and pass the laws and rules exam in ninety (90) days.

SECOND: Dr. Maxwell seconded the motion and the motion passed unanimously.

Mark D. Huff, DVM: Case number 2011-005469

Dr. Rivenbark advised the board that Dr. Huff was in complete compliance with Professional Resource Network (PRN).

Ms. Henderson asked the board to continue the hearing.

MOTION: Dr. Helm made a motion to continue the hearing until the September 11, 2012 meeting.

SECOND: Dr. Maxwell seconded the motion and the motion passed unanimously.

George Bruch, DVM: Case number 2009-019825

Ms. Henderson advised the board that Dr. Burch had withdrawn his settlement stipulation and had decided to go forward with his election of rights and had requested a formal hearing.

Paul S. Hayman, DVM: Case number 2011- 004379

Dr. Hayman was present at the meeting and was represented by counsel, Betty Marion. Dr. Hayman was sworn in by the court reporter.

Ms. Lewis was recused due to her participation on the probable cause panel.

Ms. Henderson presented the case as a settlement stipulation. Ms. Henderson advised the board that the administrative complaint alleges that the Respondent in count one practiced below the standard of care which was dismissed and count two, failing to keep contemporaneously written medical records. Ms. Henderson advised the board that the department recommended a one thousand dollar (\$1,000.00) fine, and three hundred and ten dollars and ten cents (\$310.10) in costs.

After discussion by the board the following motions were made.

MOTION: Dr. Helm made a motion to reject the settlement stipulation as presented.

SECOND: Dr. Figarola seconded the motion and the motion passed unanimously.

MOTION: Dr. Helm made a motion to offer a counter settlement of a one thousand dollar (\$1,000.00) fine, three hundred and ten dollars and ten cents (\$310.10) in costs, one (1) year probation with one (1) board appearance at the end of probation and five (5) hours of continuing education in record keeping approved by Dr. Helm.

SECOND: Dr. Maxwell seconded the motion and the motion passed unanimously.

Dr. Hayman accepted the counter settlement.

Luv My Pet: Case number 2011-017964

Luv My Pet was represented by counsel, Lisa Taylor.

Ms. Lewis was recused due to her participation on the probable cause panel.

Ms. Henderson presented the case as a settlement stipulation. Ms. Henderson advised the board that the administrative complaint alleges the Respondent failed to properly register a limited service clinic. Ms. Henderson advised the board that the department recommended a two thousand dollar (\$2,000.00) fine, one hundred and fifty eight dollars and eighty eight cents (\$158.88) in costs.

After discussion by the board the following motion was made.

MOTION: Dr. Helm made a motion to accept the settlement stipulation as presented.

SECOND: Dr. Figarola seconded the motion and the motion passed unanimously.

Michael McNulty, DVM: Case number 2011-006253

Dr. McNulty was present at the board meeting he was not represented by counsel. He was sworn in by the court reporter.

Ms. Henderson stated that Dr. McNulty was represented by counsel Drake Buckman. She stated that Dr. McNulty may want to waive the appearance of his counsel.

Mr. Jennings asked Dr. McNulty if he intended to appear at the meeting without his counsel.

Dr. McNulty stated that he did intend to appear without his counsel.

Ms. Lewis was recused due to her participation on the probable cause panel.

Ms. Henderson presented the case as a settlement stipulation. Ms. Henderson advised the board that the administrative complaint alleges that the Respondent failed to keep contemporaneously written medical records. Ms. Henderson advised the board that the department recommended a one thousand dollar (\$1,000.00) fine and one hundred and twenty four dollars and sixty seven cents (\$124.67) in costs.

After discussion by the board the following motions were made.

MOTION: Dr. Maxwell made a motion to reject the settlement stipulation.

SECOND: Dr. Helm seconded the motion and the motion passed unanimously.

MOTION: Dr. Maxwell made a motion to offer a counter settlement of a one thousand dollar (\$1,000.00) fine, one hundred and twenty four dollars and sixty seven cents (\$124.67) in costs, one (1) year probation with an appearance at the end of probation and five (5) hours of continuing education in record keeping approved by Dr. Maxwell.

SECOND: Dr. Helm seconded the motion and the motion passed unanimously.

MOTION: Dr. Helm made a motion to direct counsel to draft the final order if Dr. McNulty accepts the counter settlement.

SECOND: Dr. Figarola seconded the motion and the motion passed unanimously.

Maria Serra, DVM: Case number 2010-013918

Dr. Serra was present at the meeting and was represented by counsel, Edwin Bayo. Dr. Serra was sworn in by the court reporter.

Ms. Lewis was recused due to her participation on the probable cause panel.

Ms. Henderson presented the case as a settlement stipulation. Ms. Henderson advised the board the administrative complaint alleges the Respondent practiced veterinary medicine below the standard of care and failed to keep contemporaneously written medical records. Ms. Henderson advised the board that the department recommended a two thousand dollar (\$2,000.00) fine, one thousand two hundred and ninety one dollars and fifty six cents (\$1291.56) in costs and one (1) year probation with one board appearance during probation.

After discussion by the board the following motion was made.

MOTION: Dr. Helm made a motion to accept the settlement stipulation as presented.

SECOND: Dr. Figarola seconded the motion and the motion passed unanimously.

Neil Wolff, DVM: Case number 2011-020043

The case was tabled until the September 11, 2012 meeting.

Richard Langford, DVM: Case number 2009-026018

Dr. Langford was present at the meeting and was represented by counsel, George Brew. Dr. Langford was sworn in by the court reporter.

Ms. Lewis was recused due to her participation on the probable cause panel.

Ms. Henderson presented the case as a recommended order. Ms. Henderson advised the board that the administrative complaint alleges that the respondent was charged with a medical records violation. Ms. Henderson advised the board that the department filed exceptions to the recommended order. Ms. Henderson stated the department withdrew the exceptions to the recommended order.

Mr. Jennings read a statement to the board.

Mr. Jennings advised the board that the department had withdrawn the exceptions and therefore that they are going to stand with the Administrative Law Judge's recommendation to dismiss the case.

After discussion by the board the following motion was made.

MOTION: Dr. Helm made a motion to adopt the Administrative Law Judge's recommendation.

SECOND: Dr. Figarola seconded the motion.

Dr. O'Neil asked Ms. Chastain to call the roll and the motion passed unanimously.

DISCUSSION

Limited Service Rule Making

Craig Neimer, President of Paws Plus addressed the board. Mr. Neimer stated that they conduct Limited Service clinics in seventeen (17) states.

Dr. O'Neil stated that he understood Paws Plus would like to increase their operation hours from four (4) hours a day to eight (8) hours a day. Dr. O'Neil asked him to explain the reason they would like to expand the hours.

Mr. Neimer stated that the reason is the interest in the program from consumers. He stated that they have to cut off services because they are bumping up against the time lines. He stated that they are limited to how many customers they can serve. He stated that half of their clinics in the four districts in Florida are seeing thirty (30) animals in the allotted time. That is double compared to those same clinics last year. He stated that the business is expanding. He stated that staff

would like to answer as many questions from the customer as they can and not cut them short because of the allotted time.

Dr. O'Neil asked Mr. Neimer to explain how they do parasite testing at the clinics.

Mr. Neimer stated that they test at the site and contact the customer later with the results.

Dr. O'Neil stated that he understood they do not work in parking lots.

Mr. Neimer stated that they conduct all of the clinics inside a retail store.

Dr. O'Neil asked him to explain the services that are offered to the customer when they arrive at the clinic.

Mr. Neimer stated that there are four canine and feline packages available to the customer and they can choose individual vaccinations but the majority of customers buy the package.

Dr. O'Neil asked if there was follow up for the customer.

Mr. Neimer stated that they follow up with health alerts and an annual reminder.

Dr. O'Neil encouraged the Florida Veterinary Medical Association and Paws Plus to get together and work this out before the next meeting.

After discussion by the board the following motion was made.

MOTION: Dr. Helm made a motion to direct Board counsel to notice rule 61G18-15.007, Florida Administrative Code, for rule development for the purposes of modifying said rule to address multiple issues not limited to the extension of time for the provision of such services and other criteria that may need to be modified.

SECOND: Dr. Figarola seconded the motion and the motion passed unanimously.

MOTION: Dr. Helm made a motion to direct Board counsel to open the entire Limited Service rule for development.

SECOND: Dr. Maxwell seconded the motion and the motion passed unanimously.

REVIEW /APPROVAL OF VETERINARY SUPERVISOR'S QUARTERLY REPORT

Philip Aleong, DVM

Dr. O'Neil recused himself from the hearing.

Dr. Helm, Vice Chair, presided over the hearing.

Dr. Aleong was present at the meeting and was not represented by counsel. He was sworn in by the court reporter.

After discussion by the board the following motion was made.

MOTION: Dr. Maxwell made a motion to accept the quarterly report presented by Dr. Jobert.

SECOND: Dr. Figarola seconded the motion and the motion passed unanimously.

PROBATION APPEARANCES

Philip Aleong, DVM

Dr. O'Neil recused himself from the hearing.

Dr. Helm, Vice Chair, presided over the hearing.

Dr. Aleong was present at the meeting and was not represented by counsel. He was sworn in by the court reporter.

MOTION: Ms. Lewis made a motion to accept Dr. Aleong's probation appearance.

SECOND: Dr. Figarola seconded the motion and the motion passed unanimously.

Riadh Atmani, DVM

Dr. Atmani was present at the meeting and was not represented by counsel. He was sworn in by the court reporter.

MOTION: Dr. Helm made a motion to accept Dr. Atmani's probation appearance.

SECOND: Dr. Maxwell seconded the motion and the motion passed unanimously.

Larry A. Britt, DVM

Dr. Britt was not in attendance due to a medical emergency.

Douglas Dampier, DVM

Dr. Dampier was present at the meeting and was not represented by counsel. He was sworn in by the court reporter.

Dr. Dampier asked the board if he could have an extension to pay the balance of his fine.

MOTION: Dr. Maxwell made a motion to extend the time for payment of the fine to December 31, 2012 and to accept Dr. Dampier's probation appearance.

SECOND: Dr. Figarola seconded the motion and the motion passed unanimously.

Fred Gill, DVM

Dr. Gill was present at the meeting and was not represented by counsel. He was sworn in by the court reporter.

MOTION: Ms. Lewis made a motion to accept Dr. Gill's probation appearance.

SECOND: Dr. Helm seconded the motion and the motion passed unanimously.

Casey Jones, DVM

Dr. Jones was present at the meeting and was not represented by counsel. He was sworn in by the court reporter.

MOTION: Ms. Lewis made a motion to accept Dr. Jones probation appearance.

SECOND: Dr. Maxwell seconded the motion and the motion passed unanimously.

MOTION: Dr. Maxwell made a motion to accept the conclusion of Dr. Jones probation.

SECOND: Ms. Lewis seconded the motion and the motion passed unanimously.

Ted Joseph Oroski, DVM

Dr. Oroski was present at the meeting and was not represented by counsel. He was sworn in by the court reporter.

MOTION: Dr. Figarola made a motion to accept Dr. Oroski's probation appearance.

SECOND: Dr. Maxwell seconded the motion and the motion passed unanimously.

Daniel Otero, DVM

Dr. Otero was present at the meeting and was not represented by counsel. He was sworn in by the court reporter.

MOTION: Ms. Lewis made a motion to accept Dr. Otero's probation appearance.

SECOND: Dr. Figarola seconded the motion and the motion passed unanimously.

Elizabeth Thurman, DVM

Dr. Thurman was present at the meeting and was not represented by counsel. She was sworn in by the court reporter.

Dr. Rivenbark from Professional Resource Network (PRN) stated that Dr. Thurman was in complete compliance with her PRN contract.

Dr. Thurman asked the board if she could have an extension to pay her fine.

MOTION: Dr. Helm made a motion to extend the time to December 31, 2013 for Dr. Thurman to pay her fine.

SECOND: Ms. Lewis seconded the motion and the motion passed unanimously.

MOTION: Ms. Lewis made a motion to accept Dr. Thurman's probation appearance.

SECOND: Dr. Figarola seconded the motion and the motion passed unanimously.

David L. Turner, DVM

Dr. Turner was present at the meeting and was not represented by counsel. He was sworn in by the court reporter.

Dr. Rivenbark from Professional Resource Network (PRN) stated that Dr. Turner was in complete compliance with his PRN contract.

MOTION: Dr. Maxwell made a motion to accept Dr. Turner's probation appearance.

SECOND: Dr. Figarola seconded the motion and the motion passed unanimously.

Paul Shaffer, DVM

Dr. Shaffer was present at the meeting and was not represented by counsel. He was sworn in by the court reporter.

MOTION: Ms. Lewis made a motion to extend his time to pay his fine to December 31, 2013.

SECOND: Dr. Figarola seconded the motion and the motion passed unanimously.

MOTION: Dr. Figarola made a motion to accept Dr. Shaffer's probation appearance.

SECOND: Dr. Maxwell seconded the motion and the motion passed unanimously.

MOTION: Ms. Lewis made a motion to extend Dr. Shaffer's time to take the laws and rules examination to December 31, 2012.

SECOND: Dr. Figarola seconded the motion and the motion passed unanimously.

Donald Gordon, DVM

Dr. Gordon was present at the meeting and was not represented by counsel. He was sworn in by the court reporter.

MOTION: Dr. Figarola made a motion to accept Dr. Gordon's probation appearance.

SECOND: Ms. Lewis seconded the motion and the motion passed unanimously.

RATIFICATION OF APPLICATIONS

Licenses

MOTION: Dr. Figarola made a motion to accept the licenses.

SECOND: Dr. Maxwell seconded the motion and the motion passed unanimously.

Continuing Education

MOTION: Dr. Maxwell made a motion to ratify the continuing education list.

SECOND: Dr. Figarola seconded the motion and the motion passed unanimously.

REPORTS

Executive Director - Juanita Chastain

Ms. Chastain advised the board that she wanted to review legislative changes that were to go into affect in 2012. She stated that the department would waive the initial application fee, initial licensure fee and the initial unlicensed activity fee for a military veteran who applies for a license within twenty four (24) months after an honorable discharge from the military. Ms. Chastain advised the board that the department can approve continuing education providers and courses. She stated that most courses will still be sent to Dr. Helm for approval and the process will not have major changes. Ms. Chastain advised the board that the department will be approving applications to reinstate a null & void license. Ms. Chastain stated that only one cycle of continuing education was now required to reinstate an inactive license. She asked the board to open up rule 61G18 – 16.001, Florida Administrative Code for development to make the change to require only one cycle of continuing education to reactivate an inactive license.

MOTION: Dr. Maxwell made a motion to direct board counsel to notice rule 61G18-16.001, Florida Administrative Code for development.

SECOND: Dr. Figarola seconded the motion and the motion passed unanimously.

Ms. Chastain stated that in October 2012 a licensee can go active or inactive at anytime during the renewal cycle. She advised the board their rule states that a licensee can only go inactive during renewal. She asked the board to open rule

61G18-23.001, Florida Administrative Code for development to update the rule to comply with the statutory change.

MOTION: Dr. Maxwell made a motion to direct board counsel to notice rule 61G18-23.001, Florida Administrative Code for development.

SECOND: Ms. Lewis seconded the motion and the motion passed unanimously.

Ms. Chastain advised the board and the audience that the changes the board made to continuing education requirements for renewal went into effect May 22, 2012. She stated that the new requirements starting June 1, 2012 were (1) hour in drug dispensing and two (2) hours in laws and rules.

Ms. Chastain asked the board to please send in their travel reimbursement as soon as possible. She stated that the fiscal year ends June 30, 2012.

Board Counsel – Clark Jennings

Mr. Jennings reviewed the rules report with the board.

Mr. Jennings advised the board that they were required to establish a regulatory plan. He asked the board if there were any other rules that they thought would be considered in the next year that could be added to the regulatory plan.

The board had no other rules.

Mr. Bayo asked that a rules workshop for rule 61G18 – 18.002 , Florida Administrative Code, Maintenance of Medical Records be scheduled.

Mr. Jennings advised the board that he had a handbook on ethics for the board members.

Prosecuting Attorney's Report – Elizabeth Henderson

Ms. Henderson reviewed her report with the board. She stated that there were one hundred and twenty nine (129) private cases and twenty three (23) public cases.

Dr. Helm – Vice Chair RACE Report and AAVSB Meeting.

Dr. Helm advised the board that she volunteered on the American Association of Veterinary State Boards (AAVSB) Registry of Approved Continuing Education (RACE) committee. She outlined for the board the functions and progress of the committee.

Dr. O'Neil – Chair

Dr. O'Neil read a letter to the board complimenting one of the inspectors.

OLD BUSINESS

No old business.

NEW BUSINESS

No new business.

The meeting adjourned at 12:30 p.m.