

MINUTES

**Board of Veterinary Medicine
General Business Meeting
Casa Monica Hotel
95 Cordova Street
St. Augustine, FL 32259**

September 1, 2011

CALL TO ORDER

Dr. O'Neil called the meeting to order at 8:00 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
Linda Tinsley, Government Analyst
Elizabeth Henderson, Prosecuting Attorney
Deborah Loucks, Board Counsel
Ruthanne Christie, Government Analyst
Volusia Reporting, Mary Graybosch, 386.255.2150
Phil Hinkle, FVMA
Dr. Stephen Shores, FVMA
James A. Culotta, DVM
Rita M. Montano, DVM
Ausberto Taguinod, DVM
Janis Gilkinson, DVM
Otfried Guhrt, DVM
Maron Calderwood Mays, DVM
Jim Wilson, DVM
Philip Aleong, DVM
Jeff Marsh, DVM

Paul Shaffer, DVM
David Finger
Sue Skelding, DVM
Amy Gentsch, DVM
Kevin Oppenheimer, DVM
David Turner, DVM
Yvette Vinton, DVM
Kattis Stengard, DVM
Marcus Kramer, DVM
Douglas Dampier, DVM

AGENDA COMPUTER TRAINING

Ms. Ruthanne Christie conducted agenda computer training for the board.

APPROVAL OF MEETING MINUTES

June 7, 2011

MOTION: Ms. Lewis made a motion to approve the minutes as presented.

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

May 4, 2011

MOTION: Ms. Lewis made a motion to approve the minutes as presented.

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

June 15, 2011

MOTION: Ms. Lewis made a motion to approve the minutes as presented.

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

Dr. O'Neil stated that there was one correction to the June 7, 2011 minutes. He stated that the minutes did not reflect that Dr. Shores was in attendance at the meeting. He asked board staff to make that correction.

PROBATION ROLL CALL

Dr. 'Neil asked Ms. Tinsley to call the probation roll. All were present and Dr. Kramer was late.

DISCIPLINARY HEARINGS

James Wilson, DVM: Case number 2010-036054

Dr. Wilson 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. Henderson presented the case as an Informal Hearing. Ms. Henderson advised the board that the administrative complaint alleges that the Respondent issued blank signed Florida Official Certificates of Veterinary Inspections for animals which he had not inspected and provided blank signed certificates to an individual. Ms. Henderson advised the board that the recommended penalty was a three thousand dollar (\$3,000.00) fine, two hundred and thirty three dollars and ninety eight cents (\$233.98) in costs and one (1) year probation.

After discussion by the board the following motions were made.

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

SECOND: Dr. Maxwell 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. Maxwell made a motion to impose a three thousand dollar (\$3,000.00) fine, two hundred and thirty three dollars and ninety eight cents (\$233.98) in costs, take the laws and rules exam and one (1) year probation with two (2) board appearances.

SECOND:

Amy Krista Bosecker, DVM: Case number 2010-035671

Dr. Bosecker was present at the meeting and was represented by counsel, Ed Bayo. Dr. Bosecker 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 failed to have the controlled substance log accurately reflect Telazol and Torbugesic, failed to secure the drugs in a locking secure cabinet and failed to segregate expired drugs. Ms. Henderson advised the board that the department recommended a two thousand dollar (\$2,000.00) fine, two hundred and seventy five dollars and forty five cents (\$275.45) in costs and three (3) years probation.

After discussion by the board the following motion was made.

MOTION: Dr. Maxwell made a motion to accept the Settlement Stipulation as presented with the addition of attending two (2) board meetings a year.

SECOND: Dr. Figarola seconded the motion.

Ms. Tinsley called the roll and the motion passed with Dr. O'Neil opposed.

Dr. Bosecker accepted the board's change to the Settlement Stipulation.

Gene Rinderknecht, DVM: Case number 2010-035802

The case was tabled until the March 2012 meeting.

Paul Schaffer, DVM: Case number 2010-017747

Dr. Schaffer was present at the meeting and represented by counsel, David Finger. Dr. Schaffer 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 employed an unlicensed person who treated animals and wrote out prescriptions and provided a location and equipment for an unlicensed person to perform veterinary medicine. Ms. Henderson advised the board the department recommended a fifteen hundred dollar fine, one hundred and ninety five dollars and twenty seven cents (\$195.27) in costs and six (6) months probation.

After discussion by the board the following motions were made.

MOTION: Dr. Helm made a motion to reject the Settlement Stipulation.

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

MOTION: Dr. Helm made a motion to impose a five thousand dollar (\$5,000.00) fine, one hundred and ninety five dollars and twenty seven cents (\$195.27) in costs, one (1) year probation requiring attendance at four (4) board meetings and the September 1, 2011 board appearance would count as one appearance. Respondent must take and pass the laws and rules exam at his own expense within one (1) year.

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

Dr. Schaffer accepted the Counter Offer on the record.

The board stated Dr. Schaffer had one (1) year to pay the fine and costs.

Susan Skelding, DVM: Case number 2007-051111

Dr. Skelding was present at the meeting and was represented by counsel, Dina El-Salhy. Dr. Skelding 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 failed to treat her patient while the patient deteriorated in pain, she failed to properly complete medical records and falsely informed the complainant that her clinic had certain medication available when it did not. Ms. Henderson advised the board the department recommended three hundred and fifty six dollars and sixteen cents (\$356.16) in costs, six (6) months probation and nine (9) hours of continuing education.

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.

The Board stated that Dr. Helm would approve her CE in internal medicine.

Katrina Stengard, DVM: Case number 2010-032634

Dr. Stengard was present at the meeting and was not represented by counsel. She 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 operated a veterinary hospital without a premise permit. Ms. Henderson advised the board the department recommended one hundred and fifty nine dollars and sixty eight cents (\$159.68) in costs and a reprimand.

After discussion by the board the following motions were made.

MOTION: Dr. Helm made a motion to reject the Settlement Stipulation.

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

MOTION: Dr. O'Neil made a motion to offer a counter settlement of a fifteen hundred dollar (\$1,500.00) fine, one hundred and fifty nine dollars and sixty eight cents (\$159.68) in costs, no reprimand and take and pass the laws and rules exam within one (1) year at her expense.

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

Dr. Stengard accepted the counter settlement.

The board stated that Dr. Stengard had five (5) years to pay the fine and costs.

Jose Davila-Delgado, DVM: Case number 2008-056377

Dr. Davila-Delgado was not present at the meeting he was represented by counsel, William Furlow.

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

Dr. O'Neil read a statement to the board.

Ms. Henderson presented the case as a recommended order.

After discussion by the board the following motions were made.

MOTION: Dr. Maxwell made a motion to accept the findings of fact as written in the recommended order.

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

MOTION: Dr. Helm made a motion to accept the conclusions of law as written in the recommended order.

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

MOTION: Dr. Figarola made a motion to accept the Administrative Law Judge's recommendations.

SECOND: Dr. Maxwell seconded the motion.

Ms. Tinsley called the roll the motion passed with Dr. Helm opposed.

APPLICATION REVIEW/APPROVAL

Jeffrey Lyn Marsh, DVM

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

Ms. Chastain advised the board that Dr. Marsh had answered yes to the background question on his licensure application.

After discussion by the board the following motion was made.

MOTION: Dr. Helm made a Motion to approve Dr. Marsh's licensure application.

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

Kevin Oppenheimer, DVM

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

Dr. Oppenheimer submitted an application to reinstate a null & void license.

After discussion by the board the following motion was made.

The board advised Dr. Oppenheimer that he could withdraw his application and apply the application fee to an application by endorsement.

Dr. Oppenheimer agreed to withdraw his application and apply by endorsement.

Ronald Douglas Montgomery, DVM

Dr. Montgomery was not present at the meeting and was not represented by counsel.

Ms. Tinsley advised the board that Dr. Montgomery had submitted an application to reinstate a null & void license. She stated that she spoke to Dr. Montgomery and he would like to withdraw his application and apply by endorsement if the board did not want to approve his request.

MOTION: Dr. Helm made a motion to allow Dr. Montgomery to withdraw his application and transfer the fee to an endorsement application.

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

REQUEST FOR ADDITIONAL TIME TO PAY FINE

Ross Hendry, DVM

Dr. Hendry was not present at the meeting and was not represented by counsel.

Ms. Tinsley advised the board that Dr. Hendry was asking the board to grant him additional time to pay his two thousand dollar (\$2,000.00) fine. Ms. Tinsley advised the board that he would like to pay five hundred dollars (\$500.00) per month.

After discussion by the board the following motion was made.

MOTION: Dr. Figarola made a motion to allow Dr. Hendry to pay five hundred dollars (\$500.00) per month until the fine is paid.

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

PROBATION APPEARANCES

James A. Culotta, DVM

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

Dr. O' Neil asked Dr. Culotta if he had his PRN evaluation.

Dr. Culotta stated that because of financial hardship he had not had his PRN evaluation.

After discussion by the board the following motion was made.

MOTION: Dr. Helm made a motion to continue probation with a board appearance at the September 2012 meeting and prior to the meeting Dr. Culotta shall obtain a PRN evaluation.

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

Douglas K. Dampier, DVM

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

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

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

Amy Gentsch, DVM

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

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

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

Janis Gilkison, DVM

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

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

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

Marcus Kramer, DVM

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

Dr. Rivenbark from PRN advised the board that Dr. Kramer had completed his PRN contract in July of 2011. Dr. Rivenbark recommended that the board terminate Dr. Kramer's probation.

MOTION: Ms. Lewis made a motion to accept Dr. Kramer's probation appearance and terminate his probation.

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

Ausberto Buza Taguinod, DVM

Dr. Taguinod 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. Taguinod's probation appearance.

SECOND: Ms. Lewis 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 PRN advised the board that Dr. Turner was in 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.

Yvette I. Vinton, DVM

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

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

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

James S. Wilson, DVM

Dr. Wilson 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. Wilson's probation appearance as his last appearance.

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

REQUEST TO LIFT SUSPENSION AND REINSTATE LICENSE TO ACTIVE STATUS

Philip J. Aleong, DVM

Dr. Aleong was present at the meeting and was represented by counsel, Brad Beilly. Dr. Aleong was sworn in by the court reporter.

Dr. O'Neil recused himself from Dr. Aleong's hearing.

Dr. Helm, Vice Chair presided over the hearing.

Ms. Loucks advised the board that Dr. Aleong was before the board to lift his suspension as stated in his Final Order. Ms. Loucks stated that an order that was filed in January of 2010 placed Dr. Aleong's license on a six (6) month suspension. She stated that it was appealed and the appeal was resolved in May of 2011. She stated that his license had been suspended since May 13, 2011. Ms. Loucks advised the board that a previous order that was appealed and remanded back to the board in December of 2009 had a penalty of a thirty (30) day suspension. Ms. Loucks stated when the board considered the current case the board wanted Dr. Aleong on a six (6) month suspension and if he was currently on suspension they would run concurrently. She stated that each case was appealed. She stated that he had finished the thirty (30) day suspension. Ms. Loucks asked the board if they would allow the previous thirty (30) days

completed while the current case was on appeal to count towards his six (6) month suspension and his current suspension would end in five (5) months ending October 13, 2011 instead of in November.

After discussion by the board the following motion was made.

MOTION: Dr. Maxwell made a motion to accept Dr. Aleong's suspension from May 13, 2011 until October 13, 2011.

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

Ms. Loucks advised the board a one (1) year probation would start when the suspension is lifted. Ms. Loucks asked the board if they would stay the imposition of the probation. She stated that the June 2011 order was on appeal and the probations were to run concurrent. She stated if the court granted a stay on the case that is on appeal the one (1) year probation would be stayed.

After discussion by the board the following motion was made.

MOTION: Dr. Helm made a motion to stay the probation in case number 2008-029108 so it runs concurrent with case number 2006-022640 and the stay will be in place as long as the District Court of Appeals grants the stay or not.

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

PETITION FOR DECLARATORY STATEMENT

Maron B. Calderwood Mays, VMD

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

Ms. Loucks advised the board that Dr. Mays was asking the board if veterinary pathologists working in a private veterinary diagnostic laboratory require licensure to practice in the State of Florida.

After discussion by the board the following motion was made.

MOTION: Dr. Maxwell made a motion that a veterinary pathologist needs to be licensed in Florida.

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

**RENEWED PETITION FOR VARIANCE AND WAIVER.
RULE 61G18-15.002, F.A.C. – ON BEHALF OF RITA MONTANO**

Ms. Montano was present at the meeting and was represented by counsel, Ed Bayo. Ms. Montano was sworn in by the court reporter.

Mr. Bayo advised the board that Ms. Montano had petitioned the board to deem her NAVLE score a passing score and waive Rule 61G18-15.002, F.A.C.

After discussion by the board the following motion was made.

MOTION: Dr. Helm made a motion to deny Ms. Montano's request.

Motion failed due to lack of a second.

MOTION: Dr. Figarola made a motion to accept Ms. Montano's Petition for Variance and Waiver of Rule 61G18-15.002, F.A.C.

SECOND: Ms. Lewis seconded the motion.

Ms. Tinsley called the roll and the motion passed with Dr. Helm and Dr. Maxwell opposed.

DISCUSSION

Rules Repeal

Ms. Chastain advised the board that earlier in the year the board office had conducted a rule review and there were two (2) rules that we were asking the board to repeal. She stated that Rule 61G18-11.003 – Reexamination, the NAVLE is now handled by the National Board of Veterinary Medical Examiners (NBVME) and 61G18-13.002 - Approved Schools is addressed in the statute.

MOTION: Dr. Maxwell made a motion to repeal the two (2) rules.

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

RATIFICATION OF APPLICATIONS

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.

Licensure Candidates

MOTION: Dr. Helm made a motion to ratify the licensure candidate list.

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

REPORTS

Executive Director- Juanita Chastain

Ms. Chastain advised the board that the department had started the rule process for the \$50.00 fee Waiver for the next licensure renewal. Ms. Chastain reminded the board members to please remember to take their laptop computers home with them after the meeting.

Board Counsel – Deborah Loucks

Ms. Loucks advised the board that in their material folder was a copy of the Supreme Court decision on Wiley versus Scott that was a challenge to the Governor's Executive Order. She stated there was a memo from the Governor's Office to the agency head's for the board's information. Ms. Loucks asked the board what option they wanted to take with their rule process. She stated that the board could send the drafted rule language to the Office of Fiscal Accountability and Responsibility (OFAAR) or the board could go through the normal rule making process and not send the rule language to OFAAR.

MOTION: Dr. O'Neil made a motion to send all future rule language to OFAAR.

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

Prosecuting Attorney – Elizabeth Henderson

Ms. Henderson reviewed her report with the board. She advised the board that there were one hundred and seventeen (117) private cases and thirty five (35) public cases.

MOTION: Dr. Helm made a motion to allow Ms. Henderson to continue prosecuting cases over one (1) year old.

SECOND: Dr. O'Neil seconded the motion and the motion passed unanimously.

Board Chair – Dr. Robert O’Neil

Dr. O’Neil advised the board that he was proposing a change to the continuing education requirement in the rule. He read the rule changes to the board.

Mr. Bayo advised the board that the FVMA would like time to review the changes and revisit the issue at the December 2011 meeting.

Dr. Helm stated that she would like to change the wording under standards for continuing education.

Ms. Loucks stated that she would work with Dr. Helm and they would bring the changes to the December 2011 meeting for the board to review.

MOTION: Dr. Maxwell made a motion to direct board counsel to work with Dr. Helm to change the rule language and bring it back to the board at the December meeting.

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

OLD BUSINESS

Dr. Shores addressed the board with concerns on a board decision that was made in the Susan Skelding case. He stated that the board may have set a new precedent. He asked the board if they wanted veterinarians to treat the animal even if the owner does not have the funds for the treatment. He stated that there was no legislation that stated a veterinarian must treat if the client does not have the money to pay for the treatment.

Ms. Loucks stated that the board made comments related to that particular case. She stated that Dr. Skelding entered into a settlement agreement and the board agreed to adopt the settlement agreement.

Ms. Tinsley called the probation roll and all were present.

The meeting adjourned at 1:00 p.m.