

MINUTES

**Board of Veterinary Medicine
General Business Meeting
Residence Inn Amelia island Hotel
2301 Sadler Road
Fernandina Beach, FL 32034**

December 4, 2012

CALL TO ORDER

Dr. O'Neil called the meeting to order at 8:03 a.m.

MEMBERS PRESENT

Dr. Robert O'Neil, Chair
Dr. Joann Helm, Vice Chair
Dr. Raul Figarola
Dr. Nanette Paratto-Wagner
Ms. Cynthia Lewis
Ms. Connie Mae Johnson

MEMBERS ABSENT

Dr. Guy Maxwell – excused

OTHERS PRESENT

Juanita Chastain, Executive Director
Clark Jennings, Board Counsel
Elizabeth Henderson, Prosecuting Attorney
Linda Tinsley, Government Analyst
Statewide Reporting Service; (904) 353-7706
Phil Hinkle, FVMA
Dr. Stephen Shores
Dr. John R. Bass
Mark D. Huff, DVM
Jerry Rayburn
Dr. Donald Denoff
Dr. Walter W. Kallenbach
Dr. Jeff C. Woods
Kelly Erickson
Scott Gregory
Dr. Maria Curtis

Dr. Gregory Staller
Dr. Otfried Guhrt
Dr. Philip Stine
Dane Hendry
Dr. Ross Hendry

Dr. O'Neil advised the board that Dr. Maxwell was excused from the meeting due to military service.

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

Dr. O'Neil introduced Mr. Tim Vaccaro, Deputy Secretary and Mr. George Washington Harrell, Division Director of Professions from the Department of Business and Professional Regulation.

APPROVAL OF SEPTEMBER 11, 2012 MEETING MINUTES

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

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

DISCIPLINARY HEARINGS

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

Dr. Huff 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 a Motion for Waiver of Rights and Final Order.

Mr. Jennings asked Dr. Huff if he disputed the facts of the case.

Dr. Huff answered no.

Mr. Jennings stated that the hearing would proceed as an Informal Hearing.

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

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

Ms. Henderson advised the board that the administrative complaint alleges that the respondent failed to accurately record the inventory of controlled substances in the controlled substances log. Ms. Henderson advised the board that the recommended penalty would be a fifteen hundred dollar (\$1,500.00) fine, three hundred and ninety one dollars and sixty five cents (\$391.65) in costs and two (2) years probation.

After discussion by the board the following motions were made.

MOTION: Dr. Helm 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.

MOTION: Dr. Helm made a motion to impose a fifteen hundred dollar (\$1,500.00) fine, three hundred and ninety one dollars and sixty five cents (\$391.65) in costs and one (1) year probation with one (1) board appearance and take and pass the laws and rules exam within ninety (90) days.

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

Tanya Aleksandra Krusko, DVM: Case number 2011-043427

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

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

Ms. Henderson presented the case as a Motion for Waiver of Rights and Final Order. Ms. Henderson advised the board that the administrative complaint alleges that 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 respondent failed to file an election of rights form.

MOTION: Dr. Helm made a motion that the respondent had waived her right to a hearing.

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

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

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

Ms. Henderson advised the board that the recommended penalty was a two thousand dollar (\$2,000.00) fine, two hundred and thirty dollars and nineteen cents (\$230.19) in costs, two (2) years probation and a reprimand.

After discussion by the board the following motion was made.

MOTION: Dr. Helm made a motion to impose a (\$2,000.00) fine, two hundred and thirty dollars and nineteen cents (\$230.19) in costs, two (2) years probation, four (4) board appearances, take and pass the laws and rules exam in ninety (90) days at her own expense and five (5) hours of continuing education in record keeping. Dr. Helm will approve the continuing education.

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

The board requested that the order be hand served.

Richard Gallo, DVM: Case number 2011- 006491

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

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

Dr. Figarola recused himself from the case stating that he knew Dr. Gallo.

Ms. Henderson presented the case as an informal hearing. 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 penalty recommendation was a two thousand dollar (\$2,000.00) fine, six hundred and twenty six dollars and twenty two cents (\$626.22) in costs and one (1) year probation.

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

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

After discussion by the board the following motion was made.

MOTION: Dr. Helm made a motion to impose a thirty five hundred dollar (\$3,500.00) fine, six hundred and twenty six dollars and twenty two cents (\$626.22) in costs, two (2) years probation with two (2) board appearances and five (5) hours of continuing education in record keeping. Continuing education to be approved by Dr. Helm.

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

Scott Anthony Gregory, DVM: Case number 2011-004922

Dr. Gregory was present at the meeting and was represented by counsel, counsel was not present. Dr. Gregory 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 was disciplined by the South Carolina board and he failed to report it to the Florida board. Ms Henderson advised the board that the department recommended a one dollar (\$1.00) fine, one hundred and ninety five dollars and seventy cents in costs, five (5) years probation including attending every board meeting the first year and one (1) meeting per year for the duration of his probation. Respondent must be evaluated by the Physician's Recovery Network (PRN) and the initial evaluation must be completed within nine (9) months of the entry of a final order.

After discussion by the board the following motion was made.

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

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

Walter Kallenbach, DVM: Case number 2011-025232

Dr. Kallenbach was present at the meeting and was represented by counsel, Bryan Reynolds. Dr. Kallenbach was sworn in by the court reporter. Dr. Rivenbark from Professional Resource Network (PRN) 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 prescribed medication which he knew was not intended for an animal and was prescribed for human use. Ms. Henderson advised the board that the department recommended a fifteen hundred dollar (\$1,500.00) fine, three hundred and eighty nine dollars and forty eight cents (389.48) in costs, eighteen (18) months probation and attend every board meeting during probation and respondent shall be evaluated by the Physicians Recovery Network (PRN).

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. Wagner seconded the motion and the motion passed unanimously.

MOTION: Dr. Helm made a motion to offer a counter settlement of five (5) years probation, respondent shall attend two (2) board meetings during the first year and one (1) meeting per year for the remainder of the probation with the last appearance at the end of his PRN contract. All enforcement terms of probation in settlement stipulation remain the same.

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

Mr. Reynolds advised the board that Dr. Kallenbach accepted the counter offer.

Lavinia Marta Tulcan, DVM: Case numbers 2011-033173, 2011-033179

Dr. Tulcan was present at the meeting and was represented by counsel, Edwin Bayo. Dr. Tulcan 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 complaints alleged that the respondent failed to keep contemporaneous written medical records. Ms Henderson advised the board that the department recommended a fifteen hundred dollar (\$1,500.00) fine, nine hundred and forty four dollars and eight cents (\$944.08) in costs, continuing education in record keeping and one (1) board appearance within one year.

After discussion by the board the following motion was made.

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

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

Lawrence L. Wallace, DVM: Case number 2011-039897

MOTION: Ms. Johnson made a motion to continue the case until the March 2013 meeting.

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

REVIEW/APPROVAL OF APPLICATIONS

Gregory Scott Staller, DVM – Endorsement

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

Dr. O'Neil advised the board that Dr. Staller had applied for a license by endorsement. He stated that Dr. Staller answered yes to background question number 4 on his application.

After discussion by the board the following motion was made.

MOTION: Ms. Lewis made a motion to approve Dr. Staller's application for licensure.

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

Maria Curtis, DVM – Endorsement

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

Dr. O'Neil advised the board that Dr. Curtis had applied for a license by endorsement. He stated that Dr. Curtis answered yes to questions number one (1) , two (2) of the background questions and answered yes to a third (3rd) question asking if her license had been disciplined in any jurisdiction. Her license was disciplined by the State of Arizona.

After discussion by the board the following motion was made.

MOTION: Dr. Helm made a motion to approve Dr. Curtis's application for licensure.

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

DISCUSSION

61G18-10.008 Probable Cause Panel

Mr. Jennings advised the board that he suggested that the rule be modified to allow three (3) panel members on the Probable Cause Panel. He stated that at this time the rule allows for only two (2) members. He stated that amending the rule would give the option of having three (3) members if needed.

MOTION: Dr. Helm made a motion to direct board counsel to initiate rule development with the proposed language and after fourteen (14) days notice for rule making.

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

Mr. Jennings asked the board if the rule changes would have an adverse effect on small business.

The board advised Mr. Jennings that the changes would not have an economic impact on small business.

Mr. Jennings asked the board if the proposed rule amendment is likely to directly or indirectly increase regulatory costs to any entity, including government, in excess of two hundred thousand dollars (\$200,000.00) in Florida within one (1) year of implementation.

The board answered no to an increase in regulatory costs.

REVIEW/APPROVAL OF VETERINARY SUPERVISOR'S QUARTERLY REPORT

Dr. Philip Aleong

MOTION: Dr. Helm 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

Dr. Donald Denoff

Dr. Denoff 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. Denoff's probation appearance.

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

Dr. Otfried Guhrt

Dr. Guhrt 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. Guhrt's probation appearance.

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

Dr. Jeffrey Woods

Dr. Woods 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. Woods' probation appearance.

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

RATIFICATION OF APPLICATIONS

Licenses

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

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

Continuing Education

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

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

DISCUSSION

61G18-15.007 – Minimum Standards for Limited Service Veterinary Medical Practices

Dr. O'Neil advised the board that he asked the interested parties to submit changes to the rule to the board. He stated that it was received a week ago and faxed to the board members.

Mr. Hinkle advised the board that the (FVMA) met with Paws Plus after the May 30, 2012 meeting and August 7, 2012. Mr. Hinkle advised the board that the meetings were very productive and they had met some common ground. He stated that Paws Plus business model was conducting the clinics indoors. Mr. Hinkle stated that the Florida Veterinary Medical Association (FVMA) believes that limited service clinics should be performed inside a building, not in a parking lot or on a street corner. Mr. Hinkle advised the board that Paws Plus did not agree with the Florida Veterinary Medical Association (FVMA) that all limited service clinics should be moved indoors. Mr. Hinkle advised the board that the Florida Veterinary Medical Association (FVMA) had provided some suggested ideas to the board. He stated that if the board extends the hours of operation for Paws Plus they are extending the hours for all limited service clinics. He stated that the board should consider if extending the hours is in the best interest of the pet owners of Florida. Mr. Hinkle stated that the Florida Veterinary Medical Association (FVMA) strongly feels that small animal services are not conducive in an outdoor setting and should be placed inside a building. He stated that all local and code requirements for veterinary medicine should be adhered to. Mr. Hinkle stated that the rule for running water should be amended to require sinks with running water and disposable towels and sinks in the restroom cannot be used. Mr. Hinkle advised the board that electronic refrigeration for pharmaceuticals and biologicals would be the minimum that should be considered.

Dr. Shores advised the board that there was one set of rules for the practicing veterinarian in a permitted facility and another set of less stringent rules for the limited service practice. He stated that does not protect the public. He stated that he felt there was common ground but the rules should be the same for the limited service practice as it is for a permitted facility.

Dr. O'Neil asked if the Florida Veterinary Medical Association (FVMA) had met with Paws Plus since August 7.

Mr. Hinkle stated that there was no reason since they did not agree on requiring limited service clinics to operate indoors.

Dr. Shores stated that after the September meeting he understood the board only wanted written recommendations to be sent to Mr. Jennings and that is why they did not meet with Paws Plus.

Dr. Hendry advised the board that he has had a limited service license for twenty (20) years and they are inspected frequently. Dr. Hendry suggested the board ask the public what they want. He stated there were people that felt they could not go to a regular clinic because of the expense.

Dr. Kelly Erickson from Paws Plus read a statement to the board regarding their request to increase the hours of a limited service clinic from four (4) hours to eight (8) hours. She stated that they were not at the meeting to expand the entire scope of regulations. She stated they were there to expand the hours not to rewrite the entire rule. She stated that they were happy with the way the law was written.

After discussion by the board the following motion was made.

MOTION: Dr. Figarola made a motion to direct board counsel to initiate rule development for Rule 61G18-15.007 Florida Administrative Code.

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

MOTION: Dr. Wagner made a motion to amend the motion to direct board counsel to initiate rule development for Rule 61G18-15.007, 15.0071 and 15.0072, Florida Administrative Code.

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

Dr. O'Neil stated that a conference call would be scheduled to discuss the rule changes. He stated that suggested changes to the rule had to be submitted by January 5, 2013.

REPORTS

Executive Director – Juanita Chastain

Ms. Chastain advised the board she wanted to bring to their attention Rule 61G18-15.002, (2) 4 (c) Florida Administrative Code – Sink and disposable towels. Sinks located in restrooms may not be used to satisfy this standard. She stated that the board office had been called by inspectors to ask if hot water was

required in a clinic or hospital. She asked if the board wanted to amend the rule to include hot water or running water.

The board stated that hot water was not necessary and the rule should be amended to read fresh clean running water.

Ms. Chastain stated that the issue would be on the March 5, 2013 agenda.

Ms. Chastain advised the board that Dr. Helm asked that the CE rule be amended to limit the number of hours that could be obtained for alternative medicine. Ms. Chastain stated that she would include it on the March 5, 2013 agenda.

Board Counsel – Clark Jennings

Mr. Jennings advised the board that four (4) rule changes had become affective; Rule 61G18 – 11.002, 15.002, 15.0025 and 18.002, Florida Administrative Code.

Prosecuting Attorney – Elizabeth Henderson

Ms. Henderson advised the board that she did not have a report due to technical difficulties.

MOTION: Dr. Figarola made a motion to continue to prosecute year old cases.

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

OLD BUSINESS

Dr. Helm advised the board that she attended the American Association of State boards meeting in September and they had record attendance. She stated that thirty nine (39) States are now accepting the PAVE program.

NEW BUSINESS

No new business.

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

The meeting adjourned at 12:25 p.m.