

MINUTES

**Board of Veterinary Medicine
General Business Meeting
Hampton Inn & Suites
19 S. Second Street
Fernandina Beach, FL 32034**

December 9, 2008

CALL TO ORDER

Dr. O'Neil called the meeting to order at 8:04 a.m.

MEMBERS PRESENT

Dr. Robert O'Neil, Chair
Dr. Sergio Vega
Dr. Guy Maxwell
Dr. Joann Helm
Dr. George Simmons
Henry Dover, Vice Chair
Lisa Hurley

MEMBERS ABSENT

None

OTHERS PRESENT

Catherine Lannon, Board Counsel
Elizabeth Duffy, Prosecuting Attorney
Juanita Chastain, Executive Director
Linda Tinsley, Government Analyst
Gayle J. Featheringill, Statewide Reporting Service, 904.249.9952
Ronald Hamilton, DVM
Don Swerida, DVM
Hesham M. Mahdy, DVM
Clyde W. Davis
Jim Hicks, DVM
Mario Arteaga, DVM
Annette Poirier, FVTA
Armando Garcia
Stephen Shores, DVM
Phil Hinkle, FVMA

Geoffrey Gardner, DVM

Dr. O'Neil asked Ms. Tinsley to call the roll for the probation appearances.

All were present, Dr. Swerida, Dr. Ateaga and Dr. Hamilton.

APPROVAL OF SEPTEMBER 9, 2008 MINUTES

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

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

DISCIPLINE

James W. Wilson, DVM: Case number 2005-040113

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

Ms. Duffy presented the case as an Informal Hearing. Ms. Duffy advised the board that the administrative complaint alleges in count one (1) that the Respondent did not perform the recommended radiographs, did not determine the cause of vomiting, did not order a follow up exam after dispensing of medication and dispensed the wrong dosage of medication. Count two (2) alleges the Respondent failed to record the weight of the complainant's cat and count three (3) alleges Respondent dispensed 10 mg raglan tablets to the cat. Ms. Duffy requested that the board adopt the findings of fact and conclusions of law as the findings of fact and conclusions of law of the board.

MOTION: Mr. Dover made a motion to adopt the findings of fact and conclusions of law as those of the board.

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

After discussion by the board the following motion was made.

MOTION: Mr. Dover made a motion to impose a fifty five hundred dollar (\$5,500.00) fine, seven hundred and sixty four dollars and thirty five cents (\$764.35) in costs, two (2) years probation and ten (10) hours of continuing education in recordkeeping and ten (10) hours of continuing education in internal medicine. Respondent must attend all board meetings during the probationary period.

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

Marianne Priest, DVM: Case number 2007-010707

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

Ms. Hurley 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. Ms. Duffy advised the board that the administrative complaint alleges in count one (1) that the Respondent failed to identify the cause of Dixie, the basset hound's bleeding. Count two (2) alleges that the Respondent failed to record physical examination findings for Dixie.

Ms. Lannon advised the board that the board needed to make a motion that the case was a waiver case.

MOTION: Mr. Dover made a motion that Dr. Priest had waived her rights to a hearing.

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

MOTION: Dr. Vega made a motion to adopt the findings of fact and conclusions of law as those of the board.

SECOND: Mr. Dover seconded the motion and the motion passed unanimously.

After discussion by the board the following motion was made.

MOTION: Dr. Maxwell made a motion to impose a thirty five hundred dollar (\$3,500.00) fine, seven hundred and seventy dollars and ten cents (\$770.10) in costs, eighteen (18) months probation and twenty (20) hours of continuing education in small animal surgery. Respondent must attend the first and last board meeting during the probationary period.

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

Hesham Mahdy, DVM: Case number 2007-035695

Dr. Mahdy was present at the meeting and was represented by Mr. Armando Garcia. Dr. Mahdy was sworn in by the court reporter.

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

Ms. Duffy presented the case as a Settlement Stipulation. Ms. Duffy advised the board that the administrative complaint alleges that the Respondent performed an unauthorized ovariohysterectomy. Ms. Duffy advised the board that the department recommended a two hundred and fifty dollar (\$250.00) fine, one hundred and fifty dollars (\$150.00) in costs and six (6) months probation. Respondent must attend two (2) board meetings during the probationary period.

After discussion by the board the following motion was made.

MOTION: Mr. Dover made a motion to reject the Settlement Stipulation as presented.

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

MOTION: Dr. Vega made a motion to impose a two thousand dollar (\$2,000.00) fine, nine hundred and seventy one dollars and seven cents (\$971.07) in costs, six (6) months probation and six (6) hours of continuing education in recordkeeping completed in one (1) year and approved by Dr. Vega. Respondent must attend two (2) board meetings during the probationary period.

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

James Hicks, DVM: Case number 2006-058471

Dr. Hicks was present at the meeting and was represented by counsel Mr. Clyde Davis. Dr. Hicks was sworn in by the court reporter.

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

Ms. Duffy presented the case as a Settlement Stipulation. Ms. Duffy advised the board that the administrative complaint alleges that the Respondent failed to adequately monitor the patient or address his cardiac condition and failed to record exam findings or notes on monitoring. Ms. Duffy advised the board that the department recommended seven hundred and sixty nine dollars and sixty cents (\$769.60) in costs, forty (40) hours of community service and six (6) months probation with attendance at two (2) board meetings.

MOTION: Dr. Vega made a motion to accept the Settlement Stipulation as presented.

SECOND: Dr. Helm seconded the motion.

Dr. Maxwell advised the board that he felt Dr. Hicks should complete additional continuing education in emergency medicine and record keeping.

Dr. Vega withdrew his motion.

MOTION: Dr. Maxwell made a motion to reject the Settlement Stipulation as presented.

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

After discussion by the board the following motion was made.

MOTION: Dr. Simmons made a motion to impose forty (40) hours of community service completed in six (6) months, six (6) hours of continuing education in emergency medicine and six (6) hours of continuing education in record keeping and seven hundred and sixty nine dollars and sixty cents (\$769.60) in costs.

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

Mr. Davis advised the board that Dr. Hicks accepted the counter offer from the board.

Mr. Garcia advised the board that Dr. Mahdy accepted the counter offer from the board.

Dr. Mahdy asked the board for more time to complete the continuing education requirement.

The board granted Dr. Mahdy one year to complete the continuing education requirement.

Dr. O'Neil introduced Mr. Vaccaro, Division Director from the Department of Business and Professional Regulation.

Mr. Vaccaro advised the board that Governor Crist had started an initiative know as Accelerate Florida. Mr. Vaccaro advised the board that the Governor had asked all of the agencies to streamline their processes to eliminate or reduce any

regulatory burdens that stand in the way of getting people to work and receiving their licenses but do not really do any thing to protect the citizens of the state. He stated that the Division of Professions was working on three (3) projects. He stated that the board offices were meeting with the central intake unit to streamline the application processing. He stated that the board office had created a thumbnail for each application to advise the applicant what was required for that application and what the common deficiencies were. Mr. Vaccaro stated that the division was working with the Office of General Counsel to simplify the application form. Mr. Vaccaro thanked the board for allowing him to address them.

PROBATION APPEARANCES

Mario Arteaga, DVM

Dr. Arteaga advised the board that it had been worthwhile to attend the board meetings as a condition of probation. He stated that the attendance had been a real education. He advised the board that he had submitted a letter to the board asking for an extension to pay his fine and costs.

After discussion by the board the following motion was made.

MOTION: Dr. Vega made a motion to give Dr. Arteaga two (2) years to pay his fine and costs.

SECOND: Mr. Dover seconded the motion and the motion passed unanimously.

Ronald Alexander Hamilton, DVM

Dr. Hamilton advised the board that he benefited from taking the Florida laws and rules exam.

Donald Swerida, DVM

Dr. Swerida advised the board that he had been working.

REVIEW/APPROVAL OF APPLICATIONS

Daryl Gene Easley, DVM

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

Dr. O'Neil advised the board that Dr. Easley had submitted an application to reinstate his null & void license.

Ms. Lannon advised the board that the statute provides that a licensee can apply to have a null & void license re-instated due to a hardship such as illness or unusual hardship.

After discussion by the board the following motion was made.

MOTION: Mr. Dover made a motion to reject Dr. Easley's request to re-instate his null & void license.

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

Christopher Mole

Mr. Mole 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 Mr. Mole had submitted an application and answered yes to the background questions. She stated that he was present at the meeting to answer any questions the board may have.

Mr. Mole advised the board that his driving under the influence charge was reduced to reckless driving and he has one charge pending. He stated that he had completed all of his community service.

After discussion by the board the following motion was made.

MOTION: Mr. Dover made a motion to approve Mr. Mole's application for licensure.

SECOND: Ms. Hurley seconded the motion.

The motion passed with Dr. Helm opposed.

Dr. O'Neil introduced Dr. Pom, from Professional Resource Network (PRN), to the board and welcomed him to the meeting.

DISCUSSION

Proposed Rule Change Affecting Technician Certification

Dr. Gardner advised the board that the Executive Boards of the Florida Veterinary Medical Association (FVMA) and the Florida Veterinary Technician Association (FVTA) requests that the Florida Board of Veterinary Medicine be the sole body to credential veterinary technicians within the State of Florida. He

stated that upon the technicians' successful completion of the Veterinary Technician National Exam (VTNE), administered by the American Association of Veterinary State Boards (AAVSB) and a Florida Laws and Rules test to be administered by the Florida Board of Veterinary Medicine. He stated that Florida currently is the only state that had two (2) bodies certifying technicians. He stated that this has caused some confusion among technicians and veterinarians. He stated that there is a temporary window still available to increase the number of credentialed technicians in the state through Grandfathering or alternative pathways. He stated that the national exam will only be available to graduates of AVMA accredited technician schools after December 31, 2010. He stated that this leaves only four (4) exam dates for on the job trained technicians to be tested before the opportunity would close. He stated that this is only available in states where technicians are regulated by the veterinary board.

Dr. Vega stated that there are two (2) certifying bodies and this is a real mess that the two (2) bodies have created themselves and it is not fair that they want the board to clean up their mess. He stated that it is time that the FVMA realizes that they do not have to be in charge of certifying the technicians. He stated that the change would have to be done by the Legislature.

Ms. Lannon advised the board that it would take a statutory change to implement the proposal the board does not have statutory authority to certify technicians.

Dr. O'Neil stated that the board had always supported the technician's efforts to get licensed. He stated that the board had told them several times to get the statute changed because the board did not have the authority to change the statute.

Dr. Shores advised the board that forty (40) states regulate veterinary technicians. He stated Florida is the only major state that does not regulate veterinary technicians. He stated if they were going to get technicians credentialed it was going to have to be done by the Board of Veterinary Medicine like it is in forty (40) other states. Dr. Shores advised the board that he was not going to spend the time to propose legislation and get up in the committee meeting and have the board say that they oppose it. He stated that he needed the board and staff to give the FVMA the opportunity to propose reasonable legislation that will allow the board to take over the credentialing. He asked the board chair to give him direction before he proposes legislation.

Ms. Lannon stated that the Legislature is going to ask why do technicians need to be certified. She asked if clients were suffering. She stated that the technicians now are qualified but why do they need to be certified.

Dr. O'Neil stated that the board does not have statutory authority.

Mr. Vaccaro advised the board that the department's legislative package had been submitted to the Governor's office and it was approved. He stated that in every single case in the Division of Professions less regulation was approved not more. He stated that they were not in a position to make a policy recommendation as far as what other interests would like to do. He stated that they could only provide an analysis and provide information on what it will cost and they take their lead from the Governor's office.

Dr. O'Neil stated that the board had voted in the past to support this initiative. He stated that he is not going to ask the board to vote on it again. He stated that he would not go before the Legislature and oppose it himself. He stated that he does not have the authority to do that. He stated that the board does not have the statutory authority to do it. He stated that if the FVMA wants to put a bill forward then do it.

Dr. Gardner advised the board that the timeline is running and the AAVSB determines that. He stated that if the Board of Veterinary Medicine were the credentialing body the on the job trained technicians would be able to take the exam and become credentialed technicians. He stated that would increase the numbers. He stated that the AAVSB in January 2001 had a rule change that after December 2010 a VTA candidate must be a graduate in veterinary technology program accredited by the AVMA or the CVMA or a program approved by the regulatory board of the jurisdiction where the examination is given. He stated that the Board of Veterinary Medicine is the regulatory body not the Florida Veterinary Medical Association.

Dr. O'Neil stated that if the FVMA and the FVTA wanted the statute changed than he advised them to get it changed.

Statement of Estimated Regulatory Costs

Ms. Lannon advised the board that the board needed to approve the statement of regulatory costs and then the disciplinary guidelines rule could move forward.

MOTION: Mr. Dover made a motion to approve the Statement of Estimated Regulatory Costs (SERC).

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

RATIFICATION OF APPLICATIONS

Continuing Education

MOTION: Dr. Helm made a motion to approve the following continuing education applications.

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

Northwest Florida Vet Med Association
Ten Targets of Dental Disease – 1 hour
Reducing the Risk Antimicrobial Resistance – 3 hours

Veterinary Specialists of South Florida
Continuous Renal Replacement – 1 hour
Canine Leptospirosis – 1 Hour

Florida Animal Care, Inc
Intro Oral Surgery & Periodontology – 7.5 hours
Periodontology – 7.5 hours
Staying on Top of Adv Veterinary Dentistry – 4 hours
Oral Surgery I – 7.5 hours
Veterinary Dental Radiographic Technique – 7.5 hours

Licensure /Exam Candidates

MOTION: Dr. Helm made a motion to approve the following exam candidates.

SECOND: Mr. Dover seconded the motion and the motion passed unanimously.

Approved by Dr. O'Neil September 16, 2008

Seniors

Amber M. Menendez, Carmen Edillan Correa Rodriguez, Laura Halpin

Foreign Graduates

Gary Edelson

Endorsement

Karl Andrutis, Herbert W. Maisenbacher III, Matthew J. Marasco

Approved by Dr. O'Neil October 2, 2008

Seniors

Shannon K. Clements

AVMA Graduates

Caleb C. Hudson, Mary Ellen Scully

Foreign Graduates

Miok Lim, Maria Andrea Serrano

Endorsement

Joyce Carter, Walter A. Dabasinskas, Ray Alexander Oke

Approved by Dr. O'Neil October 20, 2008

Seniors

Courtney P. Baldwin, Lynn D. Foster, Kathryn C. Raymond, Nicholas A. Smith

Foreign Graduates

Lisa Beth Matagrano

Endorsement

Tammy M. Michau, Robert Stein, Alfred D. Sherer, Jr., Richard W. Rock, Gail
Kiel

Approved by Dr. O'Neil November 3, 2008

Seniors

Annatasha K. Bartel, Johanna del Carmen Mejia, Lonnie Bishop Davis

Approved by Dr. O'Neil December 4, 2008

Seniors

Chetica Maus

Foreign Graduates

Anna Magdalena Diaz-Cruz, Lavimia Tulcan, Jesus Aramendi, Sarah L. Cohen, Merari Cruz, Bethany L. Darrow, Evan J. Klein, Carlos Alfredo Ranone, Phillip Robert Shaw

Endorsement

Christian J. Erdman, Dristina Maldonado, Kristian Rhein, Lauri D. Olszweski

REPORTS

Chair – Dr. Robert O’Neil

Dr. O’Neil thanked Ms. Lannon for filing in at the meeting for Ms. Loucks and he thanked Ms. Hurley for all of her hard work on the probable cause panel meeting.

Prosecuting Attorney – Elizabeth Duffy

Ms. Duffy reviewed her report with the board. Ms. Duffy advised the board that she could not thank the probable cause panel enough for their hard work. She stated they had ninety eight (98) cases on the agenda at the last probable cause panel meeting. She stated they were very prepared and knowledgeable about the cases.

Executive Director – Juanita Chastain

Ms. Chastain reviewed the financial report with the board and advised the board that the board would be swept quarterly in the amount of six thousand two hundred and fifty dollars (\$6,250.00) for a total of twenty five thousand (\$25,000.00) from the operating fund. She stated that ten thousand dollars (\$10,000.00) would be swept quarterly from the unlicensed activity fund for a total of forty thousand dollars (\$40,000.00). She advised the board that the Division of Regulation was planning a January inspector training and they have asked for the board’s input. Ms. Chastain asked the board to let her know if they had any suggestions.

DISCUSSION

Unlicensed Activity

Ms. Chastain introduced Mr. Michael Green the unlicensed activity coordinator for the department.

Mr. Green advised the board that last year the Miami team had two (2) unlicensed veterinary cases. He stated that they do sweeps at the race tracks as well. He asked the board that if they had any input as to how they could better

address the pro active areas now for unlicensed activity in the profession to please let them know. He advised the board that the department had a toll free hotline for unlicensed activity. He stated that the investigators went through training last summer and a veterinarian attended the training and helped with the controlled substance training.

The board thanked Mr. Green for attending the meeting.

NEW BUSINESS

Dr. Vega congratulated Dr. Maxwell for his gold star award from the FVMA.

NEW BOARD MEMBER TRAINING

Ms. Chastain conducted the new board member training for the board.

The meeting adjourned at 12:20 p.m.

