

MINUTES

**Board of Veterinary Medicine
General Business Meeting
Celebration Hotel
700 Bloom Street
Celebration, FL 33316**

June 8, 2010

CALL TO ORDER

Dr. O'Neil called the meeting to order at 8:05 a.m.

MEMBERS PRESENT

Dr. Robert O'Neil
Dr. Raul Figarola
Dr. Guy Maxwell
Dr. George Simmons
Dr. Joann Helm
Ms. Cynthia Lewis

MEMBERS ABSENT

None

OTHERS PRESENT

Deborah Loucks, Board Counsel
Elizabeth Duffy, Prosecuting Attorney
Juanita Chastain, Executive Director
Linda Tinsley, Government Analyst
Sean Depasquale, American Court Reporting, 850.421.0058
Jennifer Smith, DVM
David L. Turner, DVM
Jesnia Carnero, DVM
Susan Diernfeldt Troy, Esq.
John Lawrence, DVM
Tim B. Jordan
Bruce Bogoslavsky, DVM
Richard R. Rothfuss, DVM
Richard C. Mather II, DVM
Eduardo Arellano, DVM
Michael Epperson, DVM

Heather Hartley, DVM
Kenneth Sundberg, DVM
Becky Malphus
Bill Osborne
Geoff Gardner, DVM
Douglas Dampier, DVM
Amy Gentsch, DVM
Annette Poirier
Wade Crankshaw, DVM
John Plant, DVM
Drew Winters
Linda McAbee

Ms. Tinsley called the roll for the probation appearances. Mr. Winters advised the board that Dr. Balough's son passed away and he would not be present at the meeting.

Dr. O'Neil welcomed new board member Dr. Raul Figrola. Dr. O'Neil thanked Dr. Vega and Mr. Dover for their service on the board.

APPROVAL OF MARCH 2, 2010 MEETING MINUTES

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

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

DISCIPLINE

Kenneth Sundberg, DVM: Case number 2006-050349

Dr. Sundberg was present at the meeting and was represented by counsel, Bill Osbourne. Dr. Sundberg 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 Settlement Stipulation. Ms. Duffy advised the board that the Administrative Complaint alleges that the Respondent used the privilege of ordering, prescribing, or making available medicinal drugs for use other than for the specific treatment of animal patients and dispensing drugs in inappropriate quantities and failing to maintain accurate records. Ms. Duffy advised the board that the department recommended a two thousand dollar (\$2,000.00) fine, four hundred and fifty nine dollars and ninety two cents (\$459.92) in costs and six (6) months suspension.

After discussion by the board the following motion was made.

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

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

MOTION: Dr. Maxwell made a motion to accept the fine, costs and suspension in the Settlement Stipulation and to impose an evaluation by PRN during the suspension and after the evaluation shall appear before the board.

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

Dr. Sundberg advised the board that he would accept the counter offer.

Douglas Lyday, DVM: Case number 2008-055022

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

Ms. Duffy presented the case as a Recommended Order.

Dr. O'Neil read a statement to the board and asked the board members if any board member had not reviewed the complete record in the case. Dr. O'Neil stated that all board members had read the complete record.

Ms. Duffy advised the board that the department recommended that the board adopt the Recommended Order.

After discussion by the board the following motions were made.

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

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

MOTION: Dr. Helm made a motion to accept the conclusions of law.

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

MOTION: Dr. Simmons made a motion to accept the recommendation to dismiss.

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

Eduardo Arellano, DVM: Case number 2009-027645

Dr. Arellano 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 an Informal Hearing. Ms. Duffy advised the board that the Administrative Complaint alleges that the Respondent failed to properly treat Diamond's (cat) dehydration and failed to analyze blood smears or follow treatment protocols for a tentative diagnosis. The Respondent failed to maintain and complete medical records. Ms. Duffy advised the board that the department recommended a three thousand dollar (\$3,000.00) fine, one thousand two hundred and two dollars and eighty nine cents (\$1,202.89) in costs, eighteen (18) months probation and continuing education.

Ms. Loucks advised the board that Dr. Arellano disputed some of the facts and therefore the board could not take action and the hearing would be stopped.

After discussion by the board the following motion was made.

MOTION: Dr. Helm made a motion to stop the hearing and send the case to the Department of Administrative Hearings (DOAH).

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

Matthew Bond, DVM: Case number 2008-041150

Dr. Bond 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 an Informal Hearing. Ms. Duffy advised the board that the Administrative Complaint alleges that the Respondent had never maintained records for animals presented to him for a health certificate and issuing false health certificates. Ms. Duffy advised the board that the department recommended a forty five hundred dollar (\$4,500.00) fine one hundred and ninety five dollars and eighty five cents (\$195.85) in costs and eighteen (18) months probation.

After discussion by the board the following motions were made.

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

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

MOTION: Dr. Helm made a motion to accept the conclusions of law.

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

MOTION: Dr. Helm made a motion to impose a forty five hundred dollar (\$4,500.00) fine one hundred and ninety five dollars and eighty five cents (\$195.85) in costs and eighteen (18) months probation.

Motion failed due to lack of a second.

MOTION: Dr. Simmons made a motion to impose a fifteen hundred dollar (\$1,500.00) fine, one hundred and ninety five dollars and eighty five cents (\$195.85) in costs, six (6) months probation and must appear at the December 2010 board meeting.

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

The Board stated that Dr. Bond had one year to pay the fine and costs.

Michael Epperson, DVM: Case number 2009-049446

Dr. Epperson was present at the meeting and was not represented by counsel. Dr. Epperson was sworn in by the court reporter. Dr. Heather Hartley, Dr. Epperson's wife, was present at the meeting and she 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 an Informal Hearing. Ms. Duffy advised the board that the Administrative Complaint alleges that the Respondent failed to obtain a new premise permit. Ms. Duffy advised the board that the recommended penalty is a two thousand dollar (\$2,000.00) fine and one hundred and eleven dollars and twenty nine cents (\$111.29) in costs.

After discussion by the board the following motions were made.

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

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

MOTION: Dr. Maxwell made a motion to impose one hundred and eleven dollars and twenty nine cents (\$111.29) in costs and take and pass the laws and rules exam within six (6) months at his expense.

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

Dr. Helm was opposed.

James E. Hicks, DVM: Case number 2009-002893

Dr. Hicks was not present and not represented by counsel.

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

Ms. Duffy presented the case as an Informal Hearing. Ms. Duffy advised the board that the Administrative Complaint alleges that the Respondent incompetently diagnosed a dog (Garrett) and failed to respond to an emergency call. Ms. Duffy advised the board the recommended penalty is a two thousand dollar (\$2,000.00) fine, five hundred and three dollars and ninety nine cents (\$503.99) in costs and twelve (12) months probation.

After discussion by the board the following motions were made.

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

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

MOTION: Dr. Maxwell made a motion to impose six (6) months suspension, two thousand dollar (\$2,000.00) fine, five hundred and three dollars

and ninety nine cents (\$503.99) in costs and at the end of suspension one (1) year probation and attendance at every board meeting during probation.

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

The board stated that the fine and costs were to be paid by the end of the probation period.

Bruce Bogoslavsky, DVM: Case number 2008-020145

Dr. Bogoslavsky was present at the meeting, and he 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 Settlement Stipulation. Ms. Duffy advised the board that the Administrative Complaint alleges that the Respondent performed a surgical procedure he was not equipped to perform. Ms. Duffy advised the board that the department recommended a two thousand dollar (\$2,000.00) fine, one thousand one hundred and thirty seven dollars and sixty six cents (\$1,137.66) in costs, one (1) year probation and ten (10) hours of continuing education.

After discussion by the board the following motion was made.

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

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

The board appointed Dr. Maxwell to approve the ten (10) hours of continuing education in urinary tract diseases.

Jesnia Carnero, DVM: Case number 2008-020145

Dr. Carnero was present at the meeting and was represented by counsel, Susan Troy. Dr. Carnero 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 Settlement Stipulation. Ms. Duffy advised the board that the administrative complaint alleges that the Respondent negligently vaccinated a sick cat and failed to maintain the medical records for the cat. Ms.

Duffy advised the board that the department recommended a one thousand dollar (\$1,000.00) fine, one thousand seventy two dollars and thirty five cents (\$1,072.35) in costs, six (6) months probation and continuing education.

After discussion by the board the following motion was made.

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

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

MOTION: Dr. Helm made a motion to offer a Counter Stipulation of one thousand dollar (\$1,000.00) fine, one thousand seventy two dollars and thirty five cents (\$1,072.35) in costs, six (6) months probation and attendance at one (1) meeting while on probation and ten (10) hours of continuing education five (5) hours in records and five (5) hours in critical care approved by Dr. Helm.

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

Dr. Carnero accepted the Counter Settlement Stipulation.

James Clanton, DVM: Case number 2009-037550

Dr. Clanton was not present and was not represented by counsel. Dr. Clanton's partner, Becky Malphus, was present and 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 Settlement Stipulation. Ms. Duffy advised the board that the Administrative Complaint alleges that the Respondent failed to respond to the continuing education audit. Ms. Duffy advised the board that the department recommended a five hundred dollar (\$500.00) fine, sixty five dollars and sixty four cents (\$65.64) in costs and placing his license in an inactive status.

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

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

Dr. O'Neil and Dr. Maxwell were opposed.

LC Moore, DVM: Case number 2009-017837

MOTION: Dr. O'Neil made a motion to continue the case until the September 2, 2010 meeting.

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

Alfonso Paredes, DVM: case number 2009-004009

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

MOTION: Dr. O'Neil made a motion to continue the case until the September 2, 2010 meeting.

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

Neville Errol Sookra, DVM: Case number 2008-060622

Ms. Duffy advised the board that the case was continued until the September 2, 2010 meeting.

Philip J. Aleong, DVM: Case number 2003-093234

Dr. Aleong 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. O'Neil recused himself from the case.

Dr. JoAnn Helm, Vice Chair, conducted the hearing.

Ms. Loucks advised the board that the case was remanded back to the board by the Fourth (4th) District Court of Appeal. She advised the board that the board needed to correct paragraph four (4) contained in the Amended Final Order filed on April 7, 2008. Ms. Loucks asked the board to adopt and approve the following language: "While Aleong previously had been on probation, he was not on probation when the instant case came before the board."

MOTION: Dr. Maxwell made a motion to adopt the proposed language.

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

DISCUSSION

Client Information Sheets – Mr. Tim Jordan

Mr. Jordan addressed the board and asked that the board develop a rule requiring veterinarians to provide clients with the client information sheet on prescription drugs.

Dr. O'Neil advised Mr. Jordan that the board had no statutory authority to promulgate a rule. He stated that Mr. Jordan could go to the legislature to have the law changed.

DISCIPLINE

Geoffrey Gardner, DVM: Case number 2009-036716 & 2009-037599

Dr. Gardner was present at the meeting and was represented by counsel, Drew Winters. Dr. Gardner 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 Settlement Stipulation. Ms. Duffy advised the board that the Administrative Complaint alleges that the Respondent had dispensed legend drugs after his DEA permit had expired. Ms. Duffy advised the board that the department recommended a one thousand dollar (\$1,000.00) fine, four hundred and fifty five dollars and thirty six cents (\$455.36) in costs and two (2) hours of continuing education in dispensing legend drugs.

After discussion by the board the following motion was 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 Stipulation of a fifteen hundred dollar (\$1,500.00) fine, four hundred and fifty five dollars and thirty six cents (\$455.36) in costs, ten (10) hours of continuing education in pharmacy, controlled drugs and dispensing and one (1) year probation and attendance at every meeting.

The motion died due to lack of a second.

MOTION: Dr. Maxwell made a motion to offer a Counter Stipulation of a fifteen hundred dollar (\$1,500.00) fine, four hundred and fifty five

dollars and thirty six cents (\$455.36) in costs, ten (10) hours of continuing education in pharmacy, controlled drugs and dispensing and one (1) year probation and appearance at the end of probation.

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

Ms. Loucks advised the Dr. Gardner that he had seven (7) days to accept the Counter Stipulation.

APPLICATION REVIEW

Daniel E. Overmeyer, DVM – Endorsement Application

Ms. Chastain advised the board that Dr. Overmeyer had checked yes to the background question on his licensure application that he had discipline in the state of Ohio and he had signed a Settlement Agreement in 2002. She stated that he had waived his ninety (90) day review requirement and had asked that the board review the application. She stated that if the board required his attendance he asked that the board continue the application.

After discussion by the board the following motion was made.

MOTION: Dr. Simmons made a motion to require Dr. Overmeyer to appear before the board for his application review.

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

PRESENTATION

American Association of Veterinary State Boards (AAVSB)

The American Association of Veterinary State Boards (AAVSB) held a power point presentation for the board on the services available through the association.

PROBATION

Ernest Balogh, DVM

The board excused Dr. Balogh's probation appearance due to a family emergency.

William Wade Crankshaw, DVM

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

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

SECOND: Dr. Helm 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.

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

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

Amy Gentsch, DVM

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

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

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

Richard Charles Mather, II, DVM

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

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

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

John H. Plant, DVM

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

MOTION: Dr. Simmons made a motion to accept Dr. Plant's probation appearance.

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

Richard Ryan Rothfuss, DVM

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

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

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

Jennifer Armstrong Smith, DVM

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

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

SECOND: Dr. Helm 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.

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

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

Ted Joseph Oroski, DVM

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

RATIFICATION OF APPLICATIONS

Continuing Education

MOTION: Dr. Simmons 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 accept the veterinary licensure list.

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

REPORTS

Executive Director – Juanita Chastain

Ms. Chastain advised the board of legislative changes that would be effective July 1, 2010.

Ms. Chastain asked the board to please send in their financial disclosure forms by July 1, 2010 and she asked the board to please send in their travel vouchers for the June meeting as soon as possible.

Board Counsel – Deborah Loucks

Ms. Loucks asked the board to review the language for Rule 61G18-11.002, F.A.C., Examination and Licensure, in the rules report. Ms. Loucks asked the board if they wanted to add the specific passing score of 425 for the NAVLE examination or that the candidate must receive a pass classification from the NAVLE in the rule.

MOTION: Dr. O'Neil made a motion to add the passing score of 425 to Rule 61G18-11.002, F.A.C.

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

Ms. Loucks asked the board if the rule change would have an impact on small business.

MOTION: Dr. O'Neil made a motion that the change to Rule 61G18.11.002, F.A.C. would not have an impact on small business.

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

Prosecuting Attorney – Elizabeth Duffy

Ms. Duffy gave a prosecuting attorney's report orally to the board.

MOTION: Dr. O'Neil made a motion to continue to prosecute one (1) year old cases.

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

OLD BUSINESS

No old business.

NEW BUSINESS

No new business.

ADJOURN

MOTION: Dr. Maxwell made a motion to adjourn.

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

The meeting adjourned at 12:30 p.m.