

MINUTES

BOARD OF VETERINARY MEDICINE GENERAL BUSINESS MEETING

HYATT REGENCY ORLANDO INTERNATIONAL AIRPORT
ORLANDO, FL 32827

DECEMBER 6, 2005

CALL TO ORDER

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

MEMBERS PRESENT

Dr. Robert O'Neil, Chairman
Dr. Sergio Vega, Vice Chairman
Dr. Katherine Horky
Dr. Joann Helm
Ms. Cynthia Lewis

MEMBERS ABSENT

Dr. Kandra Jones
Ms. Susan Love

OTHERS PRESENT

Jeffrey Jones, Board Counsel
Drew Winters, Prosecuting Attorney
Juanita Chastain, Executive Director
Linda Tinsley, Government Analyst
Cindy Green, American Court Reporting – 407.896.1813
Lyn Comans, DVM
Bill Furlow
Dr. Arceneux
Thomas Freiberg
Bruce Bierbaum
Donald Schaefer, FVMA
Richard Jaffe
Joseph Tomes
Annette Poirier
Harvey Rubin, FVMA
Dennis Yecke, Deputy Secretary

Dr. O'Neil advised the Board that Ms. Love resigned her position on the board and accepted a position with the Department of Health.

Ms. Chastain advised the board that Ms. Love would like to stay on the board. She stated that Ms. Love had contacted the Governor's office and she can continue to serve until she is replaced. Ms. Chastain advised the board that Ms. Love would be at the next meeting if her schedule allows.

Dr. O'Neil advised the board that Dennis Yecke, Deputy Secretary of the Department of Business and Professional Regulation was present at the meeting and requested to address the board.

Mr. Yecke addressed the board and advised them that he was the newly appointed Deputy Secretary for the division of professions since November first.

Mr. Yecke stated that it was an honor to serve Governor Bush and the citizens of Florida. He stated that Secretary Marsteller had her complete leadership team in place. He stated that her number one priority is customer service. He stated that they would be doing everything they could to improve customer service. He stated that change has been taking place and would continue to take place within the Department. He stated that everything the Department does was being examined. He stated that it takes time to make changes but changes are coming as all of the processes are being examined. He stated that they have a joint mission with the board to protect the health safety and welfare of the citizens of Florida and the Department wants to work with the board in that respect. He advised the board that the Department appreciates suggestions or help that the board could provide in making those changes. Mr. Yecke stated that the board had a wonderful Executive Director and she had a wonderful staff. He stated that the board was fortunate to have Ms. Chastain and her staff working with them. Mr. Yecke stated that he was looking forward to a long and cordial relationship with the board.

Dr. O'Neil thanked Mr. Yecke for his attendance at the meeting.

APPROVAL OF SEPTEMBER 1, 2005 MINUTES

Dr. Vega advised the board that he had a correction to the September 1, 2005 minutes. He stated that under New Business in the fourth paragraph it should read that the College of Veterinary Medicine would require mandatory attendance at the meeting.

Dr. O'Neil advised the board that he had a correction to the minutes. He stated that on rule 61G18-17.001, F.A.C. language should be included in the minutes. He stated that in the future all new rule language would be included in the minutes.

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

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

APPROVAL OF THE APRIL 15, 2005 MINUTES

MOTION: Dr. Vega made a motion to approve the April 15, 2005 minutes.

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

DISCIPLINE

Stuart Armstrong, DVM: Case number 2004-044397

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

Mr. Winters advised the board that Mr. Armstrong had requested that his case be continued to the March 2006 meeting. Mr. Winters stated that Dr. Armstrong was scheduled for surgery and Mr. Winters stated that the case would be continued to the March 2006 meeting.

Bruce R. Bierbaum, DVM: Case number 2005-004764

Dr. Bierbaum was present and was not represented by counsel. He was sworn in by the court reporter.

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

Mr. Winters presented the case as an Informal Hearing. Mr. Winters advised the board that the case alleges two (2) violations. He stated that the first violation alleges Respondent had his license acted against by the State of Montana and the second violation alleges the Respondent failed to report the actions taken by the Montana Board of Veterinary Medicine against his license.

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

SECOND: Dr. Vega 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 fine of one thousand dollars (\$1000.00), two hundred and forty dollars and thirty four cents (\$240.34) in costs and he must take and pass the laws and rules exam within ninety (90) days at his own expense.

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

Thomas Freiberg, DVM: Case number 2004-033889

Dr. Freiberg 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.

Mr. Winters presented the case as an Informal Hearing. Mr. Winters advised the board that the case alleges two (2) violations. He stated that the first violation alleges Respondent failed to maintain an accurate controlled substance log and failed to segregate expired controlled substances. He stated that the second violation alleges Respondent failed to maintain a clean and orderly facility and failed to meet Board requirements for a veterinary premise.

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

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

After discussion by the board the following motion was made.

MOTION: Dr. Vega made a motion to impose a fine of one thousand dollars (\$1000.00), six hundred and seventy seven dollars (\$677.63) in costs, and six months to pay.

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

John H. Plant, DVM: Case number 2003-074143

Dr. Plant 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.

Mr. Winters presented the case as an Informal Hearing. Mr. Winters advised the board that the case alleges two (2) violations. He stated that the first violation alleges Respondent failed to perform proper diagnostic and laboratory work and the second violation alleges Respondent failed to note proper physical examination findings.

MOTION: Dr. Helm made a motion to adopt the findings of fact and conclusions of law as the board's findings of fact and conclusions of law.

SECOND: Dr. Vega 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 four thousand dollar (\$4000.00) fine, one thousand one hundred and fifty seven dollars and ninety nine cents (\$1157.99) in costs, four (4) additional hours of continuing education in Internal Medicine, eighteen (18) months probation, and re-take the Florida laws and rules exam within sixty (60) days at his expense.

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

John P. Willie, DVM: Case number 2005-030120

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

Mr. Winters advised the Board that Dr. Willie had contacted Ms. Tinsley and had requested a continuance to the March 2006 meeting. He stated that the Department recommended that his request be granted.

Evan M. Blair, DVM: Case number 2004-034039

Dr. Blair 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.

Mr. Winters presented the case as a Motion for Waiver of Rights and Final Order. Mr. Winters advised the board that the case alleges two (2) violations. He stated that the first violation alleges that Respondent failed to treat his patient with an appropriate degree of skill, care and treatment and the second violation alleges Respondent failed to maintain adequate medical records.

Mr. Winters stated that the Department requests that the board enter into a Final Order that he had waived his rights in this matter to an elected hearing and further the Department requests that the board adopt the findings of fact and conclusions of law as set forth in the amended Administrative Complaint.

MOTION: Dr. Helm made a motion to find that Dr. Blair waived his rights to dispute the material facts in the case.

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

MOTION: Dr. Helm made a motion to adopt the findings of fact and conclusions of law as the board's findings of fact and conclusions of law.

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

After discussion by the board the following motion was made.

MOTION: Dr. Vega made a motion to impose a thirty five hundred dollar (\$3500.00) fine, one thousand two hundred and sixty three dollars and twenty nine cents (\$1263.29) in costs, eighteen (18) months probation, and re-take the Florida laws and rules exam within sixty days of the filing of the Final order at Dr. Blair's expense.

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

Mr. Winters advised the board that he would send Dr. Blair a copy of the Florida laws and rules book and highlight the section on advertising of emergency care.

Donald W. Denoff, DVM; Case number 2003-002806

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

Mr. Winters advised the board that Dr. Denoff was not properly noticed due to a problem with the address. He stated that the address had been updated and he would appear at the March 2006 meeting.

Ronald J. Arceneaux, DVM: Case number 2003-090817

Dr. Arceneaux was present and was represented by counsel, William Furlow.

He was sworn in by the court reporter.

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

Mr. Winters presented the case as a Settlement Stipulation. Mr. Winter stated that the Department recommends that the Settlement Stipulation be adopted as presented.

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. Horky seconded the motion and the motion passed unanimously.

PROBATIONARY APPEARANCE

Joseph A. Tomes, DVM

Dr. Tomes 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: Ms. Lewis made a motion to accept Dr. Tomes's appearance as his yearly probation appearance.

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

DISCIPLINE

CONSIDERATION OF FINAL ORDER

Richard M. Jaffe, DVM: Case number 2003-065398

Dr. Jaffe 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.

Mr. Winters advised the board that Dr. Jaffe was making an appearance before the board in order to lift the suspension on his license that was instituted at the

June 15, 2005 meeting. He stated that no further action would be taken but this is the time the board can address any concerns they may have.

After discussion by the board the following motion was made.

MOTION: Dr. Vega made a motion to re-instate Dr. Jaffe's license.

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

The board requested that Dr. Jaffe appear at the March 14, 2006 meeting in Ft. Lauderdale. Dr. Jaffe agreed that he would appear at the March 14, 2006 meeting.

Dr. O'Neil asked Dr. Jaffe if he would need more time to pay the four thousand (\$4000.00) fine and one thousand two hundred and thirty nine dollars and twenty six cents (\$1,239.26) in costs.

Dr. Jaffe stated that he would like to make monthly payments for a twelve (12) month period.

Mr. Jones stated that he would draft an amended Final Order stating that Dr. Jaffe had one (1) year to pay the fine and costs.

APPLICATIONS

Lyn F. Comans, DVM

Dr. O'Neil advised the board that Dr. Comans applied for licensure by endorsement. He stated that she holds an active license in the State of New York. Dr. O'Neil stated that Dr. Comans is asking the board to accept her New York boards in lieu of the Clinical Competency Test (CCT).

MOTION: Dr. Vega made a motion to accept Dr. Comans New York State boards in lieu of the Clinical Competency Test (CCT) and approve Dr. Comans for licensure by endorsement.

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

DISCUSSION

Rule 61G18-30.001 – Disciplinary Guidelines

Mr. Jones advised the board that rule 61G18-30.001, Florida Administrative Code (F.A.C.) had language added to require taking the Florida laws and rules exam as a penalty imposed by the board. He stated that the language was added to 61G18-30.001 (1) (w), F.A.C., and to require remedial education, 61G18-30.001 (1) (jj), Florida Administrative Code (FAC), and to require remedial education, and 61G18-30.001 (5) (i), F.A.C., The taking and passing of a remedial examination as exemplified by the Laws and Rules examination.

Dr. O'Neil asked Mr. Jones when the new language would be adopted.

Mr. Jones advised the board that it would be adopted in fifty (50) days.

CORRESPONDENCE

Charles T. Baker, DVM

Dr. Vega asked if we could accept Dr. Baker's pharmacy continuing education to fulfill his drug requirement for veterinarians.

After discussion by the board the following motion was made.

MOTION: Dr. Helm made a motion to deny Dr. Baker's request for the board to exclude the two (2) hour continuing education requirement in pharmacology.

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

Susie Love

Dr. O'Neil stated that Susie Love had submitted a letter stating that she had accepted a position at the Department of Health. He stated that she would continue to serve on the board until she was replaced and she may be at the March 14, 2006 meeting. He stated that the board appreciates all of the hard work she did for the board and she would be missed.

RATIFICATION OF APPLICATIONS

Continuing Education

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

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

Surgi Care Center for Horses – *Detomidine – The Misunderstood Drug* – 2 hours
Choice Medical Systems, Inc. – *Small Animal Abdominal Ultrasound Course* – 8.5 hours

Small Animal Cardiac Ultrasound Course – 8.5 hours

Northwest Florida Veterinary Medical Association – *Head Trauma* – 1 hour

Affiliated Veterinary Specialists – Orange Park – *Endothelial Degeneration* – 2 hours

Innovative Veterinary Diets – *IBD: Incurable Bowel disease* – 2 hours

Florida Association of Equine Practitioners – *Promoting Excellence Scientific Practitioners* – 17 hours

Society for the Prevention of Cruelty to Animals Tampa Bay - *Truth or Dare: Practical Canine Behavior Solutions Every Veterinary Professional Should Know* – 3 hours

Premise Permits

MOTION: Ms. Lewis made a motion to approve the following premise permit applications initialed and approved by Dr. Horky.

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

September 8, 2005 Premise Permit Applications

AA Animal ER Centers /Stanton & Quinones, Capital Plaza Animal Hospital, Clay County Humane Society. Inc, Cordova Animal Medicine, Evening Pet Clinic, Sunset Pet Hospital, Inc., Veterinary Trauma Center, Village Veterinary

October 27, 2005 Premise Permit Applications

Animal Care Center, Atlantic Animal Hospital, Best Care Animal Hospital, Hernando Veterinary Clinic, Juno Beach Animal Hospital, Miami Veterinary Internist, Shady Road Veterinary Clinic, Inc., Smyrna Veterinary Hospital, Tampa Bay Veterinary Emergency Services of Hillsborough, Vetcalls, Wynn Haven Animal Clinic

Exam and Licensure Candidates

MOTION: Dr. Helm made a motion to ratify Dr. O'Neil's actions on the following exam and licensure candidates.

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

Dr. O'Neil approved by conference call September 8, 2005.

Senior Graduates

Elizabeth A Lutmerding, Gerald H Thomas, ,Kristin A. Uttenreither, Kelli E. Weaver

AVMA Graduates

Annie Dion-Seguin

Foreign Graduates with ECFVG

Carlos R. Basabe, Juliana Benedini, Blaine A. Burkert, Carlos Gonzale-Tirado, Tracy L. Hardin

Endorsement

Sonya T. Ingram, Shane M. Ludwig, Barbara Petrohan, Joseph A. Geer

Dr. O'Neil approved by conference call October 3, 2005

Senior Graduates

Elizabeth R. Carlson, Emily Dean, Andrea L. Kaser, Laura K. Kelsey, Kelly P. Lynch, Katherine Maldonado, Sarah L. Quatman, Jennifer N. Reth, Jennifer L. Spencer

AVMA Graduates

Jennifer S. Kyes

Endorsement

Roger M. Augenstein, John E. Carney, Amelia J. foster, JoyceAnn G. Gerardi, Barry L. hays, Raymond R. leali, Jose A. Mercado-Mendez

Dr. O'Neil approved by conference call November 16, 2005

Senior Graduates

Lisa M. Brevik, Ashley M. Hooper, Monica E. hatcher, Angela R. Moore, Jennifer A. Narbonne, Sean Thomas, Kimbra E. Yelvington

Foreign Graduates with ECFVG

Wendy B. Cuevas-Espelid, Sandra Gosselin, Dianne Rey, Tracy E. Scola, Angelika T. Welch

Endorsement

Na-Te K McFarland, Angela D. Rowson, Steven D. Teisch, Mark A. Wolfman

Dr. O'Neil approved by conference call December 1, 2005

Senior Graduates

Vanessa L. Churchill, Ashok Padmanabhan, Michelle R. Stephenson

Endorsement

Bradley W. Amery, Dewey H. Carpenter, Frederick P. Hosking, Jessica L. Lannes, Tiffany L. Marr, Jessica L. Mathis, Tess Peavy

REPORTS

Jeffrey Jones – Board Counsel

Mr. Jones advised the board that he was introducing draft language for the implementation of statutory changes for a null and void license. He stated that the changes would be made under rule 61G18-12.019, F.A.C. – Re-Instatement of a Null and Void License Fee: Each application for reinstatement of a null and void license must be accompanied by payment of a fee of \$260.00.

Ms. Chastain asked Mr. Jones if language should be drafted under 61G18-26, F.A.C. to identify what a Null and Void application was.

Mr. Jones stated that he would draft language to identify a null and void license application.

MOTION: Ms. Lewis made a motion to approve the null and void fee of \$260.00 and proceed with rule development.

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

Drew Winters –Prosecuting Attorney

Mr. Winters reviewed his report with the Board. Mr. Winters stated that he had to thank Dr. Jones and Ms. Lewis for their excellent job on the probable cause panel. He advised the board that he is receiving a large number of complaints and so the probable cause panel members have been very busy.

Juanita Chastain – Executive Director

Ms. Chastain reviewed the end of the year financial report with the board and advised them they were in good financial shape.

OLD BUSINESS

Dr. Vega advised the board that he has been working on a meeting in Gainesville with the University of Florida, School of Veterinary Medicine. He stated that from day one the University agreed to make attendance mandatory for senior students to be present. He stated that the University began to fault on the agreement. Dr. Vega stated that now the University cannot make the meeting mandatory. Dr. Vega stated that the University should show respect to the board and make the meeting mandatory. Dr. Vega stated that he would leave it up to the board to decide if the meeting would take place or not.

Dr. O'Neil advised the board that Dr. Vega has been working very hard on this project. He stated that the board should not waste their time if the meeting is not mandatory.

The board decided that when the University could make it mandatory for students to attend the board will hold a meeting in Gainesville.

Dr. O'Neil advised the board that Dr. Helm attended the AAVSB annual conference in September. He stated that she would address the board with her report regarding the meeting.

Dr. Helm advised the board that while in attendance at the AAVSB meeting in September she addressed some of the board's concerns that were discussed at the June 2005 board meeting.

Dr. Helm advised the board that when it was announced that Dr. Whitley, from Florida, was President of the AAVSB she asked how he could be president when he was not a member of the Board. She stated that the AAVSB rules had just changed and he was grandfathered in. She stated in the future you would have

to be a current board member to hold an office. She stated that you have to be a current member of a State board to vote. She stated that eighteen (18) residents of Florida were enrolled in the PAVE program and two (2) more states have elected to accept the PAVE program. She stated that the PAVE program was not going away and it would take a statutory change to accept it in Florida.

Mr. Schaefer asked staff for the status on the Limited Service Clinic Inspections.

Mr. Winters advised the board that that at the last Inspectors meeting he addressed what the requirements were for an inspection. He stated that staff was working on getting the schedules to the inspectors. Mr. Winters advised the board that there would be something in the next newsletter to address the limited service clinics and what they can and cannot do especially the fact that they are limited to parasitic control and vaccinations.

Mr. Schaefer advised the board that the FVMA has become very frustrated in the last two (2) months with the rule making process. He stated that they were having trouble understanding what was taking so long for the Department to take the rules through the process. He stated that the rule defining alternative and complementary therapy was filed in April and was still not through the system. He stated that at the September 2005 meeting the board adopted a rule change related to agricultural animals. He stated that the FVMA does not understand the timeline. He stated that it is important that the rules be approved now because they should be done before the legislative session. He stated it is much easier for the veterinary profession to say to a legislator here is a remedy that we have approved. He stated that they are not clear on the timeline.

Dr. O'Neil stated that he had talked to Board Counsel about the problem and it has been taken care of for the future.

Dr. O'Neil stated that it takes about four (4) months for the rule to become effective.

Mr. Jones stated that it was his responsibility and it was his fault that the rule process was not done in a timelier manner.

Mr. Jones reviewed the rule making process with the board.

Dr. O'Neil stated that the rule process takes about ninety days.

Mr. Jones stated that it does take about ninety (90) days if there are no changes made by the Joint Administrative Procedures Committee (JAPC).

NEW BUSINESS

Mr. Schaefer advised the board that there was a movement in Tallahassee to have a sunset review of all Florida Statutes. He stated that the FVMA would oppose a sunset review. He stated that it puts undo burden on the professions. He stated that the FVMA would monitor the progress.

MOTION: Dr. Vega made a motion to adjourn.

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

The meeting adjourned at 10:50 a.m.