

**VIRGINIA BOARD OF VETERINARY MEDICINE  
MINUTES OF FORMAL HEARINGS  
AND FULL BOARD  
MAY 26, 2004**

- CALL TO ORDER:** The Board meeting of the Board of Veterinary Medicine was called to order at the Department of Health Professions, Richmond, Va., at 8:45 a.m.
- PRESIDING OFFICER:** Jerry A. Hinn, DVM
- MEMBERS PRESENT:** George H. Siemering, DVM  
Henry McKelvin, DVM  
Rebecca Lakie, LVT  
John T. Wise, DVM  
Andrew F. Horner, DVM
- STAFF PRESENT:** Elizabeth A. Carter, Ph.D.  
Terri Behr  
Emily Wingfield, Assistant Attorney General  
Gail Jaspen, Chief Deputy Director
- OTHERS PRESENT:** Karen Shoemaker-Smith  
Susan Seward, Va. Veterinary Medical Association  
Linda Seeman  
Phyllis Buff  
Frances Vaujin, DVM
- QUORUM:** With six members of the Board present, a quorum was established.
- APPROVAL OF MINUTES:** On properly seconded motion by Dr. Wise, the Board voted unanimously to approve the minutes of February 4, 2004 as presented, the minutes of February 5, 2004 with the one correction made on page 4, which was to change "He" to "She" under the Facility Questions, and the minutes of April 7, 2004 as presented.
- PUBLIC COMMENT:** Public comment was received from Linda Seeman, representing Bunny Lu Adoptions, Inc. Ms. Seeman spoke regarding what she feels is a deficiency in the emergency treatment of domestic rabbits, for bloat and pain management, in the Northern Virginia area. She stated that she receives several hundred inquiries each year asking for help in locating experienced rabbit

veterinarians in Virginia. Specifically, Ms. Seeman would like to see the Board provide educational opportunities and incentives for veterinarians to provide state of the art veterinary care to domestic rabbits.

Public comment was also received from Phyllis Buff regarding the same issue that Ms. Seeman addressed.

The Board advised Ms. Seeman that the Board of Veterinary Medicine does not develop the curriculum for the veterinary training programs nor does it offer continuing education. The members advised that the better forum for this discussion would be the state's veterinary program and, perhaps, the Virginia Veterinary Medical Association.

#### **REGULATORY REVIEW:**

Ms. Jaspén directed the Board to a memo in the agenda packet from Robert Nebiker to Dr. Hinn regarding the Notice of Intended Regulatory Action referring to a 24-hour notice to veterinary establishments of an impending inspection. She explained Mr. Nebiker's reasons for rejecting the NOIRA which include being in direct opposition to the Governor's Executive Order 21 which requires that unless otherwise mandated by law, only regulations that are necessary to interpret law or to protect public health, safety or welfare shall be promulgated. She stated that this NOIRA does not appear to meet these criteria and, therefore, will not be submitted.

Ms. Jaspén addressed the Board regarding the necessity of adopting emergency regulations to comply with the enactment clause of HB577 which authorizes delegation of certain fact-finding proceedings to an agency subordinate. She stated that this is an obligation imposed upon the Board under a statute that passed the 2004 General Assembly.

On properly seconded motion by Ms. Lakie, the Board voted unanimously that cases that may be delegated to an agency subordinate are those that only involve failure to satisfy the continuing education requirements. Further, an agency

subordinate authorized by the Board to conduct an informal fact-finding proceeding shall include current board members deemed knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals. The motion also approved a Notice of Intended Regulatory Action for replacement of the emergency regulations.

Ms. Jaspen next discussed the adoption of fast-track regulations for clarification of the definition of surgery. She explained that fast-track regulations may be promulgated without going through the full APA process if the changes are clarifying, non-controversial and not substantive. The regulations regarding the clarification of the definition of surgery appear to meet those criteria. Ms. Jaspen further explained that the Board needs to make a motion to recommend the adoption of proposed regulations under a fast-track process.

On properly seconded motion by Dr. Horner, the Board voted unanimously to recommend the adoption of proposed regulations under the fast-track process.

**BOARD DISCUSSION:**

**Luv My Pet Vaccination Clinics:** Dr. Carter informed the Board that we have received applications for eight new restricted facilities in the Northern Virginia area named Luv My Pet. These proposed facilities will offer outpatient vaccination clinics at retail stores one to four times a month. What differentiates these facilities from other vaccination clinics held in retail stores is that when these clinics are not being held, the rooms that are used for the clinics are being used for other purposes, such as staff lounges and storage areas. All of these locations have already been inspected. The inspector had some concerns about the set-up and brought it to the attention of Dr. Carter. Board staff did not feel comfortable issuing permits without the Board's review.

Upon properly seconded motion by Dr. Horner, the Board voted unanimously to deny the

issuance of permits to Luv My Pet vaccination clinics.

#### **FORMAL HEARING**

**MATTER SCHEDULED:**

**Wayne T. Springer, DVM**  
**License No.: 0301001419**  
**Case No.: 88590**

Dr. Springer appeared before the Board in accordance with a Notice of Formal Hearing and Statement of Particulars dated February 17, 2004. Dr. Springer was represented by counsel, Allen J. Gordon, Esq. James Schliessman, Assistant Attorney General, represented the Commonwealth. Ms. Wingfield was legal counsel for the Board. The proceedings were recorded by Lisa Wright, RPR, with Inga Snead Court Reporters.

**CLOSED SESSION:**

On properly seconded motion by Dr. Wise, the Board voted unanimously to convene a closed meeting pursuant to §2.2-3711(A)(28) of the Code of Virginia (1950), as amended, for the purpose of deliberation to reach a decision in the matter of Dr. Springer. Additionally, it was moved that Dr. Carter and Ms. Wingfield attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the Code, the Board re-convened in open meeting and announced its decision.

**DECISION:**

On properly seconded motion by Ms. Lakie, the Board voted unanimously to dismiss the case against Dr. Springer.

#### **FORMAL HEARING**

**MATTER SCHEDULED:**

**Lyzabeth A. Howe, LVT**  
**License No.: 0302000691**  
**Case No.: 90203**

Ms. Howe appeared before the Board in accordance with a Notice of Formal Hearing and

Statement of Particulars dated March 19, 2004. Ms. Howe was not represented by counsel. Wayne Halblieb, Assistant Attorney General, represented the Commonwealth. Ms. Wingfield was legal counsel for the Board. The proceedings were recorded by Lisa Wright, RPR, with Inga Snead Court Reporters.

**CLOSED SESSION:**

On properly seconded motion by Dr. Wise, the Board voted unanimously to convene a closed meeting pursuant to §2.2-3711(A)(28) of the Code of Virginia (1950), as amended, for the purpose of deliberation to reach a decision in the matter of Ms. Howe. Additionally, it was moved that Dr. Carter and Ms. Wingfield attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the Code, the Board re-convened in open meeting and announced its decision.

**DECISION:**

On properly seconded motion by Dr. Wise, the Board voted unanimously to certain Findings of Fact and Conclusions of Law and suspended the license of Ms. Howe. Further, the suspension will be stayed upon compliance with certain terms and conditions.

**BOARD DISCUSSIONS:**

**Canine Massage**

The Board discussed a letter from Carol Ellia regarding performing massage on canines. Ms. Ellia submitted her advertisement for the Board's review to make sure that she it would not be construed as the practice of veterinary medicine. The Board directed that Ms. Ellia be informed that she can provide massage in a veterinarian's office under the supervision and prescription of the veterinarian. They also directed that she be warned about unlicensed practice and that the statute defining the practice of veterinary medicine is broadly construed. She should contact an attorney for advice.

**Placement of microchips**

The Board discussed a letter from Sheryl Loucks of Start Barkin', LLC asking if she could offer

microchipping as part of the services that she provides to her clients' animals. She states that she has recently become certified in administering medications, injections, fluids and microchipping. It is the Board's interpretation that the placement of microchips should only be done in a licensed veterinary establishment.

On properly seconded motion by Dr. Horner, the Board voted unanimously to forward the letter from Ms. Loucks to Enforcement for investigation and that the result be reported back to them at their next meeting. The motion was amended to include forwarding Ms. Ellia's letter on canine massage to Enforcement.

#### **Public Health Memo on administration of rabies vaccinations**

Dr. Horner asked that this item be included in the agenda because he wanted to clarify that this memo does not change state law regarding the administration of rabies vaccine. Rabies vaccine can only be administered by a licensed veterinarian or a licensed veterinary technician under the supervision of a veterinarian.

#### **Letter from Dachshund group**

The Board did not discuss this letter. Upon properly seconded motion by Dr. Horner, the Board voted unanimously to take no action and to thank them for their letter.

#### **Inspection question**

Inspector Lynne Helmick posed a question to the Board regarding whether drug inventory records should be separate from the distribution records. The Board's response is that they should be separate documents.

#### **Prescription question**

Dr. Steven Karras posed a question to the Board regarding using prescription pads that are pre-printed with his signature already applied with a label maker. The Board sees no problem with the sample prescription blank that Dr. Karras supplied other than it needs to have his DEA number imprinted on it also.

### **Letter from Dr. Ronald Frank**

The Board addressed a letter from Dr. Frank in which in he requested clarification as to what minor procedure can be performed in the home rather than in the hospital. He cited minor teeth cleaning, wart removals, suturing small lacerations, assisting in deliveries, feline castrations, opening abscesses and freeing obstructed tom cats as examples.

The Board's response is that he cannot perform feline castrations, but the other procedures would be permitted. He could assist in deliveries as long as it doesn't involve a C-section.

### **Letter from Alan Walkowich**

The Board discussed a letter from Mr. Walkowich in which he states that the Board should allow an alternate path of licensure for veterinary technicians who do not hold a degree in veterinary technology from an AVMA accredited program in veterinary technology.

The Board's response is that the current regulations require veterinary technicians to hold a degree from an AVMA accredited program and the Board does not have the authority to waive this requirement.

### **RACE standards**

The Board discussed an email from the American Association of State Boards stating that they had recently updated the RACE (Registry of Approved Continuing Education) standards to include a more concise definition of what constitutes the subject category of "promotional". The email stated that the AAVSB would be especially interested in knowing if any boards have had any problems with licensees taking too many "promotional" courses toward CE hours.

The Board's response is that they see no problem with the new language or with licensees taking "promotional" courses.

### **Placement of epidurals by LVT's**

The Board discussed an email from Andi Bettencourt of the Dulles Care Group inquiring



about the placement of indwelling epidural catheters and simple epidural placement and if LVT's or assistants can perform these tasks.

The Board's response is that these tasks can be performed by LVT's but not assistants.

### **Equine dentistry**

The Board discussed equine dentistry and directed Dr. Carter to obtain information from other states on how they deal with this issue and report back at the next meeting.

### **Limit on NAVLE retake**

John King, DVM, Executive Director of the Minnesota Board of Veterinary Medicine, sent an email to all other state boards asking if any states had considered limiting the number of times that a candidate may retake the NAVLE examination.

The Board's response is that they could not limit the number of retakes because that would in effect deny a candidate a pathway to become licensed in Virginia.

## **PRESIDENT'S REPORT:**

Dr. Hinn informed the Board that the President of the Board of Health Professions (BHP) requested that BHP members from each health regulatory board of the department to report back to their respective boards what occurred at the BHP meetings. Dr. Hinn reported that the priority system for complaints is being collapsed from six priorities to four depending on the severity of the cases. Dr. Carter reported that a Sanction Reference Study has been undertaken to study the sanctions imposed by the Boards of Medicine, Dentistry, Pharmacy and Nursing which involves statistical analysis and qualitative assessment of the factors that go into sanction decisions. Dr. Carter also reported that a study of assisted living facilities is being undertaken.

Dr. Hinn reported that the Board may want to draft by-laws to assist in making the Board meetings a little more structured, to help new members understand the process a little more easily and to define committees. Dr. Hinn suggested that the members review the sample document provided



in the agenda packet and discuss at the next meeting. Some members expressed an interest in creating a new member packet to assist new board members.

**EXECUTIVE DIRECTOR'S REPORT:**

Dr. Carter directed the Board to the graphs in the agenda packet. She created a graph which shows on average how long it is taking people to actually be issued a license. She reported that this may become a standard report to be used by all the Boards.

Dr. Carter reported that she reviewed all of the Orders from 1999 – April 30, 2004 and created an updated disciplinary matrix from the information that she obtained.

Dr. Carter reported that the American Veterinary Medical Association's (AVMA) Educational Commission for Foreign Veterinary Graduates (ECFVG) is asking for Boards' input regarding the potential addition of a third option for graduates of non-accredited foreign veterinary colleges to complete the fourth and final step of the ECFVG certification program. The ECFVG believes that board certification in an AVMA recognized veterinary specialty organization is indicative of at least entry level veterinary clinical skills, and as such, may be an appropriate addition to assess a foreign veterinary graduate's hands-on clinical skills.

The Board directed Dr. Carter to respond to the AVMA that they are not in favor of adding a third option to the ECFVG.

Dr. Carter directed the Board to the AAVSB's proposed by-laws for comment. On properly seconded motion by Dr. Siemering, the voted unanimously to defer the review of this document to Dr. Carter and Ms. Behr for response to the AAVSB.

**CLOSED SESSION:**

On properly seconded motion by Dr. Horner, the Board voted unanimously to recess open session and immediately reconvene in closed session pursuant to §2.1-344(A)(7) of the Code of Virginia (1950), as amended, for the purpose of

consultation with legal counsel regarding approval of a Consent Order and requests for waivers of CE. It was also moved that Elizabeth Carter and Terri Behr remain in closed session as their presence was deemed necessary.

**OPEN SESSION:**

On properly seconded motion by Dr. Wise, the Board recessed closed session and reconvened in open session and unanimously voted to certify that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the previous closed meeting and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board of Veterinary Medicine, as required by §2.1-344.1 of the Code of Virginia.

**APPROVAL OF CONSENT ORDER:**

On properly seconded motion by Dr. Horner, the Board voted unanimously to approve the Consent Order of **Richard E. Flint, Jr., DVM.**

**WAIVER OF CE:**

On properly seconded motion by Dr. Wise, the Board voted unanimously to accept the CE of **Stacy Chambers, LVT**, for 2003 and 2004.

On properly seconded motion by Dr. Horner, the Board voted unanimously to grant a waiver of the CE requirements for 2003 for medical reasons to **David H. Parker, DVM.**

**MEETING ADJOURNED:**

There being no further business, the meeting adjourned at 6:40 p.m.

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Jerry A. Hinn, DVM, President

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Elizabeth A. Carter, Ph.D., Executive Director