

**MINUTES, North Carolina Veterinary Medical Board
Pinehurst, North Carolina, June 27, 2013**

At 8:00 a.m., President Richard Hawkins, D.V.M. called to order the regular meeting of the North Carolina Veterinary Medical Board. In attendance were the following Board members: Drs. Dwight E. Cochran, William Dean, Kim Gemeinhardt, David Marshall and Dante Martin; Mr. Jonathan Loftis, R.V.T., and Mrs. Katie Morgan. Also present were Board Attorneys Mr. George Hearn and Mr. Lee Craven. Executive Director, Mr. Thomas Mickey, was present as well.

Dr. Hawkins reviewed with the Board the Governor's and the North Carolina Board of Ethics' statement on recognizing and avoiding conflicts of interest.

On motion by Dr. Marshall, seconded by Dr. Cochran, the minutes for the April 26, 2013 Board meeting was approved.

Mr. Mickey reported on operational and administrative activities of the Board since the last Board meeting. He distributed a financial report which the Board reviewed and discussed with him. On motion by Dr. Gemeinhardt, seconded by Dr. Martin, the financial report was approved.

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The Board discussed the status of House Bill 194 and Senate Bill 392.

No further action was taken.

The Board Investigator presented his report on activities since the last Board meeting.

At 9: 15 a.m., the Board recessed for a break and resumed the meeting at 9:35 a.m.

At 9:35 a.m., Joseph P. Jordan, PhD., Clinical Director of the N.C. Physicians Health Program (NCPHP) joined the meeting. Dr. Jordan presented an update of the status of the N.C. Veterinary Health Program (NCVHP) since the last Board meeting. Dr. Jordan left the meeting at 9:55 a.m.

Mr. Hearn reviewed with the Board a recent 4th Circuit Court of Appeals decision involving the N.C. Board of Dental Examiners. That Board had attempted to use its authority under the Dental Practice Act,

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including the use of cease-and-desist letters, to prohibit non-dentist teeth whitening operations in the State. The Federal Trade Commission found that the Board violated antitrust laws with the cease-and-desist letters. On May 31, 2013 the Court of Appeals ruled unanimously that the Board's actions had violated antitrust laws.

At 11:05 a.m., Board Attorneys George Hearn and Lee Craven conducted Board member training concerning the Veterinary Practice Act and several other State statutes. This training is required by G.S. § 90B-5(g) so that Board members can better understand their role as Board members and the obligations and limitations of the Veterinary Medical Board as a State agency. The focus of the training was the Veterinary Practice Act; the Board rules; the Administrative Procedure Act; the Open Meeting Act; the Public Records laws; the State Tort Claims Act; and the Defense of State Employees Act. Mr. Hearn and Mr. Craven presented separate legal memoranda about each of the statutes. The presentation resulted in questions, comments and discussion by the Board. The presentation concluded at 12:15 p.m.

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At 12:15 p.m., the Board recessed for a break and resumed the meeting at 12:55 p.m.

Report of Committee on Investigations No. 3

2012035-3 **Ginger Wike Tran, DVM** – (Heritage Animal Hospital) – Dawn Lanza, DVM – The Committee reported two decisions. First, the Committee found no probable cause and dismissed Dr. Lanza’s complaint about an alleged Board Rule violation. Second, the Committee reconsidered its preliminary decision reported at the February 1, 2013, Board meeting to issue a letter of reprimand and a civil monetary penalty concerning the delivery of veterinary services from an uninspected mobile unit. After reconsideration, the Committee finds no probable cause of violation and dismisses that also.

2012041-3 **Cecilia S. Ho, DVM** – (Cat Care Hospital) - Mr. & Mrs. Douglas Caldwell and Rebecca Feeney –

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The Committee recommended that the Board approve a Consent Order, signed by Dr. Ho, finding violations of the Practice Act and Board Rules, suspending her veterinary license for a period of five years, with the first 30 days being an active suspension and the balance being a stayed suspension. In addition, the Order would impose an \$8,000 civil monetary penalty.

2012049-3 **Joel M. Barden, DVM** – (Veterinary Medical Center) – Ms. Beverly Harris - Continued

2013002-3 **Cynthia Anne Eward, DVM** – Veterinary Specialty Hospital of the Carolinas) – Mr. J. P. Handsel – No probable cause.

2013007-3 **Kristopher James Eads, DVM** – (Kernersville Vet Hospital) – Ms. Sheena Blakely – No probable cause.

2013003-3 **Phillip Scotton, DVM** – (Eastern Randolph Veterinary Clinic) – Ms. Jill Baldwin – Letter of Caution.

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2013014-3 **Christina M. Barndt, DVM** – (Chocowinity Vet Hospital) – Ms. Erin Markowski – No probable cause.

2013012-3 **Thomas Alan Wallrichs, DVM** – (Animal Hospital of East Burke) – Ms. Sharon Monday – No probable cause.

2012033-3 **Jack V. Hill, DVM** – (Gray’s Creek Animal Hospital) – Mrs. Mary R. Cunard – The Committee reconsidered its previous decision to issue a letter of reprimand and recommend a civil monetary penalty. Because the Board could not obtain from the complainant a reply to Dr. Hill’s response, the decision is modified and the final decision is to issue a letter of caution, and the recommendation for a civil monetary penalty is withdrawn.

Following discussion, upon motion by Mr. Loftis, seconded by Dr. Cochran, which unanimously passed, the Board approved the Consent Order

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involving Cecilia S. Ho, DVM, in complaint 2012041-3, and the Board assessed her four \$2,000.00 civil monetary penalties on the four separate statutory and rule violations cited, and the penalties all are based upon the factors set forth in G.S. § 90-187.8(b)(1) [degree and extent of harm to the public health]; (b)(2) [the gravity of the violations]; and (b)(3) [the violation was committed willfully or intentionally].

Upon motion by Mr. Loftis, seconded by Dr. Cochran, the Board approved the report of Committee on Investigations No. 3.

At 2:15 p.m., the Board recessed for a break and resumed the meeting at 2:45 p.m.

Report of Committee on Investigations No. 4

2012026-5 **Guy Beretich, DVM** – (Vets for Pets Animal Hospital) – Mr. & Mrs. Grant Croonquist– The Committee reconsidered its previous decision to issue a letter of reprimand. The Committee

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reviewed the case and decided to issue a letter of caution.

201246-4 **Melissa Bame Beagle, DVM** – (Alamance Animal Emergency Hospital) – Dr. April Marklin – Letter of Reprimand and a \$500 civil monetary penalty is recommended.

2013008-4 **Donald Fuller, DVM** – (Caswell Veterinary Service) – NCVMB – Continued.

2013011-4 **Donna Lynne Tyson, DVM** – (Tyson Animal Hospital) – Mrs. Carmen Thorpe – No probable cause.

2013015-4 **Allison Hackett-Dorn, DVM & Paul Malocha, DVM** – (Stage Road Animal Hospital) – Mr. & Mrs. Jeff & Holly Short – No probable cause.

2012036-4 **Dennis Kay Johnson, DVM** – (Greenville Veterinary Hospital) – Mr. David Gladson – The Committee reconsidered its previous decision, reported at the February 1, 2013 Board meeting, to issue a letter of reprimand and recommend two

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\$5,000 civil monetary penalties. Following reconsideration, the Committee reaffirmed its decision to issue a letter of reprimand based upon finding probable cause of violation of G.S. § 90-187.8(c)(6) and to reaffirm its previous recommendation of the assessment of a \$5,000 civil monetary penalty for this violation. The Committee withdrew its previous finding of probable cause of violation of G.S. § 90-187.8(c)(19) and the previously recommended \$5,000 civil monetary penalty. Instead, the Committee issues a letter of caution as to these issues.

Following discussion, upon motion by Mr. Loftis, seconded by Dr. Gemeinhardt, which unanimously passed, the Board found the following factors set forth in G.S. § 90-187.8(b)(2) [duration and gravity of the violation]; (b)(3) [the violation was committed willfully or intentionally]; and (b)(5) [the licensee's prior disciplinary record] as the bases for a

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\$5,000.00 civil monetary penalty against Dennis Kay Johnson, DVM, in complaint 2012036-4.

Upon motion by Dr. Cochran, seconded by Dr. Martin, the Board approved the report of Committee on Investigations No. 4.

The Nominations Committee reported the following nominations for officers for the year July 1, 2013 through June 30, 2014: Dr. Martin, President; Dr. Marshall, Vice-President; and Dr. Gemeinhardt, Secretary-Treasurer. Upon motion by Dr. Dean, seconded by Dr. Cochran, the Board elected by acclamation Dr. Martin, Dr. Marshall and Dr. Gemeinhardt to their respective offices for 2013-2014.

Dr. Hawkins shared with the members of the Board his thoughts, recollections and appreciation on serving on the Board for ten years.

Upon motion of Dr. Marshall, seconded by Dr. Loftis, the expenses for this Board meeting were approved.

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The Board having no further business, upon motion of Dr. Cochran seconded by Mr. Loftis, the meeting was adjourned at 3:55 p.m.

Respectfully Submitted,

Thomas M. Mickey
Executive Director