

**MINUTES, North Carolina Veterinary Medical Board
Raleigh, North Carolina, August 19, 2009**

President Linwood Jernigan, DVM called the regular meeting of the North Carolina Veterinary Medical Board to order at 8:00 a.m. In attendance were the following Board members: Drs. Susan Bull, Michael Davidson, Richard Hawkins, David Marshall, and Dante Martin, Mrs. Nancy Robinson, RVT and Mrs. Katie Morgan. Also present were Board Attorneys Mr. George Hearn and Mr. Lee Craven and Executive Director Mr. Thomas Mickey.

Dr. Jernigan reviewed with the Board the Governor's and North Carolina Board of Ethics' statement on being aware of and avoiding conflicts of interest.

On a motion made by Dr. Marshall, seconded by Mrs. Robinson, the minutes for the May 29, 2009 meeting were approved.

Warren Pendergast, M.D., Medical Director, and Joseph P. Jordan, PhD, Clinical Director, of the North Carolina Physicians Health Program (NCPHP), joined the meeting. Dr. Pendergast presented an update on the status of the program since the last Board meeting. After a question and answer period with the Board, they left the meeting at 8:20 a.m.

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

The Executive Director reported on activities of the Board office since the last meeting and distributed a financial report to the members of the Board. The Board reviewed and discussed the report with the Executive Director. No further action was taken.

Dr. Bull led a discussion on the issue of whether a veterinarian can fill, or refill, a prescription order of another veterinarian. Following a discussion of various aspects of this issue, the Board asked Mr. Hearn to review the relevant statutes and report back to the Board on the possibility of a policy or rule that might allow such dispensing.

At 9:40 a.m., the Board welcomed Dr. Robert Weedon, veterinarian and adjunct faculty, University of North Carolina at Wilmington (UNCW); David E. Rice, New Hanover County Health Director; and Dr. Jean McNeil, veterinarian, and Animal Control Services Manager for New Hanover County and adjunct faculty, UNCW. Dr. Weedon had requested an

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opportunity to respond and discuss issues relating to the letter of complaint from Dr. Pax M. Lattimore to the Board of July 17, 2009 that alleged that certain undergraduate students at UNCW were practicing veterinary medicine and had posted videos depicting these activities on a Facebook.com page connected with the UNCW “Pre-Veterinary Medical Association” (PVMA).

In connection with this presentation, the Board reviewed Dr. Lattimore’s letters: to Thomas M. Mickey of July 17, 2009; to UNCW Chancellor Rosemary DePaolo of July, 2009; and to the Board investigator of August 13, 2009. The Board also reviewed the letter to Dr. Lattimore from UNCW Vice Provost Stephen L. MacFarland of August 5, 2009; and the letter of August 5, 2009 to Dr. Martin Posey, Chair, UNCW Biology/Marine Biology Department, from Dr. Weedon, Mr. Rice and Dr. McNeil.

Dr. Weedon and Dr. McNeil are adjunct faculty members at UNCW and faculty advisors to the PVMA. Mr. Rice, as Health Director of New Hanover County, oversees the New Hanover County Animal Control Services (NHCACS) spay/neuter facility. Certain UNCW students who are

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members of PVMA volunteer at the NHCACS facility, and as part of their activities they perform certain aspects of spay and neuter procedures. All of the animals are owned by New Hanover County. One of the goals of the NHCACS in sterilizing the animals is to prevent further pet overpopulation. No sterilization procedures are performed on animals owned by any member of the public. The PVMA student volunteers have a demonstrated interest in veterinary medicine as a career and Dr. Weedon, Mr. Rice and Dr. McNeil believe that the supervised volunteer efforts at NHCACS are beneficial for the students and for the public purpose of the facility.

Dr. Weedon, Mr. Rice and Dr. McNeil concluded their presentation and left the Board meeting at 10:45 a.m. The Board deferred discussion on this issue until later in the afternoon.

The meeting recessed at 10:55 a.m. for a break and reconvened at 11:05 a.m.

The Board next welcomed Ms. Kathleen Dickinson, who had requested to appear and present information to the Board on the issue of practice facility ownership by non-veterinarians. Originally, Dr. Fred B.

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McCashin of Southern Pines, N.C. was to join her for this presentation but his travel schedule prevented his doing so. Ms. Dickinson, who is not a veterinarian, is the practice manager of Dr. McCashin's facility in Southern Pines, Carolina Equine Clinic. Ms. Dickinson presented several reasons as to why she thought it would be beneficial for non-veterinarians to have at least part ownership of a veterinary medical practice. The Veterinary Practice Act does not permit non-veterinarians to own any or all of a veterinary practice. The Board members discussed these issues with her, and she concluded her presentation and left the meeting at 11:25 a.m. The Board took no action on her request.

Next, at 11:30 a.m., the Board received a presentation from Dr. Robert J. Meyer, owner of Neuse River Veterinary Hospital in Wendell, N.C. He had requested an opportunity to present information to the Board concerning the likelihood that certain horse breeding operations in North Carolina were conducting embryo transfers, ultrasounds and other procedures which he thought might constitute the practice of veterinary medicine. The Board members discussed these issues and questioned him about these issues to determine what information he had to support his concerns. Dr. Meyer concluded his discussion and left the meeting at 12:10 p.m. The Board

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requested Mr. Hearn to review and report to the Board on whether any of the three identified facilities were offering to perform procedures that are the practice of veterinary medicine.

The Board recessed for a lunch break from 12:10 p.m. until 12:40 p.m., at which time the meeting reconvened.

Dr. Jernigan led a discussion concerning the use of pop-off valve restrictors on anesthetic machines. This device is a safety instrument which prevents the pop-off valve from being accidentally closed, which closure can lead to respiratory damage and pneumothorax of the animal under anesthesia. By consensus, the Board agreed that through the President's Letter and other relevant communications to the licensees the Board would emphasize the importance of using pop-off valve restrictors.

The Board next considered a written request from Dr. Maidan Khare of Highland Park, N.J. for approval of two continuing education online credit and seminar courses sponsored by his company, the name and website of which is VetMedConsulting.com. After review of Dr. Khare's materials and following discussion by the Board, Dr. Marshall made a motion to deny

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Dr. Khare's request for the reason that the materials presented did not appear to have sufficient content directly relevant to veterinarians licensed in North Carolina. The motion was seconded by Dr. Hawkins and it passed unanimously.

The Board established the date of the first meeting in 2010 to be Friday, January 22, 2010 at the Board offices.

Dr. Marshall reviewed with the Board inquiries made of him as the State Veterinarian at the N.C. Department of Agriculture & Consumer Services relating to the implantation of microchips in animals. The inquiry to him from Ms. Leila Warren of Forsyth County appeared to concern primarily whether a veterinarian-client-patient relationship was prerequisite to a veterinarian's performing a microchipping procedure on an animal, particularly when the procedure took place at a "microchipping clinic." Such clinics appear to have been conducted in the Forsyth County area and may have been sponsored by community organizations. Dr. Marshall asked whether Mr. Hearn could investigate the question and answer it on behalf of the Board. The Board concurred and directed Mr. Hearn to contact Ms. Warren and identify the issue and determine the answer to her question.

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Report of Committee on Investigations No. 2.

- 2009017-2 Roy Lawrence Bodine Lenzo, DVM – Lenzo
Animal Hospital – (complaint of Mr. Vincent G.
Vicari) – Disciplinary action, letter of caution.
- 20091019-2 Shayne Philana Zimmerman, DVM – Banfield,
The Pet Hospital of Cary – (complaint of Ms.
Nicole Dewberry) – Dismissed, no probable cause.
- 2009015-2 Cynthia Denise Burnett, DVM – Burnett
Veterinary Hospital – (complaint of Ms. Karen
McPadden) – Dismissed, no probable cause.
- 2009021-2 Gary D. Schaffer, DVM – Alexander County
Veterinary Services, P.A. – (complaint of Mr.
Lindsey H. Stokes, Sr.) – Disciplinary action, letter
of reprimand. Upon motion by Dr. Davidson,
seconded by Mrs. Robinson, and unanimously
passed, a civil monetary penalty was assessed in
the amount of \$250.00 based upon factors set forth
in G.S. § 90-187.8(b)(3) and (5).

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2009027-2 Laureen Yetta Bartfield, DVM – Mobile Spay-
Neuter Assistance Program of North Carolina –
(complaint of Ms. Nicole Dewberry) – Dismissed,
no probable cause.

2009029-2 Laurie Ann Buche, DVM – Wellington Animal
Hospital – (complaint of Ms. Pauline Larkin and
Ms. Kristin Ellison) – Disciplinary action, letter of
caution.

Upon motion by Mrs. Robinson, seconded by Dr. Hawkins, the Board
approved the report of Committee on Investigations No. 2, with Dr.
Davidson abstaining from the vote with respect to Complaint 2009027-2
(Dr. Bartfield).

The Board recessed from 2:20 p.m. to 2:35 p.m., at which time it
reconvened.

Report of Committee on Investigations No. 5.

2009012-5 Amy Elliot O'Malley, DVM & Sharon Turbeville
Carlson, RVT – Warren County Animal Shelter –

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(complaint of Mr. Thomas Rhyne) – Dismissed, no probable cause.

2009016-5 Melissa Bame Beagle, DVM – Alamance Animal Emergency Hospital – (complaint of Mr. & Mrs. Gavin Moss) – Disciplinary action, letter of caution.

2009018-5 Lee A. Darch, DVM – North Wake Animal Hospital – (complaint of Ms. Elizabeth Grady) – Disciplinary action, letter of caution.

2009020-5 Melissa Bame Beagle, DVM – Alamance Animal Emergency Hospital – (complaint of Mr. & Mrs. Shane Sharpe) – Disciplinary action, letter of caution.

2009022-5 Edith Kathryn Wilder, DVM – Graham Animal Hospital, P.A. & Melissa Bame Beagle, DVM – Alamance Animal Emergency Hospital – (complaint of Mr. Joseph Eugene Martin) – Continued.

2009028-5 Brian David Lapham, DVM – Hidden Valley Animal Clinic and Boarding – (complaint of Mr. &

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Mrs. Thomas Cormack) – Dismissed, no probable cause.

2009030-5 Kelly Elizabeth Reilly, DVM – Animal Emergency Clinic of Cary, LLP – (complaint of Tracy R. Watson, DC) – Dismissed, no probable cause.

2009031-5 Sara Butler Brown, DVM – Health Care for Pets Hospital – (complaint of John Patrick Galligan, DVM) – Continued.

Upon motion by Dr. Marshall, seconded by Dr. Bull, the Board approved the report of Committee on Investigations No. 5.

Upon a motion by Dr. Bull, seconded by Dr. Hawkins, the Board approved the actual expenses for this meeting. The motion passed unanimously.

The Board resumed discussion regarding the complaint by Dr. Pax Lattimore regarding alleged unlicensed practice by UNCW undergraduate students. Following discussion, by consensus the Board directed Mr. Hearn

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to prepare a draft of a letter of the Board's findings and conclusions. The Board has a level of confidence about the treatment of the animals at the NHCACS spay/neuter facility, and that the spay/neuter facility provides a beneficial service to the New Hanover County area in its efforts to prevent overpopulation of cats and dogs. The Board does not interpret the word "employee" in G.S. § 90-187.10(1) to exempt the UNCW pre-veterinary student volunteers from the requirement of a veterinary medical license when they perform acts at NHCACS that constitute the practice of veterinary medicine. Further, the statutory exemption in G.S. § 90-187.10(2) is not applicable to the facts of this case. The UNCW pre-veterinary student volunteers should not perform the closing of surgical incisions in spay procedures nor should they perform neutering procedures or any act that constitutes the practice of veterinary medicine. The Board will request the cooperation of Dr. Weedon, Mr. Rice and Dr. McNeil to ensure that the student volunteers will no longer perform these activities. The Board requested that Mr. Hearn confer with Dr. Davidson and Mr. Mickey concerning the drafts of his proposed correspondence.

Upon motion of Dr. Davidson, seconded by Mrs. Morgan, the Board adjourned the meeting at 3:40 p.m.

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Respectfully Submitted,

Thomas M. Mickey
Executive Director