

**MINUTES, North Carolina Veterinary Medical Board  
Raleigh, North Carolina, November 3, 2011**

At 8:01 a.m. President Linwood Jernigan, D.V.M. called the regular meeting of the North Carolina Veterinary Medical Board to order. In attendance were the following Board members: Drs. Dwight E. Cochran, Kim Gemeinhardt, Richard Hawkins, David Marshall and Dante Martin; Mrs. Nancy Robinson, 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. Jernigan 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. Cochran, seconded by Dr. Hawkins, the minutes for the August 11, 2011 meeting were approved.

At 8:10 a.m., Joseph P. Jordan, PhD, Clinical Director of the North Carolina Physicians Health Program (NCPHP), joined the meeting. He presented an update of the status of the North Carolina Veterinary Health

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Program (NCVHP) since the last Board meeting. Dr. Jordan left the meeting at 8:25 a.m.

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

Dr. Jernigan appointed Dr. Martin to fill the position of Dr. Davidson on the Committee reviewing veterinary technician issues in the Veterinary Practice Act and Administrative Rules. Dr. Jernigan also restructured the Committee reviewing licensing issues in the Veterinary Practice Act and Administrative Rules to consist of Dr. Gemeinhardt and Dr. Cochran. This Committee will also consider Statute and Rule changes for impaired veterinarians.

Dr. Jernigan took a moment to recognize Fred B. Coats, DVM, of Reidsville, who passed away on October 31, 2011, at the age of 97. Dr. Coats served as President of the Board from July 1, 1961 to June 30, 1963. He was a great leader of the profession and a personal mentor to Dr. Jernigan.

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The Board recessed the meeting at 9:05 a.m. to conduct an administrative hearing in the matter of Jessica Ruth Byerly, complaint no. 2011002-6.

At 11:23 a.m., the meeting of the Board reconvened.

Andre C. Pierce, Director, Environmental Health and Safety Division of Wake County, North Carolina, Lisa Duff, DVM, Jennifer Federico, DVM, and Ms. Nancy Breece joined the meeting. They presented information on the Foster-to-Adopt (FTA) program of the Wake County Animal Center (Center). This information supplemented earlier information received from the Center by the Board. Following discussion with the Board Mr. Pierce and the Center representatives left the meeting at 12:10 p.m. Dr. Marshall, seconded by Mrs. Morgan, made a motion to approve the FTA program and to have Mr. Mickey write Mr. Pierce conveying that approval, which letter would include the following points: (1) the Board appreciated the visit and presentation by Mr. Pierce and his colleagues ; (2) the Board applauds the Center's attempt to reduce the over-pet population; (3) as

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currently structured, the FTA program does not violate the Veterinary Practice Act, but because of potential confusion regarding ownership of FTA animals until their adoption is final, the Board encourages the Center to phase out the Center's financial responsibility for medical treatment of FTA animals because veterinarians will likely look to the adoptive owner presenting the animal as the one responsible for payment for services; (4) the Board would like to receive an update from the Center in about a year on the status of the FTA program; and (5) while the Center does not presently provide heartworm treatment for animals in the FTA program, should this policy change, the Board requests that the Center bring this issue back to the Board for discussion.

The Board recessed at 12:35 p.m. and reconvened at 1:00 p.m.

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.

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Dr. Gemeinhardt reported on her attendance of the annual meeting of the American Association of Veterinary State Boards held in New Orleans on September 15-17. She found the meeting very informative and recommended that the Board send a representative to the meeting next year.

The Board discussed its current schedule for its fees assesses for testing, licensure, registration and related matters, but took no action.

At 2:00 p.m. Mr. Ben F. Massey, Jr., Executive Director of the North Carolina Board of Physical Therapy Examiners and Mr. John M. Silverstein attorney for that Board, joined the meeting to discuss that Board's position that the term "physiotherapy" is limited to those persons licensed under the Physical Therapy Practice Act and, as such, a veterinarian may not legally offer to perform physiotherapy on animals. Following a discussion with the Board, they left the meeting at 2:30 p.m.

The Board recessed at 2:30 p.m. and reconvened at 2:40 p.m.

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Mike Tadych, attorney, representing Kelly Erickson, DVM, joined the meeting to discuss Dr. Erickson's recent application for a mobile facility permit and her plan to operate a mobile vaccination facility providing services inside of PETCO retail stores. Following discussion, he left the meeting at 3:10 p.m. Dr. Hawkins made a motion, seconded by Dr. Cochran, that her mobile facility be inspected, and should it pass the inspection, a registration will be issued; further, by this motion the Board does not embrace the business plan she submitted to this Board in 2010 nor does the Board rescind its letter to her of September 2010, on this issue, but for now Dr. Erickson may provide vaccinations and services consistent with the Veterinary Practice Act; and further, from the material submitted by Mr. Tadych, it appears that some aspects of her previous business plan as submitted to the Board may have changed, and the Board will request her to resubmit the business plan, as the Board will continue to review the delivery of veterinary medical services under her business plan. The motion passed unanimously.

The Board reviewed the request of Mark Ledyard, DVM for a legal opinion on his use of the term "physiotherapy" in describing certain services

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he offers to provide for pets of his clients. Dr. Marshall made a motion to send Dr. Ledyard a letter stating the use of the term “physiotherapy” appears to violate the Physical Therapy Practice Act, and the Board cannot advocate on his behalf for the use of this term. Dr. Martin seconded the motion. The motion passed unanimously.

The Board reviewed correspondence from Ms. Jane Tzivlelis of Durham concerning her requests for an investigation and a new Board policy arising out of a recent situation in eastern N.C. where an out-of-state animal rescue organization apparently abandoned animals that had been presented for treatment at one or more veterinary practice facilities. Following discussion, the Board directed that Mr. Mickey send a letter to her replying that the Board is not a general investigative agency and the Veterinary Practice Act provides no authority to require that veterinarians only accept animals from persons who demonstrate the ability to pay for services; and further that the Veterinary Practice Act already imposes specific responsibilities on veterinarians regarding animals that have been abandoned at practice facilities.

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The Board set additional meeting dates for 2012 to be April 13, June 28, September 6, and November 9.

Upon motion of Mrs. Morgan, seconded by Mrs. Robinson, the expenses for this Board meeting were approved.

The Board having no further business, upon motion of Dr. Martin, seconded by Mrs. Morgan, the meeting was adjourned at 4:55 p.m.

Respectfully Submitted,

Thomas M. Mickey  
Executive Director