

**MINUTES, North Carolina Veterinary Medical Board  
Raleigh, North Carolina, January 14, 2005**

President Herbert Justus, DVM, called the regular meeting of the North Carolina Veterinary Medical Board to order at 8:30 a.m. In attendance were Board members Drs. Linwood Jernigan, Amy Lewis, David Marshall, Richard Hawkins, Kenneth Padgett, Mrs. Nancy Robinson, R.V.T., and Ms. Amy Edwards. Also present were Board Attorney, Mr. George Hearn, and Executive Director, Mr. Thomas Mickey.

The Board discussed a proposed amendment to 21 NCAC 66 .0207(b)(10) for the purposes of clarifying the requirements regarding the capability of a facility to perform certain laboratory tests.

The meeting of the Board adjourned at 9:45 a.m. for a ten-minute break, and reconvened at 9:55 a.m.

The Executive Director read the minutes of the November 4, 2004, meeting. On a motion made by Dr. Padgett, seconded by Dr. Hawkins, the minutes were approved as corrected.

Dr. Marshall made a motion to restructure two Committees on Investigation by replacing Dr. Justus with Ms. Edwards on Committee No.

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1, and by replacing Dr. Justus with Dr. Hawkins on Committee 8.

Committee No. 1, (Dr. Justus, Dr. Marshall and Dr. Jernigan) will complete the cases assigned to it as of January 14, 2005. The newly formed Committee (Dr. Marshall, Dr. Jernigan and Ms. Edwards) will be designated as Committee on Investigations No. 2. Committee No. 8 has no cases pending as of January 14, 2005, and will not be renumbered. Committee No. 8 will now consist of Dr. Lewis, Dr. Padgett and Dr. Hawkins. Dr. Lewis seconded the motion. The motion passed unanimously.

The Board continued its discussion and review of proposed amendments to 21 NCAC 66 .0207(b)(10).

At 10:15 a.m. Christopher George Spooner, DVM, Jonathan Brent Scarlett, DVM and Heidi Friedlein Hart, DVM joined the meeting to express their concerns over non-veterinarians diagnosing pregnancy in cattle at livestock markets in this State. Following their presentations, they left the meeting at 10:55 a.m. Their comments (and Dr. Scarlett's letter of January 6, 2005) were considered as part of the Board's review of the November 17, 2004, letter to the Board from Richard D. Kirkman, DVM expressing similar concerns. Following discussion, Dr. Marshall made a motion that the Board

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make a formal interpretation that the diagnosing of the physical condition of pregnancy in cattle is the practice of veterinary medicine under the Veterinary Practice Act, and as such is restricted to veterinarians. The motion included the further provision that a letter to Dr. Kirkman expressing this interpretation be sent to livestock markets and individuals that would be impacted by this interpretation. Dr. Jernigan seconded the motion. The motion passed unanimously.

At 11:00 a.m. Warren Pendergast, M.D., Medical Director, and George Scontsas, M.D., Associate Medical Director, of the North Carolina Physicians Health Program (NCPHP), joined the meeting. The Board discussed and reviewed the first year of the Impairment Program and Dr. Pendergast and Dr. Scontsas reported on accomplishments made. Mr. Hearn reviewed the Agreement between NCPHP and the Board. Dr. Pendergast and Dr. Scontsas left the meeting at 11:45 a.m. Dr. Marshall made a motion to renew the Agreement with NCPHP for one year, beginning on February 1, 2005. Dr. Hawkins seconded the motion. The motion passed unanimously.

Following a review of a final draft prepared by Mr. Hearn, Dr. Jernigan made a motion to approve an amendment to 21 NCAC 66

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.0207(10) and to initiate rule-making proceedings. Dr. Hawkins seconded the motion. The motion passed unanimously.

The Board Investigator presented a report on his activities. No further action was taken.

The Executive Director reported on activities of the Board office since the last meeting. No further action was taken.

The Executive Director distributed a financial report to the Members of the Board. Dr. Lewis made a motion to approve the report. Dr. Padgett seconded the motion. The motion passed unanimously.

Report of Committee on Investigations No. 1.

04028-1-1 William T. Dawkins, DVM (Complaint by Mr. James A. Beaty, Jr.) – Continued.

04046-2-1 Lynn McElroy Roberts, DVM (Complaint by the Board) – Withdrawn.

04035-1-1 Martina Gratzl Midkiff, DVM and Christa A. Gallagher, DVM (Complaint by Mr. Eric

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Fredrickson and Ms. Beverly Ramsey) –

Dismissed, no probable cause.

04042-1-1 Shaylene Michelle Snyder, DVM (Complaint by  
William Ezra Rodgers, III, DVM) – Continued.

04030-1-1 Michael John Thomann, DVM (Complaint by Ms.  
Kyra Clements) – Dismissed, no probable cause.

Dr. Padgett made a motion to approve the Committee on  
Investigations No. 1 report. Mrs. Robinson seconded the motion. The  
motion passed unanimously.

Report of Committee on Investigations No. 7.

04025-1-7 Jack V. Hill, DVM (Complaint of Ms. Patricia A.  
Lambert) – Dismissed, no probable cause.

04031-1-7 Celia Esther Feiler, DVM (Complaint of Ms. Ann  
Sparks and Ms. Judith Needle) – Dismissed, no  
probable cause.

04036-1-7 Jonathan Clark Pernell, DVM (Complaint of Ms.  
Tina M. Scott) – Dismissed, no probable cause.

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04053-2-7 Michele J. Ewing, DVM and Bruce Tarkington,  
DVM (Board initiated Complaint) – The portion of  
the complaint against Dr. Tarkington is dismissed.  
Dr. Ewing is to receive a disciplinary action, Letter  
of Reprimand, \$500.00 civil monetary penalty, and  
20 additional hours of continuing education.

The Board discussed previous disciplines issued against the owner of  
a practice when a veterinarian employee practices veterinary medicine  
without a current license and when the owner has no actual knowledge that  
the employee had not renewed his or her veterinary license. The Board  
discussed issues relating to practice owners, as individuals, partnerships or  
corporations. Following discussion, Committee No. 7 recommended to the  
Board that the disciplinary decisions of November 4, 2004, against Fernando  
Cardenas, DVM, complaint no. 04047-2-7, and Benjamin L. Jones, DVM,  
complaint no. 04040-2-1, be dismissed.

For clarification of the grounds of the civil monetary penalties issued  
at the last meeting for complaints 04034-2-8, 04037-2-7, 04047-2-7 and  
04040-2-7, the Committees No. 8 and 7, respectively, recommended factors

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in G.S. 90-187.8(b)(2), [duration and gravity of the violation] and G.S. 90-187.8(b)(6) [whether and the extent to which the licensee profited by the violation].

Dr. Jernigan made a motion to approve the Committee on Investigations No. 7 report. Dr. Hawkins seconded the motion. The motion passed unanimously.

Report of Committee on Investigations No. 8.

04048-2-8 Kristine A. Woodaman, DVM (Board initiated complaint) – Disciplinary action, Letter of Reprimand, \$500.00 civil monetary penalty, and 20 additional hours of continuing education.

04052-2-8 Richard E. Keeton, DVM (Board initiated complaint) – Disciplinary action, Letter of Reprimand, \$500.00 civil monetary penalty, and 20 additional hours of continuing education.

04049-2-8 Scott E. McDonald, DVM (Board initiated complaint) – Disciplinary action, Letter of

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Reprimand, \$500.00 civil monetary penalty, and  
20 additional hours of continuing education.

Dr. Jernigan made a motion to approve the Committee on Investigations No. 8 report. Mrs. Robinson seconded the motion. The motion passed unanimously.

Dr. Jernigan made a motion to grant Charles M. Coats, DVM an extension, pursuant to 21 NCAC 66 .0206(3), until July 31, 2005, to earn his required continuing education. Dr. Lewis seconded the motion. The motion passed unanimously.

The Board reviewed the change to the business standard mileage rate set by the Internal Revenue Service. Dr. Jernigan made a motion to change the reimbursement rate to 40.5 cents per mile to conform to the new Internal Revenue Service rate. Ms. Edwards seconded the motion. The motion passed unanimously.

The Board reviewed the request from Jennifer Haugland, DVM, for an exemption from the licensing requirements for a veterinary license and to be



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allowed to sit for the State Licensing Examination. Dr. Jernigan made a motion to send her a letter stating that it was not within the authority of the Board to make such an exemption. Dr. Padgett seconded the motion. The motion passed unanimously.

The Board discussed Pet-Vac Express, owned by non-veterinarian Judy Tabor, of 3620 Pelham Road #303, Greenville, South Carolina, 29615. The Board has received information that Pet-Vac Express has advertised and performed vaccination services on animals and sold veterinary medicines in parts of western North Carolina. Dr. Jernigan made a motion to send a cease and desist letter to Ms. Tabor and initiate a complaint against any veterinarians aiding and abetting the unlicensed practice of veterinary medicine. Dr. Lewis seconded the motion.

The Board reviewed the January 13, 2005, letter from Cathleen M. Moran, D.V.M. and George R. Silver, D.V.M. concerning after hours emergency services in Goldsboro, North Carolina. From the information available the Board determined that their proposal to refer emergencies to the NCSU CVM, Veterinary Teaching Hospital did not meet the after hours emergency services requirement of 21 NCAC 66 .0207(b)(19)(C), a facility

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located in the same general community, area or region served by the primary facility.

The Long Range Planning Committee presented a brief report on their progress. No further action was taken.

Mrs. Robinson made a motion to enter into a closed session pursuant to G.S. § 143-318.11(a)(5), to discuss current and future employment compensation of Board staff. Mrs. Edwards seconded the motion. The motion passed unanimously. At 2:19 p.m., the Board entered into closed session.

The regular meeting of the Board reconvened at 3:13 p.m.

Upon a motion by Dr. Padgett, seconded by Dr. Lewis, the Board approved the actual expenses for this meeting.

The meeting was adjourned by unanimous vote upon a motion by Dr. Padgett and seconded by Mrs. Robinson at 3:39 p.m.

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Respectfully Submitted,

Thomas M. Mickey  
Executive Director