

**MINUTES, North Carolina Veterinary Medical Board
Raleigh, North Carolina, November 5, 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 Attorney Mr. George Hearn 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. Morgan, the minutes for the August 19, 2009 meeting were approved.

At 8:05 a.m. Warren Pendergast, M.D., Medical 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, he 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 meeting recessed at 9:00 a.m. for a break and reconvened at 9:15 a.m.

Dr. Jernigan presented the President's Report. He announced that he had appointed three committees to help develop amendments to the Practice Act and to administrative rules. The first committee, composed of Mrs. Robinson and Dr. Davidson, is given the responsibility to recommend to the Board amendments regarding registered veterinary technicians. The second committee, composed of Dr. Jernigan and Dr. Hawkins, will recommend to the Board changes regarding practice facility inspections and veterinary medical practice standards. The third committee, composed of Dr. Bull and Dr. Martin, will review and make recommendation to the Board regarding licensing issues. Dr. Jernigan asked that Mr. Mickey and Mr. Hearn be available to assist each committee.

Following discussion, the Board determined that part of the next meeting of the Board would consist of a work session regarding statutes and

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rules to begin at approximately 4:30 p.m. on Thursday, January 28, followed by a regular meeting of the Board beginning at 8:00 a.m. on Friday, January 29, 2010. Committee No. 5 will meet on Wednesday, January 27 at 2:00 p.m., and Committee No. 2 will meet on Thursday, January 28, at a time to be determined, prior to the Board's work session later that afternoon.

The first item of Mr. Hearn's attorney's report was a review of the drafts of letters he had prepared to explain the Board's decision on the complaint by Dr. Pax Lattimore, who had alleged that certain undergraduate students at the University of North Carolina at Wilmington were practicing veterinary medicine through their activities at the New Hanover County Animal Control Services spay/neuter facility. The Board approved for mailing the language in the drafts of the correspondence.

Mr. Hearn next discussed the results of his investigation of the microchipping issue as requested by the Board at the August 19, 2009 meeting. The original question, raised by Ms. Lelia Warren of Forsyth County, concerned 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

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“microchipping clinic.” Following discussion of this issue, the Committee directed Mr. Hearn to write Ms. Warren that the microchipping procedure must be performed by a veterinarian, or by a registered veterinary technician or a veterinary assistant employed by the veterinarian directly supervised by the veterinarian. The term “direct supervision” means that the veterinarian is on the premises and readily available to answer questions or assist the employee being supervised. Further, an existing veterinarian-client-patient relationship is not required prior to microchipping being performed by the veterinarian (or by his supervised employee). A veterinarian-client-patient relationship is established with the performing of the microchipping procedure.

As part of the discussion regarding microchipping, the Board, by consensus and at Dr. Jernigan’s suggestion, asked Mr. Mickey to draft a letter to North Carolina breeding and/or kennel clubs confirming that microchipping animals is the practice of veterinary medicine and has to be performed by a veterinarian or by a registered veterinary technician or veterinary assistant under the direct supervision of a veterinarian.

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The Board recessed at 10:25 a.m. for a break and reconvened at 10:40 a.m.

Mr. Hearn reviewed the question of whether, or under what circumstances, veterinarians could dispense medicines on the prescription order of the patient's regular veterinarian when there was no previously existing veterinarian-client-patient relationship with the veterinarian who is being asked to dispense the medicine. Mr. Hearn concluded that G.S. § 90-187.8(c)(18) prohibited the selling, dispensing, or prescribing of drugs, medicines or biologics without a veterinarian-client-patient relationship with respect to the sale, dispensing or prescription. There does not appear to be an exception when the prescribing veterinarian is unavailable. The Board discussed the issue and concluded that a veterinarian who is asked by a prospective client to dispense medicine for a patient for which there is no ready access to the prescribing veterinarian can establish the necessary veterinarian-client-patient relationship by a brief but adequate examination of the animal, thus providing a basis for dispensing the medicine.

Executive Director Mr. Mickey reported on activities of the Board office since the last meeting. He distributed a financial report to the

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members of the Board, who reviewed and discussed the report with him. Dr. Bull made a motion, seconded by Dr. Hawkins, to accept the Executive Director's report. The motion passed unanimously.

The Board discussed the history of the Board's relationship with the American Association of Veterinary State Boards (AAVSB). Mr. Mickey reviewed recent administrative and other changes intended to improve the efficiency and accountability of AAVSB staff operations. The Board determined that it should confirm whether AAVSB had established sufficient security measures for confidential information and correct operational issues so as to justify this Board's resuming active participation in AAVSB. Following discussion, upon motion of Mrs. Robinson, seconded by Dr. Davidson, the Board unanimously voted to authorize the necessary expenses for Mrs. Robinson and Mr. Mickey to travel to the AAVSB headquarters in Kansas City, Missouri to investigate the administrative and staff changes and to report back to the Board.

Mr. Mickey next circulated to the Board an Interim Report concerning online license and registration renewals. He then conducted a step-by-step demonstration of the new online renewal system, which will be implemented

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effective mid-November. Mr. Mickey showed the Board a sample online renewal on the monitor screen in the conference room and answered Board members' questions regarding the system.

The Board recessed for lunch at 12:15 p.m. and reconvened the meeting at 1:05 p.m.

Report of Committee on Investigations No. 2.

2009033-2 Sean Michael Ellison, DVM; William Ryan Husky, DVM; John Joseph Murphy, DVM – (complaint of Ms. Elizabeth Tucker) – Dismissed, no probable cause.

2009035-2 Bruce P. Carlton, DVM – (complaint of Ms. Michelle Baxter) – Disciplinary action: letter of reprimand, plus 10 hours of continuing education in the area of exotic medicine in addition to the 20 hour annual CE requirement for 2010; plus a \$250.00 civil monetary penalty. The amount of the recommended civil monetary penalty is based upon the statutory factors in G.S. § 90-187.8(b)(1)

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[the degree and extent of harm to the health of the
animal under the veterinarian's care] and (b)(2)
[the duration and gravity of the violation].

2009026-2 Eric K. Dorsch, DVM – (complaint of Mr. and
Mrs. Hillel Abrams) – Dismissed, no probable
cause.

Upon motion by Dr. Davidson, 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 2009035-2
(Dr. Bruce P. Carlton). In case number 2009035-2 regarding Dr. Carlton,
upon motion of Dr. Hawkins, seconded by Mrs. Robinson, with Dr.
Davidson abstaining, the civil monetary penalty of \$250.00 is based upon
statutory factors in G.S. § 90-187.8(b)(1) and (b)(2).

The Board recessed at 1:45 p.m. for a break and reconvened at 2:10
p.m.

Report of Committee on Investigations No. 5.

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2009022-5 Edith Kathryn Wilder, DVM and Melissa Bame Beagle, DVM – (complaint of Mr. Joseph Eugene Martin) – Continued.

2009031-5 Sarah Butler Brown, DVM – (complaint of John Patrick Galligan, DVM) – Dismissed, no probable cause.

2009025-5 Walter R. Westbrook, DVM – (complaint of Lynne Victoria Swanson, DVM) – Dismissed with a finding of no probable cause as to certain portions of the complaint and a letter of caution to other parts.

2009036-5 Maria Theresa Zayas, DVM – (complaint of Reverend Pamela Lenahan) – Dismissed, no probable cause.

2009034-5 Barrett O. Welch, DVM – (complaint of Mr. Lawrence Horne and Ms. Shirley Dubay) – Disciplinary action, letter of caution.

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Upon motion by Dr. Bull, seconded by Dr. Marshall, the Board approved the report of Committee on Investigations No. 5, with Dr. Jernigan abstaining on the vote with respect to Complaint No. 2009036-5 (Dr. Zayas).

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

Dr. Davidson made a motion, seconded by Dr. Bull, to enter into a closed meeting pursuant to G.S. § 143-318.11(a)(5) to discuss personnel matters, including compensation of Board staff. The motion passed unanimously. At 3:20 p.m., the Board entered into closed meeting and returned to open session at 4:20 p.m.

Upon motion of Dr. Marshall, seconded by Mrs. Morgan, the Board adjourned the meeting at 4:21 p.m.

Respectfully Submitted,

Thomas M. Mickey
Executive Director