

Minutes of the Meeting of the
Maryland State Board of Veterinary Medical Examiners
May 25, 2017

Maryland Department of Agriculture, 50 Harry S Truman Parkway, Annapolis, MD 21401

Minutes of Team B Meeting

Team B Board members in attendance: Board Vice President Dr. Heather Hendler, Dr. John Stott, and Dr. Perry Crowl. **Staff in attendance:** Executive Director Vanessa Orlando, Investigator Susan Husk, Inspector Pegeen Morgan, and Assistant Attorney General Cynthia Spirt. Member Ms. Victoria Wright-Conner arrived at 9:17 a.m.

Call to Order: Dr. Hendler called the meeting to order at 9:10 a.m.

Approval of the Minutes: In a motion by Dr. Stott, seconded by Dr. Crowl, the minutes of the April 27, 2017 meeting were unanimously approved as presented.

In a motion by Dr. Stott, seconded by Dr. Crowl, the team unanimously voted to adjourn the meeting to move into an administrative closed session pursuant to the applicable provisions of the General Provisions Article. The motion was seconded by Dr. Crowl.

Status Report on Cases before Team B

Docket No. 17-01

Docket No. 16-61

Docket No. 17-02

Docket No. 17-10

Docket No. 16-67

Docket No. 16-62

Docket No. 17-05

In a motion by Ms. Wright-Conner, seconded by Dr. Stott, the team voted to adjourn the meeting at approximately 10:05 a.m.

Minutes of the Meeting of the
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Maryland Department of Agriculture, 50 Harry S Truman Parkway, Annapolis, MD 21401

Joint Open Meeting

Board members in attendance: Board President David Handel, Vice President Dr. Heather Hendler, Dr. Elizabeth Callahan, Ms. Lynne Chaput, Dr. Perry Crowl, Dr. John Stott, and Ms. Victoria Wright-Conner. **Staff in attendance:** Executive Director Vanessa Orlando, Investigator Susan Husk, Inspector Pegeen Morgan, and Assistant Attorneys General Cynthia Spirt and Craig Nielsen.

Guests: Jane Mallory, Program Coordinator, Maryland Spay & Neuter Program; Patty Crankshaw-Quimby, President, Professional Animals Workers of Maryland; Emily Hovermale, Maryland State Director, The Humane Society of the United States; and Chloe Waterman, Government Relations, ASPCA.

Dr. Handel called the meeting to order at 10:15 a.m.

Approval of the Minutes: In a motion by Dr. Stott, seconded by Dr. Crowl, the Board voted unanimously to approve the minutes of the April 27, 2017 as presented.

HB 517 Secretaries of Principal Departments – Supervision and Review of Decisions and Actions by Units within Departments. Assistant Attorney General Craig Nielsen, who is the principal counsel to the Maryland

Department of Agriculture, reported that under HB 517, cabinet secretaries will have to adopt regulations if their agencies have Boards – like the SBVME – whose members are participants in the profession they regulate (i.e., the veterinarians on the Board are regulating other veterinarians). These regulations will impose a review process that ensures decisions the Board makes have no unlawful anti-trust result or intent. The department is in the process of writing the regulations that will define that process and adhere to the requirements of the bill. The bill and subsequent regulations will give the Secretary the authority to override a Board decision if the Secretary determines the Board’s action would have an unlawful anti-competitive result. Mr. Nielsen explained that members of regulatory boards are generally immune from liability as public officials provided that they operate within their statutory authority and not outside its bounds. If a Board takes an action it is not legally authorized to take, members might have personal liability. This bill and its regulations, he noted, will help immunize Board members against liability by helping to ensure they don’t step outside their authority. He noted that the SBVME is the only Board within the department that will be impacted by the bill. Mr. Nielsen said he would keep the Board informed of the regulations as they develop.

HB 1463 – Animal Cruelty and Animal Fighting Reporting. Ms. Cynthia Spirt, the Assistant Attorney General assigned to the Board, reported on some of the difficulties involved in developing regulations for HB 1463. The bill changes language in the Veterinary Practice Act to require – rather than encourage – veterinarians to report suspected cases of animal abuse and provides immunity to those veterinarians who report. The law is perplexing because it requires veterinarians to report suspected cases to law enforcement, yet, the Board does not have access to the information it is suppose to keep confidential. Mr. Nielsen noted that animal cruelty is a crime, and there are already rules and laws surrounding the confidentiality of complaints filed over a criminal matter. That is, complaints are already confidential until law enforcement makes them public. Patty Crankshaw-Quimby, president of the Professional Animal Works of Maryland (PAWS), stated that the intent is to keep complaints private unless or until it becomes a public charge. If nothing comes of the complaint, the complaint should remain confidential.

Dr. Handel noted that his biggest concern with the bill is that veterinarians lack training in recognizing animal cruelty. Dr. Handel said he believes it is imperative that the animal welfare community develop educational resources for veterinarians through professional organizations. Emily Hovermale, Maryland State Director, The Humane Society of the United States reported that her organization has webinars available that award Continuing Education credit, and she would be happy to make those resources available to Maryland veterinarians. Chloe Waterman, Government Relations Director for the ASPCA, stated that her organization would be happy to put training sessions together in both online and in-person formats that help veterinarians understand both Maryland law and forensic law. Ms. Crankshaw-Quimby noted that training includes helping veterinarians understand the difference between abuse and someone who needs more education about animal care. Dr. Handel offer the Montgomery County Veterinary Medical Association dinners as a test partner for training and urged the group to provide as many online and in person training resources as possible.

HB 626 – Animal Shelter Standards of Care and Protocol Implementation and Enforcement. This bill requires the Board to develop regulations by the end of the year that define minimal standards of care for animal control shelters operated by a local jurisdictions, shelters that are contracted out to perform those services for a local jurisdiction, or shelters that receive funding from the state’s Spay and Neuter Grants Program. These guidelines must be consistent with the shelter standards articulated by the Association of Shelter Veterinarians (ASV). The animal welfare advocates in attendance were invited to attend the meeting to provide their input and ideas for what they would like those regulations to include.

Ms. Waterman thanked the Board for the invitation and stated that they did not have concrete requirements for what they wanted in the regulations, but stressed that they expected very minimal guidelines.

Ms. Crankshaw-Quimby noted that when PAWS began discussing standards of care, they realized there was no objective set of minimum standards in law that articulate how shelters should operate. Ms. Crankshaw-Quimby noted that the PAWS standards, which are consistent with the ASV, are likely more detailed than what the Board might want to put into regulation but suggested that those standards are what the group would like to see all shelters follow. Members of PAWS adopted those guidelines last summer and are expected to follow them. She said minimum standards help shelters when volunteers and other citizens come in with differing opinions of what is acceptable. If a shelter is meeting state-mandated minimum standards, it will help shelters avoid conflict with citizens.

Ms. Waterman noted that the state law passed last year still requires each shelter to have their own standards and protocols, but the department regulations will cover the baseline standards. Ms. Hovermale noted that state regulations should be attainable and appropriate for all shelters to maintain and that there would be real cause for concern if a shelter cannot meet these regulations. The group agreed that most shelters are meeting minimal standards, but the regulations will force the few that are not to step up. Ms. Waterman noted that most of these shelters are operated by local governments. These regulations will give those shelters budget justification for getting the money they need to meet the standards.

Ms. Hovermale presented another document that pulls out the explicit recommendations in the AVS and PAWs guidelines for the Board to consider when developing the regulations. Ms. Waterman also distributed a Veterinarian Guidelines Checklist that simplifies the AVS guidelines for use during the regulation process.

Ms. Jane Mallory, Program Coordinator for the Maryland Spay & Neuter Program, gave a brief overview of her program. Any shelters funded through the Spay and Neuter Program will also be required to meet the minimal standards being discussed. The Spay and Neuter Program has been operating for three years, has completed 59 projects, and more than 18,000 procedures.

Other regulatory changes

Ms. Orlando provided Board members with a list of possible regulatory changes to the Veterinary Practice Act, based on various discussions that Board members have had during previous meetings. Staff will draft new or clarified regulations below for further Board review.

- Corporate ownership (COMAR 15.14.03.01-1): Staff will draft separate licensing regulations for veterinary practices owned by corporations, ensuring that each location has a local or regional responsible person. The responsibilities of the responsible veterinarian and responsible person will be detailed in the draft regulations.
- Professional Judgment and Practice (COMAR 15.14.01.07): Staff will draft regulatory language that will require a veterinarian who terminates the employment of another veterinarian or registered veterinary technician for suspected substance or alcohol abuse or theft of controlled substances to report the termination to the Board.
- Record keeping - COMAR 15.14.01.10 (10) - will be clarified. Current language requires surgery and anesthetic logs to be in the record, if any. New language to be drafted for the Board's review will stipulate that all surgeries must have surgery information and anesthetic information in the medical record, not necessarily in a log format.

The Board will consider making statutory changes during the next legislative session that will amend the Veterinary Practice Act to:

- Ensure non-veterinarians who own veterinary hospitals fall under the jurisdiction of the Board for regulatory and disciplinary purposes;
- Ensure that veterinarians who have a known and untreated substance abuse problem can be assumed to be practicing impaired, even if there is no proof that they have practiced under the influence. The possible change would mirror language in the Health Occupations Article of the code.

These possible changes will be reviewed later this fall.

The Board considered changing regulations to require veterinarians with substance abuse issues to share confidential Disposition Agreements with their employers. The Board agreed to consider this requirement on a case-by-case basis, rather than a regulatory change. The Board, however, does agree that public orders should be proactively shared with employers.

The Board discussed developing minimal record keeping requirements for equine veterinarians. Horses, however, are usually considered livestock, not companion animals, and there is concern that such a requirement would be expanded to include farm animals and large herds where record keeping would be onerous. Dr. Stott, an equine veterinarian, was asked to consider what the minimal requirement(s) might be and share them with the Board at a future meeting.

The Board again considered clarifying a regulation to ensure that all diagnostic tests performed by a veterinarian (blood tests, x-rays, ultrasounds, MRIs, etc.) contain an assessment in the patient's medical record, even if the results are normal, to indicate the veterinarian has, in fact, reviewed the results. The Board did not vote to make this change.

Civil Penalty Standards: Ms. Spirt noted that Civil Penalty Regulations (COMAR 15.14.11) outline how much of a civil penalty can be charged for first and subsequent violations of specific regulations. Ms. Spirt noted that veterinary hospitals often assume the COMAR Violation Sheet that inspectors give to hospitals during inspections when expired drugs are found is more of a warning than an actual violation. Ms. Spirt offered to edit the language to make it clear that the first time a hospital receives a COMAR Violation Sheet, the Board considers it to be a violation.

In a motion by Dr. Handel, seconded by Ms. Wright-Conner, the Board voted unanimously to have Ms. Spirt edit the language to make it clear that the first time a hospital receives a COMAR Violation Sheet, the Board considers it to be a first violation whether or not a civil penalty is assessed. The Board asked that the new language be shared with them prior to implementation.

Sanitation Reports: Ms. Morgan reported on the inspections of veterinary hospitals that have been conducted by herself, Investigator Susan Husk and Inspector Ellen James since the April 2017 meeting. In a motion by Dr. Callahan, seconded by Dr. Hendler, the Board unanimously accepted the sanitation reports, pending discussion of four inspections in closed session.

Open Meeting Compliance Board Response: Dr. Handel reported that the Board's decision, which was shared with all Board members, was generally complementary of the Board's actions. He noted that Board members need to be careful that closed session discussions do not stray off course and to be mindful that all policy discussions must be done in open session. Ms. Spirt noted that a new law requires Board members to be trained in the Open Meetings Law and at least one Board member who has had the training must be at every Board meeting.

Discussion of Veterinary License Applications: In a motion by Dr. Stott, seconded by Dr. Callahan, the Board unanimously approved veterinary license applications for Dr. Apryl Barton, Dr. Larissa Kats, Dr. Tara Grinnage-Pulley, and Dr. Rachel Frost.

CE Request from Dr. Michael O'Brien: Dr. O'Brien requested that he receive continuing education credit for interviewing students applying to the veterinary school at Virginia Tech, noting that such activity improves the quality of students who go into veterinary medicine and thus improves the profession. Board members said Dr. O'Brien's work with students was commendable but did not meet the Board's criteria for granting continuing education credits. In a motion by Dr. Handel, seconded by Dr. Stott, the Board voted unanimously to reject Dr. O'Brien's request for CE credit.

Shockwave Therapy: Veterinary Technician Lauren Hall asked the Board if a RVT was allowed to provide shockwave treatments, a procedure most often done on horses and must be done properly because it can cause discomfort and pain. Board members said it should only be done under the direct supervision of a veterinarian; however, Ms. Spirt noted that the Board likely needs more information to ensure they don't run afoul of anti-trust concerns. The staff will find out more about the circumstances of the request and the proximity of a licensed veterinarian.

Request for CE Extension: Veterinary Technician Juliana Frenkil requested an extension on obtaining her CE requirements. She was in two automobile accidents, has taken six credits online, which is the maximum number of credits currently allowed to be taken online, but is still three credits short. Ms. Frenkil did not think she would be able to complete three credits of in-person training before the end of June. The Board voted to allow Ms. Frenkil to complete the remaining three credits online (for a total of nine online credits) but noted that she must complete them by June 30, 2017.

Requests for Approval of Continuing Education Credits. After reviewing information submitted during the past month, Dr. Crowl, on behalf of the Board, approved the following:

- A request from Louise Devanny on behalf of the Maryland Veterinary Medical Association for 18 clinical hours of CEs for the MVMA Summer Conference, to be held June 18-19, 2017 in Ocean City.
- A request from Steven Garnett on behalf of Dogs & Cats Referral and ER for 1 CE credit for each of the lectures in a 12-session lectures series to be held between April and June 2017.
- A request from Lauana Paradine on behalf of American Holistic Veterinary Medication Association for the AHVMA 2017 Annual Conference, to be held Oct. 21-24, in San Diego, California. The conference was approved for 104 CEs, with a maximum of 22 credits per attendee. The conference is awaiting RACE Certification but, in the interest of time, is also asking individual state approval.
- A request from Dr. Kim Mitchell at the Maryland Department of Health and Mental Hygiene for 5 CE credits for the Zoonotic Disease Update, to be held June 13, 2017.
- Mary Yonemura on behalf of VCA – Gaithersburg for 3 CE credits for VCA Summer 2017 CE Seminar, to be held June 25, 2017.

In a motion made by Dr. Crowl, seconded by Dr. Callahan, the Board voted unanimously to adjourn the meeting to move into an administrative closed session pursuant to the applicable provisions of the General Provisions Article.

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Joint Closed Meeting

Board members in attendance: Board President David Handel, Vice President Dr. Heather Hendler, Dr. Elizabeth Callahan, Ms. Lynne Chaput, Dr. Perry Crowl, Dr. John Stott, and Ms. Victoria Wright-Conner. Staff in attendance: Executive Director Vanessa Orlando, Investigator Susan Husk, Inspector Pegeen Morgan, and Assistant Attorney General Cynthia Spirt.

The joint closed meeting was called to order at 1:25 p.m.

Status of Cases before the Full Board

Docket No. 17-29
Docket No. 17-35
Docket No. 17-36
Docket No. 16-30
Docket No. 17-44
Docket No. 17-14

Probation logs. Ms. Orlando reported that two veterinarians have not yet paid Civil Penalties that are due in June. She will send a letter to them as a courtesy reminder. If they are not ready, default orders will be prepared for the next meeting.

Out of State Discipline. A veterinarian who is licensed in Maryland and two other jurisdictions informed the Board of disciplinary actions taken against him in another state. In a motion by Dr. Stott and seconded by Dr. Callahan, the Board voted unanimously not to charge the veterinarian with any violations in Maryland.

Inspections of Concern – The Board voted to bring charges against two hospitals for keeping expired medications among active working stock.

In a motion by Dr. Callahan, seconded by Ms. Chaput, the joint closed meeting of the Board was adjourned at 2:03 p.m.

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Minutes of Team A Meeting

Team A Board members in attendance: Board President Dr. David Handel, Dr. Elizabeth Callahan, and Ms. Lynne Chaput. Staff in attendance: Executive Director Vanessa Orlando, Investigator Susan Husk, Inspector Pegeen Morgan, and Assistant Attorney General Cynthia Spirt.

Call to Order: Dr. Handel called the meeting to order at 2:06 p.m.

Approval of the Minutes: In a motion by Dr. Callahan, seconded by Ms. Chaput, the Board voted unanimously to approve the minutes of the April 27, 2017 meeting as presented.

In a motion by Dr. Handel, seconded by Ms. Chaput, the Board voted unanimously to adjourn the meeting to move into an administrative closed session pursuant to the applicable provisions of the General Provisions Article.

Status Report on Cases Before Team A

Docket No. 17-06
Docket No. 16-63
Docket No. 16-27
Docket No. 16-59
Docket No. 17-11
Docket No. 16-25
Docket No. 16-28
Docket No. 17-07
Docket No. 16-71
Docket No. 17-04

Dr. Handel adjourned the meeting at 2:42 p.m.