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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

STATE BOARD OF VETERINARY MEDICINE

TIME: 9:07 A.M.

PENNSYLVANIA DEPARTMENT OF STATE
Board Room B
One Penn Center
2601 North Third Street
Harrisburg, Pennsylvania 17110

January 11, 2019

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State Board of Veterinary Medicine
January 11, 2019

BOARD MEMBERS:

- Thomas Garg, V.M.D., Chairman
- Ian J. Harlow, Commissioner of Professional and Occupational Affairs - Absent
- Theodore Stauffer, Legal Assistant/Executive Secretary, Bureau of Professional and Occupational Affairs
- Anjilla Cooley, D.V.M.
- Apryle Horbal, V.M.D. - Absent
- Juanita McGhee Monteiro, D.V.M., Ph.D. - Absent
- Andrew Nebzydoski, V.M.D.
- Valerie Kehoe, C.V.T.

BUREAU PERSONNEL:

- Thomas Davis, Esquire, Board Counsel
- Paul J. Jarabeck, Esquire, Board Prosecution Liaison
- Julia Feld-Caralle, Esquire, Board Prosecution Liaison
- Kimberly A. Adams, Esquire, Board Prosecutor
- Codi M. Tucker, Esquire Board Prosecutor
- Christopher K. McNally, Esquire, Board Prosecutor
- Michelle Roberts, Board Administrator

State Board of Veterinary Medicine
January 11, 2019

ALSO PRESENT:

Jamie L. Lenzi, Esquire, Cipriani & Werner
Steven D. Snyder, Esquire, Cipriani & Werner
Charles J. Hartwell, Esquire, Dethlefs-Pykosh Law
Group, LLC
Michael J. McCarrie, Esquire, Artz McCarrie Health Law
David R. Wolfgang, V.M.D., Ph.D., State Veterinarian,
Bureau of Animal Health and Diagnostic Services,
Pennsylvania Department of Agriculture
Michael A. Kornreich, D.V.M., Area Veterinarian in
Charge/Assistant Director, Animal and Plant Health
Inspection Service, US Department of Agriculture
David C. Kennedy, Esquire, Pennsylvania Department of
Agriculture
Michele R. Zajac
John Ostrom
Dianne Ostrom
Steven Kreger
Dorothy E. Kreger
Marceil Dinnison
Dawn Cooney
Emily Cooney
Danielle Kohler
Paul D. Webb
Lester Wolf
Margaret Ricco
Shinane Ricco
Jonah Oliver
Thomas F. Stich
Patricia L. Stich
Brandon Owlett

1 ***

2 State Board of Veterinary Medicine

3 January 11, 2019

4 ***

5 The regularly scheduled meeting of the State
6 Board of Veterinary Medicine was held on Friday,
7 January 11, 2019. Thomas Garg, V.M.D., Chairman,
8 called the meeting to order at 9:07 a.m.

9 ***

10 Approval of Minutes of the September 21, 2018 meeting

11 CHAIRMAN GARG:

12 We are just going to go ahead and make
13 certain that everybody had a chance to
14 look at the minutes from the last
15 meeting to see if there were any
16 comments on those minutes.

17 DR. NEBZYDOSKI:

18 I make a motion to accept the minutes.

19 MS. KEHOE:

20 I second.

21 [The Board discussed corrections to the minutes.]

22 CHAIRMAN GARG:

23 Does anybody have any other comments?

24 DR. NEBZYDOSKI:

25 I will make a motion we accept the

1 minutes with those changes.

2 MS. KEHOE:

3 I second.

4 CHAIRMAN GARG:

5 Any further discussion? All in favor,
6 say aye.

7 [The motion carried unanimously.]

8 ***

9 Report of Prosecutorial Division

10 [Julia Feld-Caralle, Esquire, Board Prosecutor, noted
11 that the Consent Agreement for File No. 17-57-08991
12 was tabled until March.

13 Ms. Feld-Caralle presented the Consent Agreement
14 for File No. 15-57-02528.]

15 ***

16 [Kimberly A. Adams, Esquire, Board Prosecutor,
17 presented the Consent Agreements for File No. 13-57-
18 03880 and File No. 14-57-03325.]

19 ***

20 [Codi M. Tucker, Esquire, Board Prosecutor, presented
21 the Consent Agreement for File No. 17-57-009614.

22 Chairman Garg recused from discussion on this
23 matter.]

24 ***

25 [Paul J. Jarabeck, Esquire, Board Prosecution Liaison,

1 introduced Christopher McNally as a new Board
2 prosecutor.

3 Mr. McNally provided a brief summary of his
4 professional background. Chairman Garg welcomed Mr.
5 McNally.]

6

7 Appointment - Bureau of Animal Health and Diagnostic
8 Services Presentation

9 [David R. Wolfgang, V.M.D., Ph.D., State
10 Veterinarian/Director, Bureau of Animal Health and
11 Diagnostic Services, discussed his role as State
12 Veterinarian. He introduced Dr. Michael Kornreich,
13 Area Veterinarian in Charge/Assistant Director for
14 Animal and Plant Health Inspection Services (APHIS)
15 and David C. Kennedy, Legal Counsel from the PA
16 Department of Agriculture.

17 Dr. Wolfgang noted Category I and Category II
18 veterinarian Animal and Plant Health Inspection
19 Service (APHIS) accreditation with the USDA.

20

21 Dr. Wolfgang mentioned regulations and statutes,
22 noting suggestions by former Counsel, Teresa Lazo, on
23 augmentation of the current regulations.

24 Mr. Kennedy addressed the Accreditation Program
25 that the Pennsylvania Department of Agriculture was

1 running on behalf of the United States Department of
2 Agriculture (USDA). He stated the department does not
3 have statutory authority to write regulations that put
4 the federal standards into play in Pennsylvania.

5 Mr. Kennedy discussed codifying the criteria,
6 where the department, through a Memorandum of
7 Understanding (MOU) or even through some mechanism
8 within the regulation, continue to administer the
9 program, but the Board have the authority to set
10 standards and enforce those standards should there be
11 violations of those standards.

12 Dr. Nebzydoski noted his concerns in contacting
13 the USDA in Harrisburg.

14

15

16 Dr. Kornreich supported Dr. Wolfgang's idea that
17 the Board should consider linking accreditation and
18 licensure and violations and penalties by drafting
19 regulations that would allow the Board to discipline
20 veterinarians who fail to properly carry out their
21 duties in accordance with USDA/APHIS guidelines.

22 Mr. Kennedy commented that the Department of
23 Agriculture in Pennsylvania does not have any codified
24 accreditation standards, and those standards are USDA
25 standards and enforced by Pennsylvania basically

1 through the federal standards. He stated the program
2 would be better if Pennsylvania at least codified
3 those USDA standards.

4
5 Chairman Garg stated that veterinarians are
6 required to adhere to all applicable legal guidelines
7 when practicing. He questioned the point of codifying
8 the regulations on a Pennsylvania level when in the
9 past people have been able to be referred to the Board
10 for failure to follow regulations.

11 Dr. Kornreich referred to a case where a
12 veterinarian was not accredited in Pennsylvania and
13 the USDA did not have the administrative ability to
14 penalize or impose any kind of penalty on that
15 veterinarian for that activity in Pennsylvania.

16
17 Mr. Kennedy clarified that Pennsylvania currently
18 has no regulations for this federal program and no set
19 regulatory standards for certifications in
20 Pennsylvania, and the Department of Agriculture does
21 not have the statutory authority to codify those
22 standards.

23 Dr. Kornreich described the process of removing
24 accreditation from underperforming individuals. He
25 discussed making a decision whether the violation was

1 part of their accreditation duties and fall under
2 certain sections of 9 CFR (Code of Federal
3 Regulations), where voluntary suspension would be
4 recommended. He also noted that if the individual
5 decided not to take that voluntary suspension, then it
6 would be decided by the courts.

7 Dr. Kornreich noted the desire to link
8 professional duties regarding accredited federal
9 accredited work to professional duties as Pennsylvania
10 veterinarians.

11 Mr. Kennedy explained that the Pennsylvania
12 Department of Agriculture requested to be able to work
13 across agencies to utilize the Board's authority to
14 codify standards in Pennsylvania with regard to
15 accreditation.

16 Mr. Davis questioned whether the Department of
17 Agriculture has ever tried to acquire statutory
18 authority through the legislature. Mr. Kennedy stated
19 the preferred initial course of action was working
20 with state agencies to deal with the problem without
21 having to approach the legislature and request
22 statutory authority.

23 Dr. Wolfgang provided an Accreditation Manual for
24 the Board's review.]

25

1 [The Board recessed from 10:21 a.m. until 10:29 a.m.]

2 ***

3 [Theodore Stauffer, Legal Assistant/Executive
4 Secretary, Bureau of Professional and Occupational
5 Affairs, exited the meeting at 10:21 a.m.]

6 ***

7 [A Formal Hearing was held from 10:29 a.m. until
8 1:42 p.m. In the Matter of the Petition for
9 Reinstatement of Leonard Daryl Kreger, D.V.M., Case
10 No. 17-57-10722.]

11 ***

12 [The Board recessed during the hearing from 12:05 p.m.
13 until 12:53 p.m.]

14 ***

15 The Board recessed from 1:42 p.m. until 1:53 p.m.]

16 ***

17 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
18 1:53 a.m. the Board entered into Executive Session
19 with Thomas Davis, Esquire, Board Counsel, for the
20 purpose of conducting quasi-judicial deliberations on
21 a number of matters that are currently pending before
22 the Board and to receive the advice of Counsel. The
23 Board returned to open session at 3:25 p.m.]

24 ***

25 MR. DAVIS:

1 Pursuant to Section 708(a)(5) of the
2 Sunshine Act, the Board met in Executive
3 Session for the purpose of conducting
4 quasi-judicial deliberations and to
5 receive advice of Counsel on the matters
6 upon which the Board is about to vote.

7

8

9 Report of Board Chairman - No Report

10

11 Report of Commissioner - No Report

12

13 Report of Board Counsel

14 [Thomas Garg, V.M.D., Chairman, noted prior discussion
15 with the PDA concerning regulation through the
16 Veterinary Board.

17 Mr. Davis commented that the accrediting entity
18 has the ability to revoke accreditation of any
19 underperforming individuals and that would be the
20 proper way of disciplining or discharging accredited
21 individuals.

22 Chairman Garg noted that there would be nothing
23 further on this issue based on the advice of Counsel.]

24

25 [Theodore Stauffer, Legal Assistant/Executive

1 Secretary, Bureau of Professional and Occupational
2 Affairs, reentered the meeting at 3:34 p.m.]

3 ***

4 Report of Board Counsel - Regulations

5 [Thomas Davis, Board Counsel, discussed Regulation
6 16A-5727 Certified Veterinarian Technicians and
7 Veterinarian Assistants, stating that it was published
8 in the PA Bulletin and no public comments were
9 received, outside of an informal comment received from
10 former Board Counsel, Teresa Lazo. He noted Ms.
11 Lazo's comment suggesting the Board add language to
12 the regulation which would allow CVTs in Pennsylvania
13 to officially refer to themselves as veterinary
14 nurses.

15 Mr. Davis noted that he has the ability to make
16 changes to the regulation based upon comments received
17 or discussion from the Board, but it cannot be
18 significantly altered.

19 Chairman Garg commented that it would be a bad
20 idea to try to push the nurse issue through this
21 because it has been attempted by the legislature and
22 was destroyed.

23 Ms. Kehoe agreed, noting that the more important
24 issue is protecting the term certified veterinary
25 technician versus noncertified employee, soon to be

1 known as veterinary assistants.

2 Mr. Davis commented that the National Association
3 of Veterinary Technicians in America (NAVTA) wants to
4 establish a single and standard title for credentialed
5 veterinary technicians/nurses.]

6 ***

7 MOTIONS

8 MR. DAVIS:

9 As to No. 2 on the agenda, Case No. 17-
10 57-08991, that is going to be tabled for
11 the moment because the veterinarian did
12 not attend this meeting, so it is going
13 to be put on the next agenda.

14 ***

15 MR. DAVIS:

16 The next matter is No. 3 on the agenda,
17 Case No. 15-57-02528.

18 Based on the Board's discussions in
19 Executive Session, I believe the Board
20 will entertain a motion to adopt the
21 Consent Agreement at Case No. 15-57-
22 02528, the Commonwealth of Pennsylvania
23 BPOA vs. Alquin F. Heinnickel III,
24 D.V.M.

25 CHAIRMAN GARG:

1 Would anybody like to make that motion?

2 DR. NEBZYDOSKI:

3 I make a motion that we accept that.

4 MS. KEHOE:

5 I second the motion.

6 CHAIRMAN GARG:

7 Any further discussion? All in favor,
8 say aye. Any opposed?

9 [The motion carried unanimously.]

10 ***

11 MR. DAVIS:

12 Number 4 on the agenda, based on the
13 Board's discussions in Executive
14 Session, I believe the Board will
15 entertain a motion to adopt the Consent
16 Agreement at Case No. 13-57-03880, the
17 Commonwealth of Pennsylvania BPOA vs.
18 David George Vail, D.V.M.

19 CHAIRMAN GARG:

20 Would anybody like to make that motion?

21 DR. COOLEY:

22 I make a motion to accept.

23 DR. NEBZYDOSKI:

24 I'll second.

25 CHAIRMAN GARG:

1 Any further discussion? All in favor,
2 say aye. Any opposed?

3 [The motion carried unanimously.]

4 ***

5 MR. DAVIS:

6 Number 5 on the agenda, based on the
7 Board's discussions in Executive
8 Session, I believe the Board will
9 entertain a motion to adopt the Consent
10 Agreement at Case No. 14-57-03325, the
11 Commonwealth of Pennsylvania BPOA vs.
12 Heidi K. Burry, D.V.M.

13 CHAIRMAN GARG:

14 Would anybody like to make that motion?

15 MS. KEHOE:

16 I make the motion.

17 DR. NEBZYDOSKI:

18 I'll second it

19 CHAIRMAN GARG:

20 Any further discussion? All in favor,
21 say aye. Any opposed?

22 [The motion carried unanimously.]

23 ***

24 MR. DAVIS:

25 The next matter on the agenda is No. 6.

1 For the record, the Board Chair recused
2 himself from this particular matter due
3 to the fact that he signed the order of
4 immediate temporary suspension (ITS).

5 Based on the Board's discussions in
6 Executive Session, I believe the Board
7 will entertain a motion to adopt the
8 Consent Agreement at Case No. 17-57-
9 009614, the Commonwealth of Pennsylvania
10 BPOA vs. Michele Rose Zajac, D.V.M.

11 DR. NEBZYDOSKI:

12 I make that motion.

13 MS. KEHOE:

14 I second the motion.

15 CHAIRMAN GARG:

16 Any further discussion? All in favor,
17 say aye. I did not vote.

18 [The motion carried. Chairman Garg recused himself
19 from deliberations and voting on the motion. Quorum
20 was waived by Counsel in this matter.]

21 ***

22 MR. DAVIS:

23 Next, we have a motion to deem facts
24 admitted. It is No. 9 on the agenda.

25 Based on the Board's discussions in

1 Executive Session, I believe the Board
2 would accept a motion to grant the
3 Commonwealth's Motion to Enter Default
4 and Deem Facts Admitted and directing
5 Counsel to draft an Adjudication and
6 Order in the Commonwealth of
7 Pennsylvania BPOA vs. Bradford P. Baker,
8 D.V.M., Case No. 14-57-00500.

9 CHAIRMAN GARG:

10 Would anybody like to make that motion?

11 MS. KEHOE:

12 I'll make the motion.

13 DR. NEBZYDOSKI:

14 I'll second it.

15 CHAIRMAN GARG:

16 Any further discussion? All in favor,
17 say aye.

18 [The motion carried unanimously.]

19 ***

20 MR. DAVIS:

21 Number 14 on the list has been left on
22 the table due lack of quorum, so that
23 will be addressed next session.

24 That is Case No. 18-57-005695.

25 ***

1 MR. DAVIS:

2 Next, we have Number 15 on the agenda.

3 Based on the Board's discussions in
4 Executive Session, I believe the Chair
5 would accept a motion to adopt the
6 proposed Adjudication and direct Counsel
7 to issue a Memorandum Order disposing of
8 the exceptions filed in the following
9 matter:

10 Commonwealth of Pennsylvania BPOA
11 vs. Leon D. Rumsey, D.V.M., Case No. 15-
12 57-13191.

13 CHAIRMAN GARG:

14 Would anybody like to make that motion?

15 DR. NEBZYDOSKI:

16 I'll make the motion.

17 DR. COOLEY:

18 Second.

19 CHAIRMAN GARG:

20 Any further discussion? All in favor,
21 say aye. Any opposed?

22 [The motion carried unanimously.]

23 ***

24 MR. DAVIS:

25 Next is No. 16 on the agenda.

1 Based on the Board's discussions in
2 Executive Session, I believe the Chair
3 would accept a motion to approve as
4 final the draft Adjudication and Order
5 in the following matter:

6 Commonwealth of Pennsylvania BPOA
7 vs. Cynthia Marie Rizzo, C.V.T, Case No.
8 18-57-04105.

9 CHAIRMAN GARG:

10 Would anybody like to make that motion?

11 MS. KEHOE:

12 I'll make the motion.

13 DR. COOLEY:

14 Second.

15 CHAIRMAN GARG:

16 Any further discussion? All in favor,
17 say aye. Any opposed?

18 [The motion carried unanimously.]

19 ***

20 [Valerie Kehoe, C.V.T., questioned credit hours of the
21 continuing education (CE) Annex.

22 Chairman Garg clarified that veterinarians need
23 30 hours of CE in any licensure period, and this would
24 allow the Board to specify that 2 of those hours must
25 be in a certain relevant topic.]

1 ***

2 Report of Board Counsel (Continued) - Application

3 [Thomas Davis, Board Counsel, noted that the

4 Application of Loren Nicole Tyburski would be tabled

5 until the next session.]

6 ***

7 Report of Board Administrator

8 [Michelle Roberts, Board Administrator, noted the

9 American Association of Veterinary State Boards'

10 (AAVSB) request.

11 Mr. Davis explained that at the AAVSB Annual
12 Meeting and Conference, Resolution 2018-1 was passed.

13 The resolution states that member Boards must inform
14 AAVSB when laws, rules, regulations or policy changes
15 in the Board's jurisdiction in such a way that would
16 impact the Board's ability to submit information to
17 AAVSB, or would impede AAVSB staff from primary source
18 data at an applicant's request.

19 Ms. Roberts has to report any public disciplinary
20 issues, similar to how the Health Boards have to
21 report to the National Practitioner Data Bank. She
22 stated that the Board does not provide new license
23 information or update any of that, just public
24 discipline.

25]

1

2 Miscellaneous

3 [Thomas Garg, V.M.D., Chairman, noted correspondence
4 from Ramona Crane, a technician who is against the
5 movement to change the name of technician to nurse.

6 He also noted 2019 Board meeting dates.

7 Mr. Davis stated that the Veterinary CE Annex
8 will be discussed more in depth at the next Regulatory
9 Meeting.]

10

11 Adjournment

12 CHAIRMAN GARG:

13 Shall we adjourn?

14 DR. NEBZYDOSKI:

15 I would make a motion we adjourn.

16 DR. COOLEY:

17 Second.

18 CHAIRMAN GARG:

19 Thank you all for coming.

20 [The motion carried unanimously.]

21

22 [There being no further business, the State Board of
23 Veterinary Medicine Meeting adjourned at 3:48 p.m.]

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CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Veterinary Medicine meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Veterinary Medicine Meeting.



Amber Garbinski,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF VETERINARY MEDICINE
REFERENCE INDEX

January 11, 2019

	TIME	AGENDA
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9	9:07	Official Call to Order
10		
11	9:08	Approval of Minutes
12		
13	9:09	Report of Prosecutorial Division
14		
15	9:39	Appointment - Bureau of Animal Health
16	10:21	and Diagnostic Services Presentation
17		
18	10:21	Recess
19	10:29	Return to Open Session
20		
21	10:29	Formal Hearing - Leonard Daryl
22	1:42	Kreger, D.V.M.
23		
24	12:05	Recess
25	12:53	Return to Open Session
26		
27	1:42	Recess
28	1:53	Return to Open Session
29		
30	1:53	Executive Session
31	3:25	Return to Open Session
32		
33	3:25	Report of Board Counsel
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35	3:30	Motions
36		
37	3:36	Report of Board Counsel (Continued)
38		
39	3:37	Report of Board Administrator
40		
41	3:47	Miscellaneous
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43	3:48	Adjournment
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