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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
VIA VIDEOCONFERENCE**

TIME: 10:32 A.M.

PENNSYLVANIA DEPARTMENT OF STATE

May 21, 2021

1 State Board of Veterinary Medicine
2 May 21, 2021

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5 BOARD MEMBERS:

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7 Thomas Garg, V.M.D., Chair
8 K. Kalonji Johnson, Commissioner, Bureau of
9 Professional and Occupational Affairs
10 Joseph S. Bender D.V.M.
11 Anjilla Cooley, D.V.M.
12 Apryle Horbal, V.M.D.
13 Valerie Kehoe, C.V.T.
14 Andrew Nebzydoski, V.M.D., Secretary
15

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17 BUREAU PERSONNEL:

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19 Thomas M. Davis, Esquire, Board Counsel
20 Julia A. Feld-Caralle, Esquire, Board Prosecution
21 Liaison
22 Peter D. Kovach, Esquire, Senior Prosecutor in Charge
23 David N. Smith, Esquire, Board Prosecutor
24 Paul J. Jarabeck, Esquire, Board Prosecutor
25 Michelle Roberts, Board Administrator
26 Kimberly Adams, Chief of Fiscal Management, Bureau of
27 Finance and Operations, Department of State
28 Theodore Stauffer, Executive Assistant, Bureau of
29 Professional and Occupational Affairs
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31
32 ALSO PRESENT:

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34 Jamie L. Lenzi, Esquire, Cipriani & Werner
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2 State Board of Veterinary Medicine

3 May 21, 2021

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5 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
6 9:00 a.m. the Board entered into Executive Session
7 with Thomas M. Davis, Esquire, Board Counsel, for the
8 purpose of conducting quasi-judicial deliberations and
9 to receive advice from counsel on the matters upon
10 which the Board would later vote. The Board returned
11 to open session at 10:30 a.m.]

12 ***

13 [Theodore Stauffer, Executive Assistant, Bureau of
14 Professional and Occupational Affairs, reminded
15 everyone that the meeting was being recorded, and
16 those who remained on the line were giving their
17 consent to be recorded.]

18 ***

19 The regularly scheduled meeting of the State
20 Board of Veterinary Medicine was held on Friday, May
21 21, 2021. Thomas Garg, V.M.D., Chair, called the
22 meeting to order at 10:32 a.m.

23 ***

24 Approval of minutes of the March 19, 2021 meeting
25 CHAIR GARG:

1 The first item on the agenda for today
2 is simply the approval of the previous
3 minutes. With regard to those previous
4 minutes, did anybody have any concerns
5 or issues with the contents of the
6 draft?

7 DR. NEBZYDOSKI:

8 I make a motion to accept.

9 DR. COOLEY:

10 I second.

11 CHAIR GARG:

12 We can go ahead and read roll.

13

14 Dr. Bender, aye; Dr. Cooley, aye; Dr.
15 Horbal, aye; Ms. Kehoe, aye; Dr.
16 Nebzydoski, aye; Commissioner Johnson,
17 aye; and Dr. Garg, aye.

18 [The motion carried unanimously.]

19

20 Report of Prosecutorial Division

21 [Julia A. Feld-Caralle, Esquire, Board Prosecution
22 Liaison, presented the Consent Agreements for Case No.
23 18-57-000371 and Case No. 19-57-005309.]

24

25 [David N. Smith, Esquire, Board Prosecutor, presented

1 the Consent Agreement for Case No. 18-57-006695.

2 Wesley J. Rish, Esquire, Rish Law Office, LLC,
3 counsel for the respondent, was present and
4 participated in the discussion.]

5 ***

6 [Peter D. Kovach, Esquire, Board Prosecutor, Board
7 Prosecutor, presented the Consent Agreements for Case
8 Nos. 19-57-015347 & 19-57-018263 and Case No. 20-57-
9 003299.]

10 ***

11 Appointment - Bureau of Finance and Operations Fee
12 Package Presentation

13 [Kimberly Adams, Chief of Fiscal Management, Bureau of
14 Finance and Operations, Department of State, suggested
15 that the Board may want to consider increasing certain
16 fees, and she proposed several possible fee increase
17 packages. She addressed FY 2019-2020 and FY 2020-2021
18 revenue and expenses, and informed the Board that
19 expenses were exceeding revenue.

20 Chair Garg questioned why expenses were exceeding
21 revenue. Ms. Adams noted legal costs were rising and
22 revenue was staying the same.

23 Ms. Adams noted a slight increase in the Board's
24 licensee population. She noted revenue was coming
25 from renewals and applications. She mentioned the

1 Board was currently showing 8,283 licensees, which was
2 an increase from January at 7,981. She noted an
3 increase of five applicants since the report was
4 created, bringing in additional revenue.

5 Ms. Adams addressed revenues and expenses from FY
6 2013-2014 to the current fiscal year. She noted the
7 expenses and reported on the anticipated expenses this
8 fiscal year. She noted the expenses figure on
9 05/17/21 when the report was prepared and the most
10 recent figures, showing an increase in expenses.

11 Ms. Adams also reported an increase in revenue,
12 although slightly lower on a biennial basis than the
13 expenses. She reported on the revenue figure at the
14 time the chart was created and the most recent revenue
15 figure. She noted renewals and applications helped
16 the revenue increase.

17 Dr. Cooley requested a further breakdown regarding
18 legal prosecution costs and whether the cost increased
19 or the number of cases prosecuted had increased.

20 Paul J. Jarabeck, Esquire, Board Prosecutor,
21 commented that prosecution regularly consults with
22 experts to determine the viability of a potential
23 claim before the Board because prosecutors are not
24 experts in the field of veterinary medicine. These
25 experts charge a fee for their services.

1 Dr. Garg requested more information regarding the
2 substantial changes in the time frames where the
3 number was around \$20,000 for a few years and then
4 \$300,000 and then suddenly in the \$600,000 range.

5 Dr. Nebzydoski also questioned the dramatic
6 increase from the amounts in FY 2013-2014 up to what
7 it is now. Ms. Adams explained that many changes
8 occurred within that period. She noted the
9 Pennsylvania Licensing System (PALS) was implemented,
10 the cost of which was absorbed by all boards and
11 caused an overall increase in expenses. She also
12 mentioned the utilization of the Pennsylvania Justice
13 Network (JNET).

14 Commissioner Johnson reminded Board members that
15 there was now a much greater priority on monitoring
16 and oversight and improvements in technology over the
17 last four or five years allowing for automation that
18 has generated a cost being borne equitably across all
19 of the boards and commissions.

20 Commissioner Johnson stated the increase may not
21 necessarily correspond to a rise in cases but could be
22 explained by more settlements and an emphasis being
23 placed on corrective actions earlier in the process.

24 Dr. Bender requested more information regarding
25 hearing expenses and questioned why the anticipated

1 sum was almost doubling from FY 2019-2020 to FY 2020-
2 2021.

3 Ms. Adams noted contacting Debra Rand while
4 compiling the original Board of Veterinary Medicine
5 package in January, who mentioned there were quite a
6 few standard-of-care cases that were lasting more than
7 a day and causing the increase.

8 Ms. Adams noted the new licensure classifications
9 for the euthanasia technician and animal protection
10 organization facility are expected to be fully
11 implemented by the summer of 2022, with the renewal
12 fee for the new classifications which are anticipated
13 to start in 2024.

14 Ms. Adams addressed the cost of processing
15 applications. She noted the application fee of \$35
16 for all applications, along with the anticipated cost
17 for the euthanasia technician and the animal
18 protection facility application. She explained that,
19 under the current fee structure, it was costs more to
20 process those applications than what is being charged.
21

22 Ms. Adams discussed taking those same application
23 fees and adding an increase to the renewals. She
24 stated it would not go into effect until FY 2024-2025
25 at the earliest, but the increase of 8.5% would cause

1 revenues to exceed expenses.

2 Dr. Bender expressed a concern with the increase
3 in the application fees and whether that would
4 continue to cover the costs. Ms. Adams could not
5 predict what would happen in the future as far as
6 costs but stated the Department of State is always
7 looking for ways to save money to assist all of the
8 boards with their costs as well.

9 Dr. Horbal expressed a concern regarding the
10 increase in cost over the last few years in addition
11 to having to consider increasing license fees and
12 would like to consider a hybrid solution, not just
13 continuing to increase license fees over time.

14 Dr. Nebzydoski pointed out that all of those
15 numbers in enforcement and investigation have remained
16 static over that whole time, indicating not many more
17 or less cases, so there something had gone awry
18 elsewhere.]

19

20 Jamie L. Lenzi, Esquire, Cipriani & Werner

21 Presentation

22 [Jamie L. Lenzi, Esquire, Counsel for Dr. Sandra
23 Skultety at Case No. 18-57-000371, provided a brief
24 presentation. She noted the Board decided the penalty
25 was too severe at a previous presentation. She and

1 Ms. Feld-Caralle discussed the matter and provided a
2 resolution. She stated the doctor wanted to have this
3 matter put behind her and was in agreement with the
4 Consent Agreement as it has been presented.]

5 ***

6 Report of Prosecutorial Division (Continued)

7 [Thomas M. Davis, Esquire, Board Counsel, questioned
8 whether any Board members wished to reenter Executive
9 Session to further discuss any of the matters before
10 voting.]

11 MR. DAVIS:

12 Pursuant to Section 708(a)(5) of the
13 Sunshine Act, at 9 a.m. this morning,
14 the Board entered into Executive Session
15 for the purpose of conducting quasi-
16 judicial deliberations and to receive
17 advice of counsel on the matters upon
18 which the Board will now vote.

19 Number 2 on the agenda. Based on
20 the Board's discussions in Executive
21 Session, I believe the Chair would
22 accept a motion to approve the Consent
23 Agreement in the following matter: Case
24 No. 18-57-000371.

25 CHAIR GARG:

1 Would somebody like to make that motion?

2 DR. BENDER:

3 Motion.

4 DR. HORBAL:

5 Second.

6 CHAIR GARG:

7 Any further discussion? I will call
8 roll.

9

10 Commissioner Johnson, nay; Dr. Bender,
11 aye; Dr. Cooley, aye; Dr. Horbal, aye;
12 Dr. Nebzydoski, nay; Dr. Garg, aye.

13 [The motion carried. Commissioner Johnson and Dr.
14 Nebzydoski opposed the motion. Case No. 18-57-000371
15 is Commonwealth BPOA v. Sandra L. Skultety, D.V.M.]

16

17 MR. DAVIS:

18 Number 3 on the agenda. Based on the
19 Board's discussions in Executive
20 Session, I believe the Chair would
21 accept a motion to approve the Consent
22 Agreement in the following matter: Case
23 No. 19-57-005309.

24 CHAIR GARG:

25 Would somebody like to make that motion?

1 DR. NEBZYDOSKI:

2 I'll make that motion.

3 DR. HORBAL:

4 Second.

5 CHAIR GARG:

6 Any further discussion? I'll read the
7 roll.

8

9 Commissioner Johnson, aye; Dr. Bender,
10 aye; Dr. Cooley, aye; Dr. Horbal, aye;
11 Dr. Nebzydoski, aye; and Dr. Garg, aye.

12 [The motion carried unanimously. Case No. 19-57-
13 005309 is Commonwealth BPOA v. Horace Osborne
14 Ferguson, D.V.M.]

15

16 MR. DAVIS:

17 Number 4 on the Board's agenda. Based
18 on the Board's discussions in Executive
19 Session, I believe the Chair would
20 accept a motion to approve the Consent
21 Agreement in the following matter: Case
22 No. 18-57-006695.

23 CHAIR GARG:

24 Would somebody like to make that motion?

25 DR. NEBZYDOSKI:

1 I'd like to make that motion.

2 DR. BENDER:

3 Second.

4 CHAIR GARG:

5 Any further discussion? I'll call the
6 roll.

7
8 Commissioner Johnson, aye; Dr. Bender,
9 aye; Dr. Cooley, aye; Dr. Horbal, aye;
10 Dr. Nebzydoski, aye; and Dr. Garg, aye.

11 [The motion carried unanimously. Case No. 18-57-
12 006695 is Commonwealth BPOA v. Eric S. Wayne, D.V.M.]

13 ***

14 MR. DAVIS:

15 Number 5 on the Board's agenda. Based
16 on the Board's discussions in Executive
17 Session, I believe the Chair would
18 accept a motion to approve the Consent
19 Agreement in the following matter: Case
20 Nos. 19-57-015347 & 19-57-018263.

21 DR. BENDER:

22 I'll make the motion.

23 DR. NEBZYDOSKI:

24 Second.

25 CHAIR GARG:

1 Any further discussion? I'll call the
2 roll.

3
4 Mr. Stauffer, aye; Dr. Bender, aye; Dr.
5 Cooley, aye; Dr. Horbal, aye; Ms. Kehoe,
6 aye; Dr. Nebzydoski, aye; and Dr. Garg,
7 aye.

8 [The motion carried unanimously. Case Nos. 19-57-
9 015347 & 19-57-018263 is Commonwealth BPOA v. Sarah
10 Jennibelle Marion, C.V.T.]

11 ***

12 MR. DAVIS:

13 Number 6 on the Board's agenda. Based
14 on the Board's discussions in Executive
15 Session, I believe the Chair would
16 accept a motion to approve the Consent
17 Agreement in the following matter: Case
18 No. 20-57-003299.

19 DR. NEBZYDOSKI:

20 I'll make the motion.

21 DR. BENDER:

22 I'll second.

23 CHAIR GARG:

24 Any further discussion? I'll call the
25 roll.

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Commissioner Johnson, aye; Dr. Bender,
aye; Dr. Cooley, aye; Dr. Horbal, aye;
Ms. Kehoe, aye; Dr. Nebzydoski, aye; and
Dr. Garg, aye.

[The motion carried unanimously. Case No. 20-57-
003299 is Commonwealth BPOA v. Kimberly A. Wasko,
C.V.T.]

Appointment - Pennsylvania Veterinary Medical
Association (PVMA)

[Thomas M. Davis, Esquire, Board Counsel, questioned
whether the views and opinions to be expressed in the
following presentation were to be considered the views
and opinions of William Croushore, DVM, or was Dr.
Croushore speaking on behalf of the PVMA.

Jennifer A. Keeler, CAE, Executive Director,
PVMA, explained that Dr. Croushore was speaking on
behalf of the PVMA.

Dr. Croushore addressed challenges related to
large animal practice in Pennsylvania, including the
aging demographic of practitioners, difficulty in
hiring and retaining veterinarians, farm demographics,
and illicit completion from lay practitioners.

Dr. Croushore stated large animal practices in

1 Pennsylvania have culturally avoided the use of
2 certified veterinary technicians that could
3 potentially be enlisted to perform some of the
4 technical tasks traditionally performed by the
5 veterinarian. He noted that the current understanding
6 of the Veterinary Practice Act and regulations
7 prohibits some of the technical tasks from being
8 performed except by a licensed veterinarian, which is
9 constraining the evolution and improvement of large
10 animal practice in Pennsylvania.

11 Dr. Croushore addressed herd size in
12 Pennsylvania, where the average dairy herd size in
13 Pennsylvania is 84 cows and ranks 49th out of 50
14 states. He noted veterinary costs on smaller farms
15 compared to larger farms is very expensive and has
16 enabled some lay practitioners to offer reproductive
17 services to this clientele.

18 Dr. Croushore also suggested that many larger
19 farms, including some of the larger farms in
20 Pennsylvania, have the ability to utilize cheap on-
21 farm labor to do many of the technical tasks on dairy,
22 such as reproduction checks and disbudding of calves.

23 He stated protocols for the treatment of sick cattle
24 and calves are often written by a veterinarian and
25 treatments performed by on-farm labor, including

1 surgery in some instances.

2 Dr. Croushore commented that the cattle industry
3 in Pennsylvania is a major contributor to the state
4 economy, where a 2012 NASS survey showed 25,100 cattle
5 operations in Pennsylvania with 13,300 of them being
6 dairy and 11,800 beef.

7 Dr. Croushore stated, despite the implementation
8 of rural practice veterinary educational debt
9 forgiveness programs at the federal level, rural
10 veterinarian retention remained a problem and was
11 getting worse. He noted food animal practice
12 demographics were studied by a survey in 2016 by the
13 American Association of Bovine Practitioners (AABP) in
14 conjunction with the American Veterinary Medical
15 Association.

16 Dr. Croushore addressed salary compensation for
17 large animal practice and companion animal practices.
18 He noted large animal practices and mixed practices
19 seeking to hire and retain new graduates face
20 difficulties that may not be pay-related and
21 challenges that include emergency duty, longer work
22 hours, the technical nature of some of the work
23 involved, and possibly lifestyle amenities for young
24 veterinarians willing to practice there.

25 Dr. Croushore noted that once a veterinarian

1 staff shortage occurs, it leaves little time for any
2 preventative or production medicine or other modes of
3 consulting. He noted the void is often filled by
4 those without the authority to do so, like AI studs
5 prescribing timed AI protocols and pharmaceutical
6 salespeople designing vaccination protocols.

7 Dr. Croushore stated veterinarians have sole
8 prescribing authority for prescription drugs and
9 vaccinations. He referred to the Pennsylvania
10 Veterinary Medicine Practice Act and cited the
11 definition of "practice of veterinary medicine." He
12 noted if a veterinarian is unable to fulfill the
13 duties, the void will be filled illicitly by non-
14 veterinarians. He noted non-veterinarian lay people
15 offering pregnancy diagnosis in the state without any
16 veterinary supervision, direct or indirect.

17 Dr. Croushore noted the AABP Economic Report,
18 where the need for veterinary services in rural areas
19 might be greater than what can be provided by
20 available veterinarian services. He noted that the
21 density of available animals by the animal owners who
22 have the ability and willingness to purchase
23 veterinary services is not large enough to enable a
24 veterinary practice to be financially viable under the
25 business models currently employed.

1 Dr. Croushore stated one of the greatest risks to
2 large animal veterinarians was losing control over
3 prescribing of prescription medications. He addressed
4 lay technicians and ramifications from both food
5 safety and animal welfare standpoints.

6 Dr. Croushore mentioned prescribing extra-label
7 use of medications was the sole responsibility of the
8 prescribing veterinarian with a valid veterinarian-
9 client-patient relationship (VCPR) as defined by the
10 Food and Drug Administration (FDA). He noted lay
11 practitioners prescribing medical treatment
12 interventions was a violation of the Pennsylvania
13 Veterinary Medicine Practice Act and the Federal Food,
14 Drug, and Cosmetic Act.

15 Dr. Croushore addressed solutions, including
16 allowing and encouraging some of the technical tasks
17 currently performed only by veterinarians to be done
18 by certified veterinary technicians under indirect
19 veterinary supervision. He referred to the State
20 Board of Veterinary Medicine § 31.31(a) regarding
21 certified veterinary technicians. He questioned
22 whether it should be permissible for a licensed
23 veterinary technician to perform pregnancy diagnosis
24 or ultrasound-aided pregnancy diagnosis in cattle or
25 small ruminants under indirect supervision of a

1 veterinarian.

2 Croushore stated PVMA's position was that it
3 would be acceptable since a diagnosis of pregnant or
4 open was not the same as a diagnosis of infertility
5 and referred to the Veterinary Medicine Practice Act
6 Section 3(10)(iii), performs any manual procedure upon
7 an animal for the diagnosis or treatment of sterility
8 or infertility of animals. He noted the section did
9 not state pregnant or open diagnosis would be
10 prohibited.

11 Dr. Croushore also referred to § 31.1 and
12 provided a definition of indirect veterinary
13 supervision. He noted PVMA argued that the diagnosis
14 of pregnancy or non-pregnancy differs from the
15 diagnosis of infertility in cattle. He noted licensed
16 technicians and technologists are prohibited from
17 making a diagnosis of breeding soundness or sterility,
18 but PVMA believed there was latitude to allow for the
19 diagnosis of pregnancy under the indirect supervision
20 of a veterinarian.

21 Dr. Croushore mentioned the American Association
22 of State Veterinary Boards Model Regulations-Scope of
23 Practice for Veterinary Technicians and Veterinary
24 Technologists, where jurisdictions may want to have a
25 special exception to allow a veterinary technician to

1 perform routine accepted livestock management
2 practices, conduct pregnancy examination of food
3 animals with or without diagnostic equipment, rectal
4 palpation, and artificial insemination. He mentioned
5 that jurisdictions may also want to exclude veterinary
6 technicians from performing these duties at livestock
7 auctions due to the lack of the VCPR and abundance of
8 governmental regulatory requirements.

9 Dr. Croushore noted the importance of freeing up
10 time for large animal veterinary practices who are
11 running around from small farm to small farm trying to
12 fix broken cows, perform pregnancy checks, and disbud
13 calves.

14 Dr. Croushore requested information regarding
15 whether it would be permissible for a certified
16 veterinary technician under indirect veterinary
17 supervision to disbud or dehorn and castrate calves,
18 perform some medical treatments on sick cattle, and
19 perform either manual palpation or ultrasound-aided
20 examinations to diagnosis pregnant or open.

21 Dr. Croushore requested information from the
22 Board regarding what techniques on large animals could
23 be performed by licensed veterinary technicians and
24 technologists under indirect veterinary supervision.

25 Dr. Croushore commented that PVMA was asking the

1 Board to define how veterinary-client-patient
2 relationship, as defined by the FDA or Pennsylvania
3 Practice Act, could prevent the widespread abuse of
4 veterinary technicians being hired by either
5 pharmaceutical companies or AI studs or out-of-state
6 veterinarians from employing lay or certified
7 technicians en masse to perform reproductive
8 diagnostic services on farms and thus prescribe off-
9 label pharmaceutical interventions.

10 Dr. Croushore questioned whether it was possible
11 for the Board to permit this through regulation by
12 scope of practice of veterinary technician if current
13 regulations do not allow for the above-mentioned
14 techniques to be performed by certified technicians.

15 Dr. Croushore commented that this was an option
16 and opportunity to preserve veterinary involvement in
17 the community if new veterinary hire was not possible
18 in areas with low density of large animal
19 veterinarians that still have a reasonable density of
20 livestock.

21 Dr. Croushore noted PVMA believed the future
22 involvement of veterinarians in the large animal field
23 was at risk because of demographics and financial and
24 competitive factors to the detriment of the cattle
25 industry in Pennsylvania as a whole and would be

1 tragic if it was allowed to happen.

2 Mr. Davis stated the Board typically speaks
3 through regulation or adjudication, meaning if someone
4 was brought before the Board for an alleged violation
5 of the act or regulations, an adjudication could be
6 written to express the Board's opinion. He mentioned
7 the Board could also draft regulations, and the
8 regulations were 100 percent dependent upon what the
9 Board is allowed to do via the Practice Act.

10 Mr. Davis suggested Dr. Croushore or PVMA present
11 information to the Board in great specificity as to
12 language or any changes to regulations. He stated it
13 would be easier for the Board to decide whether or not
14 it was something they could do.

15 Commissioner Johnson informed Dr. Croushore of
16 the Sunrise Application, which allows the opportunity
17 to provide a comprehensive analysis evaluation of
18 either an existing regulation or statute that is
19 reviewed by representatives of the Office of Policy,
20 Office of Legislative Affairs, and Bureau of
21 Professional and Occupational Affairs (BPOA)
22 administration and then presented to the secretary
23 where it is then forwarded to the Governor's Office.

24 Commissioner Johnson noted it to be a deliberate
25 process that is also beneficial to stakeholders,

1 legislators, and those folks who may have questions
2 before such a petition goes to the regulatory phase or
3 cosponsorship.

4 Commissioner Johnson stated the Board could
5 forward Dr. Croushore's information to the Office of
6 Policy, which would allow the Office of Policy to
7 forward a Sunrise Application. He offered to appoint
8 a contact within the Office of Policy regarding any
9 questions about the process.

10 Commissioner Johnson commented that it would not
11 behoove the Board to speak on either legislative or
12 regulatory initiatives that are not right for
13 discussion, because there is no vehicle in front of
14 the Board to discuss, whether it is language or scope
15 or impacts upon the scope of practice or the Board's
16 ability to regulate. He explained that the Board is
17 an objective, oversight body and constrained by
18 regulations and the practice act to oversee the
19 language within those documents in order to inform its
20 findings and inform its dispositions.

21 Jennifer A. Keeler, CAE, Executive Director,
22 Pennsylvania Veterinary Medical Association, requested
23 the documents be sent to her.

24 Dr. Croushore appreciated Commissioner Johnson's
25 comments and will pursue that. He commented that he

1 wanted to see if the current regulations as they are
2 written would permit a certified veterinary technician
3 to do pregnancy diagnosis as long as they are
4 competent to do it and acting under his direction. He
5 commented that the veterinarian bears ultimate
6 responsibility for assuring that the certified
7 veterinary technician to whom the duty is assigned is
8 competent to perform it.

9 Mr. Davis addressed advisory opinions, noting
10 that in some states the State Boards of Veterinary
11 Medicine are empowered to provide advisory opinions,
12 and he suggested that there might even be a couple of
13 boards within the Commonwealth that have been given
14 the express statutory ability to provide advisory
15 opinions in certain circumstances. He further stated
16 the State Board of Veterinary Medicine was not one of
17 them. He suggested the Board was not empowered to
18 directly answer his questions.

19 Mr. Davis suggested Dr. Croushore contact a
20 professional organization, like PVMA, or hire an
21 attorney who could work on his behalf to review the
22 facts and compare that to the law and regulations.

23 Mr. Davis informed Dr. Croushore of link at
24 www.pals.pa.gov, through which a complaint could be
25 filed if he believed someone was in violation of the

1 vet law or regulations, noting BPOA and prosecution
2 could investigate the matter.

3 Dr. Horbal thanked Dr. Croushore and PVMA for the
4 presentation. She encouraged PVMA to follow the
5 recommendations of Commissioner Johnson and Mr. Davis.

6 Chair Garg also thanked Dr. Croushore and PVMA
7 for the presentation. He noted listening to what
8 Counsel has explained and the information provided by
9 Commissioner Johnson. He encouraged Dr. Croushore to
10 take the advice of Mr. Davis with regard to having the
11 matter reviewed, also noting Commissioner Johnson has
12 provided a route within the bounds of what is allowed
13 by the process to bring his concern forward.]

14 ***

15 Report of Board Chair - No Report

16 ***

17 Report of Commissioner - No Report

18 ***

19 Report of Board Counsel - Regulations

20 [Thomas M. Davis, Esquire, Board Counsel, read a
21 prepared statement from BPOA regarding a scam alert.
22 He reported that scammers were threatening license
23 suspension for failure to act and falsely claiming
24 involvement with the Federal Bureau of Investigation
25 (FBI) and the Drug Enforcement Administration (DEA).

1 Mr. Davis stated scammers are known to
2 aggressively threaten license suspension for failure
3 to provide personal information. He noted the alert
4 is posted on Department of State website at
5 www.dos.pa.gov.

6 Mr. Davis provided information regarding the PA
7 Unites Against COVID website at www.pa.gov/covid.
8 He also noted anyone who wished to be added to the
9 weekly COVID-19 newsletter mailing list can do so on
10 that website as well.

11 Mr. Davis provided a Regulatory Status Report for
12 the Board's review. He referred to 16A-5726 regarding
13 the euthanasia regulation, noting he will be
14 discussing the regulation further with regulatory
15 counsel this afternoon and believed it could be
16 transmitted to the Office of General Counsel (OGC) by
17 the end of May.

18 Mr. Davis has to finish the Regulatory Analysis
19 Form (RAF) for Act 41 regarding licensure by
20 endorsement.

21 Mr. Davis addressed the continuing education
22 credit regulation, noting prior Board discussion at
23 the last meeting. He mentioned the regulation that
24 has been in place for some time not allowing
25 individuals to obtain more than 25% of the required

1 continuing education credit hours to individual study
2 of computer-based correspondence courses.

3 Mr. Davis noted there is still a waiver related
4 to continuing education credits and computer-based
5 courses that has been very popular, so the Board
6 discussed getting rid of this particular cap to
7 continuing education credits.

8 Mr. Davis presented a proposed regulation annex
9 relating to continuing education that he had drafted
10 in the time since the last meeting. He explained that,
11 after review of an older, now abandoned reg package,
12 he proposed a few miscellaneous amendments to the CE
13 regulations in addition to removing the 25% cap to
14 computer-based education, as outlined in the proposed
15 annex, that were not specifically discussed at the
16 last meeting.

17 Mr. Davis mentioned prior discussions with Ms.
18 Roberts regarding whether individuals who may have
19 applied and received licensure within a biennial
20 period would still have to complete all of the
21 continuing education (CE) before renewal. He informed
22 the Board that he found a way to write it into the
23 regulations to make it very specific and obvious that
24 the individuals would not have to do that.

25 Mr. Davis informed the Board that he pulled the

1 definition of the American Veterinary Medical
2 Association (AVMA) out of Act 41 and put it into this
3 regulation because it fit more appropriately.

4 Ms. Kehoe referred to § 31.40(a)(7), noting the
5 Veterinary Technicians and Assistants Association of
6 Pennsylvania (VTAAP) no longer exists and should be
7 removed because it has been absorbed into the PVMA.

8 Mr. Davis promised to remove the VTAAP language
9 from § 31.40(a)(7).

10 Ms. Kehoe questioned whether the changes being
11 made to continuing education is equally appropriate to
12 certified veterinary technician continuing education
13 and veterinarian continuing education.

14 Mr. Davis noted the changes would apply to
15 veterinarians and certified veterinary technicians;
16 however, the sections in which they are in the annex
17 are different because different section numbers
18 required different changes.

19 Ms. Kehoe referred to § 31.40(3) and questioned
20 who would be the allied organizations of the American
21 Veterinary Medical Association (AVMA).

22 Chair Garg explained that the lists that are in
23 there are not comprehensive lists of who can or cannot
24 present CE but mean they can go ahead and do it
25 without necessarily having to get approval from the

1 Board assuming the contents of the CE is consistent
2 with what the Board allows for CE.

3 Chair Garg commented that any specific
4 organization related or affiliated with AVMA should be
5 a question directed toward AVMA for the best source of
6 truth.

7 Dr. Nebzydoski noted the importance of moving it
8 forward today as is because of the difficulty members
9 have making decisions regarding how to obtain CE and
10 the time constraints and pandemic issue.

11 Chair Garg also noted being completely fine with
12 the substantive content of the draft and moving it
13 forward with direction to remove the one organization
14 that no longer exists.

15 Mr. Davis will continue to work the language and
16 put together a RAF and preamble. He reminded everyone
17 that the waiver allowing individuals to take all of
18 their CE online is still in place, and all COVID-19
19 suspensions are available on the Department of State
20 website.

21 Mr. Davis commented that there is no reason for a
22 vote at the current time.]

23 ***

24 Report of Board Counsel - Adjudications and Orders

25 MR. DAVIS:

1 These are matters that were discussed in
2 Executive Session prior to the Board
3 meeting, and as it should be obvious, we
4 had no presentations on these. We will
5 go ahead and vote based upon the
6 discussions that occurred in Executive
7 Session this morning.

8 These are proposed adjudications
9 and orders.

10 Number 11 on the Board's agenda.
11 Based on the Board's discussions in
12 Executive Session, I believe the Chair
13 would accept a motion to approve as
14 final the draft Adjudication and Order
15 in the following matter: Commonwealth
16 BPOA v. Angela Anderson, Case Nos. 20-
17 57-006679 & 20-57-005152.

18 DR. NEBZYDOSKI:

19 I'd like to make that motion.

20 COMMISSIONER JOHNSON:

21 Second.

22 CHAIR GARG:

23 Any further discussion? I'll call roll.

24

25 Commissioner Johnson, aye; Dr. Bender,

1 aye; Dr. Cooley, aye; Dr. Horbal, aye;
2 Ms. Kehoe, aye; Dr. Nebzydoski, aye; and
3 Dr. Garg, aye.

4 [The motion carried unanimously.]

5 ***

6 MR. DAVIS:

7 Number 12 on the Board's agenda. Based
8 on the Board's discussions in Executive
9 Session, I believe the Chair would
10 accept a motion to adopt the proposed
11 Adjudication and to direct counsel to
12 issue a Memorandum Order disposing of
13 the exceptions filed in the following
14 matter: Commonwealth BPOA v. Karen-
15 Susan Breitlauch, D.V.M., Case No. 18-
16 57-011741.

17 DR. BENDER:

18 I'll make the motion.

19 COMMISSIONER JOHNSON:

20 Second.

21 CHAIR GARG:

22 Any further discussion? I'll call roll.

23

24 Commissioner Johnson, aye; Dr. Bender,
25 aye; Dr. Cooley, aye; Dr. Horbal, aye;

1 Ms. Kehoe, aye; Dr. Nebzydoski, aye; and
2 Dr. Garg, aye.

3 [The motion carried unanimously.]

4 ***

5 MR. DAVIS:

6 Number 13 on the Board's agenda. Based
7 on the Board's discussions in Executive
8 Session, I believe the Chair would
9 accept a motion to approve as final the
10 draft Adjudication and Order in the
11 following matter: Commonwealth BPOA v.
12 James Temple, D.V.M., Case No. 16-57-
13 04014.

14 CHAIR GARG:

15 Would somebody like to make that motion?

16 MS. KEHOE:

17 I make the motion.

18 DR. HORBAL:

19 I second.

20 CHAIR GARG:

21 Any further discussion? I will call
22 roll.

23

24 Commissioner Johnson, aye; Dr. Bender,
25 aye; Dr. Cooley, aye; Dr. Horbal, aye;

1 Ms. Kehoe, aye; Dr. Nebzydoski, aye; and
2 Dr. Garg, aye.

3 [The motion carried unanimously.]

4 ***

5 Report of Board Counsel - Application

6 MR. DAVIS:

7 Number 14 on the Board's agenda is the
8 matter of the Application for
9 Certification as a Veterinary Technician
10 of Morgan R. Riehl, Application No.
11 AA0002635900.

12 Based on the Board's discussions in
13 Executive Session, I believe the Chair
14 would accept a motion provisionally
15 denying the application.

16 DR. NEBZYDOSKI:

17 I'd like to make that motion.

18 COMMISSIONER JOHNSON:

19 Second.

20 CHAIR GARG:

21 Any further discussion? I'll call roll.

22

23 Commissioner Johnson, aye; Dr. Bender,
24 aye; Dr. Cooley, aye; Dr. Horbal, aye;

25 Ms. Kehoe, aye; Dr. Nebzydoski, aye; and

1 Dr. Garg, aye.

2 [The motion carried unanimously.]

3 ***

4 Miscellaneous

5 [Thomas Garg, V.M.D., Chairman, noted the remaining
6 2021 Board meeting dates.]

7 Dr. Horbal expressed concern regarding the amount
8 of time it takes to either receive answers from the
9 Board office or to receive licensure from the Board.
10 She mentioned recent graduates have been told it may
11 take three to four months to receive their license,
12 and she questioned whether anything can be done.

13 Ms. Roberts commented that she is generally on
14 the phone three days a week and is not having
15 difficulty receiving phone calls. She mentioned
16 receiving about two to three vet calls a day and is
17 not aware of a huge backlog of calls. She noted a lot
18 of tickets have not been answered because this is
19 their busy season.

20 Chair Garg questioned whether there has been a
21 change of any sort in the amount of time it takes
22 between the application and actually receiving a
23 license with regard to the portions of it that are
24 within the scope of their offices.

25 Commissioner Johnson noted averaging 12 calendar

1 days for veterinarians and 10 days for veterinary
2 technicians in terms of processing applications. He
3 advised everyone to provide a detailed description of
4 their experience. He stated it could rely on a number
5 of factors involving the applicant or licensee as well
6 as technical specifications within PALS.

7 Commissioner Johnson mentioned prior
8 communication informing everyone that phone support is
9 limited, where they should be receiving a message
10 directing them to provide an email or support ticket
11 through the system. He reminded associations and
12 stakeholders to advise their members of the limited
13 number of people able to answer calls. He encouraged
14 folks to use the self-directed customer support
15 options when available because it helps to be able to
16 funnel and prioritize more complex issues to staff.

17 Dr. Horbal questioned what the typical office
18 hours are where someone can be reached on the phone
19 and whether those are published online.

20 Commissioner Johnson stated the hours should be
21 available online but assure they are posted on each
22 Board's website. He noted phone calls can be received
23 from 9:30 a.m. until 3:30 p.m.]

24 ***

25 Adjournment

1 CHAIR GARG:

2 We could go ahead and adjourn.

3 DR. NEBZYDOSKI:

4 I would certainly like to make that
5 motion to adjourn the meeting.

6 DR. COOLEY:

7 Second.

8 CHAIR GARG:

9 I hope everybody has a great weekend
10 because it is beautiful out. Stay safe.
11 Thank you.

12 [The motion carried unanimously.]

13 ***

14 [There being no further business, the State Board of
15 Veterinary Medicine Meeting adjourned at 12:44 p.m.]

16 ***

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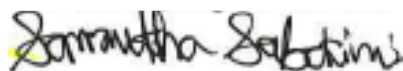
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CERTIFICATE

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.



Samantha Sabatini,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF VETERINARY MEDICINE
REFERENCE INDEX

May 21, 2021

	TIME	AGENDA
1		
2		
3		
4		
5		
6		
7		
8		
9	9:00	Executive Session
10	10:30	Return to Open Session
11		
12	10:32	Official Call to Order
13		
14	10:32	Approval of Minutes
15		
16	10:33	Report of Prosecutorial Division
17		
18	10:55	Appointment - Bureau of Finance and Operations Fee Package Presentation
19		
20		
21	11:26	Presentation - Jamie L. Lenzi, Esquire, Cipriani & Werner
22		
23		
24	11:31	Report of Prosecutorial Division (Continued)
25		
26		
27	11:41	Appointment - Pennsylvania Veterinary Medical Association
28		
29		
30	12:15	Report of Board Counsel
31		
32	12:35	Miscellaneous
33		
34	12:44	Adjournment
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