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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: 10:38 A.M.

Held at

PENNSYLVANIA DEPARTMENT OF STATE

2601 North Third Street

One Penn Center, Board Room C

Harrisburg, Pennsylvania 17110

as well as

VIA MICROSOFT TEAMS

September 16, 2022

State Board of Veterinary Medicine
September 16, 2022

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BOARD MEMBERS:

Thomas Garg, V.M.D., Chair
Arion R. Claggett, Acting Commissioner, Bureau of
Professional and Occupational Affairs
Joseph S. Bender D.V.M.
Anjilla Cooley, D.V.M. - Absent
Andrew Nebzydoski, V.M.D., Secretary
Hilary Vesell, Esquire, Public Member

BUREAU PERSONNEL:

Thomas M. Davis, Esquire, Board Counsel
Gregory Liero, Esquire, Board Prosecutor
Peter D. Kovach, Esquire, Board Prosecutor
Kayla R. Bolan, Esquire, Board Prosecutor
Michelle Roberts, Board Administrator

ALSO PRESENT:

Wesley J. Rish, Esquire, Rish Law Office, LLC
Nathaniel Schwartz

1 ***

2 State Board of Veterinary Medicine

3 September 16, 2022

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act,
6 at 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
9 and to receive advice of counsel on the matters upon
10 which the Board will later vote. The Board commenced
11 open session at 10:30 a.m.]

12 ***

13 The regularly scheduled meeting of the State
14 Board of Veterinary Medicine was held on Friday,
15 September 16, 2022. Thomas Garg, V.M.D., Chair,
16 called the meeting to order at 10:38 a.m.

17 ***

18 [Thomas M. Davis, Esquire, Board Counsel, informed
19 everyone that the Board met in Executive Session
20 prior to the meeting for the purpose of conducting
21 quasi-judicial deliberations and to receive advice of
22 counsel on the matters upon which the Board would
23 later vote.

24 Mr. Davis also noted the meeting was being
25 recorded, and those who continued to participate were

1 giving their consent to be recorded.]

2

3 Roll Call

4 [A roll call of Board members was taken by Chair
5 Garg. He noted all Board members participating in
6 this meeting are present virtually (participating via
7 Microsoft Teams) with the exception of Acting
8 Commissioner Claggett (physically present in Board
9 Room C).]

10

11 Introduction of Attendees

12

13 Approval of minutes of the July 22, 2022 meeting

14 CHAIR GARG:

15 The first item on the agenda is simply
16 the draft minutes from the previous
17 meeting.

18 Were there any concerns with regard
19 to those minutes? I am not hearing
20 anything.

21 Who would like to go ahead and make
22 a motion to approve the minutes?

23 DR. BENDER:

24 So moved.

25 DR. NEBZYDOSKI:

1 Second.

2 CHAIR GARG:

3 Any further discussion? I'll call
4 roll.

5

6 Commissioner, aye; Dr. Bender, aye; Dr.
7 Nebzydoski, aye; Ms. Vesell, aye; Dr.
8 Garg, aye.

9 [The motion carried unanimously.]

10

11 Report of Prosecutorial Division

12 [Gregory S. Liero, Esquire, Board Prosecutor, on
13 behalf of Julia Feld-Caralle, presented the Consent
14 Agreement for Case Nos. 19-57-009455, 21-57-007132,
15 and 21-57-012194.]

16

17 [Peter D. Kovach, Esquire, Senior Prosecutor in
18 Charge, presented the Consent Agreement for Case No.
19 19-57-012404.]

20

21 [Kayla R. Bolan, Esquire, Board Prosecutor, presented
22 the Consent Agreement for Case No. 20-57-004345.

23 Wesley J. Rish, Esquire, Rish Law Office, LLC,
24 counsel for the respondent, was present and
25 participated in the discussion.]

1 [Thomas M. Davis, Esquire, Board Counsel, asked if
2 after hearing the presentation of the consent
3 agreements, any Board members would like to re-enter
4 executive session to further discuss any of the
5 consent agreements. None responded.]

6 MR. DAVIS:

7 Back to number 2, the first Consent
8 Agreement that we heard.

9 Based on the Board's discussions in
10 Executive Session, I believe the Chair
11 would accept a motion to approve the
12 Consent Agreement in the following
13 matter: Case Nos. 19-57-009455, 21-57-
14 007132, 21-57-012194.

15 DR. BENDER:

16 So moved.

17 DR. NEBZYDOSKI:

18 I'll second that motion.

19 CHAIR GARG:

20 Any further discussion? I'll call
21 roll.

22
23 Commissioner, aye; Dr. Bender, aye; Dr.
24 Nebzydoski, aye; Ms. Vesell, aye; Dr.
25 Garg, aye.

1 [The motion carried unanimously. That is
2 Commonwealth BPOA v. Leon D. Rumsey, D.V.M.]

3 ***

4 MR. DAVIS:

5 Number 3 on the Board's agenda.

6 Based on the Board's discussions in
7 Executive Session, I believe the Chair
8 would accept a motion to approve the
9 Consent Agreement in the following
10 matter: Case No. 19-57-012404.

11 DR. BENDER:

12 So moved.

13 DR. NEBZYDOSKI:

14 Second.

15 CHAIR GARG:

16 Any further discussion? I'll call
17 roll.

18
19 Commissioner, aye; Dr. Bender, aye; Dr.
20 Nebzydoski, aye; Ms. Vesell, aye; Dr.
21 Garg, aye.

22 [The motion carried unanimously. That is
23 Commonwealth BPOA v. Allen Wilson Bower, V.M.D.]

24 ***

25 MR. DAVIS:

1 Number 4 on the Board's agenda.

2 Based on the Board's discussions in
3 Executive Session, I believe the Chair
4 would accept a motion to reject as too
5 lenient the Consent Agreement in the
6 following matter: Case No. 20-57-
7 004345.

8 DR. BENDER:

9 So moved.

10 DR. NEBZYDOSKI:

11 Second.

12 CHAIR GARG:

13 Any further discussion? I'll call
14 roll.

15
16 Commissioner, aye; Dr. Bender, aye; Dr.
17 Nebzydoski, aye; Ms. Vesell, aye; Dr.
18 Garg, aye.

19 [The motion carried unanimously.]

20 ***

21 Report of Board Counsel - Regulations

22 [Thomas M. Davis, Esquire, Board Counsel, referred to
23 the Status of Regulations Report and noted four
24 active regulations. He noted the Board already
25 discussed comments received for 16A-5726 regarding

1 the euthanasia regulation. He informed Board members
2 that he is still working on adjusting the annex based
3 on the discussions at the last meeting and should
4 have the amended annex for the November meeting.

5 Mr. Davis reported that he has been in direct
6 contact with legal counsel from the Department of
7 Agriculture and has begun to discuss the possibility
8 of drafting a memorandum of understanding ("MOU") to
9 allow agents of the Department of Agriculture to act
10 as "agents of the Board" for purposes of inspections
11 in relation to the euthanasia regulation.

12 Mr. Davis noted the proposed Act 41 (licensure by
13 endorsement) was still under review with Senior
14 Regulatory Counsel. He was still drafting the
15 Regulatory Analysis Forms for the continuing
16 education (CE) regulation and fees regulation.]

17 ***

18 Report of Board Counsel - Miscellaneous

19 [Thomas M. Davis, Esquire, Board Counsel, provided
20 the 2021 Bureau of Professional and Occupational
21 Affairs (BPOA) Annual Report for the Board's review.

22 He reported that in 2021, the Board reported 8,788
23 active licensees, 299 cases opened, 290 open cases at
24 the time of the report, 267 cases closed, and the
25 average age to close cases was 389 days.

1 Mr. Davis addressed the Pennsylvania Veterinary
2 Medical Association (PVMA) Policy Statement on
3 "Veterinary Nursing." He noted PVMA had suggested
4 the Board adopt new terminology for certified
5 veterinary technicians, so they may also be referred
6 to as "veterinary nurses." He discussed being made
7 aware of a growing movement within the veterinary
8 community to make this happen.

9 Mr. Davis referred to the summer of 2022 edition
10 of the *Keystone Veterinarian* magazine, which is an
11 official quarterly publication of PVMA. He addressed
12 the May 20 meeting, where several PVMA
13 representatives were in attendance and presented the
14 PVMA Position Statements regarding veterinary
15 telehealth and veterinary nursing, which are
16 currently available on the PVMA website.

17 Mr. Davis addressed a statement found in the
18 *Keystone Veterinarian* magazine that read, "just as
19 the Board of Veterinary Medicine recently updated the
20 regulations to include the use of the title
21 veterinary assistant to replace the previously used
22 'noncertified employee,' PVMA asks that language be
23 added, clarifying the title 'registered veterinary
24 nurse (RVN)' as equivalent to 'certified veterinary
25 technician (CVT).'"

1 Mr. Davis stated PVMA is reiterating their
2 request from May, at which time the Board said they
3 would be using the terms found in the Veterinary
4 Medicine Practice Act. He mentioned that PVMA has
5 decided to try to parallel the situation with how the
6 Board changed all references in the regulations from
7 "noncertified employees" to "veterinary assistants."

8 He noted the Board did do that and clarified that
9 House Bill 1742 of 2001 was signed in December 2002
10 and became Act 1670 of 2002.

11 Act 1670 amended the Veterinary Medicine Practice
12 Act, adding several definitions and deleting the
13 definition for "animal health technician" at Section
14 3(11). It added Sections 3(12), 3(13), and 3(14),
15 which are respectively definitions for "veterinary
16 technology", "certified veterinary technician," and
17 "veterinary assistant." He noted the terms
18 veterinary technology, certified veterinary
19 technician, and veterinary assistant were added by
20 the Legislature, not the Board, to the practice act
21 in 2002.

22 Mr. Davis stated the Board responded by drafting
23 a new regulation, which was 16A-5715 which was
24 published as final December 18, 2004. He mentioned
25 that the main point of the regulation was with

1 relation to CVTs implanting electronic identification
2 tags in animals but also noted it updated several
3 provisions and changed all current references in the
4 regulations that referenced "certified animal health
5 technicians" to "certified veterinary technicians."

6 Mr. Davis mentioned that the Board did not update
7 the regulations from "noncertified employees" to
8 "veterinary assistants" in 2004 but the Board did add
9 a second "e" to every reference of employee and kept
10 all references to "noncertified employees" in the
11 regulations.

12 Mr. Davis referred to 16A-5727, which is the
13 regulation PVMA is discussing, and published as final
14 on December 28, 2019. He commented that the main
15 purpose of the regulation was to remove the 10-year
16 automatic bar on certification for veterinary
17 technicians convicted of a felony under the
18 Controlled Substance, Drug, Device, and Cosmetic Act;
19 however, it also amended nine separate sections of
20 the regulation, updating and clarifying certain
21 provisions. He noted that via 16A-5727, the Board
22 changed all "noncertified employees" references to
23 instead refer to "veterinary assistants," to mirror
24 the language of the practice act in 2019.

25 Mr. Davis again referred to PVMA's statement in

1 the *Keystone Veterinarian* magazine in which the PVMA
2 asks that language be added to the Board's
3 regulations, clarifying that the title "registered
4 veterinary nurse (RVN)" is equivalent to "certified
5 veterinary technician (CVT)," and comparing this
6 requested amendment to the Board's recent amendment
7 to the Regulations in which the title "veterinary
8 assistant" replaced the previously used title "non-
9 certified employee."

10 He noted that in 2019 the Board did update the
11 regulations, replacing the title "non-certified
12 employee" with the title "veterinary assistant," but
13 suggested it did so because the Legislature amended
14 the practice act to include the title "veterinary
15 assistant" - albeit the Board amended the regulations
16 17 years after the Legislature defined "veterinary
17 assistant."

18 Mr. Davis strongly encouraged the Board to amend
19 the regulations accordingly if the Legislature amends
20 the Veterinary Medicine Practice Act to define
21 "veterinary nurse" or "veterinary nursing," however
22 he counseled the Board to continue to use the
23 nomenclature found within the Veterinary Medicine
24 Practice Act until that time, and reiterated that the
25 practice act does not currently define "veterinary

1 nurse" or "veterinary nursing."

2 Chair Garg encouraged PVMA to pursue this with
3 the Legislature if they feel strongly about this
4 issue.]

5 ***

6 Report of Board Counsel - Motion to Deem Facts

7 Admitted

8 MR. DAVIS:

9 Number 6. This was discussed in
10 Executive Session, so I have a prepared
11 motion.

12 Based on the Board's discussions in
13 Executive Session, I believe the Chair
14 would entertain a motion to grant the
15 Motion to Deem Facts Admitted and Enter
16 Default and direct Board Counsel to
17 prepare an Adjudication and Order in
18 accordance with the discussion in
19 Executive Session in the matter of
20 Commonwealth BPOA v. Kristian Sean
21 Rhein, D.V.M., Case Nos. 20-57-003697
22 and 22-57-006934.

23 DR. BENDER:

24 So moved.

25 DR. NEBZYDOSKI:

1 Second.

2 CHAIR GARG:

3 Any further discussion? I'll call
4 roll.

5

6 Commissioner, aye; Dr. Bender, aye; Dr.
7 Nebzydoski, aye; Ms. Vesell, aye; Dr.
8 Garg, aye.

9 [The motion carried unanimously.]

10

11 Report of Board Counsel - Adjudication and Order

12 MR. DAVIS:

13 Number 7 on the Board's agenda. Again,
14 this was discussed in Executive
15 Session.

16 Based on the Board's discussions in
17 Executive Session, I believe the Chair
18 would entertain a motion to adopt the
19 Proposed Adjudication and Order in the
20 Matter of the Application for
21 Certification as a Veterinary
22 Technician of Kaitlyn Schwartz, Case
23 No. 22-57-004516.

24 DR. BENDER:

25 So moved.

1 DR. NEBZYDOSKI:

2 Second.

3 CHAIR GARG:

4 Any further discussion? I'll call
5 roll.

6
7 Commissioner, aye; Dr. Bender, aye; Dr.
8 Nebzydoski, aye; Ms. Vesell, aye; Dr.
9 Garg, aye.

10 [The motion carried unanimously.]

11 ***

12 Report of Board Counsel - Appellate Matters

13 MR. DAVIS:

14 Number 8 is a matter brought to our
15 attention by Commonwealth Court, and
16 the Board discussed this also in
17 Executive Session.

18 Based on the Board's discussions in
19 Executive Session, I believe the Chair
20 would entertain a motion to direct
21 Board Counsel to draft an order
22 consistent with discussions in
23 Executive Session in the matter of
24 Commonwealth BPOA v. James Temple,
25 D.V.M., Case No. 16-57-04014.

1 DR. BENDER:

2 So moved.

3 DR. NEBZYDOSKI:

4 Second.

5 CHAIR GARG:

6 Any further discussion? I'll call
7 roll.

8

9 Commissioner, aye; Dr. Bender, aye; Dr.
10 Nebzydoski, aye; Ms. Vesell, aye; Dr.
11 Garg, aye.

12 [The motion carried unanimously.]

13

14 Report of Board Chair - No Report

15

16 Report of Acting Commissioner

17 [Arion R. Claggett, Acting Commissioner, Bureau of
18 Professional and Occupational Affairs, informed
19 everyone that PALS external website is down and
20 applicants would not be able to access PALS. He
21 addressed renewals, noting the Board is currently not
22 in a renewal period but noted that because of the
23 issues the Bureau is experiencing with PALS, the
24 renewal periods for some of the other boards that are
25 in renewal will be extended.]

1 ***

2 Report of Board Administrator

3 [Michelle Roberts, Board Administrator, informed
4 Board members that the March 17, 2023 meeting date
5 has been changed to Friday, March 24, 2023, due to a
6 conflict.]

7 ***

8 Adjournment

9 CHAIR GARG:

10 Would somebody like to make a motion so
11 we could end the meeting?

12 DR. BENDER:

13 So moved.

14 DR. NEBZYDOSKI:

15 Second.

16 CHAIR GARG:

17 Thank you all so much. Everybody stay
18 safe. We'll see you in a few months.

19 ***

20 [There being no further business, the State Board of
21 Veterinary Medicine Meeting adjourned at 11:20 a.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.



Cory Ruda
Minute Clerk
Sargent's Court Reporting
Service, Inc.

STATE BOARD OF VETERINARY MEDICINE
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TIME	AGENDA
9:00	Executive Session
10:30	Return to Open Session
10:38	Official Call to Order
10:38	Roll Call
10:39	Introduction of Attendees
10:40	Approval of Minutes
10:41	Report of Board Prosecution
11:01	Report of Board Counsel
11:17	Report of Acting Commissioner
11:19	Report of Board Administrator
11:20	Adjournment