



**NEW MEXICO BOARD OF VETERINARY MEDICINE  
REGULAR MEETING**

**New Mexico Gaming Control Board Hearing Room  
4900 Alameda Blvd., N.E.  
Albuquerque, New Mexico 87113**

**MINUTES**

**April 20, 2018**

**CALL TO ORDER:** The regular meeting of the New Mexico Board of Veterinary Medicine was called to order by Dr. Rebecca J. Washburn, Chair, at approximately 9:41 a.m. Roll call and introductions were made.

**ROLL CALL:**

**MEMBERS PRESENT:**

Dr. Rebecca J. Washburn, Chair  
Dr. Manuel A. Garcia  
Dr. Edward J. Fallen  
Dr. Lawrence D. Young  
Dr. Samantha R. Uhrig  
Marybeth Brown-Pirrone, Public Member

**BOARD REPRESENTATIVES:**

Frances Sowers, Executive Director  
Dr. Edward J. Gentz, Board Investigator  
Dr. Gaven B. Kuykendall, Board Facility Inspector

**BOARD CIVIL COUNSEL:**

Lesley Lowe

**GUESTS:**

Tamara Spooner, NMVMA  
Gary Roybal, LULAC  
Evelyn Selva, RVT  
Thomas Hill, DEA

**OPENING STATEMENT:** Dr. Washburn welcomed everyone to the meeting.

**ACCEPTANCE OF AGENDA:** Dr. Garcia moved to accept the Agenda with flexibility and Dr. Fallen seconded. All in favor, motion passed.

34 **APPROVAL OF BOARD MEETING MINUTES:** Dr. Garcia moved and Dr.  
35 Uhrig seconded to accept the January 19, 2018 regular meeting minutes with correction at  
36 page 2, line 62: license number is DVM-1535. Dr. Washburn requested a roll call vote. Dr.  
37 Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr.  
38 Washburn-yes. Motion passed.

39  
40 Dr. Garcia moved and Dr. Uhrig seconded to accept the February 2, 2018 telephonic  
41 meeting minutes. Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes;  
42 Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr. Washburn-yes. Motion passed.

43  
44 Dr. Garcia moved and Dr. Uhrig seconded to accept the February 21, 2018 telephonic  
45 meeting minutes. Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes;  
46 Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr. Washburn-yes. Motion passed.

47  
48 **CE PROVIDER APPROVAL:** Approvals are stipulated on the CE hours being in  
49 compliance with the Board's rules.

50  
51 Dr. Garcia moved and Dr. Fallen seconded to approve:

52  
53 *Annual Meeting on Veterinary Homeopathy; March 1-4, 2018; Phoenix, Arizona;*  
54 *14.00 CE hours. The approval excludes the following units:*

- 55  
56 1. A Case of Mammary Tumor;  
57 2. Practicality of Changing to a Plant Based Diet;  
58 3. Rabies – Then and Now; and  
59 4. Urinary Disease, Human and Animal – How Homeopathy Solves the  
60 Problem.

61  
62 Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-  
63 Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr. Washburn-yes. Motion passed.

64  
65 Dr. Garcia moved and Dr. Uhrig seconded to table pending receipt of the medical director  
66 report:

67  
68 *Mixed Animal Shelter Medicine, February 1 – July 1, 2017;*  
69 *Kenab, Utah; 15-30 CE hours.*

70  
71 Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-  
72 Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr. Washburn-yes. Motion passed.

73  
74 Dr. Fallen moved and Dr. Uhrig seconded to approve:

75  
76 *Southwest Veterinary Leadership Conference, May 4-6, 2018;*  
77 *Santa Fe, New Mexico; 7.00 CE hours; and*

78  
79 *Perspective on Skin Disease, April 10-12, 2018; Various*  
80 *New Mexico venues; 2.00 CE hours.*

81 **Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-abstains; Ms. Brown-**  
82 **Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr. Washburn-yes. Motion passed.**

83  
84 **Dr. Garcia moved and Dr. Fallen seconded to approve:**

85  
86 *ADA and Service Dogs? Therapy Dogs? Comfort Dogs?*  
87 *Imposters? May 22, 2018; Albuquerque, New Mexico;*  
88 *1.00 CE hour.*

89  
90 **Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-**  
91 **Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr. Washburn-yes. Motion passed.**

92  
93 **Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-**  
94 **Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr. Washburn-yes. Motion passed.**

95  
96 **NEW MEXICO LIVESTOCK BOARD: Dr. Washburn welcomed Dr. Ralph Zimmerman,**  
97 **Livestock Board State Veterinarian.**

98  
99 **Dr. Zimmerman reported two New Mexico herds had tested positive for tuberculosis in**  
100 **November/December testing for TB quarantined herds. It is anticipated that the heavily**  
101 **infected herd will be off quarantine by July 2018. There were two reactors, one is clean on**  
102 **necropsy and the second will go to slaughter in 15 days when the drug withholding time has**  
103 **cleared. Herd #1 tested in April and Herd #2 was tested the first week of March. The**  
104 **Umbrella Cooperative Agreement with federal agencies was increased by the local office by**  
105 **\$35,000; however, the Livestock Board has not heard from headquarters.**

106  
107 **Two Brucellosis traces have been received with one being actively researched and the other**  
108 **forwarded to Texas because the cow in question was of Texas origin. There are more cases**  
109 **since the feds have stopped the program for vaccination.**

110  
111 **There are 43 bovine Tritrichomonas quarantines, five are pending feedback from the herd**  
112 **veterinarians in order to release them.**

113  
114 **Dr. Zimmerman reported that Dr. Eckhoff has been organizing meeting with members of**  
115 **the sheep industry to help promote the industry and involve youth in the future. The**  
116 **Livestock Board is attempting to promote more industry interest in the Scrapie program so**  
117 **that compliance with testing number can be met.**

118  
119 **Poultry continues to be monitored for Salmonella traces and iterated how avian disease**  
120 **could be devastating to the poultry industry. Dr. Zimmerman stressed the importance of**  
121 **not kissing chickens.**

122  
123 **Dr. Zimmerman reported that Dr. Craig Evetts is covering the east side of the state for the**  
124 **Livestock Board.**

125  
126 **Dr. Washburn thanked Dr. Zimmerman for his report.**

127  
128

129 **NMBVM FACILITY INSPECTOR REPORT:** Dr. Washburn welcomed Dr. Gaven  
130 Kuykendall, Board Facility Inspector.

131  
132 **Dr. Kuykendall reported that he is hearing more and more from practices about a jug as a**  
133 **container for controlled substances disposal. He requested direction from the Board as to**  
134 **how he should respond to the licensees.**

135  
136 **Dr. Kuykendall next reported on the radiology log by practices. He is finding more and**  
137 **more practices are using technology for radiographs with some of the programs not**  
138 **including the detail required in the radiology log. The Board discussed the radiograph**  
139 **technologies and iterated that the Board rule requires a radiology log containing specific**  
140 **information to be maintained as part of the facility's records subject to inspection.**

141  
142 **Dr. Kuykendall reported on the difficulty in conducting mandatory inspections as required**  
143 **by the Board's Order in FCR13-001. The licensee keeps controlled substances in a safe in**  
144 **the bedroom closet requiring Dr. Kuykendall to have to walk through the personal**  
145 **residence into the bedroom area which he feels is inappropriate. The Board directed Dr.**  
146 **Kuykendall to request licensee to have all records and other materials subject to inspection**  
147 **including licenses in licensee's truck outside of the home. Ms. Sowers offered to**  
148 **accompany Dr. Kuykendall on the inspection and the Board readily agreed it would be a**  
149 **good way to alleviate Dr. Kuykendall's uneasiness.**

150  
151 **Ms. Sowers informed the Board that she had received a call from the public concerning the**  
152 **chaos in the same licensee's home when the individual went there for services by the**  
153 **licensee. The licensee has a mobile facility license but does not have a facility license for a**  
154 **stationary practice. The Board directed Ms. Sowers to send a letter to the licensee**  
155 **reminding licensee that a facility license is required if services are being provided in**  
156 **licensee's home thereby making the home subject to inspection as well.**

157  
158 **The Board thanked Dr. Kuykendall for his report.**

159  
160 **EXECUTIVE DIRECTOR'S REPORT:** Dr. Washburn asked Ms. Sowers to present the  
161 **Executive Director's report.**

162  
163 **Ms. Sowers directed the Board to the FY-18 third quarter financial and calendar year first**  
164 **quarter calendar year 2018 licensing reports in the Board books. Ms. Sowers indicated to**  
165 **the Board that the budget continues to be well in line insofar as expenditures to budget.**  
166 **License renewals are on par for calendar first quarter.**

167  
168 **Ms. Sowers directed the Board to a letter in their books from a licensee seeking waiver of**  
169 **the late fees for failure to renew. The Board discussed the circumstances set out in the**  
170 **letter that prevented licensee from renewing timely. The Board expressed sympathy for**  
171 **the licensee's situation; however, it stressed that the Act and the rules serve a purpose and**  
172 **all licensees must abide by them. The Board directed Ms. Sowers to write a letter to the**  
173 **licensee setting out that the Board has no flexibility because the late fees are required by**  
174 **Board rule.**

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176

177 Ms. Sowers reported on an inquiry from a licensee questioning the ethics of facilities  
178 issuing one-year rabies vaccinations in adult dogs when three-year vaccinations can be  
179 administered. The Board indicated that some practices leave the option to the owner and  
180 some practices have set policy concerning which option is used for their patients. The  
181 Board does not have jurisdiction over practice policy unless it violates the Veterinary  
182 Practice Act or Board rules.

183  
184 Ms. Sowers next presented an inquiry concerning a non-New Mexico licensed veterinarian  
185 performing spays/neuters while on vacation in New Mexico. Is it possible to apply rule  
186 16.25.9.20 Director Supervision in this situation? The Board reasoned that the rule sets out  
187 non-veterinarians; because the vacationing individual is a licensed veterinarian in another  
188 jurisdiction, he would not qualify. The Board suggested he seek a 60-Day Temporary  
189 Permit.

190  
191 Ms. Sowers presented the following complaints requesting Board action:

192  
193 **Complaint No. 15-64, Ms. Sowers reported that all terms of the Pre-NCA Settlement**  
194 **Agreement have been satisfied and asked the Board to close Complaint No. 15-64. Dr.**  
195 **Garcia moved; Dr. Fallen seconded to close Complaint No. 15-64. Dr. Washburn requested**  
196 **a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr.**  
197 **Young-yes; Dr. Washburn-yes. Motion passed.**

198  
199 **Complaint No. 16-07, Ms. Sowers reported that respondent has sold her practice and not**  
200 **renewed her veterinarian license due to her serious illness keeping her from completing the**  
201 **continuing education required by the Pre-NCA Settlement Agreement. Ms. Sowers asked**  
202 **the Board to close Complaint No. 16-07. Dr. Garcia moved; Dr. Young seconded to close**  
203 **Complaint No. 16-07. Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-**  
204 **yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr. Washburn-yes. Motion**  
205 **passed.**

206  
207 **Complaint No. 16-22, Ms. Sowers referred the Board to a letter from the Administrative**  
208 **Prosecutor wherein he explained that there was not a sufficient basis to file administrative**  
209 **charges against the respondent in the matter. The Administrative Prosecutor is closing the**  
210 **NMAGO's file on the matter. Ms. Sowers asked the Board to close Complaint No. 16-22**  
211 **based on the Administrative Prosecutor's advice to the Board. Dr. Garcia moved; Dr.**  
212 **Fallen seconded to close Complaint No. 16-22. Dr. Washburn requested a roll call vote.**  
213 **Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr.**  
214 **Washburn-yes. Motion passed.**

215  
216 **Complaint No. 18-07, Ms. Sowers explained that the complainant reported to her that he**  
217 **felt the Investigator was sarcastic and did not treat his complaint seriously when he left a**  
218 **voicemail message; therefore, he would not be following through on the complaint. Ms.**  
219 **Sowers made several attempts to contact the complainant via email and telephone; the**  
220 **complainant ignored the communications. Ms. Sowers asked the Board to close Complaint**  
221 **No. 18-07 due to lack of availability of the complainant to speak with the Investigator. Dr.**  
222 **Garcia moved; Dr. Fallen seconded to close Complaint No. 18-07. Dr. Washburn requested**  
223 **a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr.**  
224 **Young-yes; Dr. Washburn-yes. Motion passed.**

225 File no. F11-01, Ms. Sowers reported that all items on POC had been corrected. Ms.  
226 Sowers asked the Board to close file no. F11-01. Dr. Garcia moved; Dr. Fallen seconded to  
227 close F11-01. Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms.  
228 Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr. Washburn-yes. Motion passed.  
229

230 VF-639, Ms. Sowers reported that the administrative fee had been paid and the terms of  
231 the Pre-NCA Settlement Agreement had been satisfied. Dr. Garcia moved; Dr. Fallen  
232 seconded to close F11-01. Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr.  
233 Garcia-yes; Ms. Brown-Pirrone-recused; Dr. Fallen-yes; Dr. Young-yes; Dr. Washburn-  
234 yes. Motion passed.  
235

236 Ms. Sowers updated the Board about NCA In the Matter of Erin Marie Smith, DVM-2916.  
237 All quarterly reports required from Dr. Smith are current; the New Mexico Professional  
238 Wellness Program (f/k/a Monitored Treatment Program) has reported Dr. Smith's  
239 negative drug tests and her satisfactory participation with the required programs of the  
240 Program. Ms. Sowers added that the Program had further commented on Dr. Smith's  
241 earnest approach to recovery.  
242

243 Dr. Washburn thanked Ms. Sowers for her report.  
244

245 **COMPLAINTS:** Dr. Washburn turned the Chair duties over to Dr. Garcia, Vice-Chair.  
246 Dr. Garcia welcomed Dr. Washburn and Dr. Young of the Complaint Review Committee;  
247 and Dr. Gentz, Board Investigator.  
248

249 **Complaint No. 18-10:** Dr. Gentz presented his investigative report. After Board discussion  
250 and on the basis of the complaint that was reviewed for probable cause by the Board, Dr.  
251 Fallen moved and Marybeth Brown-Pirrone seconded to dismiss Complaint No. 18-10  
252 finding no violation of the Veterinary Practice Act. Dr. Garcia requested a roll call vote.  
253 Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-  
254 abstains; Dr. Washburn-abstains. Motion passed.  
255

256 **Complaint No. 18-11:** Dr. Gentz presented his investigative report. After Board discussion  
257 and on the basis of the complaint that was reviewed for probable cause by the Board, Dr.  
258 Fallen moved and Marybeth Brown-Pirrone seconded to dismiss Complaint No. 18-11  
259 finding no violation of the Veterinary Practice Act. Dr. Garcia requested a roll call vote.  
260 Dr. Uhrig-recused; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-  
261 abstains; Dr. Washburn-abstains. Motion tabled due to lack of a quorum.  
262

263 **Complaint No. 18-12:** Dr. Gaven Kuykendall, alternate Investigator, presented his  
264 investigative report. After Board discussion and on the basis of the complaint that was  
265 reviewed for probable cause by the Board, Dr. Fallen moved and Dr. Uhrig seconded to  
266 dismiss Complaint No. 18-12 finding no violation of the Veterinary Practice Act. Dr.  
267 Garcia requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes;  
268 Dr. Fallen-yes; Dr. Young-abstains; Dr. Washburn-abstains. Motion passed.  
269

270 **Complaint No. 18-13:** Dr. Gentz presented his investigative report. After Board discussion  
271 and on the basis of the complaint that was reviewed for probable cause by the Board, Dr.  
272 Fallen moved and Dr. Uhrig seconded to dismiss Complaint No. 18-13 finding no violation

273 of the Veterinary Practice Act. Dr. Garcia requested a roll call vote. Dr. Uhrig-yes; Dr.  
274 Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-abstains; Dr. Washburn-  
275 abstains. Motion passed.  
276

277 **Complaint No. 18-14:** Dr. Gentz presented his investigative report. After Board discussion  
278 and on the basis of the complaint that was reviewed for probable cause by the Board, Dr.  
279 Fallen moved and Marybeth Brown-Pirrone seconded to dismiss Complaint No. 18-14  
280 finding no violation of the Veterinary Practice Act. Dr. Garcia requested a roll call vote.  
281 Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-  
282 abstains; Dr. Washburn-abstains. Motion passed.  
283

284 **Complaint Nos. 18-15:** Dr. Gaven Kuykendall, alternate Investigator, presented his  
285 investigative report. After Board discussion and on the basis of the complaint that was  
286 reviewed for probable cause by the Board, Dr. Garcia moved and Marybeth Brown-  
287 Pirrone seconded to dismiss Complaint No. 18-15 finding no violation of the Veterinary  
288 Practice Act. Dr. Garcia requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms.  
289 Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-abstains; Dr. Washburn-abstains. Motion  
290 passed.  
291

292 **Complaint No. 18-16:** Dr. Gentz presented his investigative report. After Board discussion  
293 and on the basis of the complaint that was reviewed for probable cause by the Board, Dr.  
294 Fallen moved and Dr. Uhrig seconded to dismiss Complaint No. 18-16 finding no violation  
295 of the Veterinary Practice Act. Dr. Garcia requested a roll call vote. Dr. Uhrig-yes; Dr.  
296 Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-abstains; Dr. Washburn-  
297 abstains. Motion passed.  
298

299 **Complaint No. 18-17:** Dr. Gentz presented his investigative report. After Board discussion  
300 and on the basis of the complaint that was reviewed for probable cause by the Board, Dr.  
301 Fallen moved and Dr. Uhrig seconded to dismiss Complaint No. 18-17 finding no violation  
302 of the Veterinary Practice Act. Dr. Garcia requested a roll call vote. Dr. Uhrig-yes; Dr.  
303 Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-abstains; Dr. Washburn-  
304 abstains. Motion passed.  
305

306 **Dr. Garcia thanked the Committee, Dr. Gentz and Dr. Kuykendall for their presentations.**  
307

308 **Dr. Washburn resumed the Chair duties.**  
309

310 **PROPOSED RULES CHANGES:** Dr. Garcia moved, Dr. Fallen seconded to accept the  
311 proposed changes to accept the changes to Title 16, Chapter 24, Parts 1, 2, 3, and 4 of the  
312 Board's Sheltering Providers and Parts 2 and 8 of the Board's Veterinary Medicine  
313 Practitioners rules and directed the Executive Director to proceed with filing the rules with  
314 the New Mexico Commission of Public Records for publication in the *New Mexico Register*.  
315 Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-  
316 Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr. Washburn-yes. Motion passed.  
317

318 **IN THE MATTER OF RICHARD A. HEISE, DVM-28:** Dr. Washburn welcomed  
319 Magdalana Heise, representative for Dr. Heise.  
320

321 Ms. Heise reported that the following terms of the Settlement Agreement had been  
322 completed:

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325  
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1. The court reporter expense has been paid;
2. A new licensee manager, Dr. Gracian Isidron, has been hired;
3. Dr. Heise has surrendered his DEA registration;
4. The first inspection has been conducted by the Board Facility Inspector;
5. Staff training has been conducted; and
6. The first progress report is being presented to the Board today.

331 Dr. Washburn thanked Ms. Heise for the progress report.

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**CASE UPDATES:** Ms. Sowers explained to the Board that Ari Biernoff, the Board's Administrative Prosecutor, was involved in a lengthy, ongoing trial and was unable to attend the meeting. He did, however, provide an update to Ms. Sowers for delivery to the Board.

338 Ms. Sowers referred the Board to a memorandum from Mr. Biernoff informing the Board  
339 that the NMAGO file in Complaint No. 16-22 was being closed. Ms. Sowers had reported  
340 the matter to the Board earlier in the meeting when she request Board action to close the  
341 complaint file.

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Case No. 14-20, Mr. Biernoff has prepared the NCA which will be mailed by the Executive Director via certified mail, return receipt requested to the Respondent in the next week.

346 Dr. Washburn thanked Ms. Sowers for the report.

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**EXECUTIVE SESSION:** Dr. Garcia moved and Dr. Fallen seconded to enter Executive Session where only matters pursuant to the Open Meetings Act NMSA 1978, Chapter 10-15-1 H. (1) (2) will be discussed. All in favor, motion passed. Doors closed at 1:12 p.m. Doors opened at 1:20 p.m. Dr. Fallen moved and Dr. Garcia seconded to exit Executive Session where only matters pursuant to the Open Meetings Act NMSA 1978, Chapter 10-15-1 H. (1) (2) were discussed. All in favor, motion passed.

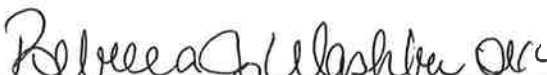
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Dr. Garcia moved and Dr. Young seconded to raise the Executive Director compensation to \$100,000 per annum. Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr. Washburn-yes. Motion passed.

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There being no further business before the Board, Dr. Young moved and Dr. Garcia seconded to adjourn the meeting. All in favor; motion passed.

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Dr. Rebecca J. Washburn, Chair

  
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Dr. Manuel A. Garcia, Vice Chair

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DATE: 7/20/18

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