



**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

July 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 9:05 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

MEMBERS ABSENT:

Marybeth Brown-Pirrone, Public Member

BOARD REPRESENTATIVES:

Frances Sowers, Executive Director

BOARD CIVIL COUNSEL:

Lesley Lowe (Telephonically)

GUESTS:

Tamara Spooner, NMVMA
Evelyn Selva, RVT
Thomas Peterson, LFC
Sherry Thompson Miller
Leslie King
Stacie Voss
Dr. Kumari Smith
Dr. Felipe Berard
Victoria L. Murphy
Pennie Wardlow
Dr. Nicole Vigil
Joseph Wosick, Esq.

Ari Biernoff, Esq.
Mike Russell, Esq.
Dr. Lindsey Gardner
Jason Barker
Dr. George Abernathy
Dr. Alison Chesen
Dr. Stuart McCall
Donna Leshne
Michael Acuna, RVT

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

BOARD MEMBER AWARD: Dr. Washburn asked Dr. Fallen to share information about the award he had recently received. Dr. Fallen stated that he had been awarded the Dr. Donald E. Bailey Practitioner of the Year Award presented by the American Association of Small Ruminant Practitioners. He was presented the award at the AVMA Annual Conference in Denver held in July. Dr. Washburn congratulated Dr. Fallen on the award; Dr. Fallen received a round of applause from the audience in recognition of the honor.

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

APPROVAL OF HEARING MINUTES: Dr. Garcia moved and Dr. Fallen seconded to approve the April 20, 2018 rules hearing minutes. All in favor; motion passed.

APPROVAL OF BOARD MEETING MINUTES: Dr. Garcia moved and Dr. Uhrig seconded to accept the April 20, 2018 regular meeting minutes. All in favor; motion passed.

SHELTERING COMMITTEE: Dr. Washburn introduced the Sheltering Committee, a non-voting adjunct to the Board. The Committee will assist the Board by recommending recipients of funding from the Animal Care and Facility Fund and assisting the Board in establishing initial shelter minimum standards. Dr. Washburn read the description of each member's position on the Committee.

Nicole Vigil, DVM – The veterinarian providing paid or unpaid services to an animal shelter.

Brittany Berget, RVT – Euthanasia agency employee with training and education in euthanasia.

Stacie Voss – Shelter facility manager trained in animal shelter standards.

Pennie Wardlow – Nonprofit animal advocacy group representative.

81 Sherry Thompson Miller – Public member.

82

83 Rena Distasio, Victoria L. Murphy and Misha Goodwin Herbst, former Animal Sheltering
84 Board members will serve on the Committee one year in a non-voting advisory capacity.

85

86 **LOVELACE BIOMEDICAL COMPARATIVE VETERINARY MEDICINE**

87 **SERVICES:** Dr. Washburn welcomed Drs. Kumari Smith and Felipe Berard to the
88 meeting.

89

90 Dr. Smith explained that the Comparative Veterinary Medicine Services section of
91 Lovelace Biomedical is seeking licensure by the Board of Veterinary Medicine as a
92 veterinary facility. She explained that the section provides veterinary care via individual
93 and colony health to many laboratory species: rodents, rabbits, ferrets, canine, swine and
94 nonhuman primates. The services include preventative health (including vaccinations),
95 physical examinations and dental prophylaxis; diagnostics such as blood work,
96 radiographs, ultrasound; anesthesia and surgery; treatment; and euthanasia.

97

98 All services are provided under an establish veterinarian-client-patient relationships.
99 Clients include scientists, federal agencies, human and veterinary pharmaceuticals. All
100 animal research protocols are reviewed by an Institutional Animal Care and Use
101 Committee (IACUC) which undergoes veterinary review to provide guidance and
102 consultation to ensure animal welfare. The canine rehoming program enables beagle
103 adoptions through Animal Humane New Mexico.

104

105 Dr. Smith explained that the section’s pharmacy has been inspected by USDA, the
106 Association for Assessment and Accreditation of Laboratory Animal Care (AAALAC) and
107 DEA with no concerns. The pharmacy has restricted access, secure storage, complies with
108 reverse distribution practices including extensive documentation to include logging not
109 only of controlled substances, but also prescription drugs.

110

111 The section is compliant with the New Mexico Board of Veterinary Medicine rules and
112 AVMA standards. The section has been accredited by the AAALAC International since
113 the 1970s.

114

115 The section is requesting a facility license by the Board due to the historical classification of
116 the section as an *Animal Control Clinic*. The New Mexico Board of Pharmacy, in their
117 inspections, does not have written guidelines regarding the use of veterinary
118 pharmaceuticals for an animal research facility.

119

120 Further, the section’s pharmacy technician, a registered veterinary technician, is no longer
121 allowed to compound drugs. The RVTs of the section work under the auspices of a
122 veterinarian with direct supervision. The RVTs are trained to prepare anesthetic
123 compounds or pharmaceutical dilutions especially in small rodents thereby ensuring
124 animal welfare.

125

126 The Board of Pharmacy has suggested that euthasol should be diluted in order to have an
127 expiration of 24 hours; multi-dose vials once punctured expire in 28 days, not the

128 manufacturer's expiration date on the bottle; use one fentanyl bottle per animal; and one
129 ketamine bottle per animal.

130
131 **The Comparative Veterinary Medicine Services section believes that the Board of**
132 **Veterinary Medicine will provide more regulatory oversight and guidance; therefore, it is**
133 **requesting licensure as veterinary facility.**

134 **Dr. Garcia reminded everyone that Board rule requires licensees to abide by all statutes**
135 **and rules of any board, commission, and agency including county or city ordinances**
136 **governing any aspect of the practice of veterinary medicine.**

137
138 **The Board discussed the facility's exemption under the Veterinary Practice Act and**
139 **determined that an exemption is not applicable in this particular, unique situation.**

140
141 **Dr. Washburn thanked Dr. Smith and Dr. Berard for the presentation.**

142
143 **CE PROVIDER APPROVAL: Approvals are stipulated on the CE hours being in**
144 **compliance with the Board's rules.**

145
146 **Dr. Fallen moved and Dr. Garcia seconded to approve continuing education requests for**
147 **approval as a group:**

148
149 **Animal Humane New Mexico**

150
151 ***2018 New Mexico Humane Conference; August 9-10, 2018;***
152 ***Albuquerque, New Mexico; 8.00 CE hours***

153
154 **NM-ALIRT**

155
156 ***2018 Conference; July 23-24, 2018; Albuquerque, New Mexico;***
157 ***18.00 CE hours***

158
159 **NMRVTA**

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161 ***2018 Annual Conference; October 20, 2018; Albuquerque, New***
162 ***Mexico; 8.00 CE hours***

163
164 **NMSU AND BEEF REPRODUCTION TASK FORCE**

165
166 ***Applied Reproductive Strategies in Beef Cattle; August 29-30, 2018;***
167 ***Ruidoso, New Mexico; 14.00 CE hours***

168
169 **All in favor; motion passed.**

170
171 **LARGE ANIMAL VETERINARIANS-DIRECT SUPERVISION: Dr.**
172 **Washburn welcomed Alison Berkley Chesen, DVM; Stuart McCall, DVM; and Michael**
173 **Acuna, RVT.**

174 **Dr. Chesen set out the difficulties large animal veterinarians are encountering when they**
175 **are far away from the facility tending to a patient when a call comes in requesting**

176 emergency care at another site. It would be helpful if an RVT could go to the call and
177 begin triaging the patient without direct supervision. Dr. Fallen asked Dr. Chesen what an
178 RVT would be performing without direct supervision; Dr. Chesen responded that RVTs
179 would not perform dental floating or diagnostics. Intubation is currently allowed under
180 Board rule 16.25.6.12 A. (3) with prior approval of the veterinarian in the absence of direct
181 supervision.

182
183 Dr. Washburn indicated that the Board would take the matter under advisement and
184 perhaps the rule can be changed to reflect indirect supervision if the animals has been
185 examined by the veterinarian.

186
187 **CANNABIS FOR ANIMALS:** Dr. Washburn opened for discussion by the Board, the
188 use of cannabis products for animals.

189
190 Jason Barker, a medical cannabis patient and advocate as well as the lead advocate
191 for Americans For Safe Access for New Mexico, stated that CBD industrial hemp usage
192 is high risk. Colorado State University has conducted a research study; the results
193 are due out the end of 2018. Mr. Barker provided a booklet to the Board titled
194 *Medical Cannabis in America The Medical Cannabis Briefing Book*, a publication by
195 American for Safe Access.

196
197 A Board member stated that human CBD contains xylitol which is toxic to dogs.

198
199 Dr. Garcia stated that cannabis is still a drug and according to the AVMA, the FDA has
200 not approved cannabis and it is illegal for use in pets. Veterinarians are, therefore,
201 prohibited from recommending or prescribing.

202
203 Ms. Sowers reminded the Board of the licensee inquiry she received concerning licensee's
204 liability if owner has begun using CBD oil for pet; the licensee was concerned about
205 liability if the pet becomes ill or has a reaction. Ms. Sowers asked if the licensee should
206 enter in the medical record that licensee has not recommended or prescribed CBD oil or
207 any cannabis product for the pet; the Board agreed it would be a good practice to do so.

208
209 Dr. Washburn thanked Mr. Barker for his comments.

210
211 **NEW MEXICO BOARD OF PHARMACY:** Dr. Washburn welcomed Cheranne
212 McCracken, Rph, Executive Director

213
214 Ms. McCracken discussed USP Chapter 800, Hazardous Drugs; she stated exposure to
215 antineoplastic drugs can result in skin rashes, infertility, miscarriage, birth defects, and possibly
216 leukemia or other cancers according to the National Institute of Occupations Safety and Health.
217 Ms. McCracken recommended following best practices when handling hazardous materials; she
218 will provide links to NIOSH for information regarding USP 800 and the safe handling of hazardous
219 drugs for posting at the Board's website.

220
221 Dr. Young asked Ms. McCracken about the compounding issue currently involving veterinarians.
222 Ms. McCracken responded by stating that the Board of Pharmacy maintains its position of not
223 allowing the compounding by non-pharmacists. Dr. Washburn stated that in rural areas patients

224 must do without the medication until the owners can travel a great distance to find a compounding
225 pharmacy or sometimes pharmacies in the community will not compound. Ms. McCracken suggest
226 presenting a request to the Board of Pharmacy Board. Dr. Washburn directed Ms. Sowers to
227 provide a list of the upcoming Board of Pharmacy Board meetings to the Board of Veterinary
228 Medicine Board.

229
230 Dr. Washburn thanked Ms. McCracken for her presentation.

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

233
234 Ms. Sowers directed the Board to the FY-18 last quarter financial and calendar year
235 second quarter calendar year 2018 licensing reports in the Board books. Ms. Sowers
236 indicated to the Board that the budget ended the fiscal year well in line expenditures to
237 budget. License renewals are on par for calendar second quarter.

238
239 Ms. Sowers directed the Board to their meeting books and requested approval for a
240 licensee's renewal with disciplinary action taken in another jurisdiction. The licensee has
241 complied with the terms of the disciplinary action and the matter has been resolved. Dr.
242 Garcia moved and Dr. Fallen seconded to approve and accept the license renewal. Dr.
243 Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-
244 absent; Dr. Fallen-yes; Dr. Young-yes; Dr. Washburn-yes. Motion passed.

245
246
247 Ms. Sowers requested Board approval to close Complaint No. 17-24; all terms of the Pre-
248 NCA Settlement Agreement have been satisfied by Respondent. Dr. Washburn requested a
249 roll all vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-absent; Dr. Fallen-yes; Dr.
250 Young-yes; Dr. Washburn-yes. Motion passed.

251
252 Ms. Sowers directed the Board to their meeting books and the letter from a licensee,
253 identification redacted, requesting a fourth extension of time in which to accrue required
254 continuing education hours for renewal. The Board discussed the seriousness of the
255 request because it is the final extension that can be granted in a career. The Board directed
256 Ms. Sowers to include in the letter advising the licensee of the Board's determination, the
257 Board rule citation concerning continuing education extensions. Dr. Washburn requested
258 a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-absent; Dr. Fallen-yes;
259 Dr. Young-yes; Dr. Washburn-yes. Motion passed.

260
261 Ms. Sowers directed the Board to a letter in their books from a licensee seeking waiver of
262 the late fees for failure to renew. The Board discussed the circumstances set out in the
263 letter that prevented licensee from renewing timely. The Board expressed sympathy for
264 the licensee's situation; however, it stressed that the Act and the rules serve a purpose and
265 all licensees must abide by them. The Board directed Ms. Sowers to write a letter to the
266 licensee setting out that the Board has no flexibility because the late fees are required by
267 Board rule.

268
269 Ms. Sowers again directed the Board to an email in their meeting books from a licensee
270 concerning the Board's standing on scrotal castrations in dogs. The Board discussed the
271 safety and efficacy of the procedure and acknowledged that it is an acceptable procedure.

272

273 Ms. Sowers brought to the Board's attention two licensee situations. A licensee in southern
274 New Mexico, the only veterinarian in the community, has been taking in animals since the
275 proposed building of a shelter in the community fell through. Dr. Kuykendall had
276 reported to Ms. Sowers that the facility was crowded. Dr. Washburn directed Ms. Sowers
277 to get details from the Board's Facility Inspector and report to the Board at the next
278 meeting.

279 Ms. Sowers reported on a licensee in northern New Mexico who has previously had a
280 complaint filed against him resulting in a Pre-NCA Settlement Agreement based on faulty
281 anesthesia equipment. Ms. Sowers directed Dr. Kuykendall to inform licensee that the
282 equipment must be inspected the next time the representative is in the area. If the licensee
283 fails to do so, Dr. Kuykendall will issue a Plan of Correction giving licensee one month to
284 have equipment checked. If licensee does not comply with the Plan of Correction, the
285 matter will be brought before the Board. Ms. Sowers will report the outcome to the Board
286 at the next meeting.

287
288 Dr. Washburn thanked Ms. Sowers for her report.

289
290 Board member Marybeth Brown-Pirrone joined the meeting telephonically.

291
292 **NEW MEXICO RESCUE RESOURCES:** Dr. Washburn welcomed Donna Leshne
293 to the meeting.

294
295 Ms. Leshne explained the rescue services her group provides to New Mexico. She also
296 offered the assistance of her group now that the sheltering providers are being placed
297 under the jurisdiction of the Board.

298
299 Dr. Washburn thanked Ms. Leshne for her presentation.

300
301 **COMPLAINTS:** Dr. Washburn turned the Chair duties over to Dr. Garcia, Vice-Chair.
302 Dr. Garcia welcomed Dr. Washburn and Dr. Young of the Complaint Review Committee.
303 Dr. Gentz, Board Investigator, was unable to attend.

304 **Complaint No. 18-11:** The Committee presented its report. After Board discussion and on
305 the basis of the complaint that was reviewed for probable cause by the Board, Dr. Fallen
306 moved and Ms. Brown-Pirrone seconded to issue a Pre-NCA Settlement Agreement for
307 alleged violations of Board rules 16.25.3.8 A.; 16.25.3.8 L.; and 16.25.9.9 B. in Complaint
308 No. 18-11. The Pre-NCA Settlement Agreement requires a \$500 administrative fine; 4.00
309 continuing education hours in recordkeeping and 4.00 hours continuing education hours in
310 emergency medicine. The 8.00 hours will be accrued within one year in addition to the
311 15.00 continuing education hours required annually for license renewal. Dr. Garcia
312 requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr.
313 Fallen-yes; Dr. Young-abstains; Dr. Washburn-abstains. Motion passed.

314
315 **Complaint No. 18-18:** The Committee presented its report. After Board discussion and on
316 the basis of the complaint that was reviewed for probable cause by the Board, Dr. Fallen
317 moved and Ms. Brown-Pirrone seconded to issue a Pre-NCA Settlement Agreement for
318 alleged violations of Board rule 16.25.9.21 in Complaint No. 18-18. The Pre-NCA
319 Settlement Agreement requires 4.00 continuing education hours in recordkeeping. The
320 4.00 hours will be accrued within one year in addition to the 15.00 continuing education

321 hours required annually for license renewal. Dr. Garcia requested a roll call vote. Dr.
322 Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-abstains;
323 Dr. Washburn-abstains. Motion passed.

324

325 **Complaint No. 18-20:** The Committee presented its report. After Board discussion and on
326 the basis of the complaint that was reviewed for probable cause by the Board, Dr. Fallen
327 moved and Dr. Uhrig seconded to issue a Pre-NCA Settlement Agreement for alleged
328 violations of Board rule 16.25. 3 8 L. in Complaint No. 18-20. The Pre-NCA Settlement
329 Agreement requires 2.00 continuing education hours in gastrointestinal radiology and 4.00
330 continuing education hours in gastrointestinal disease. The 6.00 hours will be accrued
331 within one year in addition to the 15.00 continuing education hours required annually for
332 license renewal. Dr. Garcia requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms.
333 Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-abstains; Dr. Washburn-abstains. Motion
334 passed.

335

336 **Complaint No. 18-21:** The Committee presented its report. After Board discussion and on
337 the basis of the complaint that was reviewed for probable cause by the Board, Dr. Uhrig
338 moved and Dr. Fallen seconded to dismiss Complaint No. 18-19 finding no violation of the
339 Veterinary Practice Act. Dr. Garcia requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-
340 yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-abstains; Dr. Washburn-abstains.
341 Motion passed.

342

343 **Complaint No. 18-22:** The Committee presented its report. After Board discussion and on
344 the basis of the complaint that was reviewed for probable cause by the Board, Dr. Uhrig
345 moved and Dr. Fallen seconded to dismiss Complaint No. 18-19 finding no violation of the
346 Veterinary Practice Act. Dr. Garcia requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-
347 yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-abstains; Dr. Washburn-abstains.
348 Motion passed.

349 Dr. Garcia thanked the Committee for their presentations.

350

351 Dr. Washburn resumed the Chair duties and welcomed Dr. Lindsey Gardner who has
352 accepted the FY-19 contract as Complaint Investigator.

353

354 Dr. Uhrig and Dr. Fallen will serve on the Complaint Review Committee for the next two
355 Board meetings.

356

357 **ADMINISTRATIVE PROSECUTOR UPDATES:** Dr. Washburn welcomed Ari Biernoff,
358 New Mexico Attorney General's Office.

359

360 Mr. Biernoff discussed the two matters currently open. In the first matter, he indicated
361 that he will need the assistance of the Facility Inspector, Dr. Kuykendall, in deciphering
362 medical records in the matter. Dr. Kuykendall has been made aware that he will be
363 assisting Mr. Biernoff.

364

365 In the matter of the individual practicing unlicensed veterinary medicine, Mr. Biernoff
366 stated that he will need witnesses attesting to what procedures the individual is performing
367 or what services he is offering. Mr. Biernoff indicated that the Board can issue subpoenas
368 but cannot compel them to testify; the Board would have to petition the district court to

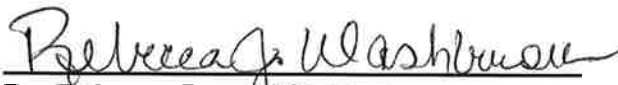
369 compel them to testify. Dr. Washburn asked what could be done about the individual
370 noting that there have been complaints about him for some years. Mr. Biernoff informed
371 Dr. Washburn that a complaint could be initiated by the Executive Director on behalf of
372 the Board thereby not having to wait until someone in the community has the courage to do
373 so. Factual basis, beyond just rumors, will be necessary for pursuing charges against the
374 individual for practicing veterinary medicine without a license. Mr. Biernoff continues to
375 suggest that further investigation is needed.
376

377 Dr. Washburn stated that she will try to encourage the two individuals that are aware of
378 the individual's activities to file complaints.
379

380 Dr. Washburn thanked Mr. Biernoff for the update.
381

382 **EXECUTIVE SESSION:** Dr. Garcia moved and Dr. Fallen seconded to enter Executive
383 Session where only matters pursuant to the Open Meetings Act NMSA 1978, Chapter 10-
384 15-1 H. (1) (2) will be discussed. All in favor, motion passed. Doors closed at 12:55 p.m.
385 Doors opened at 1:12 p.m. Dr. Fallen moved and Dr. Garcia seconded to exit Executive
386 Session where only matters pursuant to the Open Meetings Act NMSA 1978, Chapter 10-
387 15-1 H. (1) (2) were discussed. All in favor, motion passed.
388

389 There being no further business before the Board, Dr. Fallen moved and Dr. Garcia
390 seconded to adjourn the meeting. All in favor; motion passed. Meeting adjourned at 2:15
391 p.m.
392

393 
394 _____
395 Dr. Rebecca J. Washburn, Chair
396

393 
394 _____
395 Dr. Edward J. Fallen, Secretary
396

397 DATE: 10/19/18
398

397 DATE: 10-19-18
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