

State of New Mexico
Board of Veterinary Medicine

MICHELLE LUJÁN GRISHAM
Governor



Rebecca J. Washburn, DVM
Chair

Frances R. Sowers
Executive Director and CFO

BOARD MEETING MINUTES – 2021

Pursuant to the Open Meetings Act NMSA 1978 10-15-1. G., . . . draft meeting minutes shall be prepared within ten working days after the meeting and shall be approved, amended or disapproved at the next meeting where a quorum is present. Minutes shall not become official until approved by the policymaking body.



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

VIA ZOOM VIDEO COMMUNICATIONS

MINUTES

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January 22, 2021

CALL TO ORDER: The limited virtual meeting of the New Mexico Board of Veterinary Medicine was called to order by Dr. Rebecca J. Washburn, Chair, at approximately 9:08 a.m. Dr. Washburn requested a roll call.

ROLL CALL:

MEMBERS PRESENT: Dr. Rebecca J. Washburn, Chair
Dr. Manuel A. Garcia, Vice-Chair
Dr. Edward J. Fallen, Secretary
Dr. Samantha R. Uhrig, Member
Marybeth Brown-Pirrone, Public Member

MEMBERS ABSENT: Dr. Lawrence D. Young, Member

BOARD REPRESENTATIVES: Frances Sowers, Executive Director
Dr. Lindsey Gardner, Board Investigator
Dr. Gaven Kuykendall, Alternate Board Investigator

BOARD CIVIL COUNSEL: Lesley Lowe, Esq.

GUESTS: Stacie Voss
Janine Fales
Hanna Serra
Carol Young
Dr. Nicole Chamney
Jacob Prishkulnik
Joseph Wosick, Esq.

ACCEPTANCE OF AGENDA: Dr. Garcia moved and Dr. Fallen seconded to accept the proposed Agenda. Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr.

36 Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-Absent; Dr. Washburn-yes.
37 Motion passed.
38

39 **APPROVAL OF BOARD MEETING MINUTES:** Dr. Garcia moved and Dr.
40 Fallen seconded to accept the October 23, 2020 meeting minutes. Dr. Washburn requested
41 a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr.
42 Young-Absent; Dr. Washburn-yes. Motion passed.
43

44 Dr. Garcia moved and Dr. Uhrig seconded to accept the January 6, 2021 special meeting
45 minutes. Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms.
46 Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-Absent; Dr. Washburn-yes. Motion passed.
47

48 **OPENING STATEMENT:** Dr. Washburn welcomed everyone to the meeting.
49

50 **FY-21 Audit:** Dr. Washburn welcomed Thad Porch, Porch & Associates LLC. Mr.
51 Porch presented the audit to the Board and explained how the audit is conducted. Mr.
52 Porch informed the Board that there were no findings of material weaknesses in the
53 internal financial controls.
54

55 Mr. Porch informed the Board that the FY-22 audit would be the last audit performed by
56 his firm; auditing firms are required by the State Auditor to step back every six years.
57

58 Dr. Fallen moved and Dr. Garcia seconded to accept the FY-21 audit. Dr. Washburn
59 requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr.
60 Fallen-yes; Dr. Young-Absent; Dr. Washburn-yes. Motion passed.
61

62 Dr. Washburn thanked Mr. Porch for presenting the audit.
63

64 **TEXAS TECH SCHOOL OF VETERINARY MEDICINE:** Dr. Washburn
65 welcomed Dr. Guy Loneragan, DVM, Dean and Dr. Clayton Cobb, DVM, Assistant
66 Professor.
67

68 Dr. Loneragan explained the program from its inception to its expected first matriculation
69 in fall 2021.
70

71 Dr. Loneragan explained that funding had been received from New Mexico to assist in the
72 establishment of the school; therefore, Texas Tech felt it was incumbent on the school to
73 allow candidates from the eastern part of New Mexico to pay in-state tuition. He further
74 informed the Board that the school would be petitioning the New Mexico Legislature for
75 future funding to allow more New Mexico candidates to pay in-state tuition.
76

77 A Board member asked if students would be trained in large and small animal veterinary
78 medicine because it seems more and more that recent graduate students have been trained
79 with a focus on small animals. Dr. Loneragan explained that the curriculum will allow for
80 training in large animals due to the expectation that the candidates will probably go to
81 rural areas to practice.
82

83 Dr. Washburn thanked the doctors for their informative presentation.

84
85 **COMPLAINT REVIEW COMMITTEE:**

86
87 Dr. Garcia assumed chairing the meeting at 9:58 a.m.

88
89 Dr. Garcia welcomed Dr. Washburn of the Complaint Review Committee and Dr.
90 Gardner, Board Investigator.

91
92 **Complaint No. 20-24:** The Committee presented its report and stood for questions. After
93 Board discussion and on the basis of the complaint that was reviewed for probable cause by
94 the Board, Dr. Uhrig moved and Ms. Brown-Pirrone seconded to issue a Pre-NCA
95 Settlement Agreement for violations of Board rule 16.25.9.1. The Pre-NCA Settlement
96 Agreement assesses 4.00 continuing education hours in Record Keeping; no administrative
97 fine. If the Pre-NCA Settlement Agreement is not accepted by Respondent, the Board may
98 initiate a Notice of Contemplated Action. Dr. Garcia requested a roll call vote. Dr. Uhrig-
99 yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-absent; Dr.
100 Washburn-abstains. Motion passed.

101
102 **Complaint No. 20-33:** The Committee presented its report and stood for questions. After
103 Board discussion and on the basis of the complaint that was reviewed for probable cause by
104 the Board, Dr. Fallen moved and Ms. Brown-Pirrone seconded to issue a Pre-NCA
105 Settlement Agreement for violations of Board rule 16.25.9.8 A. Standard of Care and
106 16.25.9.21 Record Keeping. The Pre-NCA Settlement Agreement assesses a \$1,000
107 administrative fine; 4.00 continuing education hours in Anesthesia and 4.00 continuing
108 education hours in Record Keeping. If the Pre-NCA Settlement Agreement is not accepted
109 by Respondent, the Board may initiate a Notice of Contemplated Action. Dr. Garcia
110 requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr.
111 Fallen-yes; Dr. Young-absent; Dr. Washburn-abstains. Motion passed.

112
113 **Complaint No. 20-34:** The Committee presented its report and stood for questions. After
114 Board discussion and on the basis of the complaint that was reviewed for probable cause by
115 the Board, Dr. Fallen moved and Dr. Uhrig seconded to issue a Pre-NCA Settlement
116 Agreement for violations of the Veterinary Practice Act 61-14-2. E. (1); 61-14-2. J.; 61-14-2.
117 L.; 61-14-13. A. (22); and 61-14-18. The Pre-NCA Settlement Agreement assesses a \$1,000
118 administrative fine. Respondent is placed on 60-day probation during which time
119 respondent must re-take and pass the New Mexico State Veterinary Jurisprudence
120 Examination with a score of 75% or better. The probation period will begin on the date
121 the Board signs the Pre-NCA Settlement Agreement and end when the Respondent has
122 satisfied all terms of the Agreement. If the Respondent does not complete the conditions of
123 the probation, the Board may initiate a Notice of Contemplated Action. If the Pre-NCA
124 Settlement Agreement is not accepted by Respondent, the board may initiate a Notice of
125 Contemplated Action. Dr. Garcia requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes;
126 Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-absent; Dr. Washburn-abstains.
127 Motion passed.

128
129 Dr. Fallen moved and Ms. Brown-Pirrone seconded to issue a Board complaint against the
130 complainant in Complaint no. 20-34. Dr. Garcia requested a roll call vote. Dr. Uhrig-yes;

131 Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-absent; Dr. Washburn-
132 abstains. Motion passed.

133
134 **Complaint No. 21-03:** The Committee presented its report and stood for questions. After
135 Board discussion and on the basis of the complaint that was reviewed for probable cause by
136 the Board, Dr. Fallen moved and Dr. Uhrig seconded to issue a Pre-NCA Settlement
137 Agreement for violations of Board rule 16.25.9.1 Standard of Care. The Pre-NCA
138 Settlement Agreement assesses 4.00 continuing education hours in Record Keeping; no
139 administrative fine. If the Pre-NCA Settlement Agreement is not accepted by Respondent,
140 the Board may initiate a Notice of Contemplated Action. Dr. Garcia requested a roll call
141 vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-
142 absent; Dr. Washburn-abstains. Motion passed.

143
144 Dr. Garcia thanked the Committee and Dr. Gardner for their presentations.

145
146 Dr. Washburn resumed chairing the meeting at 11:14 a.m.

147
148 Ms. Sowers advised the Chair that a Complaint Review Committee rotation is due.
149 Dr. Garcia and Marybeth Brown-Pirrone will serve on the Committee for the next two
150 meetings.

151
152 Ms. Sowers presented complaints for Board approval to close.

153
154 In Complaint no. 20-13, Ms. Sowers stated that all terms of the Pre-NCA Settlement
155 Agreement have been satisfied. Dr. Garcia moved and Ms. Brown-Pirrone seconded to
156 close complaint no. 20-13. Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr.
157 Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-absent; Dr. Washburn-yes.
158 Motion passed.

159
160 Ms. Sowers directed the Board to the redacted list of continuing education submitted by
161 respondent in complaint no. 18-20. Ms. Sowers requested Board action in approving the
162 continuing education in satisfaction of the Pre-NCA Settlement Agreement. After Board
163 discussion, Dr. Garcia moved and Dr. Fallen seconded to accept the continuing education.
164 Ms. Sowers further stated that all terms of the Pre-NCA Settlement Agreement have been
165 satisfied. Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms.
166 Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-absent; Dr. Washburn-yes. Motion passed.

167
168 **PROVIDER APPROVAL REQUESTS:**

169
170 **Approvals are stipulated on the CE hours being in compliance with the Board's rules.**
171 Dr. Garcia moved and Dr. Fallen seconded to approve the continuing education hours
172 requests as a group:

173
174 **Timothy J. Hanosh, DVM**

175
176 *Veterinary Roundtable; Various dates calendar year 2021;*
177 *Throughout New Mexico; 2.00 CE hours*

178
179

180 Jessica Kyle Schumacher, DVM

181
182 *Essentials of Animal Chiropractic Options for Animals;*
183 *Five sessions: February 2020 through August 2020, four 4-day*
184 *sessions, one 3-day session; Wellsville, Kansas; 210 CE hours*
185

186 **Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-**
187 **Pirrone-yes; Dr. Fallen-yes Dr. Young-absent; Dr. Washburn-yes. Motion passed.**
188

189 **NCA's UPDATE:**

190
191 **Ms. Sowers stated that the respondent in Case no. 20-14 had signed and accepted the Pre-**
192 **NCA Settlement Agreement on July 27, 2020. Ms. Sowers directed the Board to a letter**
193 **in their board books received from the respondent. The respondent has paid the fine, but**
194 **sets out in the letter that she will not be accruing the continuing education assessed in the**
195 **Pre-NCA Settlement Agreement. Ms. Sowers explained that the Notice of Contemplated**
196 **Action issued based on the respondent's letter had been issued with the same matters set**
197 **out in the Pre-NCA Settlement Agreement. Ms. Sowers conferred with Lesley Lowe**
198 **prior to the meeting; Ms. Lowe advised that the NCA could be rescinded by the Board**
199 **and another NCA issued addressing only the non-compliance with the terms of the Pre-**
200 **NCA Settlement Agreement. Dr. Fallen moved and Dr. Uhrig seconded to rescind the**
201 **NCA issued on December 1, 2020. Dr. Washburn requested a roll call vote. Dr. Uhrig-**
202 **yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes Dr. Young-absent; Dr.**
203 **Washburn-yes. Motion passed.**
204

205 **Dr. Fallen moved and Dr. Garcia seconded to issue another NCA in Case no. 20-14 for**
206 **non-compliance of the terms of the Pre-NCA Settlement Agreement. Dr. Washburn**
207 **requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr.**
208 **Fallen-yes Dr. Young-absent; Dr. Washburn-yes. Motion passed.**
209

210 **EXECUTIVE DIRECTOR'S REPORT: Dr. Washburn asked Ms. Sowers to**
211 **present her report.**
212

213 **Ms. Sowers referred the Ms. Sowers directed the Board to the financial and licensing**
214 **reports in their board books. The FY21 budget expenditures for the first six months are**
215 **less than half of the total budget. Ms. Sowers continues to carefully monitor expenditures.**
216

217 **The licensing report figures remain static. Ms. Sowers commented that non-renewals have**
218 **remained lower than she expected given the mayhem caused by the pandemic.**
219

220 **Ms. Sowers reported that she received a call from a licensee in Taos with concerns about**
221 **the lack of veterinary emergency care in northern New Mexico. She suggested that**
222 **veterinarians in northern New Mexico could provide emergency services one night a month**
223 **to cover the Taos/Mora area.**
224

225 **Dr. Garcia reminded the Board that the rule currently reads "within a reasonable**
226 **distance." Dr. Garcia asked why the current rule mandates that veterinarians have to**
227 **provide emergency services and further, what if the rule requiring emergency services was**

228 removed altogether? He has queried young and old veterinarians in Alamogordo,
229 Albuquerque, Farmington, Gallup and Roswell; the majority believe the rule is unfair. He
230 believes the rule had been discussed in the past for removal at future rules hearings. Dr.
231 Garcia has asked for input from veterinarians and he will continue speaking with
232 veterinarians for their input.

233
234 Dr. Washburn stated that she thought at one time there was a discussion by the Board to
235 remove the rule at future rules hearings but it somehow appeared to have fallen through
236 the cracks. Dr. Garcia stated he had been trying to reach back into the rule and he believes
237 it was meant to be removed years ago.

238
239 Dr. Fallen agreed that the rule should be removed.

240
241 Dr. Nicole Chamney expressed her concerns about the big business coming into New
242 Mexico with non-compete agreements. Excellent emergency care veterinarians are being
243 kept from providing these services due to the non-compete agreements. Dr. Chamney
244 informed the Board that she had written a letter to the Governor and Bernalillo County
245 Representatives about exempting veterinarians from the non-compete provisions from New
246 Mexico Statutes § 24-1 1-5 (2015).

247
248 Dr. Washburn asked Ms. Lowe if the non-compete issue could be placed on the list for a
249 rule change, perhaps the rule can be changed at the next rules hearing. Ms. Lowe stated
250 that at the end of the meeting there will be a discussion of the upcoming hearing on the
251 sheltering minimum standards; does the Board want to add this rule change to the
252 hearing? If so, it will have to be noticed.

253
254 Ms. Sowers will forward a list of potential rules changes she has gathered since the last
255 rules hearing.

256
257 Dr. Uhrig stated that based on Dr. Chamney's comments, the non-compete issue should be
258 added to the list. Dr. Washburn asked Lesley Lowe if we had rules addressing the non-
259 compete issue. Ms. Lowe stated that the Board did not have anything in its rules; it is
260 entirely an employment issue.

261
262 Dr. Garcia asked if the Board could have a copy of the letter to the Governor. Dr.
263 Chamney will send the information to the Executive Director for forwarding to the Board.

264
265 Dr. Garcia believes the AVMA should be engaged to lobby this issue. Dr. Washburn
266 agreed.

267
268 **EUTHANASIA TECHNICIAN TRAINING MATERIALS:** Dr. Fallen stated
269 that the information in the training materials submitted excellent and comprehensive to
270 contain rules, regulations, actual doses. Dr. Fallen moved and Dr. Uhrig seconded to
271 approve the euthanasia technician training materials as submitted. Dr. Washburn
272 requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr.
273 Fallen-yes Dr. Young-absent; Dr. Washburn-yes. Motion passed.

274
275

276 **LICENSEES' CONCERN:** The Executive Director directed the Board to a redacted
277 letter she had received veterinarian licensees expressing concerning another veterinary
278 practice in the same town. Ms. Sowers explained that she had asked Dr. Kuykendall to
279 conduct an impromptu inspection of the facility in questions.
280

281 Dr. Kuykendall reported that he conducted the inspection on January 5, 2021. The
282 concerned licensees reported that the licensee manager's son, who is not a veterinarian,
283 was performing surgeries; non-veterinarian personnel were performing diagnostics and
284 dispensing medications. Dr. Kuykendall walked in unannounced to find that the licensee
285 manager was not at the facility that day; an associate veterinarian was there preparing for
286 a surgery. The practice manager is the owner's son and took Dr. Kuykendall on a tour of
287 the facility. On the surface, Dr. Kuykendall did not see evidence of the allegations made:
288 misdiagnoses, animals burned by heating pads as well as non-veterinarian personnel
289 performing veterinary medical acts. If he had actually seen the man performing the
290 surgery, he does not know how to catch anyone in the act. He did perform a routine
291 inspection; he inspected drug logs, medical records. Everything looked routine, he could
292 not find any issues. He referred to the comment made by the Complaint Investigator, as a
293 colleague, if you make a complaint, you have to have some type of proof. At the end of the
294 inspection which took close to an hour, he explained to the practice manager that the
295 reason he conducted the inspection, was that a complaint had been submitted against the
296 practice outlining these issues. Dr. Kuykendall asked the practice manager for a comment,
297 the individual stated that none of those allegations have happened, he had no idea what Dr.
298 Kuykendall was talking about. Dr. Kuykendall stated that it is a difficult situation and did
299 not know anyone could observe the allegations occurring i.e., send someone in under cover.
300 He believes it is difficult to go into a situation like that without proof and without seeing
301 obvious proof creates a difficult situation. He is willing to go back to the facility, he is
302 willing to keep on this situation. He is aware that this particular facility has had some
303 rough reviews online especially concerning the associate veterinarian. The previous week
304 there was an ad on the vet list looking for another veterinarian to joint the practice despite
305 the continued attempts to sell the practice. Dr. Kuykendall would appreciate advice and/or
306 direction in what he should do next.
307

308 Dr. Garcia thanked Dr. Kuykendall for conducting the inspection and stated that he
309 believes it is incumbent on the Board to follow up on these matters should a situation come
310 up in the future. The Board will be performing its due diligence; however, how do you
311 ferret the allegations out? The Inspector did conduct an inspection; maybe the Board is
312 building a case or maybe it is nothing. Dr. Washburn agrees with Dr. Garcia and iterated
313 that it does place the Inspector in a bad position sometimes; however, it is on the record
314 now.
315

316 Dr. Kuykendall said he runs into this type of situation from time to time when he is
317 conducting inspections. A practitioner tells him what is going on at another practice; Dr.
318 Kuykendall tells the individual that a complaint must be filed in order for the Board to
319 become involved. The practitioner immediately says he will not file a complaint.
320

321 Ms. Sowers asked if Dr. Kuykendall could do further impromptu inspections to attempt to
322 get the idea across that the Board is watching the practice. Ms. Sowers asked Lesley Lowe
323 if doing so constitutes harassment. Lesley responded that it would not be harassment but

324 asked how the reporting licensees knew about the heating pad burns, did they treat the
325 animal? Dr. Kuykendall reported that it happened twice and the reporting practice is just
326 down the road from the practice named in the allegations. The owners received their
327 animals back with the burns and took the animals to the reporting practice to be treated.
328 The reporting practice was told by the owners that the doctor at the other practice was
329 responsible for the burns. Dr. Kuykendall stated that he felt it is hearsay because the
330 animals could have been burned in another way not by the other practice. Dr. Kuykendall
331 deals with a lot of “he said, she said” in his job as Inspector. Ms. Lowe stated that if the
332 reporting practice treated these animals harmed by the other practice that is some
333 evidence. Dr. Washburn stated that the owners of the animals need to file a complaint so
334 that we gather evidence and it is not a “he said, she said” case. Ms. Lowe agreed and stated
335 that it would be best if the owners did file a complaint; however, the Board can bring a
336 complaint as well. Dr. Washburn stated without the names of the owners whose pets
337 sustained these injuries, it might still be a wild goose chase. Ms. Lowe stated that the
338 Board would need to obtain the names from the reporting practice along with the file
339 setting out treatment of the animals treated by the other practice.
340

341 Dr. Kuykendall stated that there are times when the veterinarians who see the follow up
342 case are not very willing to submit the documentation. Dr. Kuykendall stated if
343 veterinarians are going to file a complaint against a colleague you need to be prepared to
344 come under scrutiny as well.
345

346 Dr. Washburn asked Dr. Kuykendall if it would be helpful when the Executive Director
347 receives these types of complaints, she informs the licensee(s) that the Board will ask for
348 more proof. If the complaining licensee(s) cannot provide more proof i.e., client names and
349 a statement from the client it is sending Dr. Kuykendall in blind to conduct an inspection.
350 Dr. Washburn further stated that the Board needs to continue due diligence. Dr.
351 Kuykendall agrees because it will enable him to ask for the file on the client/patient and
352 inspect the documentation and inform the facility that the patient had to be seen by
353 another licensee for the injuries incurred at the previous facility. This would help Dr.
354 Kuykendall determine if the complaint might be spurious i.e., competitive or actually
355 legitimate.
356

357 Ms. Sowers reported to the Board that it costs \$20-\$25 to mail a hard copy of the board
358 books. In the interest of cost saving, Ms. Sowers asked the Board if they would be
359 amenable to receiving the books via electronic transmission. All members stated they
360 would not have any difficulty in receiving electronically transmitted books; Lesley Lowe
361 stated that she would like to continue to receive a hard copy.
362

363 **SHELTERING COMMITTEE:** Dr. Washburn welcomed Stacie Voss, Sheltering
364 Committee Chair.
365

366 Ms. Voss reported that the Committee has been working on the plan to distribute funds
367 from the Animal Care and Facility Fund (ACFF). Discussion thus far has been attempting
368 to develop an outline for guidelines that will not be too restrictive because the Committee is
369 uncertain what programs will be seeking funding. Ms. Voss stated that this will be the
370 initial year of funding from the ACFF; the Committee did determine that an application
371 for funds similar to a grant proposal is needed. The Committee, however, does not have

372 the expertise in building an application form. Animal Protection of New Mexico will be
373 assisting the Committee with developing an application form. A draft has been provided to
374 the Board by the Committee. The document is currently in a Word format document;
375 however, the Committee hopes the form can be created in a fillable document in .pdf
376 format accessible at the Board's website, completed and emailed. To separate instructions
377 and FAQs, Stacie is working on FAQs and application instructions which is taking more
378 time because she may not be able to anticipate some of the questions that could be posed.
379 The Committee has provided to the Board the first draft. The applications will attempt to
380 get a sense of how the organizations plan to spend the funds by asking for average cost of
381 vouchers or average costs of surgeries, how many they plan to perform, if they are a shelter
382 or a holding facility what are the intake numbers and outcomes. Also included is the
383 project or proposal criteria focusing on specific areas whether city, county or zip code. The
384 application should be broad while asking for those numbers and budget for the
385 expenditure of the funds without too many restrictions. The FAQs and instructions are
386 attempting to go more into the specifics of a timeline; the idea of a timeline would be a 1-2-
387 month period of time when an application or proposal can be submitted, the Committee
388 will review and make their recommendations to the Board at the July 2021 meeting with
389 disbursement to follow. The poverty guidelines were included as outlined in SB57. Several
390 organizations have asked how the poverty guidelines could be verified and Ms. Voss
391 included suggestions in the FAQs. The Committee also discussed residency requirements,
392 there has been some interest from organizations based in Colorado transferring animals
393 from New Mexico to Colorado wanting funds to come into New Mexico to perform spays
394 and neuters. This would be beneficial to try to solve the issue by not just transferring the
395 animals out of the state. The Committee determined that there should be no residency
396 requirements for organizations applying for funds or for veterinarians supplying the
397 services; however, residency requirements for those receiving the services, animals and
398 people, should be residents of New Mexico. The Committee believes a budget maximum of
399 \$50,000 for the first year of funds would be appropriate or 10% of the proposed funds
400 available. Timelines of 12-18 months in length in targeted areas. Projects and proposals
401 can include feral or free roaming animals and but they should be cognizant of local
402 ordinances when dealing with those types of animals; there are some local ordinances that
403 are not friendly to re-releasing animals if they are free roaming. A lengthy discussion was
404 held about vaccines, the Committee believes rabies vaccines should be included in the
405 funds. However, other vaccinations should not be funded because the ACFF specifically
406 targets spays and neuters. The other vaccinations would be good candidates for matching
407 funds. Stacie will be included a sample budget. It has been suggested that the Committee
408 discuss averages of voucher costs for the wide variety of what might be possible. Other
409 budgetary needs, travel, overhead, marketing, advertising, and a description of matching
410 funds would be included in the FAQs.

411
412 Ms. Voss asked the Board for questions and/or suggestion.
413

414 Lesley Lowe asked if there would be set criteria when the Committee evaluates the
415 applications allowing an evaluation of each one. Ms. Voss responded that the Committee
416 would be using a form, to be developed, so that the process is completely transparent with
417 score sheet to evaluate the applications. Ms. Lowe commented that it was a good way to
418 provide the Committee protection from someone claiming each application was not
419 evaluated equally.

420 Dr. Fallen asked for the Committee's reasoning behind not funding other vaccinations and
421 the matching funds, he believes other vaccines would be critical. Ms. Voss stated that the
422 way the ACFF bill is written is funding is for assistance with spays and neuters and the
423 funds should be spent on the procedures. The Committee believes in keeping with the
424 spirit of the ACFF, the other vaccinations should not be included because they are not part
425 of the spay and neuter procedures. However, if someone wants to include it as matching
426 funds for another grant, it would be considered.

427
428 Dr. Garcia asked the Chair if Board action was required on the draft application. Dr.
429 Garcia asked Ms. Voss if the Board needs to okay the application. Ms. Voss asked what the
430 path is forward for the application with the Board having reviewed the application and for
431 some guidance in the direction they are headed. To open up the application period before
432 the next Board meeting, what would be the process to get that accomplished? Dr. Garcia
433 asked Ms. Voss if she is comfortable with the draft to disseminate it out to people applying
434 for the funds? Ms. Voss stated that there are a few items that need to be changed but she is
435 comfortable as far as not needing huge content changes, it's more the form and may be
436 word changes. The FAQs and instructions are in a rougher state but it should be smoothed
437 out quickly.

438
439 Dr. Fallen asked Ms. Voss, if they are asking for funds for spays and neuters, will there be
440 varied amounts for a cat spay, dog spay? Ms. Voss stated that the Committee tried to
441 separate it out for the different methods applicants would use, the voucher system is going
442 to be a more expensive system rather than performing surgeries in-house. The Committee
443 will have to weigh the different methods and not penalize those that are unable to do the
444 number of spays and neuters due to the way they are going to have to perform them. The
445 same thing applies to mobile units which will probably involve a large cost rather than
446 performing them in-house. When looking at wanting to increase the capacity for spays and
447 neuters, these various methods are going to have to be used. A lot of in-house capability is
448 about as stretched as it can get without bringing in more veterinarians and more service
449 providers.

450
451 Dr. Uhrig as Lesley Lowe if the application needs to be placed on held due to the issue
452 against NMDA. Lesley doesn't believe there should be a delay and preparations should
453 continue so that the process can go forward. The two lawsuits that have been filed will
454 alter this because the NMDA is not comfortable releasing any funds until the litigation is
455 resolved.

456
457 Ms. Sowers stated that the funds she has informed the Committee are available have come
458 from the sale of license plates and voluntary contributions when people file their taxes.
459 Along with the initial amount the legislature appropriated and moved from the former
460 Animal Sheltering Board to the Board of Veterinary Medicine. When NMDA informed
461 me about the lawsuits, they stated that the pet food fee funds would not be disbursed until
462 the lawsuits are resolved. Ms. Sowers asked Ms. Lowe if the Committee was prevented
463 from awarding the funds generated from the sale of license plates and the voluntary
464 contributions. Ms. Lowe stated that those funds could be disbursed. Ms. Lowe asked how
465 much money is available from the sale of the license plates and voluntary contributions,
466 Ms. Sowers stated the amount is approximately \$204,000; Ms. Sowers recommended
467 exercising prudence in distributions due to the situations with pet food fee lawsuits.

468 Hopefully, the sale of the license plates and voluntary contributions will continue to be
469 made given the economic situation due to the pandemic.

470
471 Dr. Garcia asked if a motion was necessary to accept the application in its current form
472 and the FAQs so that the Committee can move forward with getting it solidified. Ms.
473 Lowe stated a motion could be made, but with the changes Stacie mentioned need to be
474 made or the Board could just direct what the Board reviewed seems like an appropriate
475 application and fact sheet. Dr. Garcia stated he would like the Committee to move forward
476 and continue going in a positive direction. Ms. Sowers stated that it would be good to
477 report back to the legislature that the Board did release some of the funds for the shelters
478 as we have been directed to do. The Board directed the Committee to move forward.

479
480 The Board discussed the four résumés received for the public member position on the
481 Committee. Stacie indicated that any candidate with financial or grant funding experience
482 would definitely be helpful. Lesley Lowe asked Ms. Voss to recap the applicants she has to
483 remind the Board of who they might select. Ms. Voss stated that she did not recall the
484 three candidates' résumés because they had been submitted several months earlier;
485 however, the most recent résumé she had received was for Jennifer Rabinowitz. Ms.
486 Sowers stated that a résumé had been received from Jane Carson; Dr. Washburn stated
487 that the Board had received résumés for Joanna Magee and Susan Simons. Dr. Washburn
488 stated further that in her opinion, Susan Simons has the most financial experience. Dr.
489 Uhrig asked Ms. Voss if she had Susan Simons' résumé in front of her; Ms. Simons' has
490 grant writing and fundraising experience. Ms. Voss stated that Ms. Simons had a complete
491 résumé and the financial experience would be very helpful to the Committee. Ms. Voss
492 stated that Jane Carson is very well known in the animal welfare world but she was unsure
493 about grant writing in the nonprofit world. When Ms. Voss first came to New Mexico, she
494 was on a radio talk show with Jennifer Rabinowitz was very involved in the process and
495 the research about SB57 and what it is now and how it could help the state. Ms. Voss
496 stated that she is unfamiliar with Joanna Magee. Dr. Fallen stated that Susan Simons was
497 a client as a one time a horse owner. Ms. Simons does have some agricultural background
498 as well. Ms. Voss stated that she believed there could not be two members on the
499 Committee from the same county. Ms. Sowers stated that Edgewood is in Santa Fe
500 County. Dr. Uhrig asked if it would be helpful to run the candidates by the Committee to
501 get a consensus from the Committee or does the Board feel it has enough information to
502 make a recommendation. Dr. Garcia stated if the Board put off the selection, it would be
503 unable to move on it until the next meeting. If the Board wants to run the candidates by the
504 Committee, that is fine but the Board and Committee have to realize it will be another
505 discussion before the Board can approve an appointment to the Committee. Dr. Fallen
506 stated that Susan Simons is a busy go-getter. Dr. Fallen further stated that Susan Simons
507 would be a good candidate because she can go after funds and has a lot of experience with
508 nonprofit organizations. Dr. Fallen also agrees with Dr. Garcia. Dr. Washburn stated that
509 if what Ms. Voss is needing for the Committee, looking at the résumés, it appears that
510 Susan Simons has the most experience. Ms. Voss stated that without knowing many of the
511 candidates personally, she believes any of them would work well, but looking at strengths
512 and weaknesses of the Committee in the financial area and the experience most beneficial
513 to the Committee, anyone who is able to help. Dr. Garcia asked if that would be Ms.
514 Simons. Dr. Garcia moved and Dr. Fallen seconded to appoint Susan Simons to the public
515 member position of the Sheltering Committee. Dr. Washburn requested a roll call vote.

516 Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes Dr. Young-absent;
517 Dr. Washburn-yes. Motion passed.

518
519 Dr. Washburn thanked Ms. Voss for her presentation.
520

521 **SHELTERING MINIMUM STANDARDS PUBLIC HEARING:** Dr. Washburn
522 turned the discussion over to the Executive Director and the Board Civil Counsel.
523

524 Ms. Sowers reported that she had spoken with Cheranne McCracken, Executive Director,
525 New Mexico Board of Pharmacy (BOP) regarding the rules public hearing held on October
526 22, 2020. The BOP used videoconferencing for the hearing held in an open meeting with
527 approximately 40 participants, an exact count was not monitored. Ms. McCracken did
528 state that there were participants in and out of the hearing. All BOP board members
529 participated but for one member who was unable to attend due to a prior commitment; a
530 quorum was in attendance. The length of the hearing was 40 minutes with four rules
531 changes, none of the rules were new.
532

533 Ms. Lowe believes the meeting held today went very well and the Board is getting better at
534 video conferencing. She stated that the Supreme Court stated that hearings get easier
535 digitally with more use.
536

537 Ms. Lowe wanted to discuss the two cases that were sent to you: the first case is the Pet
538 Food Industry filed against the Governor in First Judicial District Court trying to declare
539 the statute enacted by the New Mexico Legislature to declare the statute unconstitutional.
540 Ms. Lowe believes a response has not been field by the Governor.
541

542 The second case, the Pet Institute filed against the New Mexico Department Agriculture
543 (NMDA) filed in Third Judicial District Court, would be more interesting for the Board.
544 The NMDA has filed a response in the matter. The reason it is of interest to the Board is
545 suit is asking the Court to set aside the promulgation of a rule that heard by a hearing
546 officer only.
547

548 Ms. Lowe stated that 61-1-29 D. doesn't allow Board to use a hearing officer, that's why
549 you were advised of the possibility of using a hearing officer when the Board met on
550 January 6, 2021. The statute reads . . . the board may designate a hearing officer to take
551 evidence in a hearing . . . The problem with using a hearing officer is that it is seldom used
552 except in the case of agencies and boards with a lot of rules and they get people very savvy
553 in the process of making a good record and it is possible to do it that way. In the Pet
554 Institute lawsuit, the petitioner is saying that the hearing officer heard it and there is no
555 guarantee that the board or department saw my objections and considered them seriously.
556 Ms. Lowe believes the petitioner may have a good chance in this case because the hearing
557 was seventeen minutes in length, very short, and in that hearing using the hearing officer,
558 the hearing officer didn't specifically explain that the people making the final decision that
559 they all saw the objections and that their reason for accepting or not accepting their
560 objections to the rule as such. When that is the record, an Appeals Court will ask "why
561 didn't the Board listen to the objector? It is not in the record, so it is uncertain if the
562 Board received the objections. Ms. Lowe believes it is a perfect case for the Board to
563 review the case and the dangers of using a hearing officer in any rule adoption proceeding.

564 With the sheltering minimum standards public hearing at hand, Ms. Lowe appreciates Dr.
565 Uhrig agreeing to be the hearing officer; however, as a whole, the Board does not have a
566 good deal of experience in regulation and promulgation in formal hearings. It has taken a
567 long time to develop the rules, but for the Board, these formal rules hearings, you haven't
568 been asked to do so on a regular basis i.e., once a year, two times a year. The Board has
569 held hearings so rarely that again Ms. Lowe is asking the Board to go back to considering
570 having a person conduct the hearing with the whole Board participating in the hearing
571 process. Ms. Lowe is suggesting this method because adopting a whole set of new rules
572 could lead to many comments and questions one Board member might feel very secure in
573 answering, but another Board member would not. All Board members' expertise would
574 make the record that is needed. Ms. Lowe also suggested that making a record digitally in
575 this format; it is, however, difficult to do. It is always better for the public if the hearing
576 can be done publicly where they can all be in a large room with the Board where everyone
577 can be seen and heard. The second scenario is really the best way. Ms. Lowe asked what
578 the Board's feelings are when this hearing has to take place. It has been set to go a couple
579 of times and been cancelled. It is important that each of the Board members comment on
580 when to set the third hearing and Board discussion about someone conducting the hearing
581 but having all Board members attend. Ms. Lowe believes a day or part of a day could be
582 attached to a board meeting or the rules hearing could be held and at the end of that day,
583 the Board will know where it stands. The hearing could be concluded then; however, there
584 is no guarantee. Ms. Lowe requested discussion by the Board on when its preference is to
585 hold the hearing and the Board preference on having the whole Board hearing the rules as
586 they are discussed in hopes of creating a complete record in case it was to be appealed. Ms.
587 Lowe added that in a memo from the Governor's office regarding holding public hearings,
588 it mentions having all people submit written comments about the promulgation of the rules.
589 She believes it is contrary to the law i.e., 61-1-29 D. "... at the hearing, the board shall
590 allow all interested persons reasonable opportunity to submit data, views or arguments
591 orally or in writing." The provision does not allow anyone who wishes to comment at the
592 hearing that they be forced to submit the information in writing. Ms. Lowe believes that
593 they should be able to orally make comment during the rules hearing as well.
594

595 Dr. Washburn asked Ms. Lowe to confirm that she believes the hearing can be held in one
596 day. Ms. Lowe stated that for the Board's convenience and to not have people thinking
597 they have to close their office for three days to conduct the hearing, Ms. Lowe believes the
598 hearing could be set during a Board meeting, but it might be risky to try to set it right after
599 a meeting. It would depend on the business before the Board at the meeting. If a short
600 meeting were held, the Board could go right into the hearing. Setting the hearing before a
601 meeting, she believes the Board could get through the entire hearing. Dr. Washburn asked
602 if the hearing could be set on April 22, 2021 with the Board meeting be held on April 23,
603 2021. Ms. Lowe indicated it could be set on that date. Ms. Washburn asked the Executive
604 Director if that time frame would allow enough time to publish in the *New Mexico Register*;
605 Ms. Sowers stated that there is sufficient time to set the hearing the day before the Board
606 meeting.
607

608 Dr. Washburn asked the Board if everyone would be available for the hearing on April 22,
609 2021. If Ms. Brown-Pirrone is unable to schedule participation due to her work scheduled,
610 Dr. Washburn asked if the remainder of the Board members attend the hearing, would it

611 be sufficient. Ms. Lowe responded that four members of the seven-member Board
612 participating would constitute a quorum.

613
614 Dr. Washburn asked Ms. Voss to remind everyone to send in their written comments as
615 soon as possible to allow the Board time to review the comments prior to the hearing. Ms.
616 Voss stated that most comments have already been submitted to the Executive Director;
617 she has not received any. The Executive Director stated that all comments have been
618 channeled through her and she has forwarded all comments she has received thus far to the
619 Board. She will iterate on the Board's website when she posts the rescheduling of the
620 hearing and will invite again people to submit comments to the proposed rules which are
621 also posted at the website.

622
623 Ms. Lowe stated that she has carefully read through three comments she has received. The
624 Executive Director confirmed that the three comments are all that she has received. In
625 reviewing the comments, Ms. Lowe feels that hearing will not go on longer than one day.
626 The comments she has received from Animal Protection of New Mexico, the comments
627 recommended the use of "shall" rather than "should," "may" rather than "must." Those
628 recommendations could be considered at a hearing substantive changes because it makes a
629 difference if someone says "You should do this" or "You shall do this." Any changes made
630 by the Board, will require setting another hearing but only for the rewording. The Board
631 will want to consider that some of the comments are persuasive and may want to change
632 them in some areas. Comments may come in at the hearing the Board knows nothing
633 about at the hearing; the Board may be persuaded at the hearing, but it will just be small
634 sections that would need to be changed. The remainder of the rules could be filed.

635
636 Ms. Lowe advised that whomever chairs the hearing would be in the Board office the day
637 of the hearing because if you are with the Executive Director, court reporter and civil
638 counsel, the group could assist the person with any problems that could come up in
639 videoconference format. Dr. Washburn can Chair the hearing on April 22, 2021 in the
640 Board office. Ms. Lowe asked if the videoconferencing could compile a list of attendees.
641 Ms. Lowe asked if there is a way to allow one person to speak at a time thereby allowing
642 the Chair to maintain control using the list. The Executive Director indicated that there is
643 a sign in capability in Zoom where people entering the meeting will sign in. If someone
644 joins the meeting and wants to comment impromptu, there is no way to know that
645 beforehand. Ms. Lowe suggested the Chair could start the hearing by asking people who
646 plan to present oral comments that day. The people will then have to state their name one
647 at a time so that a list can be compiled for use by the Chair. If other people decide to
648 present oral comments as the meeting goes on, when the Board get done with each section,
649 the Chair can ask if there is anyone else that would like to comment.

650
651 Dr. Garcia moved and Dr. Uhrig seconded directing the Executive Director to set the
652 sheltering minimum standards rules hearing on April 22, 2021. Dr. Washburn requested a
653 roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr.
654 Young-absent; Dr. Washburn-yes. Motion passed.

655
656 Ms. Voss asked what her role will be in the hearing. Dr. Garcia believes that Ms. Voss
657 should be in attendance at the Board office for the hearing owing to her extensive
658 knowledge of the rules and why they are in place specifically to what Ms. Lowe said about

659 the use of the words shall, must, should. The Committee was very careful about the usage
660 of those words in the rules speaking to compassionate pleas may have something to them.
661 Dr. Garcia stated that Ms. Voss the expert. Ms. Lowe asked Ms. Voss if she could attend
662 the hearing in the Board office on April 22, 2021. Ms. Voss stated that she should be
663 available on that date. Ms. Sowers asked if she could join the meeting as a participant with
664 the Chair referring or deferring to her on some of the questions. Ms. Lowe asked if Ms.
665 Voss had looked at the written comments received, Ms. Voss stated she had not looked at
666 them in detail; however, she will study them before the hearing.
667

668 Dr. Fallen asked the Executive Director what time she will set the hearing to begin on April
669 22, 2021; the Executive Director will set the hearing to begin at 9:00 a.m.
670

671 Dr. Fallen moved and Dr. Uhrig seconded to adjourn the meeting. All in favor; motion
672 passed.
673

674 Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-absent; Ms. Brown-
675 Pirrone-yes; Dr. Fallen-yes; Dr. Young-absent; Dr. Washburn-yes. Motion passed.
676

677 _____
678 Dr. Rebecca J. Washburn, Chair

677 _____
678 Dr. Manuel A. Garcia, Vice Chair

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680 DATE: _____

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

VIA ZOOM VIDEO COMMUNICATIONS

MINUTES

January 6, 2021

CALL TO ORDER: The special virtual meeting of the New Mexico Board of Veterinary Medicine was called to order by Dr. Rebecca J. Washburn, Chair, at approximately 1:07 p.m. Dr. Washburn requested a roll call.

ROLL CALL:

MEMBERS PRESENT:

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

BOARD REPRESENTATIVES:

Frances Sowers, Executive Director
Dr. Lindsey Gardner, Board Investigator

BOARD CIVIL COUNSEL:

Lesley Lowe, Esq.

SHELTERING MINIMUM STANDARDS HEARING: Dr. Washburn opened the discussion on the public hearing scheduled for January 18, 19 and 20, 2021. Dr. Washburn stated that the hearing would cause scheduling conflicts for appointments she had set several weeks prior; she further stated, that Dr. Young had informed her that he also had scheduling conflicts. Marybeth Brown-Pirrone added that school would be starting around those dates but she would attempt to attend virtually.

Dr. Uhrig stated that the hearing needed to be held and should go forward. Dr. Washburn asked Dr. Uhrig if she would act as hearing officer. Dr. Uhrig stated that she would be willing to do so.

Dr. Washburn asked Ms. Sowers about additional expenses for the hearing. Ms. Sowers stated that she would need to expand the current subscription fee for an additional \$200 to

35 accommodate up to 300 participants in the hearing. She further stated that it is difficult to
36 determine how many participants there may be for the hearing.

37
38 The Board discussed the need for setting the hearing for three days. Ms. Sowers stated that
39 she had set the hearing for three days to hoping to accommodate the Board not having to
40 sit in front of their computers for eight or more hours in one day perhaps two days.

41
42 Dr. Washburn asked Lesley Lowe about using a hearing officer rather than having the
43 Board in attendance. Ms. Lowe stated that the hearing officer would conduct the hearing
44 and would be responsible for preparing a concise, detailed report for the Board. Ms. Lowe
45 further stressed the importance of a concise, detailed report prepared by Dr. Uhrig as
46 hearing officer for the Board.

47
48 Lesley Lowe explained that the best process to be followed would be for Dr. Uhrig to
49 conduct the meeting in the Board office, to ensure the best connection on Zoom, with the
50 court reporter, Ms. Sowers, and Ms. Lowe and Board counsel present. Ms. Lowe reminded
51 everyone of the importance of the participation of the Board in the hearing.

52
53 Dr. Uhrig stated that she believed the Zoom program could record the hearing; Ms. Sowers
54 stated that Zoom does have the capability to record.

55
56 The Board discussed re-setting the hearing for one day to one and one-half days rather
57 than the three days as scheduled. The Board determined that such a timeframe would be
58 easier for their respective schedules.

59
60 Dr. Young moved and Dr. Garcia seconded to postpone the noticed hearing scheduled on
61 January 18, January 19 and January 2021. Dr. Washburn requested a roll call vote.
62 Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr.
63 Washburn-yes. Motion passed.

64
65 The Board directed Ms. Sowers to set the hearing as soon as she is able to re-publish in the
66 *New Mexico Register*.

67
68 There being no further business before the Board, Dr. Young moved and Dr. Garcia
69 seconded to adjourn the meeting. Dr. Washburn requested a roll call vote.
70 Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr.
71 Washburn-yes. Motion passed.

72
73 The meeting adjourned at 1:39 p.m.

74
75
76
77
 /S/
78 **Dr. Rebecca J. Washburn, Chair**

 /S/
78 **Dr. Manuel A. Garcia, Vice Chair**

79
80 **DATE: January 22, 2021**

DATE: January 22, 2021



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

VIA ZOOM VIDEO COMMUNICATIONS

MINUTES

October 23, 2020

CALL TO ORDER: The limited virtual meeting of the New Mexico Board of Veterinary Medicine was called to order by Dr. Rebecca J. Washburn, Chair, at approximately 9:10 a.m. Dr. Washburn requested a roll call.

ROLL CALL:

MEMBERS PRESENT:

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

BOARD REPRESENTATIVES:

Frances Sowers, Executive Director
Dr. Lindsey Gardner, Board Investigator
Dr. Gaven Kuykendall, Alternate Board Investigator

BOARD CIVIL COUNSEL:

Lesley Lowe, Esq.

GUESTS:

Stacie Voss
Joseph Wosick, Esq.
Jessica Johnson
Marlène Márquez
Zak

ACCEPTANCE OF AGENDA: Dr. Fallen moved and Dr. Young seconded to accept the Agenda. 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.

36 **APPROVAL OF BOARD MEETING MINUTES:** Dr. Fallen moved to accept the
37 July 17, 2020 meeting minutes. Dr. Fallen moved and Marybeth Brown-Pirrone seconded.
38 Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-
39 Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr. Washburn-yes. Motion passed.
40

41 **OPEN MEETING RESOLUTION:** Dr. Garcia moved and Dr. Fallen seconded to
42 accept the FY21 Open Meeting Resolution. Dr. Washburn requested a roll call vote. Dr.
43 Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr.
44 Washburn-yes. Motion passed.
45

46 **OPENING STATEMENT:** Dr. Washburn welcomed everyone to the meeting.
47

48 **COMPLAINT REVIEW COMMITTEE:**
49

50 Dr. Garcia assumed chairing the meeting.
51

52 Dr. Garcia welcomed Dr. Young and Dr. Washburn of the Complaint Review Committee
53 and Dr. Gardner, Board Investigator.
54

55 **Complaint No. 20-20:** The Committee presented its report and stood for questions. After
56 Board discussion and on the basis of the complaint that was reviewed for probable cause by
57 the Board, Dr. Fallen moved and Dr. Uhrig seconded to dismiss Complaint no. 20-20
58 finding no violation of the Veterinary Practice Act. Dr. Garcia requested a roll call vote.
59 Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-
60 abstains; Dr. Washburn-abstains. Motion passed.
61

62 **Complaint No. 20-21-A:** The Committee presented its report and stood for questions.
63 After Board discussion and based on the complaint that was reviewed for probable cause
64 by the Board, Dr. Fallen moved and Dr. Young seconded to dismiss Complaint no. 20-21-A
65 finding no violation of the Veterinary Practice Act. Dr. Garcia requested a roll call vote.
66 Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-
67 abstains; Dr. Washburn-abstains. Motion passed.
68

69 **Complaint No. 20-21-B:** The Committee presented its report and stood for questions.
70 After Board discussion and based on the complaint that was reviewed for probable cause
71 by the Board, Dr. Fallen moved and Dr. Young seconded to dismiss Complaint no. 20-21-B
72 finding no violation of the Veterinary Practice Act. Dr. Garcia requested a roll call vote.
73 Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-
74 abstains; Dr. Washburn-abstains. Motion passed.
75

76 **Complaint No. 20-21-C:** Dr. Garcia requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-
77 yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-abstains; Dr. Washburn-abstains.
78 Motion passed.
79

80 **Complaint No. 20-24:** Dr. Gardner informed the Board that additional information had
81 been received in the complaint. Dr. Fallen moved and Dr. Uhrig seconded to table the
82 complaint pending review of the additional information by the Complaint Review

83 Committee. Dr. Garcia requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms.
84 Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-abstains; Dr. Washburn-abstains. Motion
85 passed.

86
87 **Complaint no. 20-26:** The Committee presented its report and stood for questions. After
88 Board discussion and based on the complaint that was reviewed for probable cause by the
89 Board, Dr. Fallen moved and Dr. Young seconded to dismiss Complaint no. 20-26 finding
90 no violation of the Veterinary Practice Act. Dr. Garcia requested a roll call vote. Dr.
91 Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-abstains;
92 Dr. Washburn-abstains. Motion passed.

93
94 **Complaint no. 20-28:** The Committee presented its report and stood for questions. After
95 Board discussion and based on the complaint that was reviewed for probable cause by the
96 Board, Dr. Fallen moved and Dr. Young seconded to dismiss Complaint no. 20-28 finding
97 no violation of the Veterinary Practice Act. Dr. Garcia requested a roll call vote. Dr.
98 Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-abstains;
99 Dr. Washburn-abstains. Motion passed.

100
101 **Complaint no. 20-29:** The Committee presented its report and stood for questions. After
102 Board discussion and based on the complaint that was reviewed for probable cause by the
103 Board, Dr. Fallen moved and Dr. Young seconded to dismiss Complaint no. 20-29 finding
104 no violation of the Veterinary Practice Act. Dr. Garcia requested a roll call vote. Dr.
105 Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-abstains;
106 Dr. Washburn-abstains. Motion passed.

107
108 **Complaint no. 20-30:** The Committee presented its report and stood for questions. After
109 Board discussion and based on the complaint that was reviewed for probable cause by the
110 Board, Dr. Fallen moved and Dr. Young seconded to dismiss Complaint no. 20-30 finding
111 no violation of the Veterinary Practice Act. Dr. Garcia requested a roll call vote. Dr.
112 Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-abstains;
113 Dr. Washburn-abstains. Motion passed.

114
115 **Complaint no. 20-31:** The Committee presented its report and stood for questions. The
116 Committee presented its report. After Board discussion and on the basis of the complaint
117 that was reviewed for probable cause by the Board, Dr. Fallen moved and Dr. Uhrig
118 seconded to issue a Pre-NCA Settlement Agreement for violations of Board rules 16.25.3.8.
119 Q. Standard of Care; 16.25.9.8 C. Valid Veterinarian-Client-Patient Relationship; and
120 16.25.9.21 Record Keeping. The Pre-NCA Settlement Agreement assesses a \$1,000
121 administrative fine; 4.00 continuing education hours in Standard of Care and 4.00
122 continuing education hours in Record Keeping. If the Pre-NCA Settlement Agreement is
123 not accepted by Respondent, the Board will initiate disciplinary action. Dr. Garcia
124 requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr.
125 Fallen-yes; Dr. Young-abstains; Dr. Washburn-abstains. Motion passed.

126
127 Dr. Garcia thanked the Committee and Drs. Gardner and Kuykendall for their
128 presentations.

129
130 Ms. Sowers presented NCAs and complaints for Board approval to close.

131 Ms. Sowers stated that the Respondents in NCA nos. 19-02; 19-19; 19-20; and complaint
132 no. 19-32, retired and closed the practice in December 2019. Dr. Garcia stated that there
133 was a question as to whether the retired veterinarians were still practicing veterinary
134 medicine. Ms. Sowers stated that she had driven by the facility and it did not appear that it
135 was open for business. Dr. Garcia's concern was based on a social media review, within the
136 last month, of the veterinary medical services received at the facility. Ms. Sowers stated
137 that the respondents and facility are not currently licensed by the Board. The Board will
138 investigate further and may amend the NCAs based upon the results of the investigation.

139
140 Ms. Sowers stated that the Respondent's licenses have expired and he has not sought
141 licensure as a veterinarian or for a veterinary facility. Dr. Fallen moved and Dr. Garcia
142 seconded to close NCAs 14-20 and 14-33. Dr. Washburn requested a roll call vote. Dr.
143 Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr.
144 Washburn-yes. Motion passed.

145
146 Ms. Sowers stated that the Respondent's licenses have expired and he has not sought
147 licensure as a veterinarian or for a veterinary facility. Dr. Garcia moved and Marybeth
148 Brown-Pirrone seconded to close complaint nos. 19-36; 19-37; 20-001. Dr. Washburn
149 requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr.
150 Fallen-yes; Dr. Young-absent; Dr. Washburn-yes. Motion passed.

151
152 Ms. Sowers stated that all terms of the Pre-NCA Settlement Agreement have been satisfied.
153 Dr. Garcia moved and Dr. Fallen seconded to close complaint no. 19-30. Dr. Washburn
154 requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr.
155 Fallen-yes; Dr. Young-absent; Dr. Washburn-yes. Motion passed.

156
157 Ms. Sowers stated that all terms of the Pre-NCA Settlement Agreement have been satisfied.
158 Dr. Garcia moved and Dr. Fallen seconded to close complaint no. 19-34. Dr. Washburn
159 requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr.
160 Fallen-yes; Dr. Young-absent; Dr. Washburn-yes. Motion passed.

161
162 Ms. Sowers stated that all terms of the Pre-NCA Settlement Agreement have been satisfied.
163 Dr. Garcia moved and Dr. Fallen seconded to close complaint no. 20-07. Dr. Washburn
164 requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr.
165 Fallen-yes; Dr. Young-absent; Dr. Washburn-yes. Motion passed.

166
167 Dr. Garcia moved and Dr. Fallen seconded to close complaint no. 20-22 and 20-23. Dr.
168 Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-
169 yes; Dr. Fallen-yes; Dr. Young-absent; Dr. Washburn-yes. Motion passed.

170
171 **PROVIDER APPROVAL REQUESTS:**

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173 **Approvals are stipulated on the CE hours being in compliance with the Board's rules.**
174 Dr. Garcia moved and Dr. Fallen seconded to approve the continuing education hours
175 requests as a group:

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Arlene Buchholz, DVM

The Wildlife Society and The Fisheries Society Joint Annual Conference 2019; Reno, Nevada; 7.00 CE hours

Kimberly Ann Freeman, DVM

Animal Chiropractic; Parker College; March 2020 – August 2020; Dallas, Texas; 30.00 CE hours

Zoetis

BRD: Treat Early or Treat Often; April 29 and 30, 2020; 1.00 CE hour – Online

BRD: Diagnostics – What’s your Plan? May 6 and 7, 2020; 1.00 CE hour - Online

Meaningful Differences in Beef Herd Immunity; April 22 and 23, 2020; 1.00 CE hour – Online

The Role of Medicated Feed Additives in Anaplasmosis and BRD; May 13 and 14, 2020; 1.00 CE hour - Online

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

NCA's UPDATE:

Ms. Sowers referred the Board to Tab 5 of the board books; she is requesting a formal motion to accept the Settlement Agreement signed by the Respondent. Dr. Garcia moved and Dr. Fallen seconded to accept the Settlement Agreement. Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-absent; Dr. Washburn-yes. Motion passed.

EXECUTIVE DIRECTOR’S REPORT: Dr. Washburn asked Ms. Sowers to present her report.

Ms. Sowers referred the Ms. Sowers directed the Board to the financial and licensing reports in their board books. The FY21 budget expenditures are low for the first quarter due to careful spending due to the 50% rule wherein no more than one-half of the total budget may be expended by year end. The license numbers remain static.

Ms. Sowers informed the Board that she had received information concerning an individual practicing veterinary medicine in the state. The treatment has resulted in undue suffering and death in a dog. Ms. Sowers further reported that she had received an email about the same individual performing animal dental surgeries in Colorado resulting in pain, suffering and eventual deaths of the animals. Dr. Garcia moved and Marybeth

228 **Brown-Pirrone seconded to issue an NCA for practicing veterinary medicine without a**
229 **license. Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms.**
230 **Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-absent; Dr. Washburn-yes. Motion passed.**
231 **Ms. Sowers reported on a call received from the public concerning a licensee veterinarian**
232 **prescribing and supplying drugs to an employee. Ms. Sowers explained the complaint**
233 **process and forwarded the complaint form to the caller. As of the day prior to the meeting,**
234 **the complaint had not been received. If a complaint is not received, the Board will consider**
235 **issuing an NCA.**

236
237 **Ms. Sowers explained to the Board that she had received inquiries about whether a**
238 **Euthanasia Instructor must also hold a Euthanasia Technician license. The only language**
239 **in the Board rules is 16.24.2.9 F. exempting a Euthanasia Instructor from sitting the**
240 **Euthanasia Technician State examination. The Board determined that holding a**
241 **Euthanasia Technician license in addition to the Euthanasia Instructor license is necessary.**

242
243 **Ms. Sowers reminded the Board of a discussion held at a prior meeting where the Board**
244 **determined that Euthanasia Technicians must re-certify every three years. The Board at**
245 **the time of the discussion had not approved continuing education for Euthanasia**
246 **Technicians but felt that recertification could substitute until such time as the Board**
247 **approves the State examination as a requirement for licensure. Dr. Uhrig felt the**
248 **recertification was unnecessary because euthanasia techniques have not changed. The**
249 **Board members agreed that recertification is unnecessary.**

250
251 **Ms. Sowers asked for the Board’s determination regarding facilities that work under an**
252 **umbrella facility. Ms. Sowers explained that she is licensing the facilities under the**
253 **umbrella a d/b/a business. The Board determined that each facility should have a separate**
254 **license and can be recognized as a d/b/a facility.**

255
256 **Ms. Sowers informed the Board of a call she had received from the public concerning the**
257 **lack of an emergency clinic in the Las Cruces area. The emergency clinic was bought by a**
258 **corporation which closed it. Marybeth Brown-Pirrone stated that there is an emergency**
259 **clinic in Las Cruces that closes at 6:00 p.m. or 7:00 p.m. Dr. Uhrig stated that the problem**
260 **is statewide and needs to be addressed. Dr. Garcia reminded the Board that the rule**
261 **currently reads “within a reasonable distance.” Dr. Garcia further indicated that while**
262 **other veterinarians are taking up the slack, it is unfair to them. The matter needs to be**
263 **addressed due to how veterinary care is being delivered currently. Dr. Garcia asked why**
264 **the current rule mandates that veterinarians have to provide emergency services. What if**
265 **the rule requiring emergency services was removed altogether? Dr. Garcia will continue**
266 **speaking with veterinarians for their input.**

267
268 **NEWS AND MISCELLANEOUS: Stacie Voss, Sheltering, Committee Chair,**
269 **reported on the future activities of the Committee. The Committee plans on meeting**
270 **monthly to prepare a draft application to the Animal Care and Facility Fund; the**
271 **Committee expects to present the draft to the Board for approval at the January meeting.**

272
273 **Dr. Garcia reported that APNM and the Committee believe the minimum standards public**
274 **hearing needs to be held as soon as possible instead of waiting to hold the hearing when the**

275 Governor's health order is lifted. The Board agreed directing Ms. Sowers to set the
276 hearing as early as practicable.

277
278 Ms. Sowers reported to the Board on concerns from licensees about the accrual of
279 continuing education hours and suggestions that the December 31, 2020 deadline be
280 extended. One licensee expressed concern that continuing to require CE hours is taking
281 away from the licensee's and his staff's family time; the licensee suggested the Board
282 should consider waiving the annual continuing education hours altogether during the
283 pandemic. Dr. Garcia moved and Marybeth Brown-Pirrone seconded to extend the
284 acceptance of continuing education hours accrued online/virtually through December 31,
285 2021. Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-
286 Pirrone-yes; Dr. Fallen-yes; Dr. Young-absent; Dr. Washburn-yes. Motion passed.

287
288 Ms. Sowers referred the Board to a question posed by AAVSB in the Executive Director's
289 Forum concerning stem cell therapies. Ms. Sowers stated that she had responded that she
290 was unaware of stem cell therapies being offered in New Mexico. Dr. Uhrig stated that
291 stem cell therapies are being offered in New Mexico in equine soft tissue injuries. Dr.
292 Garcia stated that the practice does fall within the statute because it is a biologic. Ms.
293 Sowers stated that she has until October 31, 2020 to respond; therefore, she will amend her
294 initial response with this new information.

295
296 **2021 BOARD MEETING DATES:** The Board set the following dates for meetings in
297 2021.

298
299 January 22, 2021;
300 April 23, 2021;
301 July 16, 2021; and
302 October 22, 2021.

303
304 Dr. Fallen moved and Dr. Garcia seconded to adjourn the meeting. All in favor; motion
305 passed.

306
307 **/S/**

/ S/

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309 **Dr. Rebecca J. Washburn, Chair**

Dr. Manuel A. Garcia, Vice Chair

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311 **DATE: January 22, 2021**

DATE: January 22, 2021

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