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

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.

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.

Call of the Meeting: The roll call was taken.

Members Present:
- Dr. Edward J. Fallen
- Dr. Rebecca J. Washburn, Chair
- Dr. Richard E. Setlock, Vice-Chair
- Dr. Manuel A. Garcia, Member
- Dr. Lawrence D. Young, Member
- Dr. J. David Rebecc, Secretary
- Dr. Samantha R. Uhrig, Member
- Dr. Marybeth Brown-Purrie, Public Member

Guests:
- Stacie Voss
- Lesley Lowe, Esq.
- Joseph Wosick, Esq.

Board Representatives:
- Frances Swers, Executive Director
- Dr. Lindsey Gardner, Board Investigator
- Dr. Gaven Kuykendall, Alternate Board Investigator

Board Absent:
- Jacob Priskin

New Business:
- Washburn moved and Young seconded to approve the minutes of the January 21, 2021 meeting. Uhrig, yes; Washburn, yes; Young, yes; Swers, yes; Priskin, yes; Voss, yes; Lowe, yes; Wosick, yes.

Adjournment:
- The meeting was adjourned.

Dr. Washburn, Chair
Garcia—yes; Ms. Brown-Pirrone—yes; Dr. Fallen—yes; Dr. Young—Absent; Dr. Washburn—yes.
Motion passed.

APPROVAL OF BOARD MEETING MINUTES: Dr. Garcia moved and Dr. Fallen seconded to accept the October 23, 2020 meeting minutes. 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.

Dr. Garcia moved and Dr. Uhrig seconded to accept the January 6, 2021 special meeting minutes. 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.

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

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

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

Dr. Fallen moved and Dr. Garcia seconded to accept the FY-21 audit. 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.

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

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

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

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

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

COMPLAINT REVIEW COMMITTEE:

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

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

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

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

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

Dr. Fallen moved and Ms. Brown-Pirrone seconded to issue a Board complaint against the complainant in Complaint no. 20-34. Dr. Garcia requested a roll call vote. Dr. Uhrig-yes;
Dr. Garcia; Ms. Brown-Pirrone; Dr. Fallen; Dr. Young-absent; Dr. Washburn-abstains. Motion passed.

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

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

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

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

Ms. Sowers presented complaints for Board approval to close.

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

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

**PROVIDER APPROVAL REQUESTS:**

Approvals are stipulated on the CE hours being in compliance with the Board’s rules.

Dr. Garcia moved and Dr. Fallen seconded to approve the continuing education hours requests as a group:

- **Timothy J. Hanosh, DVM**
  - *Veterinary Roundtable; Various dates calendar year 2021;* Throughout New Mexico; 2.00 CE hours
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.

NCAs UPDATE:

Ms. Sowers stated that the respondent in Case no. 20-14 had signed and accepted the Pre-NCA Settlement Agreement on July 27, 2020. Ms. Sowers directed the Board to a letter in their board books received from the respondent. The respondent has paid the fine, but sets out in the letter that she will not be accruing the continuing education assessed in the Pre-NCA Settlement Agreement. Ms. Sowers explained that the Notice of Contemplated Action issued based on the respondent’s letter had been issued with the same matters set out in the Pre-NCA Settlement Agreement. Ms. Sowers conferred with Lesley Lowe prior to the meeting; Ms. Lowe advised that the NCA could be rescinded by the Board and another NCA issued addressing only the non-compliance with the terms of the Pre-NCA Settlement Agreement. Dr. Fallen moved and Dr. Uhrig seconded to rescind the NCA issued on December 1, 2020. 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.

Dr. Fallen moved and Dr. Garcia seconded to issue another NCA in Case no. 20-14 for non-compliance of the terms of the Pre-NCA 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 for the first six months are less than half of the total budget. Ms. Sowers continues to carefully monitor expenditures.

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

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

Dr. Garcia reminded the Board that the rule currently reads “within a reasonable distance.” Dr. Garcia asked why the current rule mandates that veterinarians have to provide emergency services and further, what if the rule requiring emergency services was
removed altogether? He has queried young and old veterinarians in Alamogordo, Albuquerque, Farmington, Gallup and Roswell; the majority believe the rule is unfair. He believes the rule had been discussed in the past for removal at future rules hearings. Dr. Garcia has asked for input from veterinarians and he will continue speaking with veterinarians for their input.

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

Dr. Fallen agreed that the rule should be removed.

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

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

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

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

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

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

**EUTHANASIA TECHNICIAN TRAINING MATERIALS:** Dr. Fallen stated that the information in the training materials submitted excellent and comprehensive to contain rules, regulations, actual doses. Dr. Fallen moved and Dr. Uhrig seconded to approve the euthanasia technician training materials as submitted. Dr. Washburn requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrione-yes; Dr. Fallen-yes Dr. Young-absent; Dr. Washburn-yes. Motion passed.
LICENSEES’ CONCERN: The Executive Director directed the Board to a redacted letter she had received veterinarian licensees expressing concerning another veterinary practice in the same town. Ms. Sowers explained that she had asked Dr. Kuykendall to conduct an impromptu inspection of the facility in questions.

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

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

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

Ms. Sowers asked if Dr. Kuykendall could do further impromptu inspections to attempt to get the idea across that the Board is watching the practice. Ms. Sowers asked Lesley Lowe if doing so constitutes harassment. Lesley responded that it would not be harassment but
asked how the reporting licensees knew about the heating pad burns, did they treat the animal? Dr. Kuykendall reported that it happened twice and the reporting practice is just down the road from the practice named in the allegations. The owners received their animals back with the burns and took the animals to the reporting practice to be treated. The reporting practice was told by the owners that the doctor at the other practice was responsible for the burns. Dr. Kuykendall stated that he felt it is hearsay because the animals could have been burned in another way not by the other practice. Dr. Kuykendall deals with a lot of “he said, she said” in his job as Inspector. Ms. Lowe stated that if the reporting practice treated these animals harmed by the other practice that is some evidence. Dr. Washburn stated that the owners of the animals need to file a complaint so that we gather evidence and it is not a “he said, she said” case. Ms. Lowe agreed and stated that it would be best if the owners did file a complaint; however, the Board can bring a complaint as well. Dr. Washburn stated without the names of the owners whose pets sustained these injuries, it might still be a wild goose chase. Ms. Lowe stated that the Board would need to obtain the names from the reporting practice along with the file setting out treatment of the animals treated by the other practice.

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

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

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

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

Ms. Voss reported that the Committee has been working on the plan to distribute funds from the Animal Care and Facility Fund (ACFF). Discussion thus far has been attempting to develop an outline for guidelines that will not be too restrictive because the Committee is uncertain what programs will be seeking funding. Ms. Voss stated that this will be the initial year of funding from the ACFF; the Committee did determine that an application for funds similar to a grant proposal is needed. The Committee, however, does not have
the expertise in building an application form. Animal Protection of New Mexico will be
assisting the Committee with developing an application form. A draft has been provided
to the Board by the Committee. The document is currently in a Word format document;
however, the Committee hopes the form can be created in a fillable document in .pdf
format accessible at the Board’s website, completed and emailed. To separate instructions
and FAQs, Stacie is working on FAQs and application instructions which is taking more
time because she may not be able to anticipate some of the questions that could be posed.
The Committee has provided to the Board the first draft. The applications will attempt to
get a sense of how the organizations plan to spend the funds by asking for average cost of
vouchers or average costs of surgeries, how many they plan to perform, if they are a shelter
or a holding facility what are the intake numbers and outcomes. Also included is the
project or proposal criteria focusing on specific areas whether city, county or zip code. The
application should be broad while asking for those numbers and budget for the
expenditure of the funds without too many restrictions. The FAQs and instructions are
attempting to go more into the specifics of a timeline; the idea of a timeline would be a 1–2-
month period of time when an application or proposal can be submitted, the Committee
will review and make their recommendations to the Board at the July 2021 meeting with
disbursal to follow. The poverty guidelines were included as outlined in SB57. Several
organizations have asked how the poverty guidelines could be verified and Ms. Voss
included suggestions in the FAQs. The Committee also discussed residency requirements,
there has been some interest from organizations based in Colorado transferring animals
from New Mexico to Colorado wanting funds to come into New Mexico to perform spays
and neuters. This would be beneficial to try to solve the issue by not just transferring the
animals out of the state. The Committee determined that there should be no residency
requirements for organizations applying for funds or for veterinarians supplying the
services; however, residency requirements for those receiving the services, animals and
people, should be residents of New Mexico. The Committee believes a budget maximum of
$50,000 for the first year of funds would be appropriate or 10% of the proposed funds
available. Timelines of 12-18 months in length in targeted areas. Projects and proposals
can include feral or free roaming animals and but they should be cognizant of local
ordinances when dealing with those types of animals; there are some local ordinances that
are not friendly to re-releasing animals if they are free roaming. A lengthy discussion was
held about vaccines, the Committee believes rabies vaccines should be included in the
funds. However, other vaccinations should not be funded because the ACFF specifically
targets spays and neuters. The other vaccinations would be good candidates for matching
funds. Stacie will be included a sample budget. It has been suggested that the Committee
discuss averages of voucher costs for the wide variety of what might be possible. Other
budgetary needs, travel, overhead, marketing, advertising, and a description of matching
funds would be included in the FAQs.

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

Lesley Lowe asked if there would be set criteria when the Committee evaluates the
applications allowing an evaluation of each one. Ms. Voss responded that the Committee
would be using a form, to be developed, so that the process is completely transparent with
score sheet to evaluate the applications. Ms. Lowe commented that it was a good way to
provide the Committee protection from someone claiming each application was not
evaluated equally.
Dr. Fallen asked for the Committee’s reasoning behind not funding other vaccinations and the matching funds, he believes other vaccines would be critical. Ms. Voss stated that the way the ACFF bill is written is funding is for assistance with spays and neuters and the funds should be spent on the procedures. The Committee believes in keeping with the spirit of the ACFF, the other vaccinations should not be included because they are not part of the spay and neuter procedures. However, if someone wants to include it as matching funds for another grant, it would be considered.

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

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

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

Ms. Sowers stated that the funds she has informed the Committee are available have come from the sale of license plates and voluntary contributions when people file their taxes. Along with the initial amount the legislature appropriated and moved from the former Animal Sheltering Board to the Board of Veterinary Medicine. When NMDA informed me about the lawsuits, they stated that the pet food fee funds would not be disbursed until the lawsuits are resolved. Ms. Sowers asked Ms. Lowe if the Committee was prevented from awarding the funds generated from the sale of license plates and the voluntary contributions. Ms. Lowe stated that those funds could be disbursed. Ms. Lowe asked how much money is available from the sale of the license plates and voluntary contributions, Ms. Sowers stated the amount is approximately $204,000; Ms. Sowers recommended exercising prudence in distributions due to the situations with pet food fee lawsuits.
Hopefully, the sale of the license plates and voluntary contributions will continue to be made given the economic situation due to the pandemic.

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

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

Dr. Washburn thanked Ms. Voss for her presentation.

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

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

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

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

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

Ms. Lowe stated that 61-1-29 D. doesn’t allow Board to use a hearing officer, that’s why
you were advised of the possibility of using a hearing officer when the Board met on
January 6, 2021. The statute reads . . . the board may designate a hearing officer to take
evidence in a hearing . . . The problem with using a hearing officer is that it is seldom used
except in the case of agencies and boards with a lot of rules and they get people very savvy
in the process of making a good record and it is possible to do it that way. In the Pet
Institute lawsuit, the petitioner is saying that the hearing officer heard it and there is no
guarantee that the board or department saw my objections and considered them seriously.
Ms. Lowe believes the petitioner may have a good chance in this case because the hearing
was seventeen minutes in length, very short, and in that hearing using the hearing officer,
the hearing officer didn’t specifically explain that the people making the final decision that
they all saw the objections and that their reason for accepting or not accepting their
objections to the rule as such. When that is the record, an Appeals Court will ask “why
didn’t the Board listen to the objector? It is not in the record, so it is uncertain if the
Board received the objections. Ms. Lowe believes it is a perfect case for the Board to
review the case and the dangers of using a hearing officer in any rule adoption proceeding.
With the sheltering minimum standards public hearing at hand, Ms. Lowe appreciates Dr. Uhrig agreeing to be the hearing officer; however, as a whole, the Board does not have a good deal of experience in regulation and promulgation in formal hearings. It has taken a long time to develop the rules, but for the Board, these formal rules hearings, you haven’t been asked to do so on a regular basis i.e., once a year, two times a year. The Board has held hearings so rarely that again Ms. Lowe is asking the Board to go back to considering having a person conduct the hearing with the whole Board participating in the hearing process. Ms. Lowe is suggesting this method because adopting a whole set of new rules could lead to many comments and questions one Board member might feel very secure in answering, but another Board member would not. All Board members’ expertise would make the record that is needed. Ms. Lowe also suggested that making a record digitally in this format; it is, however, difficult to do. It is always better for the public if the hearing can be done publicly where they can all be in a large room with the Board where everyone can be seen and heard. The second scenario is really the best way. Ms. Lowe asked what the Board’s feelings are when this hearing has to take place. It has been set to go a couple of times and been cancelled. It is important that each of the Board members comment on when to set the third hearing and Board discussion about someone conducting the hearing but having all Board members attend. Ms. Lowe believes a day or part of a day could be attached to a board meeting or the rules hearing could be held and at the end of that day, the Board will know where it stands. The hearing could be concluded then; however, there is no guarantee. Ms. Lowe requested discussion by the Board on when its preference is to hold the hearing and the Board preference on having the whole Board hearing the rules as they are discussed in hopes of creating a complete record in case it was to be appealed. Ms. Lowe added that in a memo from the Governor’s office regarding holding public hearings, it mentions having all people submit written comments about the promulgation of the rules. She believes it is contrary to the law i.e., 61-1-29 D. “... at the hearing, the board shall allow all interested persons reasonable opportunity to submit data, views or arguments orally or in writing.” The provision does not allow anyone who wishes to comment at the hearing that they be forced to submit the information in writing. Ms. Lowe believes that they should be able to orally make comment during the rules hearing as well.

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

Dr. Washburn asked the Board if everyone would be available for the hearing on April 22, 2021. If Ms. Brown-Pirrone is unable to schedule participation due to her work scheduled, Dr. Washburn asked if the remainder of the Board members attend the hearing, would it
be sufficient. Ms. Lowe responded that four members of the seven-member Board participating would constitute a quorum.

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

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

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

Dr. Garcia moved and Dr. Uhrig seconded directing the Executive Director to set the sheltering minimum standards rules hearing on April 22, 2021. 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.

Ms. Voss asked what her role will be in the hearing. Dr. Garcia believes that Ms. Voss should be in attendance at the Board office for the hearing owing to her extensive knowledge of the rules and why they are in place specifically to what Ms. Lowe said about
the use of the words shall, must, should. The Committee was very careful about the usage of those words in the rules speaking to compassionate pleas may have something to them. Dr. Garcia stated that Ms. Voss the expert. Ms. Lowe asked Ms. Voss if she could attend the hearing in the Board office on April 22, 2021. Ms. Voss stated that she should be available on that date. Ms. Sowers asked if she could join the meeting as a participant with the Chair referring or deferring to her on some of the questions. Ms. Lowe asked if Ms. Voss had looked at the written comments received, Ms. Voss stated she had not looked at them in detail; however, she will study them before the hearing.

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

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

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

________________________________________
Dr. Rebecca J. Washburn, Chair         Dr. Manuel A. Garcia, Vice Chair
________________________________________
DATE: _____________________________  DATE: ___________________________
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
accommodate up to 300 participants in the hearing. She further stated that it is difficult to determine how many participants there may be for the hearing.

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

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

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

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

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

Dr. Young moved and Dr. Garcia seconded to postpone the noticed hearing scheduled on January 18, January 19 and January 2021. 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.

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

There being no further business before the Board, Dr. Young moved and Dr. Garcia seconded to adjourn the meeting. 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.

The meeting adjourned at 1:39 p.m.

/S/ Dr. Rebecca J. Washburn, Chair

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

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

OPEN MEETING RESOLUTION: Dr. Garcia moved and Dr. Fallen seconded to accept the FY21 Open Meeting Resolution. Dr. Washburn requested a roll call vote. Dr. Uhrrig-yess; Dr. Garcia-yess; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-yes; Dr. Washburn-yes. Motion passed.

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

COMPLAINT REVIEW COMMITTEE:

Dr. Garcia assumed chairing the meeting.

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

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

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

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

Complaint No. 20-21-C: Dr. Garcia requested a roll call vote. Dr. Uhrrig-yess; Dr. Garcia-yess; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-abstains; Dr. Washburn-abstains. Motion passed.

Complaint No. 20-24: Dr. Gardner informed the Board that additional information had been received in the complaint. Dr. Fallen moved and Dr. Uhrrig seconded to table the complaint pending review of the additional information by the Complaint Review
Complaint no. 20-26: The Committee presented its report and stood for questions. After Board discussion and based on the complaint that was reviewed for probable cause by the Board, Dr. Fallen moved and Dr. Young seconded to dismiss Complaint no. 20-26 finding no violation of the Veterinary Practice Act. Dr. Garcia requested a roll call vote. Dr. Uhrig-yes; Dr. Garcia-yes; Ms. Brown-Pirrone-yes; Dr. Fallen-yes; Dr. Young-abstains; Dr. Washburn-abstains. Motion passed.

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

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

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

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

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

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

Ms. Sowers stated that the Respondent’s licenses have expired and he has not sought licensure as a veterinarian or for a veterinary facility. Dr. Fallen moved and Dr. Garcia seconded to close NCAs 14-20 and 14-33. 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.

Ms. Sowers stated that the Respondent’s licenses have expired and he has not sought licensure as a veterinarian or for a veterinary facility. Dr. Garcia moved and Marybeth Brown-Pirrone seconded to close complaint nos. 19-36; 19-37; 20-001. 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.

Ms. Sowers stated that all terms of the Pre-NCA Settlement Agreement have been satisfied. Dr. Garcia moved and Dr. Fallen seconded to close complaint no. 19-30. 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.

Ms. Sowers stated that all terms of the Pre-NCA Settlement Agreement have been satisfied. Dr. Garcia moved and Dr. Fallen seconded to close complaint no. 19-34. 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.

Ms. Sowers stated that all terms of the Pre-NCA Settlement Agreement have been satisfied. Dr. Garcia moved and Dr. Fallen seconded to close complaint no. 20-07. 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.

Dr. Garcia moved and Dr. Fallen seconded to close complaint no. 20-22 and 20-23. 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.

**PROVIDER APPROVAL REQUESTS:**

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

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

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

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

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

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

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

Dr. Garcia reported that APNM and the Committee believe the minimum standards public hearing needs to be held as soon as possible instead of waiting to hold the hearing when the
Governor’s health order is lifted. The Board agreed directing Ms. Sowers to set the hearing as early as practicable.

Ms. Sowers reported to the Board on concerns from licensees about the accrual of continuing education hours and suggestions that the December 31, 2020 deadline be extended. One licensee expressed concern that continuing to require CE hours is taking away from the licensee’s and his staff’s family time; the licensee suggested the Board should consider waiving the annual continuing education hours altogether during the pandemic. Dr. Garcia moved and Marybeth Brown-Pirrone seconded to extend the acceptance of continuing education hours accrued online/virtually through December 31, 2021. 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.

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

2021 BOARD MEETING DATES: The Board set the following dates for meetings in 2021.

January 22, 2021;
April 23, 2021;
July 16, 2021; and
October 22, 2021.

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

/S/

Dr. Rebecca J. Washburn, Chair

DATE: January 22, 2021

/ S/

Dr. Manuel A. Garcia, Vice Chair

DATE: January 22, 2021