

MINUTES

INDIANA BOARD OF VETERINARY MEDICAL EXAMINERS

JANUARY 29, 2020

I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Dr. Somerville called the meeting to order at 9:14 a.m. in Room W064 of the Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana, and declared a quorum in accordance with Indiana Code § 15-5-1.1-6(c).

Board Members Present:

William Somerville, D.V.M. – Chair
Paul Clemente, D.V.M. – Vice Chair
Steven Sunbury, D.V.M.
Jerry Rodenbarger, D.V.M.
John Schnarr, D.V.M.
Bret Marsh, D.V.M., State Veterinarian

Board Members Not Present:

Vacant, R.V.T. Member
Natalie Goodwin, Consumer Member

State Officials Present:

Cindy Vaught, Board Director, Professional Licensing Agency
Dana Brooks, Assistant Board Director, Professional Licensing Agency
Brian Park, Deputy Attorney General, Office of the Attorney General

II. ADOPTION OF AGENDA AS AMENDED

A motion was made and accepted to accept the agenda as amended.

Sunbury/Rodenbarger
Motion carried 6/0/0

III. ADOPTION OF MINUTES

The October 30, 2019 minutes will be reviewed at the April 24, 2020 meeting.

IV. APPEARANCE

Anne Kelley

Anne Kelley Case Management and Monitoring Services
Veterinary Well-being Program

Ms. Kelley is the new provider for the Indiana Veterinary Medical Association's Well Being Program. She began her employment on November 15, 2019. The Board discussed with Ms. Kelley as to whether there would be any changes with processing or communications with the Board. She stated that there will be no new changes at this time and the same process will remain in place. The Board made the recommendation that the Well-being Program be open for veterinary technicians, and not just for veterinarians.

V. PERSONAL APPEARANCES

A. Probation

1. Jennifer M. Scheller, D.V.M., License No. 24006379A

Administrative Cause No. 2017 VB 0005

Dr. Scheller appeared before the Board with legal counsel, Rori Goldman, as requested, to discuss her ongoing probationary status. Dr. Scheller is currently doing well at her employment and would like to do more work, however her current place of employment does not have the business in place to allow her to work more hours. Dr. Scheller has applied for other practices for more veterinary work. She is also currently employed at Lynn Veterinary Hospital under Dr. Stacy Hines where she practices 10 to 15 hours per week and Oaken Wagon Flower Farm located in Schoolcraft, Michigan. She is anticipating more work for the flower farm as it gets closer to the summer months. The Board inquired if Dr. Scheller has encountered any social media backlash that might prevent her from getting hired at another Veterinary Clinic. Dr. Scheller did indicate that while there has been some backlash, she is proceeding the best as she can. Dr. Scheller did state that her husband has accepted a job in the state of Texas, and they are potentially looking to move to that state. Dr. Scheller's next appearance is scheduled for July 29, 2020.

B. Renewal

1. Daren Lin Miller, D.V.M., License No. 24007328A

Dr. Miller appeared as requested to discuss answering yes to question 3 on his renewal. "Since you last renewed, and except for minor violation of traffic laws resulting in fines and arrests or convictions that have been expunged by a court, have you been arrested, entered into a diversion agreement, been convicted of, pled guilty to, or pled nolo contendere to any offense, misdemeanor, or felony in any state or US territory?" In August of 2019, pled guilty to operating a vehicle while intoxicated as a misdemeanor, stemming from a traffic stop that occurred in June of 2019. Dr. Miller testified about, among other things, his issues with substance abuse. He stated that he voluntarily submitted to an alcohol monitoring program through Fairbanks, in which he was still participating. He also testified to having no other criminal or disciplinary history, and that his criminal probation ends in February 2020. Dr. Miller has started going back to church, taking doctor prescribed medication to treat depression, and has started a new job with less hours to help relieve some of the work related stress he has been under. Dr. Miller indicated that once he complete the Fairbanks outpatient program, he was going to enroll in their relapse prevention program. The Board inquired if Dr. Miller has engaged in another outlet for stress relief. Dr. Miller is currently using exercise in place of alcohol and is so far enjoying the activity.

Board Action: A motion was made and was seconded, to renew Dr. Miller's license on indefinite probation with the following terms and conditions:

- Licensee is required to complete his current Fairbank recovery monitoring program. Upon completion of his current Fairbanks program, Licensee is required to continue with a Fairbanks relapse prevention program until future Board order modifying this requirement.
- Licensee is required to complete a minimum of six (6) months of probation, beginning January 29, 2020. Licensee's probation will be eligible for withdrawal at the Board's July 29, 2020 meeting. If Licensee desires to have the Board

consider a withdrawal of his probation at the July 29, 2020 meeting, he must submit a request to withdraw his probation prior to the July meeting.

- Licensee must successfully complete his criminal probation.
- No later than one week prior to the Board's April 29, 2020 meeting, Licensee is required to submit to the Board, or cause to be submitted to the Board, a report or other documentation from Fairbanks showing his alcohol recovery progress. Licensee is not required to personally appear at the April 29, 2020 meeting.
- No later than one week prior to the Board's July 29, 2020 meeting, Licensee is required to submit to the Board, or cause to be submitted to the Board, an updated report or other documentation from Fairbanks showing his alcohol recovery progress.
- Licensee is required to comply with all statutes and rules governing the profession.

Clemente/Schnarr
Motion carried 6/0/0

2. Britney Newcomer, R.V.T., Registration No. 25002653A

Ms. Newcomer appeared as requested to regarding her position response to question 3 on her renewal. "Since you last renewed, and except for minor violation of traffic laws resulting in fines and arrests or convictions that have been expunged by a court, have you been arrested, entered into a diversion agreement, been convicted of, pled guilty to, or pled nolo contendere to any offense, misdemeanor, or felony in any state or US territory?" in September of 2019, Mr. Newcomer plead guilty to operating a vehicle while intoxicated as a misdemeanor. She testified to, among other things, the fact that she completed an alcohol assessment as part of her criminal proceedings, but that she did not submit any such documentation as part of her renewal application. She also testified that she is currently finishing out the terms of her criminal probation, which she expects will be complete sometime prior to September 2020. She and a group of her friends were doing a girl's night out, and their designated driver never showed up to pick them up. Ms. Newcomer thought that she was well enough to drive until the police pulled her over. She was placed in jail for a few hours, and then released pending completion of an evaluation and paying fines. Part of her probation did not prohibit her from travel, however she volunteered a locking mechanism installed to limit her use of the car until the probation was complete. Ms. Newcomer does have a second job as a hostess/server and both of her employers are aware of the incident. The Board inquired on the terms of the probation as determined by the courts.

Board Action: A motion was made and seconded to renew Ms. Newcomer's registration license on indefinite probation with the following terms and conditions:

- Licensee is required to complete a minimum of six (6) months of probation, beginning January 29, 2020. Licensee will be eligible for withdrawal of probation by the Board's July 29, 2020 meeting, subject to compliance with all terms and conditions of this order. If Licensee desires to have the Board consider a withdrawal of her probation at the July 29, 2020 meeting, she must submit a request to withdraw her probation prior to the July meeting.
- No later than one week prior to the Board's July 29, 2020 meeting, Licensee is required to submit to the Board, or cause to be submitted to the Board, a report or

other documentation showing the results of the alcohol assessment she completed as part of her criminal plea.

- Licensee is required to successfully complete her criminal probation.
- Licensee is required to comply with all statutes and rules governing the profession.

Clemente/Rodenbarger
Motion carried 6/0/0

3. Aaron Matthew Stingle, D.V.M., License No. 24007414A

Dr. Stingle appeared as requested to discuss his response to question number 3 on his renewal: “Since you last renewed, and except for minor violation of traffic laws resulting in fines and arrests or convictions that have been expunged by a court, have you been arrested, entered into a diversion agreement, been convicted of, pled guilty to, or pled nolo contendere to any offense, misdemeanor, or felony in any state or US territory?” Dr. Stingle pled guilty to sexual imposition which is a fourth-degree misdemeanor in Delaware County in the state of Ohio. Dr. Stingle stated that he was at a party with a friend where he met a woman who stated that he placed his hands inappropriately. He stated that he was served papers for the incident sometime after the party. The judge who presided over his case sentenced him to complete community service, pay a fine, and be placed on the sex offender registry in Ohio. Dr. Stingle has completed all terms of his probation. The Board inquired if the incident impacted his Ohio license. Dr. Stingle told the Board that while Ohio did interview him about what occurred, it did not impact his Ohio license. He has informed Kentucky and Florida where he is licensed in what occurred, and they have not disciplined his license.

Board action: A motion was made and seconded to renew Dr. Stingle’s veterinary license.

Schnarr/Sunbury
Motion carried 6/0/0

4. Anne Jeanette Tomlinson, R.V.T., Registration No. 25001612A

Ms. Tomlinson appeared as requested regarding her response to question number 3 on her renewal: “Since you last renewed, and except for minor violation of traffic laws resulting in fines and arrests or convictions that have been expunged by a court, have you been arrested, entered into a diversion agreement, been convicted of, pled guilty to, or pled nolo contendere to any offense, misdemeanor, or felony in any state or US territory?” In October of 2018, Ms. Tomlinson pled guilty to an OWI. She had consumed some alcoholic beverages and then drove home thinking she was fine. She was pulled over 3 hours later and was breathalyzed. The police determined she was over the legal limit and she was arrested. She was mandated to complete community service and drug counseling as part of her probation terms. Ms. Tomlinson completed the terms of her probation in September of 2019. The Board expressed concerns that she still was over the legal limit after a 3 hours and inquired if she had a copy of the drug evaluation she took as part of her probation. Ms. Tomlinson did not have a copy of the evaluation. The Board moved to table a decision until Ms. Tomlinson was able to submit a copy of the evaluation and if she is unable to retrieve a copy she will need to complete a new evaluation. Ms. Tomlinson will be scheduled to appear at the April 29, 2020 Board meeting to discuss evaluation.

Board action: A motion was made and seconded to table Ms. Tomlinson’s application for renewal of her veterinary technician registration until further information is received.

Sunbury/Rodenbarger
Motion carried 6/0/0

C. Application

1. Brandon J. Boer (RVT)

Mr. Boer appeared before the Board, as requested, regarding his application for veterinary technician registration by endorsement. Mr. Boer reported that on July 10, 2007, he pled guilty to a DWI in Blaine, Minnesota and placed on 2 years of probation with terms and conditions. Since that time he has completed all requirements. Mr. Boer stated that on the night in question he was drinking with some friends, and one of his intoxicated friends convinced him to drive them home. During the drive home they got into an accident, and no one was seriously injured. Mr. Boer let the Board know that he is currently employed and that this incident has not affected his employment. He is currently licensed in the State of Illinois and is in the process of moving to Indiana. Mr. Boer assured the Board that there have been no other problems with alcohol in the past as this was his first incident, and there is no discipline on his Illinois license. Mr. Boer explained that he did answer not yes to the question regarding convictions was because he thought after 10 years it was no longer on your record. Mr. Boer is a 2015 graduate of Fox College and has taken and passed the VTNE. He is currently licensed in the state of Pennsylvania and an expired license in the state of Illinois.

Board Action: A motion was made and seconded to approve Mr. Boer's application for registration as a veterinary technician pending taking and passing the jurisprudence examination.

Rodenbarger/Sunbury
Motion carried 6/0/0

2. Nathan Brown (DVM)

Dr. Brown appeared before the Board, as requested, regarding his application for veterinary licensure by examination. In October of 2012, Dr. Brown pled guilty to an alcohol intoxication in a public place. He complied with the courts order. Dr. Brown stated that he was drinking with some friends and they were walking across his University's campus. One of his friend's was just shy of 21 when they were stopped by the university security for underage drinking. Dr. Brown is graduate of Lincoln Memorial university and has taken and passed the NAVLE examination. Dr. Brown is currently licensed in Kentucky and they are aware of his background there. Kentucky did not have him complete any additional requirements for his license there. Dr. Brown admitted he still does drink for recreation, but he does not drink and drive. The Board asked him regarding expungement, and Dr. Brown thought that after 5 years that it would become expunged automatically.

Board Action: A motion was made and seconded to approve Dr. Brown's application for veterinary licensure pending the jurisprudence examination.

Sunbury/Clemente
Motion carried 6/0/0

3. Jessica Leann Jarrett (RVT)

Ms. Jarrett appeared as requested regarding her application for veterinary technician registration. Ms. Jarrett's original registration, that was issued by the Board, expired on

January 1, 2012. According to Ind. Code 25-1-8-6, applicants must submit a new application for registration after 5 years. Ms. Jarrett informed the Board that she is currently working as a veterinary assistant. However her application indicated she was working as a veterinary technician. Ms. Jarrett explained that her employment uses the term of veterinary technician, but the duties were as a veterinary assistant. Ms. Jarrett has completed continuing education but the courses completed were dated from 2018. Ms. Jarrett stated that since she has returned to the field her academic knowledge might be less than when she was in school, but her hands on knowledge has increased. The Board had concerns regarding the length of time she has been out of the field.

Board Action: After discussion, a motion was made and seconded that Ms. Jarret complete 15 hours of continuing education and submit copies of the certificates. She will be required to appear before the Board at their next scheduled meeting. Her application was tabled pending the submission of the additional requirements and appearance.

Sunbury/Rodenbarger
Motion carried 6/0/0

4. Natalie Murdoch (RVT)

Ms. Murdoch appeared as requested regarding her yes response to the question “Except for minor violations of traffic laws resulting in fines, and arrests or convictions that have been expunged by a court, have you ever been arrested; have you ever entered into a prosecutorial diversion or deferment agreement regarding any offense, misdemeanor, or felony in any state; have you ever been convicted of any offense, misdemeanor, or felony in any state; have you ever pled guilty to any offense, misdemeanor, or felony in any state; or have you ever pled nolo contendere to any offense, misdemeanor, or felony in any state?” In March of 2017, Mrs Murdoch pled guilty to possession of marijuana in Hamilton County, Indiana. Ms. Murdock explained that she was dating a man who liked to smoke marijuana. At the time of the incident her boyfriend did not have a car for transportation, so she was driving him while he smoked. She was pulled over for speeding, however while pulled over the police officer smelled the substance and she plead guilty at the scene. The police took the substance and released her and her boyfriend. The Board inquired if she entered into any substance abuse diversion programs as part of plea agreement. Ms. Murdock admitted that she did not enter into a program on advisement of her academic institute who did not want the incident to negatively impact her. Ms. Murdock informed the Board that she no longer is with that person or the group of friends who were influencing her at that time.

Board Action: A motion was made and seconded to approve Ms. Murdoch’s application for registration as a veterinary technician pending the completion of the jurisprudence examination.

Sunbury/ Rodenbarger
6/0/0

5. Cera Jean Petro (RVT)

Ms. Petro appeared as requested regarding his application for registration as a veterinary technician. A letter from her employer indicated that she was employed as a veterinary technician. Ms. Petro stated that she has been employed at Allen Veterinary Hospital located in Fort Wayne, Indiana since February of 2019. She informed the Board that her duties were that of a veterinary assistant and not as a veterinary technician. Ms. Petro also informed the Board that the Hospital is calling all of their staff of that level technicians.

The Board stated that regardless of what her job duties are, she and her coworkers cannot call themselves technicians without being registered by the Board. Ms. Petro understands the issue and will speak with the administrator of the hospital regarding usage of the term technician. The Board inquired if Ms. Petro has a supervisor with a veterinary technician registration. Ms. Petro was not aware if she had a registration or not.

Board Action: A motion was made and seconded to approve Ms. Petro's application for registration as a veterinary technician pending completion of jurisprudence examination.

Schnarr/Sunbury
Motion carried 6/0/0

6. Nathaniel Eric Sellers (RVT)

Mr. Sellers appeared as requested regarding his application for registration as a veterinary technician. Mr. Sellers did not answer positively to the question "Except for minor violations of traffic laws resulting in fines, and arrests or convictions that have been expunged by a court, have you ever been arrested; have you ever entered into a prosecutorial diversion or deferment agreement regarding any offense, misdemeanor, or felony in any state; have you ever been convicted of any offense, misdemeanor, or felony in any state; have you ever pled guilty to any offense, misdemeanor, or felony in any state; or have you ever pled nolo contendere to any offense, misdemeanor, or felony in any state?" Mr. Sellers informed the Board that his charges were due to a driving incident and a series of clerical errors that caused the issue to escalate. After the first incident, Mr. Seller thought all issues were completed; however, when Mr. Seller had been in a car with his friends and the police pulled the licenses of all people in the car, Mr. Seller was informed that the original charge was still attached to his license. The Board inquired if there were any outstanding fines attached to the original incident. Mr. Seller told the Board that there were no outstanding fines, as he had paid and completed all the original fines. Mr. Seller did have a legal counsel look into the payment of the fines, but there was no record of the payment. The Board inquired if Mr. Seller had ever inquired with the Bureau of Motor Vehicles for the history on his license. Mr. Seller stated he had not, but will be looking into that avenue to finish clearing up the issues.

Board Action: A motion was made and seconded to approve Mr. Sellers' application for registration as a veterinary technician.

Sunbury/ Rodenbarger
Motion carried 6/0/0

7. Charles Alan Wildt (DVM)

Dr. Wildt was not present. He will be rescheduled for the next meeting.

VI. ADMINISTRATIVE HEARINGS

A. Ronald Baumgart, II, D.V.M., License No. 24007003A

9:30 a.m.

Administrative Cause No. 2017 VB 0003

Re: Petition to Withdraw Probation

Parties Present:

Respondent was present.

Rori Goldman, Counsel for the Respondent

Patricia Gibson, Deputy Attorney General for the State of Indiana
Lindy Myer, Court Reporter, Rutledge Independent Reporting

Participating Board Members:

William Somerville, D.V.M. (Hearing Officer)
Paul Clemente, D.V.M.
Steven Sunbury, D.V.M.
Jerry Rodenbarger, D.V.M.
John Schnarr, D.V.M.
Bret Marsh, D.V.M., State Veterinarian

Case Summary: On or around October 15, 2019 Respondent filed to the Board request to withdraw his Probation as all terms and conditions have been met. Ms. Goldman submitted to the Board, for her client, proof that Dr. Baumgart has completed all terms of the probation with an affidavit and letters of recommendation informing the Board that Dr. Baumgart has improved and changed since the original incident. Dr. Baumgart showed proof of the Continuing Education requirements, updated equipment, employee list and showed an example of how he keeps his staff updated on office changes. Dr. Baumgart informed the Board that he has paid his fees and that the new training he has incorporated with his staff has allowed his practice to be smoother. The Board inquired on an employee who was rehired, and Dr. Baumgart assured the Board that they were only hired for the receptionist and nothing more. The Board inquired how Dr. Baumgart arranged his schedule with two places of employment. Dr. Baumgart let the Board know that he alternates his location days; however, if he has surgeries at both location on the same day he splits those days. He assures the Board that his receptionist keeps everything smooth with no conflicts, but he does not have another veterinarian fill in if there is an issue. An inquiry was made if Dr. Baumgart kept digital or hand written notes for record keeping purposes. Dr. Baumgart let the Board know that he only uses written notes when he is performing physical exams. The Board advised Dr. Baumgart to also keep a hard copy of his digital notes in case of a power surge or outage. Dr. Baumgart finished his summary by letting the Board know that there is only a 15-minute travel distance between his two practices which allow easier adjustments for his schedule in case of any pressing incidents.

Board Action: A motion was made and seconded to accept the withdrawal of probation.

Rodenbarger/Sunbury
Motion carried 6/0/0

B. Mary Marcotte, D.V.M., License No. 24006200A

9:30 a.m.

Administrative Cause No. 2019 VB 0016

Re: Administrative Complaint

Parties Present:

Respondent was present

Chris Jeter, Counsel for the Respondent

Melinda Pickett, Deputy Attorney General for the State of Indiana

Sherri Rutledge, Court Reporter, Rutledge Independent Reporting

Participating Board Members:

William Somerville, D.V.M. (Hearing Officer)

Paul Clemente, D.V.M.

Steven Sunbury, D.V.M.

Jerry Rodenbarger, D.V.M.

John Schnarr, D.V.M.

Bret Marsh, D.V.M., State Veterinarian

Case Summary: On or around October 16, 2019 an administrative complaint was filed in the matter of Dr. Marcotte. In June 2017 Dr. Marcotte enrolled in the IVMA Well-Being program to help offset her substance abuse. As part of the program, Dr. Marcotte was required to complete counseling and random drug screening. During the program Dr. Marcotte had failed one drug screening. She had informed the program that this incident was due to her thinking she was taking a different medication. She had been approved through the program to be employed part time provided that she did not proscribe or handle and controlled substances. As part of a follow up of the INSPECT program, Dr. Marcotte had been found having a prescription for narcotics. Dr. Marcotte let the program know that this prescription was for neck pain, however she never divulged the information voluntarily to her program. When Dr. Marcotte was screened again she was positive for opioids which she denied the positive result. The IVMA program felt that Dr. Marcotte was not ready for full time work and advised she be resubmitted for outpatient treatment. A settlement has been proposed regarding more drug screenings and to place Dr. Marcotte's license on a three (3) year probation. The parties agreed to allow the Board to decide on the following provisions: 6(1) with regard to frequency of drug screens and 6(h), Respondent's ability to dispense and/or prescribe be controlled substances. The Board agreed that Respondent shall have four (4) hair follicle screens per year, one (a) each ninety (90) days, and six (6) random urine drug screens per year to be administered by Indiana Health Group. Per Board at the hearing. The Board agreed that no restrictions shall be placed on Respondent's ability to dispense and/or prescribe controlled substances.

Board Action: A motion was made and seconded to approve the Proposed Settlement Agreement in the matter of Dr. Marcotte with the following terms and conditions:

- a. Respondent shall continue to engage in substance abuse monitoring and treatment as directed by her substance abuse treatment provider(s). Indiana Health Group shall do random drug screens (at a frequency to be determined by the Board), to be paid for by Respondent, until the Board at its discretion discontinues this requirement.
- b. Respondent shall sign a release/releases to allow her substance abuse treatment provider(s) to communicate directly with the Board and the Office of the Indiana Attorney General regarding her compliance, diagnosis, etc.

- c. Respondent shall provide a copy of the final order in this matter to her substance abuse treatment provider.
- d. Respondent shall notify the Board in writing of any relapse within ten (10) days of the relapse.
- e. Any violation of Respondent's substance abuse treatment plan, including but not limited to a positive drug screen result, and/or any indication of inability to maintain fitness to practice veterinary medicine, shall immediately be reported to the Board by Respondent's treatment provider and will result in an immediate emergency suspension of Respondent's veterinarian license pending a review hearing.
- f. Respondent shall make personal appearances in front of the Board at least twice per year until released from this requirement.
- g. Respondent's treatment providers(s) shall submit a quarterly signed report to the Board for review updating the Board regarding Respondent's progress.
- h. Petitioner and Respondent agree to allow the Board to determine any restriction on Respondent's ability to dispense or prescribe controlled substances.
- i. Respondent shall keep the Board apprised of the following, and notify the Board of any changes within fifteen (15) days of such change:
 - i. Current residence, mailing address, and residential phone number, and;
 - ii. Respondent's place of employment, employment phone number, and name of supervisor, if applicable;
- j. Respondent shall have her current veterinary employer sign and return a copy of her Probation Order within ten (10) days after receiving the Board's Order accepting the Parties' Settlement – should her employment change, Respondent shall submit a new, signed copy of the Order from her new veterinary employer within ten (10) days of new employment;
- k. Respondent shall cause her employer to submit quarterly reports to the Board addressing Respondent's duties, responsibilities, character, and performance in her professional capacity. Respondent shall submit quarterly self-reports if not employed in a veterinarian capacity addressing her activities and any attempts to return to the field.
 - i. Any and all reports, documentation or payments shall be mailed to:
 Indiana Professional Licensing Agency
 Attn: Indiana State Board of Veterinary Medical Examiners
 402 West Washington Street, W072
 Indianapolis, Indiana 46204
- l. Respondent shall not violate any statutes or rules regulating the practice of veterinary medicine.
- m. Pursuant to Ind. Code § 4-6-14-10(b), Respondent shall pay a fee of Five Dollars (\$5.00) to be deposited into the Health Records and Personal Identifying Information Protection Trust Fund. This fee shall be paid within thirty (30) days of the Board's final order by check or money order payable to the *State of Indiana*, and submitted to the following address:
 Office of the Indiana Attorney General
 Attn: Executive Assistant Consumer Protection
 302 West Washington Street, 5th Floor
 Indianapolis, Indiana, 46204.
- n. Upon successful completion of all above terms and conditions, Respondent may petition the Board for the probation to be lifted in accordance with Ind. Code § 25-1-9-9(b).
- o. Respondent has carefully read and examined this agreement and fully understands its terms and that, subject to a final order issued by the Board, this Agreement is a final disposition of all matters and not subject to further review.
- p. Respondent further understands that a violation of the Final Order, any noncompliance with the statutes or regulations regarding the practice of veterinary medicine or any violations of this Settlement Agreement may result in Petitioner requesting a summary suspension of Respondent's license, or an Order to Show Cause as may be issued by the Board, or a new cause of action pursuant to Ind. Code § 25-1-9-4, any or all of which could lead to additional sanctions, up to and including a revocation of Respondent's license.

- q. The parties agree to the continuing jurisdiction of the Board and that the discipline agreed to, terms of discipline, and licensure status will apply even if the Board renews Respondent's license at a later date.
- r. Respondent agrees to allow the Office of the Indiana Attorney General to review her licensing file located at the Indiana Professional Licensing Agency at any time in the future to review compliance with this Agreement.

Somerville/Rodenbarger
Motion carried 6/0/0

C. Sara Lynn Breitwieser, R.V.T., Registration No. 25002380A

Administrative Cause No. 2018 VB 0009

Re: Petition to Withdraw Probation

Parties Present:

Respondent was present
Melinda Pickett, Deputy Attorney General for the State of Indiana
Lindy Myer, Court Reporter, Rutledge Independent Reporting

Participating Board Members:

William Somerville, D.V.M. (Hearing Officer)
Paul Clemente, D.V.M.
Steven Sunbury, D.V.M.
Jerry Rodenbarger, D.V.M.
John Schnarr, D.V.M.
Bret Marsh, D.V.M., State Veterinarian

Case Summary: In April of 2018 the Board issued an order placing Ms. Breitwieser registration on probation. The probationary order resulted from a license renewal application, where Licensee disclosed that she had been convicted of operating a vehicle while intoxicated. Among other terms and condition, Licensee was prohibited from withdrawing her probation until she completed her criminal probation. In November of 2019 Ms. Breitwieser requested that her probation be withdrawn. She testified to the successful completion of her criminal probation, among other things. Ms. Breitwieser is currently employed at Far Best Farms working in their corporate office and a part time job as a waitress. There has been no discipline in either places of employment and she is currently not working in the capacity of a veterinary technician. The State had no objection to the withdraw of probation

Board Action: A motion was made and seconded to grant Ms. Breitwieser's petition for withdrawal of probation.

Rodenbarger/Sunbury
Motion carried 6/0/0

D. Toby Bell

Administrative Cause No. 2019 VB 0012

Re: Order To Show Cause

Parties Present:

Respondent was not present
Patricia Gibson, Deputy Attorney General for the State of Indiana
Lindy Myer, Court Reporter, Rutledge Independent Reporting

Participating Board Members:

William Somerville, D.V.M. (Hearing Officer)
Paul Clemente, D.V.M.
Steven Sunbury, D.V.M.
Jerry Rodenbarger, D.V.M.
John Schnarr, D.V.M.
Bret Marsh, D.V.M., State Veterinarian

Case Summary: Respondent was not present. Attempts have been made regarding mailing, emailing, and calling the Respondent with all provided contact information. Respondent has not reached out to the Board with any form of contact.

Board Action: A motion was made and seconded to table action in the matter of Toby Bell until a new method of contact can be attempted.

Clemente/Sunbury
Motion carried 6/0/0

E. Chad Kaluza, D.V.M., License No. 24006069A

Administrative Cause No. 2019 VB 0011

Re: Administrative Complaint & Summary Suspension Extension

Parties Present:

Respondent was not present
Melinda Pickett, Deputy Attorney General for the State of Indiana
Lindy Myer, Court Reporter, Rutledge Independent Reporting

Participating Board Members:

William Somerville, D.V.M. (Hearing Officer)
Paul Clemente, D.V.M.
Steven Sunbury, D.V.M.
Jerry Rodenbarger, D.V.M.
John Schnarr, D.V.M.
Bret Marsh, D.V.M., State Veterinarian

Case Summary: Respondent was not present or represented by counsel in the matter. At this time, the State requested that a Notice of Proposed Default be issued. The State requested that the summary suspension lapse due to the license has expired.

Board Action: A motion was made and seconded to issue a Notice of Proposed Default in the matter of Dr. Kaluza.

Clemente/Sunbury
Motion carried 6/0/0

F. Ericka R. Bates, D.V.M., License No. 24007619A

Administrative Cause No. 2019 VB 0015

Re: Administrative Complaint

Parties Present:

Respondent was present
Rori Goldman, Counsel for the Respondent
Melinda Pickett, Deputy Attorney General for the State of Indiana
Lindy Myer, Court Reporter, Rutledge Independent Reporting

Participating Board Members:

William Somerville, D.V.M. (Hearing Officer)
Paul Clemente, D.V.M.
Steven Sunbury, D.V.M.
Jerry Rodenbarger, D.V.M.
John Schnarr, D.V.M.
Bret Marsh, D.V.M., State Veterinarian

Case Summary: Dr. Schnarr participated in a settlement conference with Respondent. The State and Respondent's Attorney had no objection to Dr. Schnarr participating. Dr. Clemente recused himself from the case because he has reviewed the complaint and he w Dr. Bates and they are both based in the same area. A Proposed Settlement Agreement was submitted to the Board for review. The proposed agreement would place Dr. Bates' license on indefinite probation for at least 4 years and be required to submit a fitness for duty evaluation; complete continuing education in the area of remedial surgery, stress management and selfcare practice, and record keeping; shall not perform solo surgeries for a period of one year; personal appearances and employer reports. The Board requested that further evaluation of the Respondent's practice and mental stability need to be completed before a settlement agreement can be made. The Board made it clear that they will be open for an Amended Settlement Agreement if proposed.

Board Action: A motion was made and seconded to reject the Proposed Settlement Agreement in the matter of Dr. Bates.

Schnarr/Rodenbarger
Motion carried 5/0/1

G. Lane Brook Benziger, D.V.M., License No. 24007130A

11:15 a.m.

Administrative Cause No. 2019 VB 0017

Re: Administrative Complaint

Parties Present:

Respondent was present
Melinda Pickett, Deputy Attorney General for the State of Indiana
Lindy Myer, Court Reporter, Rutledge Independent Reporting

Participating Board Members:

William Somerville, D.V.M. (Hearing Officer)
Paul Clemente, D.V.M.
Steven Sunbury, D.V.M.
Jerry Rodenbarger, D.V.M.
John Schnarr, D.V.M.

Bret Marsh, D.V.M., State Veterinarian

Case Summary: In December of 2019 the state filed a disciplinary complaint alleging that in 2016-2017 Licensee discovered that ninety-six (96) Alprazolam tablets were missing from his clinic inventory. The complaint alleged that Licensee failed to notify the federal Drug Enforcement Administration (DEA) of a theft/loss a controlled substance, in violation of 21 CFR 1301.76. The state charged a single disciplinary violation as a result of this alleged conduct: a violation of Indiana Code § 25-1-9-4(a)(3) for violating a federal rule regulating the profession. At the hearing the state admitted evidence of a consumer complaint stating that medications were stolen at Licensee's clinic. The state also admitted evidence of correspondences between the state and Licensee, wherein Licensee suggested that the complaining consumer, a former employee of Licensee's, had stolen Alprazolam from his clinic. Licensee testified that she did not notify the DEA regarding any lost or stolen medications, stating that he did not actually believe that the former employee had stolen Alprazolam. Licensee stated that the former employee had been disciplined for behavior issues, and he explained that his correspondences to the state were motivated by the belief that the former employee would see his statement implying that the former employee stole Alprazolam. Licensee also submitted documentation showing an accounting of the Alprazolam at his clinic. After reviewing the evidence and testimony, the Board finds that Alprazolam was not stolen from Licensee's practice. The Board concludes that Licensee did not violate 21 CFR 1301.76 insofar as the Board found that Alprazolam had not been stolen from Licensee's practice. The Board concludes that the state did not meet its burden of proving a violation of Indiana Code § 25-1-9-4(a)(3).

Board Action: A motion was made and seconded complaint against Dr. Benziger be dismissed based on the Board's findings and conclusions of no violation.

Somerville/Sunbury
Motion carried 4/1/1

VII. DISCUSSION

A. American Association of Veterinary State Boards (AAVSB)

Re: AAVSB Topics to Discuss

The report was reviewed and noted.

B. Election of Officers

A motion was made by Dr. Rodenbarger and seconded by Dr. Sunbury to re-elect Dr.

Sommerville, Chair, and Dr. Clemente, Vice Chair. Motion carried 5/0/0.

VIII. APPLICATION REVIEW

There were no applications for review.

IX. PROBATION REVIEW

There were no probation files to review.

X. CONTINUING EDUCATION

A. Animal Eye Clinic

"Ophthalmic Drugs Why, How & What To Use"

May 8, 2020

Indianapolis, Indiana

1 hour

- January 21, 2020
Kokomo, Indiana
1 hour
- B. Care Center**
“CPR Guidelines for Small Animal Practice”
Dates to be Determined
Lawrenceburg, Indiana
1 hour
- C. Grady Veterinary Hospital**
“Review and Updates on Gastrointestinal Disease”
February 4, 2020
Cincinnati, Ohio
2 hours
- D. Idexx Laboratories**
“An Introduction to Basic Veterinary Urinalysis”
November 12, 2019
Valparaiso, Indiana
1.5 hours
“An Introduction to Basic Veterinary Chemistry”
November 12, 2019
Highland, Indiana
1 hour
- E. Kelly Vearil, RVT, VTS (Dentistry)**
“Radiographic Positioning for Full Mouth in Dogs & Cats”
October 19, 2019
4 hours
- F. Zoetis**
“Leptospirosis - Coming to a Dog New Year”
October 22, 2019
1.5 hours

XI. REPORTS

- A. Attorney General’s Report**
Melinda Pickett, DAG, present the report.
- B. State Veterinarian’s Report – Dr. Marsh**
- Dr. Marsh reported that they are still investigating the ASF (African Swine Flu). While there have been no complaints regarding the flu, there have been signs of the impact in some of their reports.
 - There is currently a tag trade in program which will allow old tags to be traded in for newer ones. While there are still metal tags allowed for cows, there must be different tags for sheep. The trade in program will benefit getting proper new tags for the sheep.
 - Dr. Marsh provided 2019 in Review summary guide provided by the Indiana State Board of Animal Health that shows where Indiana stands in Animal Care, Preparedness, Food Safety, Animal Health, and Economic Impact. There have been no alarming trends for any of those criteria.

XII. OLD/NEW BUSINESS

XIII. ADJOURNMENT

There being no further business, and having completed its duties, a motion was made and seconded to adjourn the meeting of the Indiana Board of Veterinary Medical Examiners at 6:18 p.m. by consensus.

William Somerville, D.V.M., Chairman

Date