

Minutes' Insertions for Dec. 2016 Meeting.

I will call shortly with certain changes, but the following is being sent to you via email:

X. Policy, Procedure, and Rules

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C. Practice Act, Rules/Related Matters/Declaratory Statements.

1. Mr. Tomino updated the Board on the status of Task Force/SCR 65 recommending to the Senate Committee on Health & Welfare proposed solutions and potential items to be considered by the Legislature in 2017 General Session regarding the effects of the *N.C. Dental* case. There is no anticipated recommendation by the Task Force to amend the definitions of any professional practice, nor change the composition of the state boards comprised of active market participants. Active state supervision requirement will be addressed by a suggested government attorney panel to first review any proposed LDH boards' action that could potentially be argued to be a restraint of lawful trade scenario. LVMA representatives were present during the update.
2. Dr. Jenny Breaux submitted a query regarding whether or not an examination is required prior to administering a rabies vaccination. After careful consideration, the Board concluded that a physical examination prior to administering a rabies vaccination is the required proper standard of veterinary practice. When a strong biological agent, such as a rabies vaccine, is given to an animal, an examination is needed to determine if the animal appears to be healthy enough to safely receive the product and that the animal's body may hopefully respond correctly to the product.
3. Dr. David Butler submitted an initial query regarding 1) whether or not an examination is required as a standard of veterinary care prior to administering a rabies vaccination; and 2) is the veterinary-client-patient relationship (VCPR) still valid if the veterinarian has not seen the animal for a year. His questions appear to revolve around the administration of the three (3) year vaccine with one year tags being consecutively issued.

After careful consideration, the Board concluded that with regards to his first question, a physical examination prior to administering a rabies vaccination is the required proper standard of veterinary practice. When a strong biological agent, such as a rabies vaccine, is given to an animal, an examination is needed to determine if the animal appears to be healthy enough to safely receive the product and that the animal's body may hopefully respond correctly to the product.

In response to his second question, there is no automatic time expiration on the existence of the VCPR. The VCPR is the professional relationship established by the veterinarian with the client and patient which includes, among other elements, the veterinarian's obligations of confidentiality and the maintenance of the medical record for the required five (5) year period from the date the animal has last received veterinary care services. The Board has concluded that the VCPR can be terminated prospectively by the veterinarian as a business decision if, and only if, the patient is not prejudiced at the time of such termination and notice to the client. In concluding, the veterinarian was advised that the confidentiality and maintenance of the medical record obligations remain after such termination.

Thereafter, Dr. Butler submitted a supplemental request for clarification. In response, after the required initial exam and the 3 year vaccine is administered, an exam is not required for the remaining consecutive years 2 and/or 3 if only the tag/license is what the animal is being seen for by the veterinarian. This response is based on the Board's jurisdiction regarding the standard of veterinary care in rabies vaccination. However, should local government require such an exam pursuant to its jurisdiction regarding the tag/license issue for consecutive years 2 and/or 3, then the required exam(s) would be more in the nature of a ministerial issue, but not as a standard of veterinary care.

Now, if there are different veterinarians at different facilities in consecutive years 2 and/or 3, if it can be confirmed and documented in the medical record by the current, attending veterinarian that a 3 year vaccine was initially used, there would be no requirement for additional exams pursuant to the Board's jurisdiction on the standard of veterinary care. Again, the Board must defer to local government regarding the tag/license issue pursuant to its jurisdiction as delegated to it by the Legislature.

4. Dr. Tom Greene submitted a query regarding the "requirements for pre-surgery/anesthesia blood work and the owner's option to refuse it, by signing a form." In response, pre-anesthetic blood work prior to general anesthesia is the required proper standard of veterinary practice. However, the decision to have such performed, or not, rests with the informed client. Accordingly, pre-anesthetic blood work prior to general anesthesia must be explained and offered to the client prior to the general anesthesia. Such can be accomplished by a simple form which when signed by the client, either accepting or denying the pre-anesthetic blood work, properly documents the medical record if the matter is later raised by the client and then questioned by the Board. It was suggested that the veterinarian review Rule 1039.B, C, and D which addresses Anesthesia Consent Forms in emergency and non-emergency situations, and further defines an emergency situation.

Furthermore, the Board has consistently concluded that sedation (for example: Dexdomitor and Butorphanol) is included within the concept of general anesthesia thereby requiring a signed consent form by the client prior to administration. In comparison, a topical or local anesthetic does not require such a signed consent form.

The Board was not unanimous in its conclusion with Dr. Lipscomb in disagreement.

The Board elected to insert an article on this subject matter in the upcoming Dec/Winter 2016 edition of its *Newsletter*.

Thereafter, Dr. John Fletcher submitted a request for clarification after reading the *Newsletter* article regarding "pre-anesthetic blood work prior to general anesthesia is the required proper standard of veterinary practice" His question is "what constitutes appropriate "blood work"? Is a PCV/TP/Glucose adequate or is a complete CBC/Chem Panel needed or something in between?"

The following response was authorized by the Board President in keeping with the Board's decision made on December 1, 2017. Accordingly, as stated in the recent *Newsletter* (Winter 2016-17), pre-anesthetic blood work prior to general anesthesia is the required proper standard of veterinary practice. However, the type of blood work required is dependent on the condition and specific circumstances of veterinary care for the respective patient. Therefore, whether it is "a PCV/TP/Glucose adequate or is a complete CBC/Chem Panel needed or something in between," is a fact sensitive determination. The review standard of the type of pre-anesthetic blood work required in a given matter is "the same degree of care, skill, and diligence as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession" as provided in Rule 1023.

5. Dr. Dale L. Paccamonti with LSU-SVM submitted a question regarding "how do faculty that have federal accreditation, either Level 1 or 2, get a number that they can use to sign regulatory papers (health certificates, TB/brucellosis/Coggins's papers, etc.) in Louisiana." He was advised to have the Faculty Licensed Veterinarians use the number assigned to him/her on the respective license as issued by the Board for the USDA certificate.

It is also noted that the Board previously communicated with the pertinent USDA and LDAF persons, as well as informed LSU-SVM, (prior to the effective date of Oct 1 of the new Rule 303) that the holder of a faculty license may issue a health certificate and perform a Coggins test on an animal owned by a member of the public whether by referral from a private practice veterinarian, or by direct patient solicitation/access without referral, as part of his employment at the

school. However, an active license is, and will continue to be, required for the provision of veterinary care on animals owned by the public outside of the school employment arena, including the issuance of a health certificate and performance of a Coggins test.

6. Lindsey S. Saunders, Academic Coordinator for LSU-SVM, submitted a query regarding whether the “house officers” who apply for faculty licensure in June and July 2017 will need to renew their licenses in September. It was concluded that, due to Rule 500 on Fees, such faculty licenses issued in May, June, July or August, will not have to renew in September of the same year.
7. Dr. Brent Robbins, LDAF Deputy Commissioner and State Veterinarian, submitted a query regarding communications with LSU-SVM on the recent flooding event/aftermath in South LA and the school’s participation. In the response to Dr. Robbins a brief history of the protocol was first reviewed, and then, the specific questions and LBVM’s responses followed. Such are provided below.

I. Protocol.

The Governor first must declare a public health emergency. Pursuant to Rule 309 (promulgated pursuant to the 2006 Legislative Session), a determination must initially be made by the LBVM as to whether the public health emergency requires the implementation, by new emergency rule, for “temporary registration” of veterinarians or veterinary technicians whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States. The LBVM contacts the LA State Veterinarian as the legal entity to properly provide the LBVM with information for consideration regarding the necessity for temporary registration of out of state veterinarians and veterinary technicians due to a shortage of LA licensed veterinarians during the declared emergency.

By law, the LA State Veterinarian is in charge of the Incident Command Central effort during the declared emergency. It is the LBVM’s understanding that input will be sought by the State Veterinarian’s office from the appropriate Federal authorities, the LA Veterinary Medical Association-SART, and LSU-SVM, as well as other interested governmental entities including local authorities.

If the LBVM makes the informed determination that temporary registration of out of state veterinarians and veterinary technicians is not required for the declared emergency, then the current provisions of the LA Veterinary Practice Act regarding the necessity for a LA license, or a qualified exemption for a license, to practice veterinary medicine will apply. In other words, the current status quo requiring a LA license will remain in effect.

Again, the decision by the LBVM to issue temporary registration to qualified out of state veterinarians and veterinary technicians will be

based primarily on whether the needs, during a declared disaster, are being sufficiently met by LA licensed veterinarians and LA registered veterinary technicians. It is the LBVM's further understanding that the entire protocol worked seamlessly in the recent flooding event/aftermath in South LA. There were sufficient LA licensed veterinarians to address the needs for veterinary care, without the need for out-of-state veterinarians, as reported by the State Veterinarian to the LBVM.

II. Specific Questions followed by the LBVM's Responses.

Question 1. May current "faculty licensed" veterinarians with LSU assist as veterinarians during a declared emergency though it may be outside of their regular functions?

Response: The triggering event is a mandated declaration of a public health emergency by the Governor. Then, Rule 309 protocol begins for the LBVM to determine if there is a need for temporary registration of out of state veterinarians and veterinary technicians due to a shortage of LA licensed veterinarians during the declared emergency. The LBVM is in communication with the State Veterinarian for information so that it may make an informed decision.

Effective October 1, 2016, Rule 303.E was promulgated to require a faculty license when a veterinarian faculty member engages in the direct (hands-on) practice of veterinary medicine on an animal owned by a member of the public whether by referral from a private practice veterinarian, or by direct patient solicitation/access without referral, as part of his employment at the school. Administrative regulatory accountability is required to insure the health, welfare, and protection of the animals and the public.

During a qualified, declared public health emergency, animals owned by members of the public are provided veterinary care in the affected areas as confirmed by the State Veterinarian. Accordingly, a faculty licensed veterinarian may provide veterinary services in a qualified, declared emergency *if such is "part of his employment at the school" as defined by LSU-SVM*. There is no need for consideration of whether there is a shortage of active LA licensed veterinarians under this scenario due to the wording and effect of Rule 303.E.

In contrast, if a qualified, declared emergency *is not defined as "part of his employment at the school,"* then a faculty licensed veterinarian must monitor the LBVM's website and can only provide veterinary care pursuant to the requirements set forth in an Emergency Rule per the LBVM's decision in accordance with Rule 309's protocol. In this scenario, the faculty licensed veterinarian must first complete the temporary registration requirements of an Emergency Rule issued by the LBVM.

Question 2. May "non-faculty licensed" veterinarians with LSU assist as veterinarians during a declared emergency?

Response: No. Please refer to the response to Question 1 above. In

short, a “non-faculty licensed” veterinarian must monitor the LBVM’s website and can only provide veterinary care pursuant to the requirements set forth in an Emergency Rule per the LBVM’s decision in accordance with Rule 309’s protocol. The “non-faculty licensed” veterinarian must first complete the temporary registration requirements of an Emergency Rule issued by the LBVM.

Question 3. May LSU import veterinarians without a current faculty license from outside the state to assist as veterinarians with a declared emergency?

Response. No. Please refer to the Responses to Questions 1 and 2 above. These out-of -state veterinarians must comply with Rule 309 should an Emergency Rule be issued by the LBVM, after a public health emergency declared by the Governor, and the LBVM’s determination that there are not enough LA licensed veterinarians to address the veterinary care needs during the emergency.

Question 4. May LSU students assist during a declared emergency?

Response. In a qualified, declared emergency, an LSU-SVM student may assist with veterinary services pursuant to the defined limitations and requirements set forth in Rule 714 “Student/Shelters and Faculty Veterinarians” which states: 1) he must be a regular student at LSU-SVM who is performing permissible duties or actions assigned by his instructors as part of his curriculum; and 2) the supervising, faculty licensed veterinarian must be within the permissible “part of his employment at the school,” as well as the veterinarian of record for the patient. See Response to Question 1 above.

Also, please note that Rule 714.C states that “the supervising, faculty licensed veterinarian shall be ultimately responsible and held accountable by the LBVM for the duties, actions, or work performed by the student, however, at no time shall the student’s role extend beyond assisting the faculty licensed veterinarian in a support capacity during assessment, diagnosis, treatment, and surgery.”

In concluding, there exists no legal avenue for veterinary students from schools outside of Louisiana to provide any veterinary services commensurate to those within the permissible limits of the LSU-SVM students as stated herein.

Dr. Robbins and/or the representatives of LSU-SVM were invited to meet with the LBVM at an upcoming board meeting regarding this response and advised that the next scheduled LBVM meeting is February 2, 2017.