

BOARD MEETING
LOUISIANA BOARD OF VETERINARY MEDICINE
DECEMBER 2, 1998

I. CALL TO ORDER

The meeting was called to order at about 9:15 a.m. by the President, Dr. Anne Guedry.

II. ROLL CALL

Those present were:

Dr. Anne Guedry	President
Dr. Dick Walther	Vice-President
Dr. Adrienne Aycock	Secretary-Treasurer
Dr. George Gowan	Member
Dr. Robert Lofton	Member
Mr. Charles Mann	Executive Director
Dr. Dennis French	La. Veterinary Medical Association
Mr. Chris Le Grange	La. Veterinary Medical Association

[NOTE: Dr. Walther was not present for the roll call but arrived before any business was discussed. Dr. French was not present for the entire meeting. Mr. Le Grange and Dr. French departed when the Board entered executive session. Mr. Shows was present to provide legal advice on litigation and complaint case matters; he was not present for any other business.]

III. APPROVAL OF MINUTES - October 15, 1998

Dr. Lofton noted the need to correct the name of a veterinarian (from Abadie to Hammond-Wilkes) in one item of the draft minutes. With that correction made, Dr. Lofton moved to approve the minutes for the October 15, 1998, meeting, seconded by Dr. Aycock, and passed unanimously by voice vote.

IV. FINANCIAL AND CONTRACT MATTERS

A. **Financial Reports - September 1998 and October 1998**

The Board reviewed the financial statements for September 1998 and October 1998. Mr. Mann noted and explained those items where deficits were shown. Dr. Aycock moved to accept the financial statements as presented, seconded by Dr. Lofton, and passed unanimously by voice vote.

B. **Legal Services Contract Amendments**

December 2, 1998

1. Michael A. Tomino, Jr.: Mr. Mann explained that the contract with Mr. Tomino has a maximum payable amount of \$20,000.00. The contract ends on February 25, 1999, at which time a new contract will commence. Based on current billing history, \$20,000.00 may be a sufficient maximum amount. However, because the Board's next regular meeting will not be until February 1999 and the contract review and approval process requires a good deal of time, Mr. Mann requested that the contract ceiling be raised to \$30,000.00 to insure that contract payments are made timely and legally. Dr. Lofton moved to approve a revised contract maximum amount of \$30,000.00 for the 1998-99 contract with Mr. Tomino, seconded by Dr. Walther, and passed unanimously by voice vote.

2. Shows, Cali, and Burns: Mr. Mann reported that the contract with Shows, Cali, and Burns has a maximum payable amount of \$20,000.00. Based on current billing history, payments are expected to reach about \$30,000.00. The contract ends on June 30, 1999. Mr. Mann requested that the contract ceiling be raised to \$40,000.00 to insure that contract payments are made timely and legally. After discussion, the Board deferred this request until the next regular meeting.

C. Other Revenue Resources - Letter to Attorney General

The Board reviewed Mr. Mann's 11/12/98 letter to the Attorney General inquiring about legal support in disciplinary cases from that office should the Board expend its reserve funds. No response has been received from the Attorney General.

D. Budget: 1998-99 Revision and 1999-00 Approval

[NOTE: Discussion of this item was deferred until after Executive Session, at which time the Board took up the matter.]

The Board reviewed a proposed revision to the 1998-99 budget and the proposed 1999-00 budget. Mr. Mann noted continuing concern over legal costs and the effect on the fund reserve. He also noted that postage is higher than in the recent past due to the mailing of the Practice Act and newsletters. He also noted that travel in 1999-00 is higher due to anticipated attendance of Board members and staff at the AAVSB meeting in New Orleans. He also stated that telephone and telegraph (or communications) charges should increase once the Board subscribes for Internet access. Another peculiar element in the 1999-00 year is that there will be 27 pay periods instead of 26. The Board discussed the budget and determined that a fee increase was not necessary at this time. Dr. Lofton moved to amend the 1999-00 budget to include a 3% raise for the executive director and to approve the budget as amended, seconded by Dr. Walther, and passed unanimously by voice vote.

V. POLICY, PROCEDURE AND RULES

A. Policy and Procedure

1. Drug Testing Policy: The Board reviewed a draft Drug Testing Policy as required by Executive Order MJF 98-38. After discussion, it was the Board's determination that the

December 2, 1998

agency had no safety-sensitive or security-sensitive positions. Dr. Aycock moved to adopt the drug testing policy pending further review by the Board's General Counsel, seconded by Dr. Lofton, and passed unanimously by voice vote. If the General Counsel identifies a problem with the policy, it will be brought back before the Board. It was noted that Michael Tomino, Jr., General Counsel, was ill and unable to attend the meeting.

2. Customer Service Plan: The Board reviewed Executive Order MJF 97-39 which requires the development of a Customer Service Plan. Mr. Mann is trying to obtain information concerning this plan from other state agencies. He reported that he expected to have a plan to present to the Board at its next regular meeting.

3. Review of Continuing Education Policy Statement: The Board reviewed revisions to the Continuing Education Policy Statement. The revisions add language concerning AAVSB-approved programs; add language concerning "Limitations"; correct language concerning a late CE fine to a late CE fee; change language relating to "Proof of Attendance"; delete reference to renewal year in table at bottom of page 2 and adds the "Record of Personal Participation" form previously approved by the Board. Dr. Aycock moved to adopt the revised Continuing Education Policy Statement, seconded by Dr. Walther, and passed unanimously by voice vote.

4. Preceptorship Program Review: Mr. Mann requested guidance on how much discretion the Board office has in approving preceptorship attendance requirements. After discussion, on motion by Dr. Walther, seconded by Dr. Gowan, and passed unanimously by voice vote, the Board determined that the Board office has discretion in approving reasonable variations in weekly preceptorship attendance. Further, consideration should be given to whether 200 hours were earned over a five-week period (or 320 hours over an eight-week period when that change goes into effect), and whether any reasonable shortage of hours during the preceptorship period was overcome by earning extra hours during an extra week or by earning a reasonable number of extra hours during a different week within the five or eight week period.

5. Coordination of C.E. in Disciplinary Cases and Record Keeping CE: Mr. Mann reported on his recent conversation with Dr. John Rhoades concerning coordination of CE in disciplinary cases with the LSU School of Veterinary Medicine. Dr. Rhoades indicated that he would be the proper contact person to discuss possible CE programs which the Board may want to send a disciplined licensee to at LSU. Mr. Mann also asked Dr. Rhoades to let him know if a meeting between Board members and LSU faculty would be appropriate. [NOTE: Subsequent to the 12/2/98 meeting, Dr. Rhoades has indicated that Dr. David Senior is the appropriate contact at LSU.]

The Board also discussed problems that have been encountered in identifying appropriate continuing education programs in medical record keeping. At present, the only option available seems to be a program developed by an accredited veterinary school to meet the needs of a particular case. Dr. Lofton stated that he had mentioned the problem to the LVMA and hopes that a program can be developed through that organization. Mr. Mann was directed to talk to Dr. Rhoades about a course that LSU may be offering and obtain any information that may have been developed.

6. Louisiana Association of Boards and Commissions: The Board reviewed a letter concerning the development of the Louisiana Association of Boards and Commissions. An informational meeting is scheduled for December 3, 1998, which Mr. Mann will attend. He will report back with more information.

B. Rule Making

1. General Update: The Board reviewed the status of proposed rule changes.

2. Veterinary Dentistry Comments: The Board reviewed the comments received from the American Veterinary Dental College. The Board determined that the suggested change, which would allow veterinary technicians employed by a licensed veterinarian to perform non-surgical subgingival periodontal debridement, was not appropriate at this time, and that the rule as published in the Notice of Intent provided sufficient protection to the public. Dr. Lofton moved not to adopt the suggested changes of the American Veterinary Dental College and to continue the promulgation process, seconded by Dr. Aycock, and passed unanimously by voice vote.

3. Adoption of Rules

a. Rule 106 - Investigative Subpoenas: The Board deferred consideration of this rule pending recommendations from the General Counsel.

b. Rule 704 - Ketamine (extension of emergency rule): The Board reviewed information from Mr. Mann indicating that the regular rule relating to Ketamine would not go into effect until March 20, 1999, and that the emergency rule will expire on February 12, 1999. Dr. Aycock moved to authorize promulgation of an emergency rule which extends the current emergency rule concerning Ketamine, to be in effect for maximum period allowed by law or when the regular rule becomes effective, seconded by Dr. Gowan, and passed unanimously by voice vote. The Board General Counsel will be asked to review this situation to determine if there are any legal issues concerning the extension of the emergency rule.

4. Consideration of New Rules

a. Expired Drugs - Rule 705: The Board deferred consideration of this rule pending recommendations from the General Counsel.

b. Rule 1053 - Corporate/Assumed Names: The Board deferred consideration of this rule pending recommendations from the General Counsel. The Board discussed any effect that the limited liability corporations law may have on veterinary medical corporations. Mr. Mann reported that the General Counsel had looked into this issue because of a question that was raised by a veterinarian. Mr. Mann will ask Mr. Tomino to provide the results of his research.

December 2, 1998

Discussion was also held on how involved the General Counsel should become when a veterinarian asks for guidance on a statute or rule both within and outside of the Veterinary Practice Act and rules promulgated thereto. It was noted that the pending declaratory order rule would establish the process for a person requesting an order concerning the Board's own statutes and rules. If it is outside the Veterinary Practice Act and rules promulgated thereto, the consensus was that the veterinarian should be advised to seek their own legal counsel, although the circumstances involved in a particular question may require the Board to provide guidance (for example, if an abandoned animals case also creates a question about degree of treatment or humane care).

c. Records and Sale of Practice - Rule 701: The Board reviewed a legal opinion prepared by Michael A. Tomino, Jr., concerning notice and ownership of records and considered possible rules based on that review. After discussion, Dr. Lofton authorized the executive director to begin promulgation of a rule based on the AVMA position on ownership of records ("The records of a veterinary facility are the sole property of that facility, and when a veterinarian leaves salaried employment therein, the departing veterinarian shall not copy, remove, or make any subsequent use of those records"), seconded by Dr. Aycock, and passed unanimously by voice vote. It was noted that clients could request records in accordance with existing rules. The Board determined that at this time it would not pursue any other rules related to this issue.

d. Declaratory Orders: The Board deferred consideration of this rule pending recommendations from the General Counsel.

e. Grounds for Rehearing: The Board deferred consideration of this rule pending recommendations from the General Counsel.

f. Review of Rule 705(A)(3): The Board deferred consideration of this rule pending recommendations from the General Counsel.

C. Legislation Consideration

1. CAETs and Animal Tranquilization Drugs: The Board reviewed draft legislation relating to the expansion of duties which may be performed by a CAET. Mr. Mann pointed out that the draft included expanded reasons for discipline. Several issues were discussed and changes made to the draft. The Board determined that the drugs which may be used by a CAET should be listed in rules promulgated by the Board and the statute should provide for this mechanism. Considerable discussion was held about the training of CAETs who will be performing capture and restraint functions. The Board determined that if a person is using controlled substances prescribed by the Board, the person should be fully trained in capture, restraint, and euthanasia. It was also pointed out that the Board does not have statutory authority to regulate animal control agencies, rather it regulates certified animal euthanasia technicians. Dr. Lofton was concerned that one person per site be issued a controlled substances license or registration; Mr. Mann was directed to obtain written assurance from Steve Erwin, DHH Controlled Dangerous Substances Program Manager, that only one DHH license would be issued to a particular site. Dr. Lofton moved to authorize Dr. Guedry to meet with LACA, LVMA, and other

December 2, 1998

involved parties to discuss the proposed legislation and its introduction at the next legislative session, seconded by Dr. Aycock, and passed unanimously by voice vote.

2. CAET/RVT Fee Schedule: Fee schedules to be included in the CAET and RVT statutes were reviewed. The Board decided to proceed with this schedule.

3. Veterinary Exam Fee Language: Mr. Mann reviewed the changes which are developing related to the administration of the national veterinary exam. He stated that the fees for the national exam will need to be monitored when the computerized exams go into effect because of the manner in which NBEC will administer the exam. The Board discussed the implications of this change on future budgets. There was also discussion of what "application fee" may mean within the statute, whether it was intended to include exam and licensure application fee or just one or the other. No decision was reached on this point. Dr. Lofton moved that the Board should monitor the exam fee as it affects the budget on a regular basis but no change is necessary at this time, seconded by Dr. Gowan, and passed unanimously by voice vote.

D. Practice Act-related Inquiries and Reviews

1. Prescription Labeling: The Board reviewed information which the Board office had received from a veterinarian concerning the need for proper prescription labeling and packaging. The Board directed Mr. Mann to include information on this topic in a future newsletter.

2. Advertising Non-veterinary Services: The Board reviewed the question of whether a licensed veterinarian may advertise boarding services using the phrase "veterinary-supervised boarding facility." After discussion, Dr. Aycock moved that such an advertisement is not a violation of the Veterinary Practice Act or rules and regulations promulgated by the Board, seconded by Dr. Lofton, and passed unanimously by voice vote.

3. Equine Sports Massage: The Board reviewed information and a request it had received concerning equine sports massage and under what conditions it could be performed by a lay person. After discussion, the Board determined that Rule 712 applies and that equine sports massage may be performed either by a Louisiana-licensed veterinarian or under the direct supervision of a Louisiana-licensed veterinarian.

E. License Application and Renewal Issues

1. Reversal of Suspensions - DVM: Based on the receipt of complete renewal documents and/or payments, Dr. Gowan moved to reverse the suspensions for non-renewal of the following DVMs: Odile R. Holahan, Darrell E. Hoskins, Thomas J. Rowell, and Taskeen Thariani-Mirza, seconded by Dr. Lofton, and passed unanimously by voice vote.

2. Reinstatement of RVTs: Based on the receipt of complete renewal documents and payment of applicable fees, Dr. Lofton moved to reinstate the certification of Maria Jeansonne, RVT, seconded by Dr. Aycock, and passed unanimously by voice vote.

December 2, 1998

3. Reinstatement of CAETs: No action was needed on this matter.

4. Suzanne Lamberth Fleming - CAET Reinstatement Request: The Board reviewed information concerning Ms. Fleming's request to have her certification as an animal euthanasia technician reinstated. The certificate was revoked for non-renewal at the 10/15/97 Board meeting after Ms. Fleming had been properly notified. Ms. Fleming failed to renew at that time and did not request reinstatement until 10/8/98. Dr. Lofton moved to deny Ms. Fleming's request for reinstatement, seconded by Dr. Aycock, and passed unanimously by voice vote.

5. Refund Requests: The Board reviewed information concerning the renewal of license 2063. Documentation was provided indicating that renewal documents had been mailed to the Board office on or about September 4, 1998, but the documents never arrived. Subsequently, after notification of pending action by the Board, complete renewal documents and applicable payments were received. A request for refund of the late fee was made. Dr. Lofton moved to grant the request for a refund of the late fee, seconded by Dr. Aycock, and passed unanimously by voice vote.

VI. MISCELLANEOUS MATTERS

A. RVT Update

Dr. Aycock reported that the AAHA Distance Education program for veterinary technicians was proceeding on a pilot basis. About 32-40 persons were participating. Information concerning the program had been faxed to the Board office on 12/2/98. Mr. Mann was directed to send the information to all Board members.

B. Proposed 1999 Meeting Dates

The Board reviewed proposed 1999 meeting dates. After discussion, the following dates were chosen: February 24, March 31, June 16, August 19, October 28, and December 2. A special meeting to discuss the disciplinary process and pending rules with the Board General Counsel was set for January 20. [NOTE: Subsequent to the meeting, this date was changed to January 22, 1999.]

C. Newsletter Draft

The Board reviewed a draft of the December 1998 newsletter. It was decided to add an item concerning how long the Board office retains continuing education documents, and Dr. Guedry asked that "required" be underlined in the fourth paragraph of the article titled "Important Information Concerning Continuing Education Documentation." Dr. Lofton moved to approve the newsletter as amended, seconded by Dr. Aycock, and passed unanimously by voice vote.

D. Veterinary Drug Wholesaler Permits

December 2, 1998

The Board issue reviewed information concerning veterinary drug wholesaler permits. As of 12/31/98, the Board of Pharmacy will no longer issue such permits due to a lack of statutory authority. The Board of Wholesale Drug Distributors is meeting on 12/8/98 to discuss the issue and has invited the Board of Veterinary Medicine to participate. Dr. Walther volunteered to attend the meeting with Mike Tomino. The meeting falls on the same date as when the NBE is being administered, so Mr. Mann will not be able to attend.

E. AAVSB - ECFVG Program

The Board reviewed information it had received from AAVSB concerning the ECFVG program. After discussion, Dr. Aycock moved to direct the executive director to write AAVSB to support the NBEC taking over the administration of the Clinical Proficiency Exam (CPE) and to support AAVSB in initiating discussions about the possibility of AAVSB administering the ECFVG program, seconded by Dr. Gowan, and passed unanimously by voice vote.

F. Preceptorship - Peter J. Bondy, Jr.

Dr. Aycock moved to add this item to the agenda, seconded by Dr. Lofton, and passed unanimously by voice vote. Mr. Bondy, a student of the University of Missouri Veterinary College, requested approval of a preceptorship he has done and will do during his third year of study. Dr. Gowan moved to accept the preceptorship so long as all required documentation is received and the facilities are approved according to the Board's usual process, seconded by Dr. Aycock, and passed unanimously by voice vote.

VII. EXECUTIVE SESSION

It was moved by Dr. Aycock to enter executive session to discuss state exam revisions, licensure issues related to professional competence and physical health, drug reviews, peer assistance, complaint cases, including issues that may pertain to litigation and for which legal advice is needed, seconded by Dr. Lofton, and passed unanimously by voice vote. Upon return to the public record by motion of Dr. Walther, seconded by Dr. Aycock, the Board took the following action:

A. State Exam Revisions Review

After noting a grammatical correction, Dr. Aycock moved to approve the revisions to the state exam, seconded by Dr. Walther, and passed unanimously by voice vote. Mr. Mann will forward the changes to LSU so new exam versions can be developed.

B. Licensure Issues Related to Health or Competency

There were no issues to discuss in this area.

C. Drug Reviews

There were no cases to discuss under this topic.

D. Peer Assistance Case Reviews

94-1114D: Dr. Aycock moved to amend the Consent Order in case 94-1114D and directed the General Counsel to proceed with drafting a revised Order based on the Board's action, seconded by Dr. Walther, and passed unanimously by voice vote.

E. Complaints - Veterinary

1. E. J. Lauritsen, DVM - Case No. 98-1124V: Dr. Aycock moved to accept the Complaint Review Committee's recommendations in this case and the terms of the Consent Order agreed to by Dr. Lauritsen, seconded by Dr. Gowan, and passed unanimously by voice vote. Dr. Guedry, Complaint Chair in this case, abstained from voting.

2. Vernon Pettigrew, DVM - Case 97-0305.1V: Dr. Aycock moved to accept the Complaint Review Committee's report and findings of no violation in this case, seconded by Dr. Gowan, and passed unanimously by voice vote. Dr. Lofton, Complaint Chair in this case, abstained from voting.

3. Louis Huvall, DVM - Case 94-0405V: Dr. Gowan moved to accept the report of Dr. Walther on this case and to take no further action, seconded by Dr. Aycock, and passed unanimously by voice vote.

F. Complaints - Non-Veterinary

There were no non-veterinary complaints to discuss.

G. Court Proceedings Updates

1. David B. Smythe v. Louisiana Board of Veterinary Medicine - No. 442537:

The Board directed Wade Shows, Special Counsel, to proceed with appropriate legal action in this case.

2. Nicholas J. Milazo v. Louisiana Board of Veterinary Medicine - No. 437496:

The Board directed Wade Shows, Special Counsel, to proceed with appropriate legal action in this case.

3. Albert LaGraize v. Louisiana Board of Veterinary Medicine - No. 451317:

The Board reviewed information on a settlement proposed by Dr. LaGraize, which had been rejected by Dr. Guedry, who has been authorized by the Board to handle litigation matters. The Board directed Wade Shows, Special Counsel, to proceed with appropriate legal action in this case.

H. Legal Advice Pertaining to Disciplinary Process

Dr. Aycock moved to enter executive session to receive legal advice from Wade Shows concerning the Board's disciplinary process, seconded by Dr. Walther, and passed unanimously by voice vote. The Board exited executive session on motion of Dr. Aycock, seconded by Dr. Walther, and passed unanimously by voice vote. Dr. Aycock moved to authorize Dr. Walther and, if arising from a Drug Review case, Dr. Gowan to investigate complaints received by the Board without the appointment of a Complaint Review Committee and to make decisions to bring investigations to appropriate conclusion, seconded by Dr. Gowan, and passed unanimously by voice vote.

XI. ADJOURN

The meeting was adjourned at approximately 5:00 p.m.

APPROVED BY:

Adrienne Aycock, DVM
Secretary/Treasurer