

**BOARD MEETING/ANNUAL MEETING
LOUISIANA BOARD OF VETERINARY MEDICINE
JUNE 9, 1999**

I. CALL TO ORDER

The meeting was called to order at 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
Michael A. Tomino, Jr.	Board General Counsel
Mr. Chris Le Grange	La. Veterinary Medical Association
Mr. Fred Shiel, R.Ph.	La. Board of Pharmacy

[NOTE: Mr. Le Grange exited the meeting prior to executive session. Mr. Shiel was present for discussion of item VI.D.1]

III. APPROVAL OF MINUTES - April 21, 1999

Dr. Aycock moved to approve the minutes for the April 21, 1999, meeting, seconded by Dr. Gowan, and passed unanimously by voice vote.

IV. FINANCIAL AND CONTRACT MATTERS

A. Financial Reports - March and April 1999

The Board reviewed the financial statements for March 1999 and April 1999. Mr. Mann noted and explained those items where deficits were shown, and discussed preliminary projections for the end of the 1999 fiscal year. Based on current trends, Mr. Mann reported that he expected total revenue to be about \$193,700 (this reflects license fees already realized to be transferred to the 1999-2000 year), and that total expenditures would be between \$206,000 and \$210,000. Mr. Mann

reported that he expected expenditures to exceed the budgeted amounts in a few categories, including Other Operating Services, Legal Services (based on continuing litigation and substantial work on legislative matters), Accounting/Auditing (based on a mathematical error when the budget was developed), and Other Professional Services. Dr. Aycock moved to accept the financial statements as presented and to authorize excess expenditures in individual categories so long as the amount budgeted for "Total Expenses" was not exceeded, seconded by Dr. Lofton, and passed unanimously by voice vote.

B. Fee Increase Discussion

The Board reviewed the information Mr. Mann had prepared on fee increases in a memorandum dated May 25, 1999. After discussion, Dr. Walther moved to authorize the executive director to promulgate rules to increase the fees to the levels recommended, including CAET and RVT fees after authorizing legislation is passed, seconded by Dr. Gowan, and passed unanimously by voice vote. Dr. Lofton stated that the increases should be explained in the Board's newsletter, particularly that the increases are needed due to litigation costs and that this is the first increase in veterinarians' licensing fees since 1992, and that the Board is proposing fees at levels which should remain stable for the foreseeable future.

C. 1999-2000 Contracts

1. PES-VTNE: Dr. Lofton moved to approve the 199-2000 contract with Professional Examination Service to provide examination services for the Veterinary Technician National Exam, seconded by Dr. Aycock, and passed unanimously by voice vote.

2. Shows, Cali, and Burns: Dr. Aycock moved to approve a contract with a maximum payable amount of \$9,000 with Shows, Cali, and Burns to provide legal services for the 1999-2000 year, seconded by Dr. Gowan, and passed unanimously by voice vote.

V. PERSONNEL MATTERS: EXECUTIVE DIRECTOR POSITION

[Note: This item was taken up after all other business was discussed. Discussion concerning Kimberly Barbier's fitness to be promoted to this position took place in executive session on motion by Dr. Walther, seconded by Dr. Gowan, and approved unanimously by voice vote. The Board exited executive session on motion by Dr. Walther, seconded by Dr. Lofton, and passed unanimously by voice vote. The Board then recorded the action described below].

The Board reviewed a memo prepared by Mr. Mann concerning the executive director's position, which he will be leaving. After discussion, Dr. Lofton moved to

change the title of the position from Executive Director to Administrative Director and to change the Executive Assistant title to Administrative Assistant, seconded by Dr. Walther, and passed unanimously by voice vote. Dr. Lofton then moved to offer, the Administrative Director position as a promotion to Kimberly Barbier, currently the Board's Executive Assistant, on a six-month probational basis at an annual salary of \$26,500 to take effect immediately upon Mr. Mann's departure; further providing that if job performance and satisfaction is satisfactory after six months the annual salary will be raised to \$27,500, seconded by Dr. Walther, and passed unanimously by voice vote.

VI. POLICY, PROCEDURE, AND RULES

A. **Legislation Update**

1. HB1885/SB936 - Board-Related Matters: Due to an amendment added on the House floor by Representative Schneider, this bill had not reached final passage. The Board reviewed correspondence related to the bill and its progress through the legislature. The bill was expected to be stripped of the House amendment and passed before the legislative session ends.

2. HB 746 - Equine Dentistry: The Board reviewed correspondence and the latest version of the HB 746 available. The Senate Agriculture Committee passed the bill on June 8, 1999, after the bill was amended based on discussions between the interested parties. Dr. Guedry, Dr. Aycock, Mr. Tomino, and Mr. Mann attended the committee hearing. Since the last Board meeting on April 21, 1999, Dr. Guedry has attempted to convey the Board's concerns on the bill, particularly to express the Board's need to have the power to adequately regulate equine dentistry to protect the public and the need to identify potential legal and constitutional issues which may face the Board as it regulates these persons. Based on the discussions with other parties, the Board will need to proceed with developing emergency and regular rules relating to equine dentistry. The Board directed Mr. Tomino to begin drafting the rules in consultation with Dr. Gowan and Dr. Aycock. The rules will be reviewed at the August 19, 1999, meeting.

3. SB 880 - AVMA Ethics and Questions from K. Bilbe: Mr. Mann reported that SB 880 had not moved from the Senate Agriculture Committee and was not expected to be based on the Board's adoption of the AVMA Code of Ethics. The Board also reviewed Mr. Tomino's letter to Ms. Bilbe, which included her questions about the Board certifying veterinarians in certain specialties and whether any Board member could recommend an acupuncturist to her. The Board determined that it would not be certifying veterinarians in certain specialties and that it could not add to the information concerning acupuncturists in Louisiana, Texas, and Mississippi which had previously been provided to Ms. Bilbe. Mr. Tomino was directed to respond to Ms. Bilbe's questions based on the Board's discussion.

B. Rule Making

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

2. Adoption of Rules:

a. Rule 705 (Human Use of Drugs): Dr. Walther moved to formally adopt, with an effective date of July 20, 1999, the amendments to section 705 previously authorized for promulgation and published in a Notice of Intent in the March 20, 1999, *Louisiana Register*, seconded by Dr. Aycock, and passed unanimously by voice vote.

b. Rule 1053 (Business Names): Dr. Walther moved to formally adopt, with an effective date of July 20, 1999, the amendments to section 1053 previously authorized for promulgation and published in a Notice of Intent in the March 20, 1999, *Louisiana Register*, seconded by Dr. Aycock, and passed unanimously by voice vote

3. Consideration of New Rules

a. Expired License Rule: The Board reviewed draft amendments to Rule 305 concerning expired licenses. This is a topic the Board had discussed previously and the amendments were proposed for discussion purposes. Mr. Mann stated that he drafted the proposed rule so that it would more closely track the language relating to expired licenses in the Veterinary Practice Act. The proposed amendments would eliminate the suspension and revocation language concerning expired licenses which currently exists in the rule and clearly state the requirements for renewing a license. Dr. Lofton moved to defer consideration of the amendments to allow for review by the General Counsel, seconded by Dr. Aycock, and passed unanimously by voice vote.

b. NAVLE-related Changes: The Board reviewed proposed changes to Chapter 5 which would be needed once the North American Veterinary Licensing Exam (NAVLE) becomes effective in late 2000. These proposed amendments were presented for informational purposes, but the Board will review them again at the appropriate time.

C. Policy and Procedure - Assignment of Disciplinary Cases

The Board discussed the assignment of disciplinary cases. Dr. Lofton moved to authorize the executive director to assign complaint cases to an investigating board member on a rotational basis, taking into consideration any recognizable potential conflicts of interest, special expertise needed, and workload, except that the board

member in the final year of a term shall not be assigned any cases, seconded by Dr. Gowan, and passed unanimously by voice vote.

D. Practice Act-Related Inquiries and Reviews

1. Board of Pharmacy Inquiry - Dispensing: [NOTE: This was the first item of business taken up by the Board.] Mr. Fred Shiel, Jr., R.Ph., was present for this discussion. The discussion focused on (1) who has authority to prescribe, including the authority which may be delegated to an employee ("agent" of the practitioner) and under what circumstances (for example, can an agent provide confirmation of a refill for a prescription which is written in the medical record as valid for a certain period of time?); (2) whether the Board could or should issue a sample protocol to licensed veterinarians for providing prescriptions and what, if any, legal effect such a protocol might have, and (3) the record keeping requirements related to prescriptions. Mr. Shiel stated that in human medicine, an agent of the practitioner may communicate a valid prescription to a pharmacist, but that in all instances the prescription must be authorized by the practitioner. There was much discussion on what a proper protocol for prescribing would include. Items which may be included were time period for validity of prescription; number of refills allowed; guidelines concerning the conditions under which and to what extent an agent of the veterinarian may act to confirm a prescription or dispense a drug directly; and record keeping requirements. After much discussion, Dr. Lofton stated that there seemed to be three issues to address: (1) the development of a rule which would define "prescribing"; (2) the development of a protocol which would address record keeping requirements and other matters related to prescribing and dispensing; and (3) determining who has the authority to confirm the refilling of a valid prescription and under what conditions. Mr. Shiel suggested that current federal regulations should assist the Board in defining "prescribing." He also stated that the Board of Pharmacy needs to see more information concerning a refill than that the prescription was valid for a specific amount of time; he needs to see that the practitioner directed his or her agent to authorize the prescription. Dr. Lofton moved to authorize Mr. Tomino to conduct research on matters relating to prescribing and dispensing drugs and report back to the Board, seconded by Dr. Aycock, and passed unanimously by voice vote.

2. Animal Euthanasia and Government Employees: The Board reviewed a letter from Mr. Mann to Mr. Tomino requesting his review of questions related to animal euthanasia and government employees. Mr. Tomino is continuing to review the matter and a response should be available for the next regular board meeting.

3. Licensed Veterinarian and Pet Shop Ownership: The Board reviewed a question presented to it concerning a licensed veterinarian owning a pet store. Mr. Tomino had prepared a draft legal opinion on the matter. He expressed concern over potential conflicts of interest involved in selling and examining an animal and

providing proper disclosure. Mr. Tomino will provide a written opinion on this matter.

4. LSU Students and Animal Control Work, including surgery: The Board reviewed a question presented to it concerning LSU veterinary students performing spay and neuter surgery for an animal control agency under the direct supervision of local veterinarians. Mr. Tomino provided his comments concerning this practice and La. R.S. 37:1514, which provides for exceptions to the requirement to have a license to practice veterinary medicine. If the students fall within the section 1514 exceptions, they could perform the surgery. Dr. Lofton suggested that the local veterinarians be appointed as adjunct faculty members at LSU, which would allow the students to fall within the exception found at La. R.S. 37:1514(2). The Board did not address the question of whether the animal control agency could sign a waiver relieving the veterinarian and student from any liability related to the surgery. The Board found that this question was outside its purview.

5. Charity Animal Hospital: The Board reviewed a letter from Mr. Mann to Mr. Tomino concerning Charity Animal Hospital, including the Articles of Incorporation for the hospital. Mr. Tomino is preparing a written opinion on this matter, but the Board determined that it was not in the Board's purview to comment on whether the Articles of Incorporation conform to the requirements of a non-profit humane society. Mr. Tomino's opinion will address previous legal opinions and court rulings rendered concerning a humane society employing a licensed veterinarian.

6. Animal Vaccinations: The Board reviewed information concerning a layperson offering animal vaccinations in the Acadiana area. This matter had appeared in the *Times of Acadiana*, a local area newspaper. Mr. Tomino had communicated with the layperson and the newspaper. From the information the Board has received, the layperson has ceased the practice.

VI. MISCELLANEOUS MATTERS

A. **Unitech Training Academy - Veterinary Asst. Program**

The Board reviewed information received from Unitech Training Academy in Lafayette, Louisiana, concerning its Veterinary Assistant Program. The Board directed Mr. Mann to inform Unitech that, though it welcomed trained veterinary assistants, graduates from Unitech would not qualify to become registered veterinary technicians since it is neither an AVMA-accredited or board-approved program. Dr. Lofton suggested that Unitech be informed of Cedar Valley College's program as a potential source of information concerning accreditation.

B. **International Alliance for Animal Therapy and Healing (IAATH)**

The Board reviewed a letter from Donna M. Starita, DVM, concerning the International Alliance for Animal Therapy and Healing. The Board took no action on this matter.

C. Wild Quadrupeds Rule - Inclusion in Complementary Laws/Rules Sections

The Board reviewed the current rule in effect concerning wild quadrupeds, including wolf-dog hybrids. The Board directed Mr. Mann to include this rule in the complementary laws/rules section of the Practice Act binder.

D. AAVSB Meeting - Authorization to Attend

Dr. Lofton moved to authorize Dr. Guedry, Dr. Aycock, Dr. Walther, Mr. Tomino, and Kimberly Barbier, Executive Assistant, to attend the AAVSB meeting to be held in New Orleans in July 1999, seconded by Dr. Aycock, and passed unanimously by voice vote.

E. Preceptorship Request

The Board reviewed a request from Lesley Cheramie, DVM, concerning the preceptorship program, specifically, (1) was Dr. Cheramie required to complete a preceptorship and (2), if so, may it be completed by working part-time at two separate practices. After discussion, Dr. Aycock moved that Dr. Cheramie be required to complete a preceptorship prior to licensure in Louisiana and that, concerning question two, Dr. Cheramie be required to submit specific information about the practices at which she intends to work and submit the required preceptorship documents for approval so that the Board can make a decision in its usual manner, seconded by Dr. Gowan, and passed unanimously by voice vote. It was further noted that the preceptorship requires working 40-hour weeks.

VIII. ELECTION OF OFFICERS

The following action was taken on the election of officers for the 1999-2000 year beginning August 1, 1999: Dr. Lofton nominated Dr. Walther for President, seconded by Dr. Aycock, and passed unanimously by voice vote. Dr. Lofton nominated Dr. Aycock for Vice-President, seconded by Dr. Walther, and passed unanimously by voice vote. Dr. Lofton nominated Dr. Gowan for Secretary-Treasurer, seconded by Dr. Walther, and passed unanimously by voice vote. Dr. Lofton moved to authorize the newly elected officers and executive director/administrative director to sign checks on behalf of the Board, effective August 1, 1999, checks in excess of \$2,000 requiring two signatures, seconded by Dr. Aycock, and passed unanimously by voice vote.

VIII. EXECUTIVE SESSION

It was moved by Dr. Walther to enter executive session to discuss licensure issues related to professional competence and physical health; investigative proceedings alleging allegations of misconduct; litigation presently in the 19th Judicial District (Smythe, LaGraize, and Milazo cases), and for which legal advice is needed, seconded by Dr. Gowan, and passed unanimously by voice vote. Upon return to the public record by motion of Dr. Walther, seconded by Dr. Lofton, the Board took the following action:

A. Licensure Issues Related to Health or Competency

There were no issues to discuss in this area.

B. Investigative Proceedings Regarding Allegations of Misconduct

No cases were discussed.

D. Court Proceedings Updates

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

The Board directed Mr. Mann to inform Mr. E. Wade Shows, Board Special Counsel for this matter, to continue to negotiate to bring the matter to a conclusion.

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

The Board directed Mr. Mann to inform Mr. E. Wade Shows, Board Special Counsel for this matter, to take the necessary action to bring the matter to a conclusion.

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

The Board was informed that Dr. LaGraize has paid his \$100.00 fine and the matter is now concluded.

XI. ADJOURN

The meeting was adjourned at approximately 4:15 p.m.

APPROVED BY:

George Gowan, DVM
Secretary/Treasurer (at the time of approval on 08/19/99)