

**BOARD MEETING/ANNUAL MEETING
LOUISIANA BOARD OF VETERINARY MEDICINE
August 19, 1999**

I. CALL TO ORDER

The meeting was called to order at 9:10 a.m. by the President, Dr. Dick C. Walther.

II. ROLL CALL

Those present were:

Dr. Dick Walther	President
Dr. Adrienne Aycock	Vice-President
Dr. George Gowan	Secretary-Treasurer
Dr. Robert Lofton	Member
Dr. Edwin Davis	Member
Ms. Kimberly Barbier	Administrative Director
Michael A. Tomino, Jr.	Board General Counsel
Mr. Chris LeGrange	La. Veterinary Medical Association
Mr. James Gelpi, Attorney	La. Horse Benevolent & Protection Assoc.
Mr. Lloyd Romero	La. Horse Benevolent & Protection Assoc.
Mr. Oran Trahan	La. Horse Benevolent & Protection Assoc.
Mr. Bingham	Horse Breeder

[NOTE: Mr. Le Grange exited the meeting prior to executive session. Mr. Gelpi, Romero, Trahan, & Bingham arrived for the discussion of item VI.A.3.d, but departed prior to completion of item review.]

III. APPROVAL OF MINUTES - June 9, 1999

Dr. Lofton moved to approve the minutes for the June 9, 1999, meeting, seconded by Dr. Aycock, and passed unanimously by voice vote.

IV. FINANCIAL AND CONTRACT MATTERS

A. Financial Reports - May and June, 1999

The Board reviewed the financial statements for May 1999 and June 1999. Ms. Barbier informed the Board of her intent to meet with Greg Brown, CPA for an explanation of the financial reports. Dr. Gowan requested that Ms. Barbier speak with him prior to the next board meeting and let him know what she finds out. Ms. Barbier noted that the actual amount of total revenue and total expenditures on the June 1999 report were comparable to the estimates that Mr. Mann had voiced at the June 1999 board meeting. Dr. Davis moved to accept the financial statements as presented, seconded by Dr. Lofton, and passed unanimously by voice vote.

B. 1999-2000 Contracts: Investigations Unlimited: Dr. Aycock moved to approve a contract with a maximum payable amount of \$9,999 with Investigations Unlimited to provide investigative services for the 1999-2000 year, seconded by Dr. Gowan, and passed unanimously by voice vote.

C. Signature Authorization: It was moved by Dr. Davis to authorize Dr. Walther, Dr. Aycock, Dr. Gowan, and Ms. Barbier to sign checks on behalf of the Board, with any check over \$2,000 to be signed by two of the authorized persons; and to authorize Ms. Barbier as administrative director to sign all other documents necessary for the functioning of the Board, including the authority to sign as the agency's designee where required, seconded by Dr. Lofton, and passed unanimously by voice vote.

D. CD Authorization for 1999/2000: Dr. Aycock moved to authorize Ms. Barbier to purchase certificates of deposits after prior discussion of such purchases with Dr. Gowan as Board Secretary/Treasurer, seconded by Dr. Davis, and passed unanimously by voice vote.

E. Security Bond: *[Note: This item was put before the Board by Dr. Davis.]* Dr. Davis requested that the Board check with the Office of Risk Management to see if there should be a security bond for Ms. Barbier or if she is already covered under the Board's present policy.

V. PERSONNEL MATTERS: Revisions to Personnel Policies

Ms. Barbier had discussed with Mr. Mann prior to his departure whether, when she was ready to hire someone to fill the position of administrative assistant, she had the authority to hire the individual on a probationary time period. In the event that the individual would be unqualified/unsatisfactory for the position, she would be able to terminate the employment. Prior to his departure, Mr. Mann had made some revisions to the Board's current personnel policies manual providing for a

probational employee classification and provision for termination of a probational employee. Dr. Aycock moved to accept the revisions as presented, seconded by Dr. Lofton, and passed unanimously by voice vote.

VI. POLICY, PROCEDURE, AND RULES

A. **Rule Making**

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

2. Adoption of Rules:

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

b. Rule 1015 (Corporations and LLCs): Dr. Aycock moved to formally adopt, with an effective date of September 20, 1999, the amendments to section 1015 previously authorized for promulgation and published in a Notice of Intent in the April 20, 1999, *Louisiana Register*, seconded by Dr. Lofton, and passed unanimously by voice vote

3. Consideration of New Rules

a. Rule 305 (Expired Licenses): The Board again reviewed draft amendments to Rule 305 concerning expired licenses as deferred from the June 9, 1999 board meeting pending review by general counsel. 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. Mr. Tomino noted some editorial corrections. Dr. Davis moved to accept the revisions noted by general counsel and to authorize the administrative director to promulgate the amendments to rule 305 as presented, seconded by Dr. Aycock, and passed unanimously by voice vote.

b. Update on Rule Relating to Dispensing & Prescribing Drugs: Mr. Tomino and Dr. Lofton updated the Board on their research of matters relating to dispensing and prescribing drugs as discussed at the June 9, 1999 board meeting with Mr. Fred Shiel, Jr., R.Ph., of the Board of Pharmacy. They are still looking

into the matter and are awaiting opinions from the Attorney General. They will draft language to present to the Board at a later date.

c. Chapter 12 - Comprehensive Revisions to CAET Rules: *[Note: Discussion of this item was interrupted upon the arrival of Mr. Wade Shows for discussion of item VIII.B. which was not discussed in Executive Session since the case has been concluded.]*

The Board discussed the proposed amendments to Chapter 12. Mr. Tomino suggested renumbering of the sections to all odd numbers. Questions arose regarding the chemical capture program being developed by the Louisiana Animal Control Association (LACA) and when it will be ready to implement. A date is needed for the rule relating to grandfathering of those individuals who have already taken a chemical capture course and need the course approved by the Board. Also, questions arose regarding Mr. Mann's and Mr. Roicy Duhon's, LACA, intent for a Lead CAET. Ms. Barbier was instructed to contact Mr. Mann and Mr. Duhon regarding these questions.

d. Emergency Rule - Chapter 15 - Equine Dentists: *[Note: This item was deferred until the arrival of Mr. Gelpi, Mr. Trahan, Mr. Romero, and Mr. Bingham. The Board moved through discussion of items VI.A.3.e, VI.B.1 & 2 prior to discussion of item VI.A.3.d.]*

The Board began with the discussion of the two options offered as the definition of "Approval" in §1500 of the draft rules. Option 1 would allow for a visual inspection by the veterinarian if necessary and Option 2 would require a mandatory visual inspection by the veterinarian prior to commencement of the procedure. Dr. Lofton moved to accept option 2, seconded by Dr. Aycock. By a vote of 4-1 (Dr. Gowan voted against), the motion passed. At this point, Mr. Gelpi, Mr. Trahan, Mr. Romero, and Mr. Bingham departed prior to any other review and discussion by the Board. The Board continued it's review of the proposed rules.

After full review of the proposed rules, Dr. Davis moved to approve the rules as amended and adopt the amended rules as an emergency rule effective August 20, 1999, and to authorize promulgation of the rules, seconded by Dr. Aycock, and passed unanimously by voice vote.

After review of the application forms packet, Dr. Aycock moved to accept the forms for use with changes noted, seconded by Dr. Davis, and passed unanimously by voice vote.

[Note: Upon conclusion of item VI.A.3.d, the Board moved to discussion of item VI.B.4.]

e. Change to Proposed Disciplinary Procedures (Chapter 14):

Mr. Tomino informed the Board that upon further review of the AVMA's Policy Statements and Guidelines, it was found that a majority of the policy statements and guidelines have nothing to do with the practice of veterinary medicine and what the Board is intending to do with these new rules. He suggested that reference to the "Policy Statements and Guidelines of the AVMA" be deleted from the proposed rules and just leave reference to the AVMA's Codes of Ethics. Mr. Tomino also explained changes to section 1409.C.12.e referencing both RVTs and CAETs. This section no longer applies to CAETs since changes to the statute (§1557.C) in the recent legislative session. Mr. Tomino suggested taking CAETs out of section 1409.C.12.e and creating 1409.C.12.f using the new language of the statute. Both of these item changes are not substantive changes but are editorial changes and should not interfere with the continued promulgation of the rules. It was decided not to add registered equine dentists into these new Chapter 14 rules at this time due to the substantive nature of such an addition. The Board accepted the editorial changes and to continue promulgation with revisions.

B. Policy and Procedure

1. Assignment of Board Member Duties: The Board discussed re-assignment of duties to board members. According to discussion at the June 9, 1999, complaint cases will be assigned to an investigating board member on a rotational basis, except that the board member in the final year of a term shall not be assigned any cases. New duty assignments are (1) the Board President will handle office matters: policy, procedure, and rules; (2) the Board Vice-President will handle complaint investigations (rotation), CE reviews, and after discussion of item VI.B.4, NDDDB report reviews; (3) the Board Secretary/Treasurer will handle complaint investigations (rotation), and financial matters; (4) the Board Senior Member will handle complaint investigations (rotation), preceptorship, and exam matters; and (5) the Board Junior Member will handle complaint investigations (rotation), drug purchase reviews, and applicant issues. The Board accepted these changes.

2. Acceptance of CE via Satellite Viewing Locations: The Board discussed performance of continuing education via satellite viewing. The Board will accept CE performed via satellite viewing for a limit of four (4) hours per year only. This language should be added to the CE Policy Statement under Limited acceptance.

3. Preceptorship Program - Number of Preceptorships Allowed: The board office was recently faced with a situation where an applicant who had graduated in 1997 submitted documents to do a preceptorship (the applicant being a Ross University graduate). Upon processing the preceptorship paperwork, board office

personel found that the applicant had already performed a five week preceptorship while still a student, but was wanting to do another prior to taking the required CPE to complete the ECFVG program. Mr. Tomino explained that the Board's present rule, although limits a preceptorship to ten weeks, does not limit how many preceptorships can be performed. The Board appointed Dr. Walther to work on amending the present preceptorship rules to limit the number of preceptorships performed to only one per applicant to be presented to the full Board at a later date.

[Note: Upon the arrival of Mr. Gelpi, Mr. Trahan, Mr. Romero, and Mr. Bingham, the board returned to item VI.A.3.d. for discussion.]

4. Board Procedure for NDDDB Reports: The Board discussed the action it can take as allowed by law with respect to National Disciplinary Database notices of Louisiana licensees who have been disciplined in another state. Currently the law allows the Board to discipline these licensees only if the other state license was revoked.

The Board reviewed the present procedure for processing NDDDB reports. The Board accepted by consensus revisions to the procedure to have NDDDB disciplinary reports from other jurisdictions forwarded to the Board Vice-President for review.

It was suggested that the Board look into revising legislation to allow the Board to investigate and discipline licensees based on sanctions imposed against another state license held.

C. Practice Act-Related Inquiries and Reviews

1. Licensed Veterinarians and Pet Store Ownership: This item was discussed previously at the June 9, 1999, Mr. Tomino provided a written opinion to the Board in which he expressed concern over potential conflicts of interest involved in selling and examining an animal and providing proper disclosure. Further Board action was taken after discussion of the next item VI.C.2.

2. LSU Students and Animal Control Work, including surgery: This item was also previously discussed at the June 9, 1999 board meeting and is also addressed in Mr. Tomino's written opinion presented to the Board. Mr. Tomino noted that La. R.S. 37:1514, provides for exceptions to the requirement to have a license to practice veterinary medicine, and if students fall within the section 1514 exceptions, they could perform the surgery. If students and veterinarians at a facility are not operating under this exception, they would be violating rule 702.A.2 which required employees of a veterinarian be under the direct supervision of a licensed veterinarian and that provides that no unlicensed person may perform surgery, diagnosis, prognosis or the prescribing of drugs, medicines or appliances. The question regarding signing of waivers by the facility to release the veterinarians and students was not one the Board found was within its jurisdiction.

The Board instructed Ms. Barbier to forward a copy of Mr. Tomino's written opinion in response to the questions posed in items VI.C.1 and 2.

3. Charity Animal Hospital: This item was previously discussed at the June 9, 1999 board meeting. At that time 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 presented his written opinion regarding this matter and his letter of response. Dr. Lofton moved to authorize Mr. Tomino to send out the letter of response regarding this matter, seconded by Dr. Aycock, and passed unanimously by voice vote.

4. Ultrasonography as Performed by Non-Veterinarians: The Board reviewed a question presented to it concerning the performance of ultrasounds by a non-veterinarian in the presence of a licensed veterinarian and who is ultimately responsible for making the diagnosis if the licensed veterinarian is not trained to read the ultrasound and the non-veterinarian is not allowed by law to make diagnosis. The Board reviewed rule 712 and 1023, and after discussion, concluded it would not alter a previous Board decision as referenced in the August 20, 1997 board meeting minutes. The treating DVM is ultimately responsible for the care of the patient and should receive enough training to be confident in taking this responsibility.

5. Out-of-State DVM Consultants: The Board reviewed a question presented to it concerning a veterinarian not licensed in Louisiana but licensed and practicing in another state coming into Louisiana and consulting with a Louisiana licensed veterinarian. Mr. Tomino had reviewed this item along with Board statute and rules (1513.4 and 4a, 1514, 703, and 700) and had concluded that an out-of-state veterinarian may verbally consult with a Louisiana licensed veterinarian who has a veterinarian-patient-client relationship with the patient. However, such consultation shall not be hands-on services. The Board accepted Mr. Tomino's conclusion and directed Mr. Tomino to send the response.

6. DNA Sexing of Avian Blood by Non-Veterinarians: The Board reviewed a question presented to it regarding individuals collecting blood from birds and charging the bird owners to send the blood off for DNA sexing and whether this constitutes performing veterinary medical services. The Board took no action at this time and instructed Ms. Barbier to request more information on this matter.

7. DVM Responsibility for True Animal Emergencies: The Board reviewed a question posed from Dr. Walther and Mr. Tomino regarding a veterinarian's responsibility for true animal emergencies. Would a veterinarian be negligent and unethical if he refuses an emergency presented late at night because the owner could not present payment as required by clinic policy. The Board does not have a rule to define what constitutes a true emergency and how a veterinarian must treat that emergency. The Board directed Mr. Tomino to review the AVMA's Codes of Ethics.

8. Selling of Feline Leukemia Test Kits to Laypersons: The Board reviewed a question presented to it concerning a veterinary facility selling feline leukemia test kits to a layperson. Mr. Tomino referred to §1514.6 regarding ownership. The Board took no action at this time and instructed Ms. Barbier to request more information and inquire if a complaint would be filed.

VII. MISCELLANEOUS MATTERS

A. **Renewals - Reversal of Suspensions - DVMs**

The Board reviewed a list of one complete renewal that had previously been suspended for non renewal. Dr. Lofton moved to reverse the suspension of Richard James, DVM #658, seconded by Dr. Aycock, and passed unanimously by voice vote.

B. **DVM Applicant Issues**

1. Preceptorship Structure Special Request - L. Hull: The Board reviewed information submitted regarding the performance of a preceptorship by getting a few hours a week over an extended period of time. Ms. Barbier informed the Board that the individual had only recently submitted the required agreement form which did not contain the dates of the preceptorship, but had indicated he had already logged over 140 hours in the prescribed manner since his graduation from veterinary school in 1997. The Board took no action at this time regarding the special consideration request and instructed the board office to assign to a board member to request further information.

C. CAET Reinstatement Request - D.Vallee

The Board reviewed a request for reinstatement of a CAET certificate that was revoked for non-renewal. The Board reviewed §1213.A and B of the Practice Act and concluded that the certificate may be reinstated upon payment of accrued renewal fees and delinquent late fee. The Board assessed an additional penalty of \$100 which must also be paid. Dr. Davis moved to reinstate certificate number 9152 for Doyce A. Vallee upon payment of accrued renewal fees, late renewal fees, and the additional penalty of \$100, second by Dr. Lofton, and passed unanimously by voice vote.

VIII. EXECUTIVE SESSION

It was moved by Dr. Aycock to enter executive session to discuss renewal issues; litigation presently in the 19th Judicial District (Smythe case), investigative proceedings; and issues regarding dissemination of legal matters for which legal advice is needed, seconded by Dr. Davis, and passed unanimously by voice vote. Upon return to the public record by motion of Dr. Gowan, seconded by Dr. Aycock, and passed unanimously by voice vote, the Board took the following action:

A. Renewal Issues

1. H. Smith, DVM - Waiver of Renewal Fees: Dr. Davis moved to approve waiver of renewal fees for 1999/2000 renewal, seconded by Dr. Lofton, and passed unanimously by voice vote.
2. M. Welch, DVM - Waiver of Renewal Fees and CE: Dr. Lofton moved to approve waiver of renewal fees and required continuing education for 1999/2000 renewal, seconded by Dr. Gowan, and passed unanimously by voice vote.
3. D. Peltier, DVM - Waiver of CE: Dr. Lofton moved to approve waiver of required continuing education for the 1999/2000 renewal, seconded by Dr. Aycock, and passed unanimously by voice vote.
4. W. Low, DVM - Waiver of Renewal Fees and CE: Dr. Lofton moved to approve waiver of renewal fees and required continuing education for 1999/2000 renewal, seconded by Dr. Davis, and passed unanimously by voice vote.

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

[Note: This item was discussed out of executive session upon the arrival of Mr. Wade Shows; interrupting discussion of item VI.A.3.c.]

Mr. Shows was introduced to the newly appointed board member, Dr. Davis. Mr. Shows and Dr. Walther discussed the status conference called and recently attended by Mr. Shows. Judge Clark had called Dr. Walther on the day of the status conference to say that everything was settled. The Board thanked Mr. Shows for all his work in clearing up the matters assigned to him. After Mr. Show's departure, Dr. Walther stated that he would officially write a letter for the Board to Mr. Shows thanking him for all his work.

[Note: After Mr. Shows departure, the Board resumed discussion of item VI.A.3.c.]

C. NDDDB Report - M. Cenac

No action was taken by the Board.

D. Legal Issues Regarding Dissemination of Legal Matters

The Board appointed Dr. Walther to handle this information. No other action was taken by the Board.

IX. OTHER BUSINESS

Wall certificates were signed for new licenses/certificates issued since the June 9, 1999 board meeting.

X. ADJOURN

The meeting was adjourned at approximately 5:15 p.m.

APPROVED BY:

George Gowan, DVM
Secretary/Treasurer