

LA Board of Veterinary Medicine – Board Meeting Agenda – August 1, 2024

I. CALL TO ORDER

Board President, Dr. Larry Findley, Sr., called the meeting to order at 8:38am.

II. ROLL CALL

Roll call was taken by Board Secretary-Treasurer, Dr. Jesse Brandon, as follows:

Those present:

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| Larry L. Findley, Sr, DVM | Board President |
| Christine D. McHughes, DVM | Board Vice President |
| Jesse S. Brandon, DVM | Board Secretary-Treasurer |
| Keri A. Cataldo-Rogers, DVM | Board Member |
| Trisha C. Marullo, DVM | Board Member |
| Jared B. Granier | Board Executive Director |
| Stephen H. Vogt | Board General Counsel |

The Board's Statement of Obligations (below) was read aloud by Dr. Brandon to all present for the meeting. Attendees were given the opportunity to introduce themselves (if desired) and to make public comments to the Board. No written comments were received prior to August 1, 2024.

Statement of Obligations, Revised by Board Legal Counsel on October 6, 2020 – The Louisiana Board of Veterinary Medicine (being a state regulatory agency within the LA Department of Agriculture and Forestry) is a governmental entity whose mandate is to protect the public/animals by enforcing its jurisdiction of interpreting and implementing applicable laws, and the rules it promulgates, regarding the acceptable standard of veterinary care in LA. The Board has sole and sovereign authority in Louisiana over the practice of veterinary medicine as granted to it by the Legislature. The Board members are appointed by the Governor and confirmed by the Senate and take an Oath of Office. The Board members in discharge of their duties are also held to the ethical standards of state government officials. By statute, candidates for the Governor's consideration for appointment to the Board are made by the state professional association. While a Board member may hold general membership in a professional association, he is legally and ethically bound to his Oath of Office and will discharge his duties without any considerations or goals beyond his lawful obligations on the Board. A Board member does not represent the interests of the practitioners of veterinary medicine or a professional association while he serves on the Board, nor will he use his office to engage in any conduct which may constitute restraint of lawful trade.

III. APPROVAL OF MINUTES

A. Board Minutes for June 6, 2024

The Board reviewed minutes from June 6, 2024. Motion was made and seconded to accept the minutes as given. With no further discussion and with no public comments, the motion passed unanimously by voice vote.

IV. FINANCIAL MATTERS & CONTRACTS

A. Financial Reports – May & June '24

Mr. Granier presented the financial reports for the months of May and June '24 for review by the Board. Mr. Granier informed the Board that all financial matters are in

order. There were no questions regarding financial reports reviewed by the Board members. Motion was made and seconded to accept the financial reports as presented. With no further discussion and with no public comments, the motion passed unanimously by voice vote.

B. Investments, CDs – FY 2024 (Final Figures)

Mr. Granier reviewed final figures for accrued interest amounts and total investments for current certificates of deposit (CDs) for FY2024. CDs will continue to roll over as they mature unless withdrawal is requested from the Board by Mr Granier. It was indicated that the most recently matured CD on June 3, 2024 was reinvested with an interest rate of 5.00 to 5.10%, down from 5.50%. CPA will account for total capitalized interest in the final fiscal-year-end report. Motion was made and seconded to accept the investment report as presented. With no further discussion and with no public comments, the motion passed unanimously by voice vote.

C. FY2024 Final, Amended Year-End Budget

Mr. Granier presented the final budget amendments for FY2024 for Board review and discussion. FY2024 budgeted figures were adjusted to bring the FY2024 final budget within acceptable variances in accordance with the '23 Legislative Auditor's AUP Reporting. Motion was made and seconded to approve the final amended budget as presented. With no further discussion and with no public comments, the motion passed unanimously by voice vote.

D. Contract Review – Amendment to AAVSB Contract for Online LA State Exam

Mr. Granier presented an amendment to the contract with AAVSB related to the online state jurisprudence exam. The amendments will lower the AAVSB fee from \$55 to \$50 per attempt and specifies that AAVSB will provide pass/fail notice to examinees immediately after the exam. Motion was made and seconded to accept the contract amendment as presented. With no further discussion and with no public comments, the motion passed unanimously by voice vote.

E. 2023 Calendar Year Report from Healthcare Professionals' Foundation of LA

Dr. Hammond and Mr. Vanderlick presented HPFLA's 2023 Annual Report to the Board. The report included statistics on referrals, monitoring, relapses, and work data for 2023. With no further discussion and with no public comments, the motion passed unanimously by voice vote.

V. STATUTES, RULES, POLICIES & PROCEDURES

A. Rulemaking Projects, Proposals, & Discussions

Updates to all rulemaking projects can be found at www.lsbvm.org/rulemaking.

**1. LAC 46LXXXV.400.403.405.409.411.413.800.811.1200.1227
Chapter 4 - Continuing Education and Rules 811 & 1227**

Mr. Granier advised the Board that the Final Rule - having received a favourable oversight review from the Senate and House Legislative Oversight Committees on Agriculture, Forestry, Aquaculture, and Rural Development - will be published in the *Louisiana Register's* August edition, effective August 20, 2024. No motion made, and no further action was taken or needed on this matter.

**2. LAC 46LXXXV.1007.1011.1025.1039.1051.1057.1063
Chapter 10 - Rules of Professional Conduct**

Mr. Granier informed the Board that the Notice of Intent was published in the

Louisiana Register's July '24 edition. The Summary Report to the Senate and House Legislative Oversight Committees on Agriculture, Forestry, Aquaculture, and Rural Development is planned for submission for final review in mid-August '24. No motion made, and no further action was taken or needed on this matter.

3. LAC 46LXXXV. 703, 706, 708, 709, 710, 711, 713, & 714

Repromulgation of Chapter 7 sections

In accordance with the 2022 Louisiana Administrative Code Review, after a comprehensive review of Chapter 7 the Board repromulgated all sections of Chapter 7 that were not amended in V.A.4 of the agenda below. The request for repromulgation will be submitted to the *Louisiana Register* and published in the *Louisiana Register* August '24 edition, effective August 20, 2024. No motion made, and no further action was taken or needed on this matter.

4. LAC 46LXXXV.700, 701, 702, 704, 705, 707, & 712

Chapter 7 - Veterinary Practice

Mr. Granier informed the Board that the Notice of Intent and Fiscal & Economic Impact Statements were submitted on July 18, 2024 to the Louisiana Legislative Fiscal Office for review. The Notice of Intent is scheduled to be published in the *Louisiana Register's* August '24 edition. The First Report to the Senate and House Legislative Oversight Committees on Agriculture, Forestry, Aquaculture, and Rural Development will be submitted for review concurrently. No motion made, and no further action was taken or needed on this matter.

B. Policies and Procedures

1. None at this time

C. Declaratory Statements

1. None at this time

D. General Agenda

1. Is an examination prior to adoption enough to constitute a VCPR to allow for prescription of heartworm prevention that would be purchased by the adopter at the time of adoption?

A licensed veterinarian employed by an animal shelter offering adoptions following mandatory spays/neuters inquired as to whether the examination conducted when the animal is owned by the shelter prior to the spay/neuter is sufficient to establish the VCPR with the adopting client when administering and dispensing heartworm preventatives at the time of adoption. The board decided that with a new client a new VCPR must be established to practice veterinary medicine ethically and upon adoption and the administration of heartworm preventatives the prescribing/dispensing veterinarian must have sufficient knowledge of the condition of the patient by having recently seen the patient and being personally acquainted with the keeping and care of the animal by virtue on an in-person examination or by medically appropriate visits to the premises where the patient is kept (Rule 700). This does not mean that an examination is required solely because the identity of the client changes from the shelter to the adopting client, as long as under the sound professional judgment of the veterinarian he has retained that knowledge of the condition of the patient sufficient for the purposes of the administration and dispensing of the heartworm preventative upon consent of the new client.

2. Does a veterinarian have to be at the client home in order for a RVT to give injection

A licensed veterinarian inquired about the nature of supervision required of an RVT under a business model that provided veterinarian services in the home of the client/patient, where the veterinarian that had established the VCPR was not on site but issued orders to the RVT to give routine injections (e.g. cytopoint, librela) at the home of the client. After discussion the board ratified the opinion issued by general counsel that this would not be permissible. Rule 702.D provides an exception to the general rule that the delegating veterinarian must be on premises (active supervision) when an RVT performs treatment on the order of the veterinarian. Under this exception, the RVT may administer injections if the delegating veterinarian has charted the precise treatment plan to be followed, no diagnostic decisions or treatment changes are made by the RVT and the delegating veterinarian personally checks on the animal within 24 hrs. However, this exception to the requirement of on-premises, direct supervision presupposes the temporary absence of the delegating veterinarian from a facility that has the equipment to assist in treating animals with adverse reactions to injections, which is not present in the scenario provided, nor does the Rule meet the needs of the business model where it requires a personal examination by the delegating veterinarian within 24 hrs. of the RVT administering the injection.

E. Consent Agenda Opinions – Answered

1. How Can a Human Chiropractor Work on Animals

A licensed veterinarian received correspondence from a chiropractor practicing in human medicine offering services for the benefit of the veterinarian's patients. The veterinarian asked the board for guidance on the issue of the situs/extent of supervision required and how to determine if the chiropractor was sufficiently qualified to perform such services. The board advised through the ratified opinion of general counsel that Rule 712 clearly provides the answers to his query: a chiropractor practicing in human medicine is a "layperson" - i.e. someone not licensed or certified by the board provided the requirements of the rule are met, generally: the treatment must be on the order of the veterinarian who has first established the VCPR; the client has given informed consent to the treatment; the lay person must possess a license issued by another regulatory board (or have an educational level approved by the board). The supervision required is "direct supervision", where the delegating veterinarian must be on premises, and is responsible for the on-going evaluation and treatment of the patient. Answering a specific question of whether the supervision would be allowable at the business of the chiropractor, the board decided that would not be permissible since the VCPR contemplates the referring veterinarian be on premises to provide immediate treatment to the patient and the equipment required for clinics, hospitals, etc. would not be present at the chiropractor's place of business.

2. Non-Veterinarian Ownership of a Clinic

A veterinarian contemplating the sale of his practice asked if a non-veterinarian can own a practice. This oft-posed question was resolved in 2018 when the board changed Rule 1015 to allow ownership by a non-veterinarian when it no longer required the owner, member, officer or director of a business entity such as a partnership, corporation or limited liability company that provides veterinary medicine to possess a license. The Rule looks to the actual practitioner of veterinary medicine involved in patient care for licensing and regulatory compliance.

3. What Steps Should I Take if I have a Civil Lawsuit Against Me & My Clinic

The owner of a veterinary facility asked advice from the board when he received a letter of representation from a civil attorney whose client was alleging the practice adopted out the client's cat without consent and was liable for civil damages for conversion. The board advised that it does not provide general legal advice to the practice, but answers issues arising from its regulatory provisions where there is a bona fide concern about the interpretation of a specific provision where the inquirer's license may be in jeopardy. However, the source of the complimentary laws concerning "abandonment", a civil and not a regulatory matter, were cited to the veterinarian since a history of compliance with those provisions was suggested to have occurred, but with the client not actually receiving the notification required. The notice provisions of that statute were given to the veterinarian, who was encouraged to contact the attorney making the demand and provide him facts indicating compliance with those statutes found at La. R.S. 3:2451 et seq.

4. Is it Legal for Shelter to Own X-Ray Machine if Contracted DVM is the Only Person Ordering X-Rays, Reading X-Rays, and Creating Treatment Plans from X-Rays

A municipal shelter asked about the legality of owning and operating an X-Ray machine should it accept a proposed donation. The shelter was advised that the board does not regulate facilities and the ownership of equipment within facilities and was referred to the FDA, which regulates the manufacture of such equipment with regard to operator and patient safety.

5. Can Medical Records Be Withheld Until Payment is Received

An employee of a licensed veterinarian quit her employment owing the practice a substantial sum for treatment of the employee's dog. The employee then requested a copy of the animal's records. The practice owner asked if the records could be withheld pending payment of the account balance since the employee was fully paid for any wages earned and all services were provided at cost. This question is often posed to the board - NO, records may not be withheld. They must be provided to the client upon request. Following written request, it is unethical to refuse to provide the records or a synopsis of the records (see content required of synopses). The practice owner may charge a reasonable amount (usually the actual cost of duplication) for preparation and copying the records or providing a synopsis that is not tied to the amount owed the practice. The debt owed a practice is a civil matter between the client and the practice ownership and cannot be considered when ethical issues are presented to the board.

6. Is It Possible to Work Under Another DVM License as a Paid Intern?

A veterinary student anticipating graduation but with a delay in taking the NAVLE asked if it were permissible to work under the direct supervision of a licensed veterinarian as a "paid intern" where "all cases go through the vet after I see them" pending a passing score on the NAVLE. Interpreting the question as whether the veterinary school graduate could function as a veterinarian (diagnosis, prognosis, prescribing, establishing the VCPR, etc.) to then have the work approved by the employing veterinarian, the board responded in the negative. An unlicensed veterinarian (graduate of a veterinary school) can only function as a lay veterinary assistant under the direct supervision of a licensed veterinarian and is prohibited from making any diagnosis, prognosis, surgery or the prescribing of any drugs, medicine or appliances.

7. Do all vaccines (especially rabies) require an examination prior to administration

A licensee working for “out of state ownership” inquired of the board whether it was permissible to administer vaccines - especially rabies vaccine - without a prior examination of the patient. The query assumed the VCPR would be established by “telemedicine”. He was advised that the Department of Health has exclusive jurisdiction over the Sanitary Code and the prevention of rabies, and given contact information, but that generally the administration of vaccines constitutes the practice of veterinary medicine which cannot be done ethically without first establishing the VCPR, which requires an in-person examination that cannot be affected by electronic means.

8. Why should non-veterinarian equine dentists be outlawed if there is no anesthesia or sedation administered to the horse

A series of questions concerning the practice of equine dentistry were posed by several members of the public questioning the board’s authority to regulate that practice. They were advised that the Practice Act (state law) defines equine dentistry as the practice of veterinary medicine which must be done by a licensed veterinarian generally, while some tasks can be delegated to an RVT or person with suitable training working for (W2 employee) a licensed veterinarian who has established the VCPR with relaxed supervision. Those tasks which can generally be delegated to qualified employees were outlined as were those tasks that cannot be done in the field of equine dentistry except by a licensed veterinarian. They were referred to their local legislators to advocate for a change in the law the board cannot make.

9. Why isn't Equine Teeth Health Considered Husbandry Like Hoofcare
See query 8, above.

10. Why is the Floating of Teeth (Rasping) Not Considered Husbandry, but a Farrier Can Rasp the Feet? Especially When Sedatives Are Not Involved
See query 8, above.

F. Consent Agenda Opinions – Proposed

1. None at this time

G. Consent Agenda Opinions - Expedited / Emergency Opinions

1. None at this time

After review and discussion of all General Agenda and Consent Agenda Opinion items, motion was made by Dr. McHughes, seconded by Dr. Marullo, to ratify all opinions given. Motion passed unanimously by voice vote.

H. Relevant Legislation Enacted - Requires Board Action

1. Act No. 568

Having reviewed and discussed Act No. 568 from the 2024 legislative session, Mr. Granier was instructed to amend the application process to satisfy the requirements of Act No. 568. Additionally, motion was made by Dr. McHughes, seconded by Dr. Marullo, to change the length of time for which an application can remain valid from two years to one year from the initial date of application submission. With no further discussion and with no public comments, the motion

passed unanimously by voice vote. Mr. Granier will begin the rulemaking process to amend rules §301.F, §801.F, and §1201.D.

VI. MISCELLANEOUS MATTERS

A. New Licenses and Certificates Issued

Mr. Granier reported all new licenses and certificates issued - 45 total listed below - from 05/16/24 to 07/18/24. Motion made and seconded to accept and ratify all issued licenses, registrations, and certificates as given. With no further discussion and with no public comments, the motion passed unanimously by voice vote. *{List of all new licenses and certificates issued can be found at the end of this document.}*

B. Office Updates – Applications, Renewals, Active Licensees, Complaints

Mr. Granier reported to the Board statistics on applications, complaints, continuing education review requests, and the current renewal cycle from 05/16/24 to 07/18/24. No motion made and no further action was taken on this matter. *{All statistics reported can be found at the end of this document.}*

C. Upcoming CAET Trainings – Sept. 6, 2024, Feb. 24, 2025, and June 13, 2025

Mr. Granier reported to the Board that two new dates have been scheduled for 2025, with another fall date to be determined at a later time for the CAET trainings. No motion made or action taken or needed on agenda item.

D. AAVSB Annual Meeting – San Diego, CA, Sept. 25 to 28, 2024

Mr. Granier reminded the Board of the AAVSB's 2024 Annual conference being held in San Diego, CA on September 25th to 28th. Mr. Granier's attendance is funded by the AAVSB as he is a committee member on the AAVSB Student Outreach Task Force. The AAVSB will fund at least one other attendee as the voting delegate from the Board. Dr. Findley will also be attending the conference. No motion made or action taken or needed on agenda item.

VII. CONTINUING EDUCATION ISSUES

A. Brian Warr, DVM – Approval Request of Thesis Submission for Master of Science

The Board was presented a request for continuing education approval by a licensee for completion of a master's program. After review, motion was made and seconded to approve this continuing education activity for 20 in-person hours for the '24-'25 license renewal cycle. With no further discussion, the motion passed unanimously by voice vote.

Motion made by Dr. Brandon to go into executive session to discuss confidential matters regarding licensees, applicants, and administrative hearings not subject to public disclosure as per Louisiana open meetings law, seconded by Dr. McHughes, and passed unanimously by roll call vote.

All votes noted for the following agenda items in executive session were made at the end of discussion and out of executive session.

VIII. ADMINISTRATIVE HEARINGS

A. None at this time

IX. LICENSING ISSUES

A. Darren Schilling, DVM – Request for CE Exemption or Extension for Active Military Duty in '24-'25 Renewal

After review of Dr. Schilling's request in executive session, motion was made and seconded to exempt Dr. Schilling from the 20-hour continuing education requirements for the '24-'25 renewal cycle due to his active military deployment in accordance with rule §405. With no further discussion and with no public comments, the motion passed unanimously by voice vote.

X. APPLICANT ISSUES

A. Cole Tarzetti, DVM – Application Denial Due to Five Unsuccessful NAVLE Attempts

The Board discussed rule §303.B.7 which limits applicants to no more than five attempts to sit for the national exam, thereafter the applicant is no longer eligible for licensure in Louisiana and any application submitted is rejected. The Board reviewed application documentation along with national exam score history for Dr. Tarzetti. Motion made outside of executive session and seconded to deny Dr. Tarzetti's application for licensure pursuant to rule §303.B.7. With no further discussion and with no public comments, the motion passed unanimously by voice vote.

B. Danielle Lavoie – Application Denial Due to Five Unsuccessful VTNE Attempts

The Board discussed rule §803.K which limits applicants to no more than five attempts to sit for the national exam, thereafter the applicant is no longer eligible for licensure in Louisiana and any application submitted is rejected. The Board reviewed application documentation along with national exam score history for Ms. Lavoie. Motion made outside of executive session and seconded to deny Ms. Lavoie's application for licensure pursuant to rule §803.K. With no further discussion and with no public comments, the motion passed unanimously by voice vote.

C. Abraham Jonatan, DVM – Waiver Request of NAVLE Retake

The Board reviewed supplemental documentation submitted with the application for licensure from Dr. Jonatan. Motion made outside of executive session and seconded to approve the requested waiver of the national exam retake requirement as the documents provided supported the waiver criteria for the required period of time immediately prior to application, and registration in good standing in another jurisdiction. With no further discussion and with no public comments, the motion passed unanimously by voice vote.

XI. EXECUTIVE SESSION

A. *Update:* Civil Litigation, LBVM vs. O. Nyzhnyk (Suit No. 2021-9164 A)

The Board was briefed on the status of its suit against an individual practicing equine dentistry without a license as a veterinarian and outside the employment of a veterinarian by general counsel.

B. *Update:* Civil Litigation, Pelican Institute vs. LBVM (Suit No. C-735730)

The Board was briefed on the status of a civil suit filed against it on behalf of three DVMs who are/were licensed out of state and who either applied for a waiver of the requirement to retake the NAVLE or did not apply for licensure due to the Rule language adopted by the Board.

C. Legal Strategy Discussion on Potential Litigations Against Non-Licensee Practice of Veterinary Medicine

The board was briefed on the progress of several investigations of individuals alleging the practice of veterinary medicine without a license.

**D. Legal Strategy Discussion for Practicing with Expired - but newly Renewed
– License**

The Board instructed Mr. Granier to provide at its October 3rd meeting a list of all expired licensees as of October 1st – particularly DVMS whose either place of employment and/or mailing address may suggest that they are practicing in Louisiana with an expired license. At that time, the Board will decide what administrative steps it may take against these licensees.

Upon conclusion of all administrative, licensing, and applicant discussions in executive session as well as discussions related to current and potential civil litigations, motion made to return to regular session by Dr. Marullo, seconded by Dr. Cataldo-Rogers, and approved unanimously by voice vote. All votes and action taken related to administrative hearings, applicant issues, and licensee issues above were made out of executive session.

XII. ADJOURN

There being no further business before the Board, motion was made to adjourn by Dr. Marullo, seconded by Dr. Cataldo-Rogers, and passed unanimously by voice vote. The meeting was adjourned at 1:48pm.

Minutes reviewed and approved by full board on October 3, 2024.

A handwritten signature in black ink, appearing to read "Jess Brandon". The signature is written in a cursive, flowing style.

Jess Brandon, DVM, Board Secretary-Treasurer