

Minutes' Insertions for October 5, 2017 Meeting.

I will call shortly with certain changes, but the following is being sent to you via email (and as an attachment):

X. Policy, Procedure, and Rules

A. General Update-

1. Correction for December 2017 Newsletter regarding Sedation/Blood Work Standard based on Board decision at the August 3, 2017 meeting. In the Newsletter/Winter 2016 edition, the Board published an article regarding "Pre-Surgery/Anesthesia Blood Work and Consent Forms." The substance and effect of the article regarding the requirement of pre-anesthetic blood work prior to general anesthesia, which must at least be explained and offered to the client prior to the general anesthesia, remains the proper standard of practice. However, the issue of blood work as required prior to sedation (or at least offered to the client) is hereby changed after factual scenarios presented and further consideration by the Board.

Therefore, sedation is not automatically included within the concept of general anesthesia with regards to requiring blood work or, at least, an offer to do so made to the client. Rather, the standard of care set forth in Rule 1023 is applicable to sedation and blood work scenarios.

Publication of Correction in the December 2017 Newsletter was unanimously approved by the Board.

2. Information was provided on Act 76, effective August 1, 2017, sponsored by Senator Mills as enacted in the 2017 Regular Session regarding Pharmacy Board's CDS registrants required to obtain 3 hours of CE in drug related areas to be enforced. Permissible for the 3 hours to be part of the annual regular CE hours required for veterinarians and CAETs with CDS prescriptive authority, as well as obtained on-line as part of such permissible CE hours medium.

B. Policy and Procedure.

1. None.

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

1. *N.C. Dental* decision was again discussed with regards to its effects on the Board's function and mandate. Still waiting on assistance/direction from the State which is anticipated in 2018 Regular Legislative Session.
2. Proposed Rules Revisions of CDS/CE per Act 76, and Repeal of Non-Veterinarian Practice Ownership.
 - a. Proposed rules revisions, effective August 1, 2017, regarding continuing education (403 and 1227) to require specific courses/programs regarding drug diversion training, best practice

of prescribing controlled dangerous substances, appropriate treatment for addiction, and any other matters that are deemed appropriate by the veterinary board in accordance with Act 76 of the 2017 Regular Session of the Legislature were reviewed and discussed.

- b. Proposed rules revisions regarding 1015A (amended), and 1015B and 1019 (repealed) to remove the prohibition to non-veterinarian ownership of a veterinary practice, but retain regulatory accountability by the Board over licensed veterinarians with required hands-on/decision making authority over the practice of veterinary medicine were reviewed and discussed.

There exists a growing national (and state) movement of non-veterinarians wanting to own veterinary business practices while using licensed veterinarians to provide patient care. The practical effect of repealing the non-veterinarian ownership prohibition will enable some veterinarians to advance their respective practices for the evolving needs of clients and patients by an infusion of money, and perhaps business talent. It will also allow practices owned by veterinarians to be sold at arms length transactions by veterinarians, and their survivors, to a broader category of potential buyers. With the repeal, survivors of deceased veterinarians may also own the veterinary practice. Consumers should benefit favorably. It is further noted that a growing number of recent veterinarian graduates appear to not want to own a veterinary practice, but rather work for an existing one. Some practitioners may potentially experience more business/market-share competition, and may oppose the repeal. It also provides an avenue for several clinics to be purchased by a single non-veterinarian entity. However, under any scenario, the Board will continue to discharge its administrative obligations by holding its licensees personally accountable for the hands-on practice of veterinary medicine regardless of who may own the business entity.

In concluding, it is noted that the licensed practitioners and/or their state professional association are entitled to and may seek legislative enactment to address any prohibition to non-veterinarian ownership of a veterinary practice. Such is the proper and legal avenue addressing the necessity of clearly worded law in the Veterinary Practice Act which is the first prong of the test under *N.C. Dental*.

After review and consideration, Motion was made for adoption of proposed rules revisions and pursuit of rule-making protocol by Dr. XXX, seconded by Dr. YYY, and unanimously approved by voice vote. The Board is interested in receiving comment, both pro and con, to the proposed rules revisions regarding the repeal of the prohibition to non-veterinarian ownership of a veterinary practice.

3. Query was submitted by Dr. Mark Mitchell, with LSU-SVM, regarding faculty veterinarians and their participation in declared public emergencies and related issues. The Board has responded to these questions in the past as submitted by other interested parties. Most recently, by Dr. Brent Robbins, Deputy Commissioner of LDAF, on behalf of interested parties.

The Board's consistent response was provided to Dr. Mitchell who thereafter acknowledged receipt and filing for future reference.

4. Query was submitted by Amanda Dunaway, with MedVet, regarding the tasks and duties an RVT, and lay person, may legally perform. The Board has responded to these questions in the past as submitted by other interested parties, and has been consistent in its response. In short, a VCPR must be first established by the veterinarian with regards to the animal at issue, and other circumstances and factors must be considered if an RVT is allowed to even possess, and then, administer drugs to the patient. Under no circumstances may the RVT act in a sole capacity without the veterinarian who is ultimately responsible for the animal/patient.

Furthermore, the Board has the issues of the lawful tasks/duties of a LA registered veterinary technician (RVT) and the lawfully delegated tasks/duties of a lay person under review and consideration at the present time. In the future, a rule-making effort will be conducted by the Board to implement its conclusions regarding this subject matter. However, the law does not allow an RVT or lay person to perform animal diagnosis, the prescribing of treatment or medications, or any surgical procedures. Furthermore, only a LA licensed veterinarian may administer a rabies vaccination. Such cannot be lawfully delegated to an RVT or lay person under any circumstances.

In addition, the LA licensed, supervising veterinarian has the ultimate responsibility for the proper diagnosis and treatment of the animal, including the tasks/duties delegated to the RVT or lay person, and will be held accountable by the Board. The RVT is also personally responsible for her own acts/omissions in the practice pursuant to her RVT registration issued by the Board.

5. Query was submitted by Dr. Beverly Bell regarding bee hives and prescriptions/related issues. The Board responded that a bee is considered a "herd animal" under the Board's jurisdiction per the Practice Act. [Rule 700 requires that the "veterinarian has recently seen and is personally acquainted with the keeping and care of the animals by virtue of examination and/or the animals' record, and/or medically appropriate and timely visits to the premises where the animals are kept."](#) Accordingly, the answer to the specific query is to visit the location site where there is the presence of a hive, but not necessarily every hive at the location site (unless specific circumstances dictate otherwise). In addition, the veterinarian may also be able to satisfy the VCPR under the other provisions stated above beyond a site visit. It is also strongly suggested that she contact LADF/State Veterinarian as this state agency most probably has primary jurisdiction over the commercial honey/antibiotic issue and the protection of the consuming public. Also, in the event a veterinarian violates any provisions of another agency's laws and/or rules, the Board has the jurisdiction to pursue administrative action against the offending veterinarian for unprofessional conduct.
6. Query was submitted by Dr. Adrienne Stelly regarding a report card of each

puppy in a litter being allegedly exchanged by a seller. The Board understands the potential difficulty of identifying one puppy from another in a given litter. However, there are two categories of concern in the scenario under the Board's administrative jurisdiction. One is unprofessional conduct—PA Section 1526.A(14) and Rules 1023, 1059.A(10). Second, is the actual conduct or participation in misrepresenting or fraud (whether with actual or constructive knowledge)—PA Section 1526.A(15), and 701.A(1). If an attending veterinarian knows, or should have known, that misrepresentation or fraud regarding a "report card switch" is being perpetrated by the breeder to a buyer, it would be in the best interest of the veterinarian to consider advising the breeder that individual report cards will no longer be issued to her. Accordingly, a "litter report" could be given to the breeder, such as "5 puppies to Dog X: 3 male and 2 female were wormed treated for coccidia, 1 male and 1 female with umbilical hernias, 1 male with class 4 knee laxity." The breeder would then be in the position to provide a copy of the litter report to each buyer.

Per Rule 1065, a veterinarian can be administratively disciplined by the Board for a violation of other state laws and rules (including the criminal statutes) regarding participation (conspiracy) in a case of misrepresentation or fraud. A criminal conviction by another jurisdiction must first occur. The Board cannot offer comment on the efficacy of a prior criminal prosecution for any offending conduct as such is not within the Board's jurisdiction.