

Report to Licensees

of the

LOUISIANA BOARD OF VETERINARY MEDICINE

Volume 16, No. 2

January 2007



Happy New Year!



2007 Board Meeting Schedule

Board meeting dates for 2007 are scheduled on Tuesdays, at 8:30 a.m. as follows:
February 1 April 5 June 7 August 2 October 4 December 6

Prescriptions and Related Matters

By Mike Tomino

The Board continues to receive questions regarding prescriptions which is encouraged. You may recall that an article was contained in an earlier Board newsletter addressing more specifically prescriptions and internet pharmacies. The purpose of this article to provide you with updated information on providing prescriptions in general.

In reviewing the Louisiana Veterinary Practice Act and the Board's Rules, pursuant to Rule 1039A, a veterinarian is required to "conduct his practice on the highest plane of honesty, integrity, and fair dealing with his clients in time and services rendered and in the amount charged for his services, facilities, appliances, and drugs."

I direct your attention to Rule 705G which addresses "Providing Prescriptions." Pursuant to Rule 705G(1) "a client is not obligated to purchase a prescription medication from the prescribing veterinarian." Therefore, a client can have a prescription filled by any authorized entity at his discretion.

However, Rule 705G(2) states that a veterinarian shall not be required to write a prescription for any medication that in his medical opinion is not appropriate for the patient's medical care. Some professional organizations may have an opinion that suggests testing for heart worms every two (2) to three (3) years. If a veterinarian is of the medical opinion that his patient must be seen and/or tested on an earlier basis, such is within the scope of his professional judgment pursuant to the Veterinary Practice Act and the Board's Rules. Of course, a veterinarian must act in a reasonable manner and

conform to the prevailing standard of veterinary medical practice regarding such issue.

In addition, pursuant to Rule 705G(3), "a veterinarian may refuse to write a prescription if it is not directly requested by a client with whom a veterinarian-patient-client relationship exists." Furthermore, Rule 1014 provides that a licensed veterinarian shall not violate the confidential relationship between himself and his client. For a veterinarian to provide a prescription to an internet pharmacy without a direct request from his client, also subjects the veterinarian to disciplinary action by the Board for violating the confidential relationship between himself and his client by sharing treatment information with a faceless third party by way of internet and/or facsimile.

The Board has been asked whether a veterinarian can refuse to give a prescription to a paying customer if the drug is one he is prescribing and using on that customer's animal. The factual scenario at issue involves a veterinarian providing the annual examination, heart worm test and shots to a dog. The veterinarian in the past provided legend drugs, including Heartguard, to the client for administration to the patient. However, in this particular instance the client directly requested the prescriptions so that she might "price shop". The veterinarian then refused to provide the prescriptions.

Pursuant to Board Rule 705G(2), if the VCPR has been established with the client and the client directly requests a prescription from the veterinarian, the veterinarian has an obligation to

provide the prescription if in his medical judgment such is appropriate for the care of the animal.

Please keep in mind that to refuse to write a prescription for a drug that the veterinarian generally would provide and/or administer to the client's animal (patient), does not support a defensive argument that "in his medical judgment such is inappropriate for the care of the animal." Also, in absence of the veterinarian's professional opinion that such drug is inappropriate for the care of the animal, for a veterinarian to refuse to write a prescription for the sole reason that it is a product that he does not use would arguably be a violation of the law.

You may also wish to note that pursuant to Rule 1001, the Board has adopted the Principles of Veterinary Medical Ethics of the American Veterinary Medical Association. Principle IVA(1) provides that attending veterinarians are entitled to charge a fee for their professional services. In interpreting this principle, the Board has ruled that a reasonable fee to review a patient's file and write a prescription directly requested by the client is not a violation of the Veterinary Practice Act or the Board's Rules.

In enforcing the above cited legal authority, the Board will apply a "fair and reasonable" standard with regards to whether or not a specified amount constitutes a permissible fee which may include a fair and reasonable cost for faxing or mailing. As you are well aware, the time and involvement in

reviewing files and writing prescriptions may vary from case to case depending on various factors. Therefore, the Board will make a determination of what is "fair and reasonable" with regards to a fee for prescription writing based upon the facts of the situation presented. Also, as an alternative to your office faxing or mailing the prescription to the pharmacy, you may request the client to do so, however, such a request is more in the nature of a business decision.

Furthermore, please understand that if a veterinarian abuses his prescriptive authority by charging unfair or unreasonable amounts for prescription writing, or dilatory/defiant acts in providing prescriptions in otherwise appropriate cases, he will be subject to sanction by the Board under existing legal authority. More importantly for your profession as a whole, there exists the potential loss of dispensing rights due to the legislative actions of other interested entities or persons. You would be wise not to supply them with ammunition for their cause.

In concluding, with regards to the issue of providing prescriptions, please keep in mind your legal obligations, as well as your rights, so as to avoid any unnecessary and legal woes. Also, the Board office and I are available to answer any questions you may have concerning the issue of prescriptions.

License Renewals Statistics

As of November 20, 2006, license renewals for the 2006-07 renewal year are as follows:
1072 Active DVMs, 211 Inactive DVMs, 2 Faculty DVMs, 67 RVTs, 118 CAETs, and 4 REDs.



Disciplinary Cases

Case No. 06-1003V – Based on the Consent Order, the Board found that the respondent veterinarian was in violation of LSA RS 37:1526A and Board rules, Title 46, Part LXXXV, Sec. 1001 et seq., Section 1023, and AVMA Principle VI.A of Principles of Veterinary Medical Ethics in that the respondent was negligent in failure to properly diagnose and treat the patient. Respondent was fined \$250 and ordered to pay the amount of cost recovery for the proceedings.

Case No. 06-0316V – Based on the Consent Order, the Board found that the respondent veterinarian was in violation of LSA RS 37:1526A and Board rules, Title 46, Part LXXXV, Sec. 1001 et seq., Section 1023, in that the respondent was negligent in failing to properly diagnose and treat the patient's, which includes providing accurate information to the client for an informed decision. Respondent was reprimanded, fined \$500, and ordered to pay the amount of cost recovery for the proceeding.

Case No. 06-0619C (A, B) – Based on the Consent Order, the Board found that the respondent certified animal euthanasia technicians were in violation of LSA RS 37:1554A(12) and 1555 and Board rules, Title 46, Part LXXXV, Sec. 1201 et seq., Section 1223H, in that the respondents performed animal euthanasia without a

current certificate. Respondents were each fined \$100 and ordered to pay the amount of cost recovery for the proceedings.

Case No. 07-0713C (A, B, C, D, E, F) – Based on the Consent Order agreed to by the Board, the Board found that the respondent certified animal euthanasia technicians were in violation of LSA RS 37:1554A(12) and 1555 and Board rules, Title 46, Part LXXXV, Sec. 1201 et seq., Section 1223H, in that the respondents performed animal euthanasia without a current certificate. Respondents were each fined \$100 and ordered to pay the amount of cost recovery for the proceedings.

Rules Update – Please call or write the Board office for a copy of any Notice of Intent or Rules described below.

Rule 400, 403, 405, 409, 413 – Continuing Veterinary Medicine Education – Proposed rule alters the requirements and program approval of continuing veterinary medicine education for annual renewal of veterinary medicine license, from 16 credit hours per year to 20 credit hours per year with an expansion in the nature and substance of acceptable credit hours. Proposed rule to become effective, after promulgation, for the period of time (July 1, 2007-June 30, 2008) for the 2008-2008 annual license renewal and every annual license renewal period thereafter. Notice of Intent published January 20, 2007.

Current Information/Addresses – Many licensees have had changes in address (business and home), as well as employment, since the 2005 natural disasters. Please let the Board office know of any changes, permanent and temporary, to your information. A “Change of Information” form can be downloaded from the Board’s website, www.lsbvm.org, under the “Renewals” section.

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Board Office

263 Third St., Ste. 104
Baton Rouge, LA 70801
(225) 342-2176
(225) 342-2142 fax

lbvm@eatel.net
www.lsbvm.org

Louisiana Board of Veterinary Medicine

263 THIRD STREET, SUITE 104
BATON ROUGE, LA 70801

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