



## Board Enforcement of Louisiana Veterinary Practice Act

By Steve H. Vogt, Legal Counsel to the Board

The Louisiana Veterinary Practice Act gives the Board the legal authority to file suit in a district court against any person practicing veterinary medicine without a license or temporary permit, where a lawful exception is not applicable. Although there are other procedural options available to the Board, a civil district court has the constitutional authority to issue a permanent injunction against the non-licensee, in addition to awarding damages and requiring the unlicensed person to return all monies received from the illegal practice of veterinary medicine. Under the Practice Act, civil damages available to the Board in such instances are up to \$1,000 per offense, plus reimbursement to the Board of attorney fees and costs of court. In the area of equine dentistry, the Practice Act provides a minimum civil fine of \$500 per offense.



The Board, through the formal complaint process and unofficial notifications from the public, has become aware that especially in the field of equine dentistry, instances of the illegal practice of veterinary medicine have become problematic. Consistent with its duty to protect the people and animals of Louisiana from incompetent, dishonest or unprincipled practitioners of veterinary medicine, the Board has increased its efforts to curtail these illegal practices. It has filed suit in district court seeking injunctive relief and civil damages in central Louisiana and has issued cease and desist letters to illegal practitioners as it becomes aware of instances of non-licensees engaged in the practice of equine dentistry.

As a reminder, equine dentistry is statutorily included in the definition of "the practice of veterinary medicine" in the Practice Act. Since it is no longer possible under the law to qualify to become a "Registered Equine Dentist" for anyone not previously qualified, there are only two classes of persons who can otherwise legally practice limited equine dentistry aside from licensed veterinarians - RVTs and laypersons employed by a licensed veterinarian. Those limited dental procedures that are allowed for such employees are the rasping (floating) of molar, premolar and canine teeth, and the removal of deciduous incisor and premolar teeth (caps). All other dental operations must be performed by a licensed veterinarian. Board Rules provide that an RVT and layperson so employed by a licensed veterinarian must have special, board-approved training (available at LSU-SVM), be employed as a "W2 issued" employee and not an independent contractor, vendor or partner of the veterinarian, and working under a relaxed standard of direct supervision. The supervision must be such that the supervising veterinarian is within both a 30 mile radius/30 minute travel time of the premises where the dental procedure is to be performed. Further, only a licensed veterinarian is allowed to prescribe, recommend and administer a legend drug or controlled substance. See the entirety of Rule 1515 for further explanation and qualifying factors.

The Board encourages anyone with firsthand knowledge of the illegal practice of veterinary medicine, equine dentistry or otherwise, to contact the Board by filing a complaint at [www.lsbvm.org/complaints](http://www.lsbvm.org/complaints) and giving the Board sufficient evidence to proceed with an investigation. It should also be remembered that the representation of the willingness and ability to provide an unauthorized veterinarian service to the public (e.g. advertisement) is itself a violation of the Practice Act.

## Suspected Animal Abuse – Am I Required to Report? What If The Client Objects? Can I Be Sued or Have My License Sanctioned?

By Steve H. Vogt, Legal Counsel to the Board



Veterinarians are often faced with a dilemma when encountering suspected animal abuse, especially when a client or a member of the client's family may be responsible for that abuse. First, how can a veterinarian be sure the animal was not involved in an accident? What degree of harm or neglect constitutes animal "abuse"? Do I have to understand the criminal laws to know what is illegal? Will my Board take action against my license if my client does not agree to my reporting? Who do I report to? Do I have to have direct knowledge of animal abuse to report it? The Board periodically receives questions from the practice along these lines. The scenarios presented can be as broad as the imagination allows.

Many jurisdictions have state laws that have made the reporting of the abuse of animals by veterinarians compulsory. Some national organizations such as the AAVSB and AVMA have policies encouraging the legislatures of the states that have not addressed these

issues to pass laws providing answers to these questions - laws which would serve to protect the animals in their jurisdictions, along with the reporters who act in good faith and act on their suspicions. Most model acts would adopt concepts of compulsory reporting and broad immunities where reporting is made in good faith.

In reality, however, there is no resemblance of a unified approach state to state on these issues. Some compel certain segments of the population to report suspicions of animal cruelty - in varying degrees - to specific law enforcement officers, usually with some degree of immunity given. Other states allow reporting but do not address immunity issues. Some states trigger reporting with cases involving gross injuries. Many refer to the criminal laws and the definitions therein to compel, or allow, reporting. Some states have no veterinarian specific reporting laws, but compel law enforcement and animal control officers, for instance, to report known cases of abuse or neglect.

Prior to the 2022 legislative session, Louisiana was one of those states without veterinarian-based laws on these issues. Veterinarians faced exposure to civil and criminal prosecutions for reporting cases of abuse or neglect and even potential regulatory sanctions where principles of client confidentiality were involved. However, with the passage of Act 59 effective August 1, 2022, now La. R.S. 9:2800.28, Louisiana has begun to address these issues. While by no means all encompassing, this new law is a start in answering these questions.

This section is found in those laws that provide limitations of liabilities generally to persons and entities. It applies to licensed veterinarians and licensed veterinary technicians (RVTs). It states that if a licensed veterinarian or a licensed veterinary technician makes a report in good faith a reasonable belief that an animal has been the subject of a violation of enumerated criminal acts, immunity from civil liability or criminal prosecution is afforded. The authorities to whom the report is made for which these immunities are provided are limited to (1) the Commissioner of the Department of Agriculture and Forestry (or his designee); (2) a P.O.S.T. certified animal

control officer; (3) a law enforcement agency; (4) a prosecuting attorney; or (5) in instances where the reporter is participating in any investigation of acts prohibited by law.

The reportable violations are listed in Section 2800.28. Without a comprehensive listing they include, but are not limited to, animals subjected to simple and aggravated acts of cruelty, and instances of hog and canine fighting, injury to police animals, cockfighting and related matters. A reference to the reportable activities is necessary as found in Title 14 due to the numerous and defined acts of cruelty and prohibitions (See La. R.S.14:102.1; 102.5; 102.8, 102.19, 102.20; 102.23 and 102.26.

This legislation also addresses the release of confidential information and provides the same civil and criminal immunity provided the release is compelled by subpoena or court order or with the consent of the owner of the animal or his authorized representative. Immunities are not provided where the licensed veterinarian or licensed veterinary technician acts with gross negligence, willful misconduct or in bad faith.

The effect of Act 59 insofar as regulatory liability is concerned is nuanced. Louisiana remains a state that does not compel reporting of suspected animal abuse and neglect by statute, Board Rule or ethical principles. None of the regulatory authorities provided the Board with which to regulate the practice of veterinary medicine (Practice Act, Board Rules and AVMA Ethical Principles) address the reporting of suspected abuse except to the extent the Board is a secondary regulator, requiring compliance with all local, state and federal laws and regulations but making no independent determination that a violation occurred. With respect to the disclosure of confidential information, the Board has always made an exception to the prohibition of releasing medical records or their contents without owner consent in instances where those records were subpoenaed or were the subject of a court ordered disclosure. Act 59, in that regard, provides civil and criminal prosecution immunities that reflect the same protection from regulatory action.

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## When Am I Obligated to Provide a Prescription? *By Steve H. Vogt, Legal Counsel to the Board*



The Board intermittently receives queries from the practice inquiring about the obligation under the Board Rules or Ethical Principles to provide a prescription to a client. Often the veterinarian has questions concerning the source of the medication—from experience sometimes coming from abroad with product information in a foreign language without quality control assurances. At times the veterinarian is inundated with fax requests from online pharmacies that a prescription be issued for an existing client, requiring a review of records and prescription history for a patient and sometimes requesting a prescription for a medication new to the patient.

The Board Rules and the Principles of Veterinary Medical Ethics as published by the AVMA address these issues, as has the Board on several occasions through the years.

Rule 705 G (Louisiana Administrative Code, 46:LXXXV) provides clear guidance to the practice. It recognizes that while a client is not obligated to purchase a prescription medication from the attending veterinarian with whom a VCPR has been established and a determination has been made that the patient will be treated with such medication, the obligation to provide the prescription is dependent on several factors:

1. The veterinarian has determined the patient's life is not endangered by a delay in the administration of the medication;
2. The prescribed substance must be medically safe for in-home administration by the client;
3. The prescription is not for a controlled substance or involves any medication which, in the veterinarian's medical judgment, is inappropriate for the patient's medical care;
4. The prescription must be requested directly by the client with whom the VCPR has been formed for the obligation to apply.



Further, the Board has adopted the AVMA's Principles of Ethics (on issues where there is no conflict with the Board Rules). Under Principle 6.3 of the AVMA's principles, it is stated: "A veterinarian shall honor a client's request for a prescription or veterinary feed directive in lieu of dispensing but may charge a fee for this service".

In interpreting these provisions in the past, the Board has summarily concluded that a veterinarian's motive in refusing to honor a request for a prescription must involve one of these exceptions and cannot be because a third party will receive the revenues from dispensing.

Applying these principles, practitioners have been advised by the Board that a request from a dispensing pharmacy or other entity for a prescription is not a "direct request" by a client. The veterinarian can choose to honor a request by an such an entity pharmacy but is also entitled to charge a "reasonable fee" to the client for this service. A veterinarian is not obligated to send a prescription to a dispensing entity/ pharmacy but can choose to provide the client with a written prescription. A bona fide concern that a medication is known to be manufactured without quality control assurances is a permissible reason not to honor a request for a prescription, in which case the veterinarian should voice his concerns to the client and provide a written prescription when otherwise appropriate for the client to have filled at the place of his choice.

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## Learn About Peer Assistance Program & Earn Continuing Education Credit

By Jared B. Granier, MBA – Executive Director of the Board

The LBVM is committed to its charge to promote the public health, safety, and welfare by safeguarding the people of this state against incompetent, dishonest, or unprincipled practitioners of veterinary medicine, including DVMs, RVTs, and CAETs. In short, the Board's ultimate responsibility is the protection of the public through its regulatory powers. And while action against an impaired licensee can be taken by the Board through disciplinary procedures, the Board feels that a healthy licensee is an important first step towards ensuring its mission in protecting the public is successfully achieved. The Board can, and is quite willing to, lawfully support the recovery and practice of those professionals and paraprofessionals who are cooperative and willing to receive assistance, and still properly discharge its duty of protecting the public.



Last year, the Board announced the revival of its Peer Assistance Program through a new partnership with the Healthcare Professional's Foundation of Louisiana (HPFLA), providing vital assistance to Louisiana's licensed veterinarians, registered veterinary technicians and certified animal euthanasia technicians who may be impaired by chemical dependency on drugs or alcohol or by mental illness.

At its December '22 meeting, the Board discussed the importance of its licensees to know about the invaluable services provided by the HPFLA and voted to approve one (1) hour of Continuing Education credit for any licensee who attends an HPFLA presentation. For upcoming presentation dates and locations, call (225)291-5000 or email [fvanderlick@hpfla.org](mailto:fvanderlick@hpfla.org).

HPFLA is non-profit organization that provides confidential services to various licensing boards and licensees in the healthcare industry. They offer a voluntary advocacy and monitoring program that allows licensees with impairments or in need of medical treatment to possibly avoid formal disciplinary actions by their licensing boards and obtain remediation in order to practice with skill and safety. The primary role of the HPFL Professionals' Health Program (PHP) is to offer assistance to health care professionals and paraprofessionals who may be suffering from difficulties such as substance use issues, depression, anxiety, etc., in addition to a host of physical ailments and disruptive behavioral patterns.

## Rulemaking Activity

Licensees are encouraged to monitor [www.lsbvm.org/rulemaking](http://www.lsbvm.org/rulemaking) for details & progress regarding rulemaking activity.

### Waiver Language for NAVLE Retake Requirement for DVMs

The Final Rule promulgated on October 20, 2022 amending the requirements related to waiver of the NAVLE retake requirement if a score is older than five years. There is now a reduction in the work hour requirement as well as greater discretion afforded to the Board for possible gaps in employment during the five years prior to date of application.

### Waiver Language for VTNE Retake Requirement for RVTs

The Final Rule promulgated on October 20, 2022 created a path for possible waiver of the VTNE retake requirement if a score is older than three years. The new rule closely mirrors the NAVLE retake waiver language for DVMs, allowing an RVT applicant to petition the Board for a waiver of retaking the VTNE if a score is older than three years.

### State Exam Requirement for New RVT Applicants

The Final Rule promulgated on October 20, 2022 amended language to the state exam requirement for RVTs. Rather than completing a practical exam, new RVT applicants must successfully pass the written state board exam for any new RVT application submitted after October 20, 2022.

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## RULEMAKING IN PROGRESS

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### Preceptorship Program Being Repealed as DVM Licensure Requirement

On August 4, 2022, the Board voted to discontinue the preceptorship program as a requirement for DVM licensure, and is currently in the rulemaking process.

### Petition for Rule Modification

On December 1, 2022, the Board voted on proposed amendments for petitions for rulemaking, providing clearer instructions on submitting petitions for the adoption of new rules or for amendments or repeal of an existing rule. The proposed amendment also delivers greater clarity on submitting petitions related to application decisions made by the Board.

There are a few different avenues for one to gain access to HPFLA's services, the first of which is through self-reporting. If a licensee feels they are impaired and need assistance, help is available. Simply call the HPFLA. A referral can also be made by an outside party if someone knows or suspects that a licensee is impaired. LBVM Board members are not notified of self-referrals or third-party referrals. Lastly, if a formal complaint is submitted to the Board in which a licensee is alleged to be impaired, rather than immediately disciplinary proceedings going forward, the Board has the option of first referring the alleged impaired licensee to HPFLA for an evaluation and assistance.

## Disciplinary Cases / Final Judgements in 2022



**What is a Consent Order?** An order involving a type of disciplinary action may be made to the board by the investigating board member with the consent of the person. To be accepted, a consent order requires formal consent of a majority of the quorum of the board. Such a quorum does not include the investigating board member. It is not the result of the board's deliberation; it is the board's acceptance of an agreement reached between the board and the person. A proposed consent order may be rejected by the board in which event a formal hearing will occur. The consent order, if accepted by the board, is issued by the board to carry out the parties' agreement. (*Rule §1411 of the LA Veterinary Practice Act*)

**Case #18-1220.V – Consent Order** - A licensee against whom a complaint was filed for alleged criminal conduct entered nolo contendere pleas in a state district court to charges of aggravated cruelty to an animal, illegal discharge of a firearm near a school, illegal possession of a legend drug and illegal possession of a schedule drug (IV). A consent order was approved by the Board requiring the payment of a fine, partial reimbursement for the costs of the investigation into the allegations of the complaint, additional CE of 5 hours in the field of veterinary ethics, and board approved community service of 25 hours. The licensee was found to be in violation of La. R.S. 37:1526 A (5),(12), (14), Rules, Title 46, part LXXXV (Louisiana Administrative Code), Section 1001 et seq., more particularly Sections 1011, 1055, 1065, and AVMA Code of Ethics, Principles I and IV.

**Case #19-0405.I – Proposed Amendment to Current Consent Order** - A licensee who is practicing under the terms of a Consent Order petitioned the Board to be relieved of the obligation of having to work under the supervision of a Board approved veterinarian after having faithfully complied with the other terms of the Consent Order, including successfully passing random drug screening for a number of years and after successfully obtaining a revoked DEA registration and license with the Board of Pharmacy. After hearing testimony as to the exigent circumstances involved and noting the to-date full compliance with all restrictions and terms of the Consent Order and full and complete participation in the Board's peer assistance program for impaired veterinarians, the Board fully discussed the merits and demerits of the request. The request was granted and will be memorialized by an amended Consent Order. The licensee was found to be in violation of La. RS 37:1526 A(3) and (14), and Rules, Title 46, Part LXXXV, Sections 106, 1001, and 1401 et seq.

**Case #22-0411.V – Consent Order** - A Consent Order was agreed upon by and between a licensee and the investigating Board member concerning the merits of a complaint filed. The gist of the complaint was that the licensee extracted 11 canine teeth from a patient whose owner did not give explicit consent, nor was consent given via the mandatory written Anesthesia Consent Form contents authorizing the veterinarian, who had client authority only to administer teeth cleaning/scaling, to provide those services the veterinarian in her judgment thought necessary during the procedure. The extractions were by a technician. The owners had not authorized the administration of pain medication because they expected routine cleaning to be done only, resulting in potential unnecessary potential patient pain. The failure to use the mandatory form resulted in a violation, as did the utilization of a RVT to extract teeth (dental operation). The Board approved the Consent Order, fining the veterinarian, ordering restitution of the costs of investigation, and ordering the licensee to complete additional CE on record keeping through a course approved by the investigating Board member. The licensee was found to be in violation of La. R.S. 37:1526 A (6) and (14); and Rules, Title 46, Part LXXXV, Section 1001 et seq., more particularly Section 1023, Section 710 (C), Section 702 (A) (2) and (3), Section 1031 and 1039 (B) (3); and "violating provisions of the Louisiana Veterinary Practice Act and Rules promulgated by the Board," La. R.S. 37:1526 A, Title 46, Part LXXXV, Section 1401; and violating the AVMA Code of Ethics, principle V (2).

In partnership with the Healthcare Professionals' Foundation of Louisiana (HPFLA), the Board enters into a consent agreement with a licensee/certificate holder regarding impairment issues whereby the participant will maintain licensure/certification status and is allowed to practice under certain conditions. There have been recent successful completions of the program and the Board thanks these particular persons for their cooperation and wishes them much success in their continued recovery. The identities of these professionals/paraprofessionals and specifics with regards to these matters, as well as any other prior or pending cases with the same subject matter, are confidential and will remain so as required by law.

Board members and staff are exceedingly pleased with the assistance and support provided to its licensees by the Healthcare Professionals' Foundation of Louisiana (HPFLA) and look forward to our continued partnership.

COMPLAINTS / INVESTIGATIONS	Total
<b>From 01/01/22 to 12/31/22</b>	
Complaints Received	28
Complaints Closed	40
Consent Orders Issued	2
Consent Orders Closed	3
Other Negative Actions *	7
<b>Still On-Going / Active</b>	
Pending Cases (licensees)	10
Pending Cases (non-licensees)	5
Consent Orders	2
Other Negative Actions *	2
* Other negative actions include, formal reprimands, informal reprimands, cease & desist notices, etc.	



## 2023 - 2024 Board Meeting Dates

The LBVM will meet at 8:30am on the following dates:

**2023** - February 2, April 6, June 1, August 3, October 5, and December 7  
**2024\*** - February 1, April 4, June 6, August 1, October 3, and December 5

Location: LA Dept of Ag & Forestry Building, 5825 Florida Blvd, BR, LA 70806  
*\*2024 dates will be ratified by Board at its Oct. '23 meeting.*



### Board Personnel Changes...

- Dr. Alfred Stevens from Baton Rouge, Louisiana was elected President of the Board for the '22-'23 fiscal year.

The Board office staff is always pleased to assist anyone with questions concerning the Board and its role in regulating veterinary medicine in the State, and we extend continued best wishes for our administrative staff, Board members, and all of our licensees.

### '22-'23 Renewal Cycle Figures

RENEWALS - '22-'23, from 07/01 to 11/18	Renewed
<b>Certified Animal Euthanasia Technician</b>	<b>127</b>
CAET - Active - Full	109
CAET - Active - Lead	18
<b>Doctor of Veterinary Medicine</b>	<b>1661</b>
DVM - Active	1656
DVM - Inactive - Disabled	0
DVM - Inactive - Retired	5
<b>Doctor of Veterinary Medicine - Faculty</b>	<b>84</b>
DVM - Faculty - Active	84
<b>Registered Veterinary Technician</b>	<b>317</b>
RVT - Active	317
<b>Grand Total</b>	<b>2189</b>

(Previous year renewal totals: 2016 – 2025, 2017 – 2095; 2018 – 2156; 2019 – 2274; 2020 – 2336; and 2021 - 2274.)

  
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Veterinary Medicine**

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