

## **Minutes' Insertions for August 2, 2018 Meeting.**

Wendy, I will call you shortly regarding other changes/insertions. Sent via email on September 20, 2018 to Wendy and Dr. Green.

### VI. Policy, Procedure, and Rules.

#### A. General Update.

1. LDAF Commissioner Mike Strain made appearance, along with LDAF Assistant Commissioner for Animal Food Safety, John Walther, regarding the Board being transferred from LDH to LDAF, effective August 1, 2018, per Act 515 of the 2018 Regular Session.

a. Acts enacted in the 2018 Regular Legislative Session affecting the certain authority of the Board were discussed.

Implementation of the effect of applicable new laws will be instituted by Board. Rule-making, contracts, and fiscal review by LDAF were discussed per LRS 36:803.

b. The contact for LDAF will be John Walther, and secretary, Michelle Rivera, with any questions or concerns by the Board. Todd Freedman was mentioned as LDAF designee for NOI and fiscal issues on rule-making.

c. Issue of active state supervision required by *NC Dental* for active market participant board was again discussed. Active market participant status of Commissioner Strain (D.V.M.) and LDAF Deputy Commissioner Brent Robbins, D.V.M. were addressed. Board will consider and propose to LDAF a recommendation for active state supervision for specific subject matter per its exclusive regulatory jurisdiction.

d. Upcoming 2019 General Session will be a fiscal session. The issue of raising the cap on application/renewal fees required by legislative enactment was generally presented to Commissioner Strain by the Board based on additional services being considered, such as on-line application and renewal. With a satisfactory new cap in the Practice Act, the Board can then raise the fees through rule-making procedure as needed to keep up with rising and additional costs. The Board will consider the suggested cap and seek Commissioner Strain's assistance per his department's authority with the pertinent proposed legislation.

#### B. Policy and Procedure.

1. Per Act 219 of the 2018 Regular Session, effective August 1, 2018, veterinarians are now exempted from CDE/CE requirements earlier enacted by Act 76 of the 2017 Regular Legislative Session. Deadline to have obtained such CE was September 30, 2018, however, it was noted that approximately 70% of the renewal applications received to date (August 2, 2018) shows the D.V.M. applicants had obtained the earlier required CDS/CE. Discussion with Commissioner Strain occurred regarding perhaps one hour per renewal year for CE on CDS diversion/disposal issues may be in order via the rule-making authority of the Board.

2. Per SCR 83 in the 2018 General Legislative Session, information regarding expedited license issuance for qualified military and spouses must be displayed on the Board's website (all regulatory boards) via a link prominently displayed on such website. The Board has existing

rules and protocols on its website regarding expedited issuance for such qualified applicants, and will attend to a more prominently displayed link on its website once current IT issues are resolved.

3. The Board's Mission Statement on its website has been amended to properly show that it has been transferred from LDH to LDAF, effective August 1, 2018.

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

1. The Board was earlier contacted by Michael Babin regarding his interest in taking the CAET course, however, he did not wish to practice as such. The Board earlier addressed its concerns and current protocols, however, upon further consideration, Babin will be allowed to take the Board's approved CAET course at an upcoming setting once he has met the criteria for qualification, for example application, fees, etc. As with all applicants, he will be required to successfully pass the course in order to obtain a certification. In addition, it was explained to him that: 1) only one active certification will be issued by the Board to a CAET at any one time, and the animal control shelter or facility at which he is employed is clearly set forth on the certificate for regulatory purposes and per policy, and that should he change places of employment, then the current certification is surrendered and a new one is provided with the new shelter/facility stated thereon; 2) since he has expressed an interest in not actually practicing at a facility, his certificate will be marked with the following : "Not able to practice without a work site/status first approved by the LBVM", until he is contracted with or employed by a facility to practice as a CAET; and 3) that, once issued, in order to keep his certification current, regardless of his work status, he will need to comply with all requirements for annual renewal, including timely obtaining approved continuing education courses, renewal application, fees, etc. In short, he will need to comply with all of the requirements set forth in the LA Veterinary Practice Act and the Board's Rules. Motion made by XXX, seconded by YYY, and passed unanimously.

2. The Board was contacted by a potential CAET applicant for certification for Certified Animal Euthanasia Technician (CAET), and Lead status to be able to obtain and use legally permissible chemical euthanasia drugs at Chimp Haven in Shreveport. A review of Chimp Haven's website provides the statement that this entity is the National Chimpanzee Sanctuary facility in the U.S. providing a home for chimpanzees retired from laboratory research, formerly kept as pets, and used in entertainment. A LA licensed veterinarian is listed in the application as the "Approving Veterinarian" which the Board interprets as either employed by or under contract with Chimp Haven to provide veterinary services to the chimpanzees.

It must be noted that this application request for CAET certification for a primate is the first one received by the Board. Unfortunately, at this time the CAET course program provided/used by the Board only applies to small animals (dogs and cats), and does not specifically address the proper chemical euthanasia of a primate, such as a chimpanzee. The Board would be remiss in its duty of insuring humane chemical euthanasia of an animal (primate) by applying such an educational program to its intended use at Chimp Haven. Accordingly,

the Board cannot issue a CAET certification (and Lead status) per its program at the present time. The applicant was notified that the Board will review the availability of any qualified program for non-veterinarians regarding chemical euthanasia for primates. At present, the named veterinarian does have the required professional license to chemically euthanize a chimpanzee if such is within the scope of her professional training and discretion. Motion made by XXX, seconded by YYY, and passed unanimously.

3. The Board was contacted by Dr. Ray Hyde regarding an LA resident attending his equine dentistry technician school, American School of Equine Dentistry. He was informed that the Veterinary Medical Practice Act, Section 1561, et seq., addresses registered equine dentists (REDs) regarding qualifications, registration, duties, and disciplinary issues. It was noted that the PA/law enacted by the LA Legislature limited the number of REDs through the stringent qualifications needed for registration. However, the PA/law does provide for the creation/use of a lay equine dentist per the rule-making authority of the Board. He was directed to the Rules (1501, et seq.) promulgated by the Board regarding REDs, and more specifically, lay equine dentists (created by Rule 1515.F). These Rules may also be found on the Board's website. Rule 1515.F asserts that "with proper training and under the direct supervision of a licensed veterinarian" certain described duties may be performed by a lay equine dentist. With regards to the "proper training" the Board accepts the education/training provided by the LSU-School of Veterinary Medicine, an AVMA accredited institution. Such training/education program is provided once per year and is generally a two (2) day program.

The Board requested information from him regarding the program at the American School of Equine Dentistry (ASED) General information regarding ASED and its program would be helpful in the Board's review, including a copy of the curriculum and the CVs of the instructors, as well as whether the program/school is accredited and by whom. Thereafter, the Board will further respond to his question. Motion made by XXX, seconded by YYY, and passed unanimously.

4. The Board was contacted for a statement regarding how to employ, and the duties of, an unlicensed veterinarian waiting to take the NAVLE. The Board responded that an unlicensed veterinarian cannot be employed as such, nor work in this capacity in LA. Supervision by a licensed veterinarian does not alter this effect. To lawfully practice veterinary medicine in LA, one must be a licensed veterinarian here. However, she may perhaps function as a "lay" veterinary tech, but not as a Registered Veterinary Technician. As a lay vet tech, she must have "direct supervision" by a LA licensed veterinarian who will be held responsible for the acts/omissions of the lay tech. It is suggested that she and the supervising veterinarian(s) carefully review the Rules regarding supervision requirements of lay staff. She also cannot be advertised or referred to as "Doctor," etc., nor wear any id badge, as such would be misrepresenting to the clientele and staff. One question seems to linger for the Board and that is "how does a veterinarian close her mind to her education/experience, and properly limit her participation to that of a lay person in reality?"

If she can walk this fine line, then she should not, nor should any supervising veterinarian(s), run afoul of the Practice Act and Board's Rules. The inquiring veterinarian was also informed that should any person "practice veterinary medicine" without a license, such conduct is grounds for the Board to deny licensure (prior to issuance), or sanction (suspension, revocation, etc.) a license once granted based on the receipt of information thereafter. Furthermore, it was emphasized that should the supervising licensed veterinarian violate the law regarding this proposed scenario, her license is also subject to administrative sanction for aiding and abetting the illegal practice of veterinary medicine, as well as perhaps civil suit repercussions from the affected client(s)/patient(s). Motion made by XXX, seconded by YYY, and passed unanimously.

5. The Board received a request for a statement from a veterinarian regarding "how much information am I allowed to share with a boarding or grooming facility without consent from the client? The second question is how much am I required to share with another clinic?" The Board responded that the legal and ethical obligation exists for a veterinarian to protect the privacy of the client-patient, including maintaining the confidentiality of medical records and information. Please refer to Board Rules 700, 701.B and 1041, as well as the AVMA's Code of Ethics (Principles II.L and VII) adopted by the Board, all of which can be viewed on the Board's website at [www.lsbvm.org](http://www.lsbvm.org). However, the disclosure of confidential information is legally permissible if required by law (by court order-subpoena or statute) to protect the health and welfare of other individuals or animals, or with the client's consent. The only exception is to disclose if an animal is current on his rabies vaccination due to the strong public policy of protecting against a rabies outbreak. The inquiring veterinarian was also informed that the issue of client consent also applies to the provision of medical records to another veterinarian/clinic, or to a grooming/boarding facility. With that stated, informed consent, in writing and signed by the client, is always preferable to verbal format from an evidentiary standpoint should the subject be later questioned. Such may also include the designation by the client of her authorized representative to act on her behalf in requesting a copy of the medical records (see Rule 701.C below). Furthermore, Board Rule 701.C states that the records are owned by the veterinarian; however, upon request of the client or the client's authorized representative, a copy or synopsis of the records shall be provided to her. A reasonable charge for copying and providing the records may be required by the veterinarian. It is the Board's position that there is also a "reasonable time" factor within which the veterinarian must provide a copy of the records, and this varies with the circumstances in each case, for example, emergency conditions, staffing issues at the facility, length of the records, etc. Also, generally speaking, radiographs and other similar tests cannot be copied, but the synopsis of the results are stated in the written records. Motion made by XXX, seconded by YYY, and passed unanimously.

6. The Board was contacted for a statement regarding proof of ownership of the patient by competing persons. On such an issue, it was explained

that neither the Board, nor its attorney, can provide advisory opinions/advice to licensees. The veterinarian was directed to review Rule 700 which defines the veterinarian-client-patient relationship (VCPR). In effect, the VCPR is extended to the owner and the owner's authorized representative. Per the described scenario, the determination to be made is whether they are "co-owners" or "an owner and authorized representative." If the latter applies, such representative status may be terminated by the owner. It must also be stated that if there is a true dispute in ownership of the property (animal), such must ultimately be decided by a court of law if the two competing interests cannot otherwise agree on the result. For the inquiring veterinarian to inform them of this and then rely upon a judgment from a court will always be in his best interest. Whatever the resolution may be in this matter, it would most be beneficial to have the file properly documented in the event the issue presents itself in the future. In closing, it was strongly suggested that the veterinarian confer with his personal civil attorney regarding the facts/law and how to legally proceed in this matter. Motion made by XXX, seconded by YYY, and passed unanimously.

7. Several issues arose regarding the Board's five (5x) times limit on sitting for the NAVLE. In summary, effective July 20, 2012, the Board, at the request of NBVME (creator/administrator of the NAVLE for all U.S. jurisdictions, now IVCA is the examination owner/administrator) for test security purposes, implemented Rule 303.B.7 which limits the number of attempts to sit for the NAVLE to a five (5) time maximum, and further states that one is no longer eligible for licensure and any application submitted thereafter will be rejected. The purpose of the limit is for examination security as only five templates of the exam exist and are administered due to the costs of development and security.

There was also a question regarding entry into Louisiana by passage of the NAVLE and licensure through another state, although there is no license granted in LA by reciprocity, a license to practice veterinary medicine issued by a sister state would be an element necessary for issuance of a license by the Board. There are other criteria necessary for issuance of the LA license which may also be reviewed on its website. In addition, one question addressed a request for reasonable accommodation only for the last examination attempt (fifth time). It was totally within the applicant's discretion and control to earlier request the ADA accommodation for the prior examinations, which would have been timely considered by the Board. Accordingly, the five (5x) time limit had been satisfied. Motion made by XXX, seconded by YYY, and passed u