

**BOARD MEETING**  
**LOUISIANA BOARD OF VETERINARY MEDICINE**  
**April 23, 1998**

**draft**

I. CALL TO ORDER

The meeting was called to order at 9:15 a.m. by the President, Dr. James Burk.

II. ROLL CALL

Those present were:

Dr. James Burk	President
Dr. Anne Guedry	Vice-President
Dr. Dick Walther	Secretary/Treasurer
Dr. Adrienne Aycock	Member
Dr. George Gowan	Member
Mr. Charles Mann	Executive Director
Ms. Virginia Anthony	Asst. Atty. General - for the Board
Mr. Chris Le Grange	La. Veterinary Medical Association

III. APPROVAL OF MINUTES - January 22, 1998; February 15, 1998; and March 24, 1998.

After making corrections, it was moved by Dr. Walther to approve the minutes for the January 22, 1998, meeting, seconded by Dr. Guedry, and passed unanimously by voice vote.

After making a correction, it was moved by Dr. Aycock to approve the minutes for the February 15, 1998, meeting, seconded by Dr. Guedry, and passed unanimously by voice vote.

It was moved by Dr. Guedry to approve the minutes for the March 24, 1998, meeting, seconded by Dr. Aycock, and passed unanimously by voice vote.

V. FINANCIAL MATTERS

**A. Financial Statements:** Financial statements for January 1998, February 1998, and March 1998 were reviewed. It was moved by Dr. Aycock to accept the financial statements as presented, seconded by Dr. Guedry, and approved unanimously by voice vote.

**B. Budget Forecast:** Mr. Mann reviewed the 1997-98 budget projection, which showed a potential operating deficit of \$40,506. The Board had previously anticipated a deficit of \$14,049 based on a budget revision approved in December 1997. Legal expenses have continued to escalate (primarily due to the appeal in the Smythe case pending in state district court, but also because of two other administrative hearings that have been held this fiscal year) and over \$30,000 of the deficit can be attributed to that budget item. Dr. Aycock moved to authorize expenditures of up to \$40,506 from the fund reserve in the 1997-98 fiscal year, seconded by Dr. Guedry, and passed unanimously by voice vote.

**C. W. Shows Contract, 1997-98: Amendment:** After Mr. Mann presented the status of billings and payments on the contract with Wade Shows, Dr. Aycock moved to approve a contract amendment with Mr. Shows to raise the total amount payable to \$65,000, seconded by Dr. Gowan, and passed unanimously by voice vote. Dr. Burk discussed the need for a technical amendment to the contract which would change the name of Counsel from "E. Wade Shows" to "Shows, Cali, and Burns." Dr. Aycock moved to amend the contract to make this name change, seconded by Dr. Guedry, and passed unanimously by voice vote.

**D. Specials Meal Authorization:** Mr. Mann reviewed the March 25, 1998, letter to Edgar Jordan, Asst. Commissioner of Administration, concerning authorization for special meals, which has been approved by Mr. Jordan.

**E. Authorization to Travel:** Dr. Guedry moved to authorize 1997-98 travel expenses in accordance with state travel regulations for Mr. Mann, seconded by Dr. Aycock, and passed unanimously by voice vote.

**F. Board Member Names on Stationery:**  
STOP

VI. REHEARING - A. LAGRAIZE, DVM - CASE 97-1010V

This rehearing was not held. Instructions to Dr. LaGraize concerning any rehearing are cited under III.B above.

VII. POLICY, PROCEDURE, AND RULES

**A. Legal Services Contract - Wade Shows:** Mr. Mann reviewed the status of the legal services contract with Mr. Shows. He presented information showing that billing already exceeded the \$20,000 contract ceiling approved at the December 2, 1997, meeting.

**B. Complaint and Discipline Policy and Procedure**

1. Non-notarized Complaints: The Board reviewed the revised "Investigations Based on Non-notarized Information Received by the Board Office" document that had been first reviewed at the December 2, 1997, meeting. After discussion, the Board amended the proposed Rule 106.B.3 (omitting the first sentence and adding "or the illegal practice of veterinary medicine" after "...or unprincipled practitioners of veterinary medicine."). Under "Options for the complaint review committee in disposing of non-notarized information," the Board added to 2.c., the phrase, "Allegations are serious or alleged violations may not be verifiable if the licensee is informed." It was noted that under "Question: At what point should full board be made aware of non-notarized information?" that nothing would be reported to the Board unless the non-notarized information leads to a formal complaint and goes through the full investigatory process.

The Board also stated that a letter signed by the executive director should be given to Bruce Childers when he is directed to perform an inspection or investigation. This letter would be given to the licensee and state that Mr. Childers is acting on behalf of the Board and that his authority should be verified by calling the Board office.

Dr. Walther moved to authorize the executive director to begin the promulgation process for Rule 106.B.3 as amended, seconded by Dr. Aycock, and passed by voice vote.

Dr. Aycock moved to adopt the "Investigations Based on Non-notarized Information Received by the Board Office" document as Board policy, seconded by Dr. Walther, and passed by voice vote.

2. Role of Board Attorney. The Board reviewed the "Role of Board Attorney in Disciplinary Cases" document. This document was prepared by Mr. Mann based on information gathered from other boards. Following discussion it was decided that the Board attorney would not attend Complaint Review Committee meetings, but would be available to the committee to provide legal advice. The purpose of this practice is to make clear that the Board attorney does not act as an investigator. It was also decided that the Board attorney would not sit in deliberations with the Board members determining if violations have occurred after hearing evidence at an administrative hearing, although the Board attorney will be available to provide legal advice to the Board members. It was noted that the Board attorney has not acted as an investigator, nor as anything other than a legal adviser during investigations or deliberations, but these changes are being made to avoid even the appearance of impropriety. It was also recognized that attendance at Complaint Review Committee meetings would become more difficult as other Board members who are more distant from Baton Rouge come to chair the committee. These revised

practices will be reviewed in the future, particularly if and when rulings are made in district court that address any issues related to the role of the Board attorney.

3. Rotation on Complaint Review Committee. The Board discussed the possibility of having the Secretary-Treasurer serve as a member of the Complaint Review Committee beginning in the March or April of the year he or she is expected to become chair of the committee. Concern was raised over tainting two members of the Board when three votes are required for disciplinary action to be decided at a public hearing. Alternative steps suggested to train the Secretary-Treasurer in complaint processing were to give the procedure book to him well in advance of his becoming chair of the Complaint Review Committee and to rotate onto the committee in May of the year he is expected to become chair of the committee. It was also suggested that the past President of the Board could be used as a committee member for one to two meetings during the transition. Further consideration of this matter was deferred to the next Board meeting scheduled for April 23.

4. Penalties in Informal Meeting Letter. The Board reviewed the standard informal meeting letter that is sent to a respondent in a disciplinary case. The question considered was whether the specific disciplinary sanctions recommended by the Complaint Review Committee should be included in this letter. After discussion, it was decided that the letter should remain as it is, where only the general sanctions that may be recommended are listed. It was also reported that the specific conduct that led to a determination of a violation will be included in the letter.

5. Case Number Publication in Newsletter. The Board reviewed the question of whether the practice of publishing disciplinary cases by case number should continue. After discussion, it was determined that this practice should continue.

6. Drug Review Procedure. The Board reviewed the Drug Review Procedure at the request of Dr. Gowan and Mr. Mann. It was determined that this procedure was still valid. Dr. Gowan asked who he could contact to assist him with drug reviews. It was suggested that the LSU School of Veterinary Medicine, other veterinarians who have more experience with drugs he may be unfamiliar with, and drug manufacturers can be contacted to provide advice. However, details of the case (specifically, the name of the veterinarian) must not be divulged. If the review evolves into a complaint case, then a committee can be convened to address the particular issues.

**C. Veterinary Dentistry - R. Esquivel, DVM, Letter.** The Board discussed the practice of veterinary dentistry, specifically the question of whether laypersons could scale or polish teeth under the direct supervision of a licensed veterinarian. The Board deferred any action on this issue but decided for the next

Board meeting to develop a list of tasks and procedures that could be performed under the direct supervision of a licensed veterinarian.

**D. Telazol Use with Herds - W. Loftin, DVM, Letter.** The Board reviewed Dr. Loftin's letter that asked whether it would be appropriate to dispense a Telazol and Rompun combination to a client as needed with detailed drug records of its use. The Board's position was that this would be illegal under DEA regulations and regulations of the Board; controlled substances must be dispensed or prescribed for a specific patient with a specific drug dosage. Dr. Loftin should be informed of the Board's position and directed to the DEA for more information on the federal regulations.

**E. Obligation to Write Prescription (Review of Revised Rule 705).** The Board reviewed the recently enacted amendment to Rule 705 which states under which conditions a veterinarian is obligated to write a prescription. The question considered was whether the veterinarian was obligated to write a prescription without the request coming directly from the client (for example, if a pharmacy called to verify a prescription). The Board's position is that a veterinarian may refuse to write a prescription if it is not directly requested by a client.

**F. Dehorning Issue (Rule 707).** The Board discussed a situation that recently occurred at a fair. A layperson performed a cosmetic dehorning, which under Rule 707 appears to be an acceptable livestock management practice. A specific question asked was whether for dehorning to be acceptable under Rule 707, is there any presumption that the person performing the dehorning is the owner or in the employ of the owner of the cattle. The Board stated that there was no such presumption (see particularly La. R.S. 1514[3]), but it was determined that Rule 707 needed to be reviewed. Dr. Walther will review the rule and report back to the Board at its next meeting. A definition of a livestock animal and the addition of "tattooing" to the list of acceptable practices were two other items to be considered.

**G. Veterinary Corporate Names (Rule 1053) - B. Berryhill, DVM, Letter.** The Board reviewed Dr. Berryhill's request to eliminate Rule 1053(A) related to veterinary corporate names. The Board determined that this rule is related to Rule 711. Definitions for Classification of Practice Facilities, and that there was good reason for maintaining the rule. If persons are reported to be in violation of this rule, the Board will inform them of the violation and direct them to correct it within a reasonable time.

**H. Sale of Veterinary Legend Drugs without Valid Rx.** The question of legend drugs being sold by feed stores and pharmacies without a valid prescription from a veterinarian was reviewed. The Board determined that this practice is not within the Board's jurisdiction and any such complaints should be referred to the Board of Pharmacy. The Board may have jurisdiction over veterinarians who

supply the drugs to a pharmacy or feed store if they have a Louisiana license. This issue has previously been reviewed with the Board of Pharmacy and the U.S. Food and Drug Administration. It was suggested that the drug manufacturer can be contacted when this issue is raised. It was also suggested that the LVMA would be a better venue for consideration of this issue.

**I. Psychologists and Veterinary Practice.** The Board reviewed a letter that Timothy J. Eddy, Ph.D., had mailed to Dr. Burk concerning animal behavior consultations that he could provide. Dr. Aycock moved that Mr. Mann be directed to write to Dr. Eddy informing him that the Board is taking the issue of psychologists providing animal behavior consultations under advisement to determine if it is the practice of veterinary medicine and whether, if it is, it can be provided either by direct supervision or direct referral, seconded by Dr. Guedry, and passed by voice vote. The Board will reconsider this issue at the April meeting.

**J. Review of Rule 303(B)(4).** Mr. Mann asked that the Board review Rule 303(B)(4) to determine if the authority to approve employment evidence under this rule has been delegated to the Board office. The Board stated that it has been delegated; only if the Board office cannot determine five years of full-time private practice from the evidence submitted would the Board need to review the case.

**K. Ophthalmology and Veterinary Practice (Lormand Letter).** The Board reviewed Mr. Gregory Lormand's letter which asked whether an ophthalmologist would be able to legally perform cataract surgery on animals. Dr. Guedry moved to inform Mr. Lormand that the Board's position is that such surgery would be the practice of veterinary medicine under La. R.S. 1513(4), and that since it is surgery that it would not be allowed under the direct supervision rule (Rule 702), seconded by Dr. Walther, and passed by voice vote.

**L. Review of Preceptorship Requirements (8-week requirement).** The Board reviewed the recently revised preceptorship program chapter and Dr. Joseph Taboada's letter stating that the change causes problems for the class of 1999. After this review, Dr. Gowan moved to authorize the executive director to begin the promulgation of a rule amendment to change "1999" to "2000" in section 1103 within the definition of "Preceptorship Program," item 4, seconded by Dr. Aycock, and passed by voice vote. Mr. Mann was directed to inform Dr. Taboada of this change and that, in the meantime, the Board will not enforce the preceptorship changes for the class of 1999.

**M. Rules Update.**

1. Promulgation Update/Public Hearings Schedule: The Board reviewed the Rules Promulgation Update document that had been prepared by Mr. Mann.

2. Ratification of Rule 305 Revision: Dr. Guedry moved to adopt a revision to Rule 305 (previously authorized for promulgation) that would require that the Board office mail certified letters concerning initial suspensions and/or revocations to licensees 15 days prior to Board action, seconded by Dr. Walther, and passed by voice vote.

3. Ratification of Rule 702 Revision: Dr. Guedry moved to adopt a technical revision to Rule 702 (previously authorized for promulgation) that would change reference to 702(E) to 702(F), seconded by Dr. Walther, and passed by voice vote.

4. Adopt Telazol Rules: Dr. Walther moved to formally adopt, with an effective date of February 20, 1998, the amendments to section 704 previously authorized for promulgation and published as a notice of intent in the October 20, 1997, *Louisiana Register*, seconded by Dr. Aycock, and passed by voice vote.

5. Adopt Specialty List Rules: Dr. Aycock moved to formally adopt, with an effective date of February 20, 1998, the amendments to section 1063 previously authorized for promulgation and published as a notice of intent in the October 20, 1997, *Louisiana Register*, seconded by Dr. Guedry, and passed by voice vote.

6. Adopt ECFVG Rules: This agenda item was considered in conjunction with items N and O below. Concern was raised over the lack of objective criteria to determine if a school or college of veterinary medicine should be approved, and if by designating "Board-approved" schools or colleges that the Board would be opening itself to legal challenges from graduates of foreign schools not approved. Concern was also raised over whether individual state action would impede attempts by AAVSB and others to make corrections to the administration of the Clinical Proficiency Exam (CPE), which is the main stumbling block for having the ECFVG certificate process operate efficiently. Mr. LeGrange stated that he had recently learned of opposition to the rule change with concern raised over the prospect of licensing graduates of non-accredited schools or colleges of veterinary medicine. It was moved by Dr. Walther to defer approval of changes to sections 301, 303, 700, and 1105; to defer on approving schools or colleges of veterinary medicine; and to defer action on approving any fourth-year transcripts of a foreign school graduate from an accredited school or college of veterinary medicine, seconded by Dr. Aycock, and passed by voice vote. Mr. Mann was directed to gather more information about these issues from AAVSB, other state veterinary boards, and any other suitable source.

**N. Approval of Schools or Colleges of Veterinary Medicine.** See item M.6. above.

**O. Transcripts Approval under New ECFVG Rule.** See item M.6. above.

**P. Mobile Clinic Rules (Authorization for Promulgation).** The Board reviewed the proposed rule changes concerning mobile clinics that were originally presented at the December 2, 1997, meeting. Dr. Guedry moved to authorize the executive director to begin the promulgation process for these rules (sections 700 and 711), seconded by Dr. Gowan, and passed by voice vote.

**Q. State Examination Review.** The Board determined that the pool of state examination questions needs to be reviewed in light of the rule changes that have been made. It was decided that the pool of questions would be divided and two persons would review each section. Mr. Mann and Ms. Anthony would participate in this review with the Board members.

**R. National Exam Report.** The Board reviewed the passing rate of candidates who took the national exams in December 1997 at LSU-SVM.

**S. AAVSB Report.**

1. AAVSB Registry: The Board deferred action on whether and/or how it would participate in the AAVSB Registry of Approved Continuing Education. The Board expressed that the RACE form needs to meet the Board's requirements; if this can be done, then the C.E. approved from AAVSB will likely be approved. Concern was raised over whether the limits the Board has on practice management hours would be reflected in the registry.

2. Other Issues: Dr. Corley reported on other issues on which AAVSB has been working:

a. National Exams: NBEC has awarded the computerized exam contract to the National Board of Medical Examiners. The name of the exam will be North American Veterinary Licensing Exam (NAVLE), with the first computerized exam expected to be given in 2000, most likely December 2000. Boards may still collect the examination fee directly. Dr. Corley also said that Dr. Michael Groves of LSU-SVM is the Chair-elect of NBEC.

b. Credentials Registry: AAVSB is working toward the creation of the Veterinary Identification Validating Agency (VIVA), which will be a national credentials registry. The first step in the creation process is that AAVSB will take over score reporting in August 1998.

c. VTNE: A \$20.00 per exam increase for the VTNE exam has been approved for PES, effective in 1999.



d. Disciplinary Exams: Dr. Corley said that he understood the Board's problems with the disciplinary exams and that he will report back to AAVSB and NBEC about the problems encountered.

e. ECFVG/CPE: Dr. Corley said that Dr. Jim Brace, past chair of the ECFVG committee, reported to AAVSB and NBEC that problems persist with the CPE exam. Not enough veterinary schools are hosting the exam and the AVMA no longer offers liability coverage for host sites. AAVSB has recommended that NBEC study the CPE issue with the idea that the exam can be turned over to a private vendor.

**T. Request for Information - G. Robinson, DVM, Letter.** The Board reviewed Dr. Robinson's letter requesting information about Board procedures on rulemaking and membership and Mr. Mann's response. The Board stated that Mr. Mann's response was sufficient.

**U. Equine Dentistry (Dr. Lalande Question/Gelpi Letter).** After discussion, the Board directed Mr. Mann to inform Mr. Gelpi that the issue of equine dentistry (in the fuller context of veterinary dentistry) is being considered; that the practice of veterinary dentistry is the practice of veterinary medicine and that under no circumstances may veterinary dentistry be done without the direct supervision of a licensed veterinarian; that the Board will be developing a list of tasks and procedures that may be performed under the direct supervision of a licensed veterinarian; that a committee would not be formed; that he may want to contact the LVMA about this issue; and that the Board does not treat racehorses differently than any other type of horse. The Board will consider this issue again at the April meeting.

#### VIII. LICENSURE ISSUES- Reversal of Suspensions or Revocations

Dr. Guedry moved to reverse the suspension of Dr. Warren B. Young, DVM, seconded by Dr. Aycock, and passed by voice vote. Dr. Walther moved to reverse the revocation of Lori A. Bowers, RVT, seconded by Dr. Gowan, and passed by voice vote.

#### IX. ANNUAL REVIEW OF CHARLES MANN, EXEC. DIRECTOR

The Board conducted its annual review of Charles Mann, Executive Director. The Board gave Mr. Mann a favorable review and it was decided that Dr. Burk's evaluation would be filed in the personnel file. Dr. Aycock moved to approve a 6% raise for Mr. Mann, effective February 17, 1998, seconded by Dr. Guedry, and passed by voice vote. The Board also stated that annual pay raise levels should be set at the first meeting of the fiscal year.

**X. EXECUTIVE SESSION**

It was moved by Dr. Guedry to enter executive session to discuss drug reviews and complaint cases, including issues that may pertain to litigation, seconded by Dr. Aycock, and passed by voice vote. Upon return to the public record by motion of Dr. Guedry, seconded by Dr. Walther, and passed by voice vote, the following action was reported:

**A. Drug Reviews**

Dr. Gowan received advice on how to proceed with drug reviews, but no specific cases were discussed.

**B. Complaints - Updates**

1. Case No. 96-0513V - N. Milazo, DVM. No new action in this case, in which an appeal is pending in state district court, was taken.
2. Case No. 96-0624V - D. Smythe, DVM. Action on this case is reported under III.A. above.

**C. Complaints - Veterinary**

1. Case No. 97-0612V. Dr. Guedry moved to accept the Complaint Review Committee's recommendation of no violation in this case, seconded by Dr. Walther, and passed by voice vote; Dr. Burk abstained from voting.

**D. Complaints - Non-Veterinary**

There were no non-veterinary complaint cases to report.

**XI. ADJOURN**

The regular meeting was adjourned at approximately 5:00 p.m.

APPROVED BY:

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Dick C. Walther, DVM  
Secretary/Treasurer