

**BOARD MEETING
LOUISIANA BOARD OF VETERINARY MEDICINE
October 21, 1999**

I. CALL TO ORDER

The meeting was called to order at 9:15 a.m. by the President, Dr. Dick C. Walther.

II. ROLL CALL (taken by Dr. Walther due to the absence of Dr. Gowan)

Those present were:

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| Dr. Dick Walther | President |
| Dr. Adrienne Aycock | Vice-President |
| Dr. Robert Lofton | Member |
| Dr. Edwin Davis | Member |
| Ms. Kimberly Barbier | Administrative Director |
| Michael A. Tomino, Jr. | Board General Counsel |
| Mr. Chris LeGrange | La. Veterinary Medical Association |

Those absent were:

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| Dr. George Gowan | Secretary-Treasurer |
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Dr. Walther took a moment to set the ground rules for future board meetings. Board meetings will be conducted in a formal, orderly manner. Seating at the table is for board members, staff, and counsel. Seats have been set out for guests and any guest may have an opportunity to participate by raising their hand and being recognized. The Board President will utilize the gavel to keep order; one tap meaning to get back to the subject at hand, and two taps meaning time up, cease discussion, conclude topic, and move on.

III. APPROVAL OF MINUTES - August 19, 1999

Mr. Tomino noted two minor changes to the minutes. Dr. Aycock moved to approve the minutes for the August 19, 1999 meeting with the changes noted, seconded by Dr. Lofton, and passed unanimously by voice vote.

IV. FINANCIAL AND CONTRACT MATTERS

A. Audit - 1999

Ms. Barbier presented the findings of the recently concluded audit for fiscal year 1999. She noted that total expenditure were lower than what had been expected even with higher legal costs associated with long running disciplinary cases. The Board did a better at the end of fiscal year 1999 than expected; showing an ending reserve fund balance of \$48,216.

B. Financial Reports - July, August, and September, 1999

The Board reviewed the financial statements for July 1999, August 1999, and September 1999. Ms. Barbier had met with Greg Brown, CPA to discuss the financial reports. Ms. Barbier pointed out that a charge had been mistakenly placed in out-of-state conferences which had not been budgeted for and should have been coded as in-state-conferences for the AAVSB meeting in New Orleans. Mr. Brown's explanation was that his system automatically assumes conferences are out-of-state, but he will have this corrected by the October statement. Ms. Barbier explained any excessive amounts noted. She explained that a lot of the Board's revenues and some of its expenses come in at certain times and may seem high at times when following the financial reports each month, but that the totals should equal out by the end of the year. The Board accept the financial statements as presented.

C. Budget - Fiscal Year 2000:

Dr. Walther and Ms. Barbier presented a draft version of the budget for fiscal year 2001. Ms. Barbier pointed out increases in revenues due to new fee structures being promulgated to be in effect for fiscal year 2001. She also noted that the Board would no longer be administering the NBE and CCT exams to DVM applicants so it would not be collecting its portion of the examination fee charges but that the Board will be charging all applicants an initial application fee. She reviewed decreases in expenditures due to salary decreases relating to office personnel changes, and the elimination of the NBE and CCT costs. She noted that the present fiscal year is expected to be better than predicted with the conclusion of long running disciplinary cases and the promulgation of new disciplinary rules, and the prediction that legal expenses will even out. After further review and explanation, approval of the 2001 budget was deferred until the December board meeting to allow for Dr. Gowan to review the proposed budget.

D. Security Bond Coverage for Director: Ms. Barbier presented a copy of the bond coverage documents that the Board has with the state Office of Risk Management which shows coverage of the five board members, two full-time office

personnel, and one part-time office personnel. The exposure amount shown on the sheet is per person covered. Mr. Tomino suggested that the Board may want to find out if the amounts are cumulative or per incident. Then he continued with an explanation of what the security bonds should cover and answered questions raised.

V. PERSONNEL MATTERS: Administrative Assistant Position

Dr. Walther and Ms. Barbier presented information regarding the filling of the vacant administrative assistant position. At present, Ms. Barbier is handling the work load of both her present position as director and her previous position as assistant. It was noted that the present student clerk, Ms. Hidalgo, is only working four hours per day since school has started back and will be graduating and leaving employment in mid December 1999. Ms. Barbier suggested it would be more efficient to hire a new assistant while Ms. Hidalgo is still employed so that she may help with the assistant's training to take the full burden off of Ms. Barbier alone. Ms. Barbier presented salary calculations for filling this position. She noted that the present fiscal year budget for salaries is approximately \$60,000. Calculating the to-date salary totals and estimated year end totals for present employees and the minimum annual salary for a new assistant, salary expenditures would still fall below the budgeted amount. Dr. Lofton moved to authorize Ms. Barbier to start the search for a new administrative assistant, seconded by Dr. Aycock, and passed unanimously by voice vote.

VI. POLICY, PROCEDURE, AND RULES

A. **Rule Making**

1. General Update: The Board reviewed the status of proposed rule changes.

2. Adoption of Rules:

a. Rules 301 and 303 (Schools, Licensure, and Examination): Dr. Aycock moved to formally adopt, with an effective date of November 20, 1999, the amendments to sections 301 and 303 previously authorized for promulgation and published in a Notice of Intent in the June 20, 1999, *Louisiana Register*, seconded by Dr. Lofton, and passed unanimously by voice vote.

b. Rules 101, 105, 106, 815, 816, 1001, 1215, 1216 and 1401-1425 (Disciplinary Procedures): Dr. Aycock moved to formally adopt with editorial changes discussed on August 19, 1999, with an effective date of November 20, 1999,

the amendments to sections 101, 105, 106, 815, 816, 1001, 1215, 1216 and the addition of 1401-1425 previously authorized for promulgation and published in a Notice of Intent in the June 20, 1999, *Louisiana Register*, seconded by Dr. Lofton, and passed unanimously by voice vote

3. Consideration of New Rules

a. Chapter 11 (Preceptorship): The Board reviewed comprehensive draft amendments to Chapter 11 relating to the preceptorship program and addressing the questions raised at the August 19 board meeting -- 1) how many preceptorships can an individual perform and 2) approval of facilities or practitioners. Ms. Barbier explained some of the changes that had been incorporated.

[Note: Discussion of item VI.B.1. was incorporated into this section by Dr. Lofton.]
Dr. Lofton explained his recent review of a practice assessment questionnaire from a research facility. The only problem being that there would be no financial/economic type instruction as presently required at a private clinic. Since the preceptorships are now eight weeks long, Dr. Lofton suggested that the Board allow for an individual to perform a portion (no more than four weeks - half the preceptorship) at a specialty facility such as referral clinics, research facilities, humane societies, and large practices such as Angells which have a totally separate business office that the preceptee would have no way of seeing. This concept would need to be incorporated into the amendments to Chapter 11 rules.

Further discussion of Chapter 11 amendments was deferred until the December board meeting.

b. Dispensing & Prescribing Drugs: Dr. Lofton and Mr. Tomino updated the Board on their research of matters relating to dispensing and prescribing drugs as discussed previously with Mr. Fred Shiel, Jr., R.Ph., of the Board of Pharmacy regarding a veterinarian delegating an assistant to call in prescriptions for a clients. It was suggested that the Board first needs to decide if to allow veterinarians to delegate the calling in of prescriptions to an assistant in his office. The Board would then needs to establish minimal requirements such as 1) to define exactly what prescribing is; 2) will it cover just refills or could it be new prescriptions; 3) will it cover legend drugs and/or controlled drugs; 4) determine who has the authority; 5) will the Board require a written protocol be developed and on file at the veterinary clinic.

Dr. Aycock suggested allowing for an authorized office person with the veterinarian's authorization and documentation to call in refills of legend drugs only. For initial prescriptions of legend or controlled drugs, the veterinarian would have to be the one to call it in. The Board will require a written protocol be

developed and kept on file by the veterinarians. Mr. Tomino will let Mr. Shiel know of these developments and he and Dr. Lofton will continue to work on draft rules to present to the Board at a later date.

[Note: Discussion of item VII.G. was incorporated into this section by Dr. Walther.]

Dr. Walther informed the Board that Mr. Shiels had contacted the board office regarding a November 18 hearing in the 1st Circuit Court of Appeals in Baton Rouge between the Pharmacy Board and PetMed Express regarding complaints made by Dr. Marshall of Baton Rouge against PetMed Express, and that Mr. Shiel had invited any member of the Board to attend.

4. Emergency Rules

a. Equine Dentists - Re-publication: Dr. Walther explained that an emergency rule is good for 120 days maximum or until a final rule is published which ever comes first and that the emergency rule for Equine Dentists adopted by the Board on August 20, 1999 and published in the *Louisiana Register* on September 20, 1999 will expire on December 20, 1999. The final rule is not anticipated to be published until March 2000. Dr. Davis moved to authorize the re-publication of the emergency rule in December 1999 for another 120 days or until adoption of the final rule, seconded by Dr. Lofton, and passed unanimously by voice vote.

Mr. Tomino introduced a letter he had received from Mr. James Gelpi, attorney for the Louisiana Horse Benevolent and Protection Association, regarding a problem encountered by a potential applicant for equine dentistry registration working out of state who was having trouble getting the application notarized by a "Louisiana" notary. Dr. Aycock moved to remove "Louisiana" from the notary requirement in the emergency rule before re-publication and accept it as an editorial change for final rule publication, seconded by Dr. Davis, and passed unanimously by voice vote.

B. Policy and Procedure

1. Preceptorship Facility Approvals - Restricted: *[This item was discussed with item VI.A.3.a. above.]* Dr. Lofton moved to accept the concept for allowing no more than four weeks of an eight week preceptorship to be performed at a specialty facility such as referral clinics, research facilities, or humane societies, seconded by Dr. Davis, and passed unanimously by voice vote.

C. Practice Act-Related Inquiries and Reviews

1. DNA Blood Sexing of Birds: The Board again reviewed the question regarding individuals collecting blood from birds and charging the bird owners to send the blood off for DNA sexing and whether this constitutes performing veterinary medical services. The Board had taken no action in the matter at the August board meeting instead instruction Ms. Barbier to request more information from Dr. Rich. The Board reviewed and discussed the additional information Dr. Rich provided. Dr. Lofton moved these circumstances could possibly be a violation of the Louisiana Veterinary Practice Act but that the Board would have to investigate, seconded by Dr. Aycock, and passed unanimously by voice vote. The Board instructed Ms. Barbier to inform Dr. Rich of this decision and enclose a complaint form for his use so the Board could conduct an investigation into the matter.

2. DVM Responsibility for True Animal Emergencies: The Board reviewed Mr. Tomino's letter regarding his research into where a veterinarian's responsibility lies relative to true animal emergencies. Mr. Tomino explained that the AVMA's Code of Ethics is worded to be broad in its placing of a veterinarian's responsibility in emergencies. The Board discussed defining a veterinarian's responsibility in true animal emergencies, but found that they could run into problems trying to regulate all the different issues encountered during emergencies. Further discussion of this item was deferred to the December board meeting.

D. Inheritance of Veterinary Practice by Non-Veterinarians: Mr. Tomino explained that the Veterinary Medical Corporation law does not allow for non-veterinarians to own stock in veterinary corporation, and that there is no grace period set with regards to non-veterinarian heirs inheriting a veterinary practice after the death of the veterinarian owner. He explained that according to the succession laws whether there is a will or not, succession of a estate has to be closed before the heirs are actually placed in possession of the property and can sale it. The closing of a succession could take years. He suggested that the Board may want to consider setting some kind of a grace period. After discussion, the Board agreed that there should at least be written confirmation from the heirs of an act of good faith to sell or dispose of the veterinary practice upon closing of the succession. The question of whether any associates could still work to keep the practice open was answered by Mr. Tomino with the explanation that any money being made is not going to the heirs to use but into the estate of the deceased. The Board authorized Mr. Tomino to handle Dr. Richard Jester's case relative to the inheritance of Jester Veterinary Clinic by his heirs.

VII. MISCELLANEOUS MATTERS

A. Proposed Board Meeting Dates for Year 2000: The Board reviewed a list of tentative meeting dates. After discussion and some changes to the presented dates, the following meeting dates were offered:

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| Thursday, February 3, 2000 | Thursday, August 17, 2000 |
| Thursday, April 6, 2000 | Thursday, October 12, 2000 |
| Thursday, June 8, 2000 (Annual) | Thursday, December 7, 2000 |

Dr. Davis moved to accept the noted meeting dates for 2000 and authorize publication of the dates, seconded by Dr. Lofton, and passed unanimously by voice vote.

B. Veterinary Technician Examination

1. Review of the New Veterinary Technician National Exam: The Board opted not to review the new exam version.

2. Nominations for Veterinary Technician Testing Committee: The Board has no nominations to the VTTC.

3. *[This item was added by Ms. Barbier.]* Request to Take the Veterinary Technician National Exam: Ms. Barbier presented a request from some veterinary assistants in South Carolina who want to take the VTNE in Louisiana but will not be applying for RVT certification in Louisiana. The Board's rule for RVTs references making application for licensure and not to take the examination. Ms. Barbier's question is, can the board office allow someone to take the VTNE who is not applying for certification. Dr. Lofton moved to allow these individuals to take the national examination as long as they meet the requirements set fourth in the Louisiana Veterinary Practice Act, seconded by Dr. Aycock, and passed unanimously by voice vote.

C. Treating Wolf-dog Hybrids: The Board discussed a recent inquiry regarding treating and/or vaccinating of non-permitted wolf-dog hybrids in Louisiana and Ms. Barbier's response to the inquiring veterinarian. Ms. Barbier had sent the veterinarian a copy of a previous board position from March 1996, a copy of the AVMA's guideline on vaccination of wolf hybrids, and a copy of the Wildlife and Fisheries rule. She had also encouraged the veterinarian as per the Wildlife and Fisheries rule to check his local ordinances. The Board took no further action in the matter.

D. Renewals

1. Waivers, Extensions, and Other Requests

a. Renewal Fee - J. Zettler, DVM: The Board reviewed a request for refund of renewal fee based on military status. Dr. Davis moved to refund the renewal fee, seconded by Dr. Aycock, and passed unanimously by voice vote.

b. Retired Status - F. Humphreys, DVM: The Board reviewed an Affidavit of Retirement submitted but not notarized. Dr. Lofton moved to accept Dr. Humphreys retirement status and waive the continuing education requirement, seconded by Dr. Aycock, and passed unanimously by voice vote.

c. Extension for CE - R. Kilgore, DVM: The Board reviewed a note submitted by Dr. Kilgore with his incomplete renewal. The Board granted an extension of the suspension of Dr. Kilgore's license to the December 2, 1999 board meeting. Dr. Kilgore must complete the renewal by submitting proof of CE and paying the \$100 late renewal fee.

[Mr. Tomino interrupted scheduled agenda items to inform the Board of an upcoming item to be considered by the Board; agenda item VIII.B.1. a licensure issue in executive session.]

d. Late Fee - D. Smythe, DVM: The Board reviewed a request for waiver of the late renewal fee submitted by Dr. Smythe's wife. After discussion, the Board concluded that the renewal of a license is a separate issue than the compliance with an agreement reached between the Board and veterinarian, and that all renewals should be handled in the same standard manner. Dr. Aycock moved not to approve the request for waiver of the late renewal fee, seconded by Dr. Lofton, and passed unanimously by voice vote. Dr. Smythe is required to pay the late renewal fee to complete license renewal.

e. CE Acceptance - J. Parsons, DVM: The Board reviewed a request for acceptance of CE proof as previously submitted without the required record of personal participation. The presented CE proof was not accepted by the board office due to its wording "8 hours per day in Medicine-Practice Mgmt or Combination" and no submission of a record of personal participation. Dr. Davis moved to only accept the CE upon receipt of verification in the form of the required personal participation log, seconded by Dr. Aycock, and passed unanimously by voice vote.

f. Late Fee - M. Mirza, DVM: The Board reviewed a request for refund of the late renewal fee paid with a second submission of Dr. Mirza's renewal which has been lost in the mail. Dr. Lofton moved to approve the request and refund the late renewal fee, seconded by Dr. Aycock, and passed unanimously by voice vote.

[Ms. Barbier presented the following item g. for Board consideration.]

g. W. Lindley, DVM: Dr. Walther reviewed a question posed by Dr. Lindley who is a licensed, practicing veterinarian in Mississippi and whose Louisiana license is incomplete due to insufficient CE. Dr. Lindley asked if he would be violating the Louisiana Veterinary Practice Act if his Louisiana license expired and was not renewed but he treated animals that were brought to him in Mississippi from Louisiana. The Board authorized Ms. Barbier to inform Dr. Lindley that he would not be in violation of the Louisiana Veterinary Practice Act.

2. Expired Licenses and Certificates

a. DVM - First Year Expired Licenses (Suspensions): The Board reviewed a list of veterinarians who did not complete renewal for year 2000 and whose licenses are expired for the first time. Dr. Aycock moved to suspend those licenses listed for first time expiration, seconded by Dr. Davis, and passed unanimously by voice vote.

b. DVM - Continued Expired Licensed (Continued Suspension): The Board reviewed a list of veterinarians who did not complete renewal for year 2000 and whose licenses continue to be expired. Dr. Aycock moved to continue the suspension of those licenses listed, seconded by Dr. Davis, and passed unanimously by voice vote.

c. DVM - Cancellation of Expired Licenses (Revocations): The Board reviewed a list of veterinarians who did not complete renewal for year 2000 and whose licenses have been expired for the past five years. Dr. Aycock moved to revoke those licenses listed, seconded by Dr. Davis, and passed unanimously by voice vote.

d. CAET - Cancellation of Expired Certificates (Revocations): The Board reviewed a list of CAETs who did not complete renewal for year 2000 and whose certificates have expired. Dr. Aycock moved to revoke those certificates listed, seconded by Dr. Davis, and passed unanimously by voice vote.

e. RVT - Cancellation of Expired Certificates (Revocations): The Board reviewed a list of RVTs who did not complete renewal for year 2000 and whose certificates have expired. Dr. Aycock moved to revoke those certificates listed, seconded by Dr. Davis, and passed unanimously by voice vote.

E. Computers - Maintenance: The Board was informed that the computers and printer in the board office are too old to be covered by AppleCare maintenance plan. Ms. Barbier explained that there has not been any major problems with the

machines in the past, but if anything does happen from now on, the cost will have to be fully paid by the Board and the machine would have to be taken off-site for repairs. The only problem with this is that there is only one printer in the office and that would leave the office without a printer. The Board authorized Ms. Barbier to purchase another printer and to make sure that the new printer will be compatible for the present Apple computers and any PCs purchased in the future.

F. Customer Service Questionnaire - 1999 Summary Review: The Board reviewed the summary of customer service questionnaires received and any comments noted on them.

G. PetMed Express: *[Note: Discussion of this item was incorporated into item VI.A.3.b.]* The Board determined that it would not send a representative to the hearing between the Board of Pharmacy and PetMed Express in the 1st Circuit Court of Appeals on November 18.

VIII. EXECUTIVE SESSION

It was moved by Dr. Davis to enter executive session to discuss matters of investigative proceedings; licensure issued; and any other matters properly brought up for which legal advice is needed, seconded by Dr. Aycock, and passed unanimously by voice vote. Upon return to the public record by motion of Dr. Aycock, seconded by Dr. Lofton, and passed unanimously by voice vote, the Board took the following action:

A. Investigative Proceedings Regarding Allegations of Misconduct

1. Involving Licensed Veterinarians: No cases were presented.
2. Involving Unlicensed Persons: No cases were presented.

B. Licensure Issues

1. Hull, L. - Preceptorship: Dr. Davis moved that based on the current Board rule, research is not accepted as part of satisfying the preceptorship requirement. However, by earlier motion, the Board will be accepting up to four weeks of research for part of the preceptorship qualification. Therefore, Dr. Hull's request is untimely and should be re-submitted at a later date. Motion was seconded by Dr. Aycock, and passed unanimously by voice vote.

2. Cummins, J. - Application: Dr. Davis moved to accept the application upon completion of all required items, seconded by Dr. Lofton, and passed unanimously by voice vote.

3. Hudson, H. - Examinations: Dr. Aycock moved that Dr. Hudson will be required to re-take and pass the NBE and CCT and perform an eight week preceptorship towards licensure, seconded by Dr. Lofton, and passed unanimously by voice vote.

4. Welch, M. - Incapacitated Status: Dr. Davis moved to reverse the incapacitated special condition on Dr. Welch's inactive license upon payment of the late CE fee due for late CE submitted, seconded by Dr. Lofton, and passed unanimously by voice vote.

C. Other Matters Properly Brought Up in Executive Session: No other matters were brought up.

IX. OTHER BUSINESS

Wall certificates were signed for new licenses/certificates issued since the August 19, 1999 board meeting.

X. ADJOURN

Dr. Aycock moved to close the meeting, seconded by Dr. Lofton, and passed unanimously by voice vote. The meeting was adjourned at approximately 4:15 p.m.

APPROVED BY:

Adrienne Aycock, DVM
Vice-President