

Vermont Secretary of State
Office of Professional Regulation

STATE VETERINARY BOARD

**UNAPPROVED MINUTES
MEETING of THURSDAY, JANUARY 9, 2003**

1. The meeting was called to order at 9:15 a.m.

Members present: Michele R. Tulis, D.V.M., Chairperson; Mark A. Basol, D.V.M., Vice-Chair; Ronald S. Svec, D.V.M., Secretary; David T. Lamb, D.V.M.; Heather Hoisington; and Eveleen Cecchini.

OPR Staff Present: Larry S. Novins, Board Counsel; Christopher Winters, Board Counsel; Rita Knapp, Unit Administrator; Carla Preston, Board Administrator; and Peggy Atkins, Board Administrator.

2. The Chair called for approval of the Minutes of the November 14th meeting. Ms Hoisington made a motion, seconded by Dr. Basol, to approve the Minutes of the November 14, 2002 meeting as presented. Motion passed unanimously.

3. **Hearings/Stipulations** - None to report.

4. Reports:

- A. The Board gave a warm welcome to Ms Cecchini who replaces Nancy Carey as a public member. Ms Cecchini provided some information about herself and her interests. She said she does considerable work with exotic birds and elaborated on a few of her favorites. Members provided a brief explanation of matters as they arose on the Agenda.

Rita Knapp, Unit Administrator, attended the meeting to discuss some changes taking place within the Office of Professional Regulation. Ms Knapp explained that the Secretary of State asked the Director, Jessica Porter, to reorganize OPR to strengthen the advisory groups and to better distribute the workload among staff. She said the Legislature has been regulating new professions as advisors versus a board, thus the Office must be prepared. The Advisory groups will be organized together under one Unit Administrator.

Ms Knapp explained that since the Director is required to spend so much time at the Legislature, she will take on additional duties and become her assistant. She said Ms Preston will then take over her current duties and Peggy Atkins will take over Ms Preston's duties for the Board. These changes have begun and should be in place within a few weeks. Ms Knapp said she feels that there will be little impact on this Board. Ms Preston will work with members on complaints and other administrative matters. Ms Knapp said she expects a smooth transition and encouraged members to contact her if they had any concerns.

- B. The Board reviewed and noted the Budget for periods ending October 31st and November 30th.

5. The following candidates attended the meeting at **10:00 a.m.** to complete the licensure process.

Dr. Johnson, State Veterinarian, took this opportunity to explain to the Board and its candidates that Dr. Wayne Zeilenga, Federal Veterinarian, has accepted a position in Massachusetts. Dr. Johnson said that he will be taking over that Federal position. He said a State Veterinarian will need to be hired, but in the meantime, he will be doing the accreditation for both Federal and State. The candidates asked questions about the accreditation process, rabies, rabies vaccines, etc.

5. Applications for licensure continued

The Board voted to go into executive session at 11:04 a.m. and out at 11:06 a.m. Dr. Lamb made a motion, seconded by Ms Hoisington, to approve the candidates listed below for licensure on the basis of their applications and successful completion of the State Board examination. Motion passed unanimously.

Erickson, Patricia F., D.V.M.

Faul, Jennifer L., D.V.M.

6. **Proposed Legislation or Rules**

- A. Attorney Novins said the language regarding Immunity from liability of licensees who report suspected cases of cruelty to animals has been included in the Office bill. He said that pursuant to the Board's request, he drafted language to allow a "courtesy" license which he shared with the Board. He explained that the language was pulled from the bill because other boards have requested a similar provision. He said the idea is to draft more comprehensive and standardized language that will cover all boards. He said such a provision will be introduced during the 2004 Legislative Session. Members will review the draft he submitted for comment.
- B. The Board reviewed the information (via E-mail - January 3, 2003) from Lynn Zanardi, MD, MPH, with the Vermont Department of Health, with regard to the Vermont Public Safety Act of 2002, Animal Diseases Section. The law relates to bioterrorism preparedness and Dr. Zanardi has been charged with writing rules. She requested the Board's input on the draft as it relates to veterinarians and the practice of veterinary medicine.

Dr. Johnson said he has been working with Dr. Zanardi on these rules and mentioned the changes made in previous drafts and why they were suggested.

After a brief discussion, members agreed to review the draft by the 13th and submit any comments to Dr. Tulis who will then forward them on to Dr. Zanardi, Ms Preston, and to Dr. Johnson.

7. **COMPLAINTS**

8. **Continuing Education**

- a. Based on the information submitted by Aeolus Animal Hospital & Equine Center, Dr. Svec made a motion, seconded by Dr. Basol, to approve "**Equine Neurology**" for four (4) hours of continuing education credits. Motion passed unanimously. (Approval number CE21-0103 was issued.)
- b. Based on the information submitted by the New England Animal Health Institute, Dr. Svec made a motion, seconded by Dr. Lamb, to approve "**Winter 2003 Camelid Conference for Veterinarians**" for 16 hours of continuing education credits. Motion passed unanimously. (Approval number CE22-0103 was issued.)

9. **Miscellaneous Correspondence**

- a. Dr. Svec reported on his research concerning physical therapists who wish to practice physical therapy on animals. He said he spoke with the Advisors who indicated that the laws and rules apply only to humans, thus they have no jurisdiction over practitioners who treat animals. Dr. Svec said the advisors agreed, however, that such treatment should take place in a veterinary facility and under the direct supervision of a licensed veterinarian.

9. **Miscellaneous Correspondence** - continued

If for some reason, the treatment did not take place in a veterinary facility, a re-evaluation of the animal is required. The veterinarian is responsible and liable for a technician's or other person performing alternative therapies under his or her direct supervision. The Board verified that his findings support the Board's policy regarding Alternative Therapies. Ms Gambino will be notified.

The Board discussed other alternative therapies, noting that most were mentioned in its Policy. The Board also discussed the difficulty in resolving cases of unlicensed practice.

- b. Attorney Christopher Winters attended the meeting to report on his research concerning writing and filling prescriptions. He restated the question, as whether or not is was permitted for a veterinarian to fill a prescription written by a colleague who treated the animal. Attorney Winters said he found no prohibition against a veterinarian filling a prescription written by another veterinarian who has seen the animal and has a valid Veterinary-Client-Patient-Relationship. He said since many of the drugs are not available at pharmacies and veterinarians cannot stock all drugs, it is appropriate to do so.

Attorney Winters said the second question pertained to an Internet prescription company (Vetcentric) offering veterinarians, what appeared to be, kickbacks. The pharmacy dispenses to the patient at the request of a veterinarian and the veterinarian receives a fee for that service. The Board wanted to know if this practice was illegal or unethical. Attorney Winters said the company claims that it is not a kickback, but a dispensing fee. The dispensing fee covers the veterinarian's time. He said he found nothing to prevent it at this time. He noted that the American Veterinary Medical Association offered an opinion and that the matter is still being debated. He said if it is determined to be unethical, he felt the federal government would provide the authority to prevent it.

The Board agreed that it is being perceived as a kickback, thus unethical. Members felt that it would be best if the veterinarian requested the fee up-front. The Board suggested that Attorney Winters contact Clyde Johnson, V.M.D., who works with the AVMA on ethical principles. Members wanted to know if the animal owner knew that the veterinarian was receiving a fee for providing that service. Dr. Tulis said she will contact people who use this organization to see how they are billed.

- c. The Board discussed a question via E-mail asking if the Board's laws and rules prohibited them from operating a horse lay up business. Non-veterinarians would be caring for horses recently treated by a veterinarian during times when owners were at work or away. The care provided would include changing bandages, etc.

Attorney Novins explained that it is very difficult for boards to answer this type of question from the public and puts it in a difficult position. If the Board were to say it is fine, it could be used as a carte blanc for other situations that may not deserve the same response. He recommended referring them to the Board's laws and rules which govern the practice. The persons requesting the information should be able to determine if the services they offer involve the practice of veterinary medicine. He felt that stating a formal position on this matter would be premature.

After a brief discussion, the Board agreed with Attorney Novins' recommendation. He will draft a response for review. The Board also agreed that all questions of this type should be dealt with in the same manner.

9. **Miscellaneous Correspondence** - continued

d. The Board reviewed the December 30, 2002 E-Mail from Rita Knapp concerning the issue of "refusing to release a pet because of outstanding monies owed." She said it is her understanding that the statutes and Board's position, is that this practice is not permitted. After a brief discussion, the Board and Attorney Novins confirmed that that practice is not permitted. Attorney Novins noted that the veterinarian has options (i.e., Small Claims Court) to receive payment.

e. The Board reviewed three letters of Reference in support of Dr. Wayne Anderson's request for licensure on the basis of endorsement. The Board requested that Dr. Anderson submit additional information to support his qualifications for licensure on the basis of endorsement, particularly with regard to the clinical practice (3000 hours) requirement. Based on the discussion that ensued, Dr. Lamb made a motion, seconded by Dr. Svec, to accept these references as evidence of Dr. Anderson having met the clinical requirement for endorsement. The matter was discussed further. The Board concluded that specific reasons should be stated for clarity and continuity.

Dr. Lamb amended his motion, seconded by Ms Hoisington, to accept Dr. Anderson's work experience on the basis of an endorsement application because he worked in association with a clinical environment while employed at Wyeth. The question was called and the motion passed unanimously. Dr. Anderson will be notified.

f. The Board reviewed and noted the December 2002 issue of the West Virginia Board of Veterinary Medicine's Newsletter.

g. The Board discussed topics to be addressed in the Vermont Veterinary Medical Association's Newsletter or in the Board's Newsletter to be sent with renewal notices (mid April 2003). Topics for the VVMA's Newsletter should include a head's up concerning renewal notices, a reminder to update mailing addresses, changes in staffing at OPR, the issue surrounding PAVE and the ECFVG, etc.

Topics for the Board's Newsletter should include the new legislation, changes in staffing at OPR, revised policy re continuing education, board's position regarding writing and filling prescriptions, the Board's position concerning holding a patient "hostage" for payment, Policies on alternative therapies, disciplinary actions, statistics, etc.

h. The Board reviewed and noted the November/December 2002 Issue of the *FDA Veterinarian*.

i. FYI documents were noted.

10. **American Association of Veterinary State Boards (AAVSB) Correspondence**

a. FYI documents were reviewed and noted.

11. **National Board of Veterinary Medical Examiners (NBVME) - Correspondence**

a. The Board reviewed and noted the November 2002 issue of the National Board Report.

12. **American Veterinary Medical Association (AVMA) Correspondence**

a. The Board completed the 2003 Survey of Veterinary State Regulatory Boards.

13. **Strategic Planning**

What's next? Discuss topics to be addressed at future meetings.

14. **Other Business Introduced by the Board**

The Board briefly discussed corporate ownership of a veterinary practice. There is nothing in State statutes that prevent it. The veterinarian is ultimately responsible.

15. **Public Comment**

16. **The date of the next meeting is scheduled for Thursday, March 13, 2003.**

**Meeting dates for 2003 are as follows:
May 8, 2003; July 10, 2003
September 11, 2003; November 13, 2003**

17. **The meeting was adjourned at 1:20 p.m.**

Respectfully submitted,

Carla Preston, Board Administrator
Peggy Atkins, Board Administrator
Office of Professional Regulation