

**VETERINARY EXAMINING BOARD  
MINUTES  
OCTOBER 20, 2010**

- PRESENT:** Wesley Elford, DVM; Marthina Greer, DVM; JoAnn Kleman, CVT; Donald Peterson, DVM; William Rice, DVM; Robert R. Spencer, DVM; Theresa Waage
- EXCUSED:** Joan Wywialowski
- STAFF PRESENT:** Nora Wilson, Bureau Director; Michele Miller Hayes, Legal Counsel; Kimberly Wood, Bureau Assistant; and other DRL Staff
- GUESTS:** Kelly McDowell and Kim Brown Pokorny, Wisconsin Veterinary Medical Association (WVMA); Laura Lien and Kelly Mowell, Moraine Park Technical College; Clarissa Sheldon, Madison Area Technical College; Laurie Angell, Madison Area Technical College/Wisconsin Veterinary Technician Association (WVTA)

**CALL TO ORDER**

Robert Spencer, Chair, called the meeting to order at 9:36 a.m. A quorum of seven (7) members was present.

**APPROVAL OF AGENDA**

**Amendments to the Agenda:**

- After Item “S” (open session) Under the item titled “Practice Questions Received After Preparation of the Agenda” **ADD:**
  - Practice Question – Ultrasound Pregnancy Diagnosis on Dairy Farms
  - Practice Question – Can a Veterinarian in Wisconsin to Prescribe and Dispense a Pentobarbital for an Owner to Use at Home
- Item “T” (open session) Under the item titled “Report of the 2010 Annual AAVSB meeting – Marthina Greer” **ADD:** Written Report of Marthina Greer Regarding the 2010 Annual AAVSB Meeting”

**MOTION:** William Rice moved, seconded by Marthina Greer, to approve the agenda of October 20, 2010 as amended. Motion carried unanimously.

## APPROVAL OF MINUTES OF AUGUST 4, 2010

### Amendments to the Minutes:

- Page 2 of the Minutes: Correct the following header as outlined: “Approval of Minutes of ~~February 10~~ May 26, 2010”
- Page 3 of the Minutes: Correct the last sentence of the first paragraph on the page as follows: “...and indicates that a secondary renewal notification has never been sent.”
- Page 6 of the Minutes: Correct the second sentence in the first paragraph on the page as follows: “...to inquire of the WVMA Board’s willingness to share this course with the Board so that ...”
- Page 7 of the Minutes: Under the header titled “Practice Questions” make the changes as outlined:
  - Correct the response under the first bullet-point as follows: “Board Response: This is acceptable as long as the Wisconsin licensed veterinarian has a current veterinarian/client/patient relationship.”
  - Correct the wording after the fourth bullet-point as follows: “If the consulting veterinarian has not developed a veterinarian/client/patient relationship by physical contact.”
  - Correct the response under the fourth bullet-point as follows: “Board Response: State law requires the establishment of a veterinarian/client/patient relationship. The consulting veterinarian would need to work with a veterinarian with an active Wisconsin license who has established a current veterinarian/client/patient relationship.”

**MOTION:** Marthina Greer moved, seconded by Donald Peterson, to approve the minutes of August 4, 2010 as amended. Motion carried unanimously.

## ADMINISTRATIVE REPORT

Nora Wilson updated the Board about a follow-up discussion she conducted with Cathy Pond about the possibility of sending a second renewal notice notifying licensees of their inability to practice if renewal is not completed. She informed the Board that the Department has previously sent out this type of notification for other boards, but noted that concerns were raised relating to the cost benefits of a second renewal notice. The Board discussed this matter and made the determination that the cost of this initiative would outweigh the benefit of such an action.

### 2011 Meeting Dates

The Board reviewed its proposed 2011 meeting dates. During its review the Board inquired of its ability to make a determination of how many meetings it conducts via virtual meeting technology or teleconference, versus an “in person” meeting venue. The Board decided that it would conduct its February 16, 2011 meeting via virtual/teleconference meeting technology, that the May 25, 2011 meeting would be conducted “in person” and that the venue of its remaining meetings would be decided as the content of each agenda becomes apparent.

**MOTION:** William Rice moved, seconded by Theresa Waage, to approve the proposed 2011 meeting dates as published. Motion carried unanimously.

**ELECTION OF OFFICERS FOR 2011**

Nora Wilson indicated that the officers elected at today's meeting would assume their positions at the first meeting in 2011.

**NOMINATION:** William Rice nominated the 2010 slate of officers to continue in 2011. Nomination carried by unanimous vote.

<b>2011 ELECTION RESULTS</b>	
Board Chair	Robert Spencer
Vice Chair	Marthina Greer
Secretary	JoAnn Kleman

**PRESENTATION OF PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS**

**W.G. JANESSEN, DVM  
(06 VET 054)**

Attorney Kim Kluck presented the Proposed Stipulation, Final Decision and Order in the disciplinary action against W.G. Janessen, DVM. The Board will deliberate this matter during closed session.

**TIMOTHY LABARGE, DVM  
(06 VET 033)**

Attorney Kim Kluck presented the Proposed Stipulation, Final Decision and Order in the disciplinary action against Timothy LaBarge, DVM. The Board will deliberate this matter during closed session.

**SCOTT MCDONALD, DVM  
(10 VET 021)**

Attorney Jim Polewski presented the Proposed Stipulation, Final Decision and Order in the disciplinary action against Scott McDonald, DVM. The Board will deliberate this matter during closed session.

**JANET SCHNELL, DVM  
(06 VET 010)**

Attorney Kim Kluck presented the Proposed Stipulation, Final Decision and Order in the disciplinary action against Janet Schnell, DVM. The Board will deliberate this matter during closed session.

**DISCUSSION OF ON THE JOB TRAINING FOR VETERINARY TECHNICIANS  
LICENSURE AND CONSIDER STATUTORY CHANGE REQUEST**

Michele Miller Hayes provided clarification to the Board about a misunderstanding regarding its ability to allow on the job training as a method of obtaining the veterinary technician (VT) certification. She explained that in 2008 the Board had made a motion to accept the deadline for elimination of the on the job training route to licensure as proposed by the American Association of Veterinary State Boards (AAVSB). Michele Miller Hayes informed the Board that the legislation they had requested in 2008 was not acted upon and as such, the Board is statutorily required to allow veterinary technicians to utilize the on the job training route to certification. She asked if the Board it is still interested in pursuing elimination of the on the job training route to VT certification.

The Board discussed its perception that AAVSB would not allow on the job training applicants to sit for the Veterinary Technician National Exam (VTNE) and expressed that it understood this to mean that it would need to eliminate the VT on the job training option or develop its own state board examination. Gail Pizarro, Ph.D., Examination Specialist, provided comments about the history of this matter from her perspective and noted the communication that she had received relevant to the ability of VT on the job training applicants to sit for the VTNE. She advised the Board of recent leadership change that occurred at AAVSB and noted the current position of this organization in terms of allowing on the job training applicants to sit for the examination if the state offered the option to do so. The Board discussed the portability of Wisconsin veterinary technician certification to other jurisdictions including those that do not accept on the job training.

**9:45 A.M. APPEARANCE – Laurie Angell, Clarissa Sheldon and Jane Clark, Madison Area Technical College – Regarding On the Job Training for Veterinary Technicians (VT)**

Clarissa Sheldon, MATC, and Laurie Angell, WVTA, MATC, appeared before the Board to provide comments regarding the issue of the on the job training route to licensure for Wisconsin VTs. Clarissa Sheldon indicated that on the job training route to VT certification was created due to the limited access to VT programs and noted that this is no longer an issue for the profession. She also voiced concerns about the impaired ability of Wisconsin VT's to transfer licensure to another jurisdiction.

Laurie Angell, CVT graduate, instructor and Wisconsin Veterinary Technician (WVTA) legislative chairperson, made reference to a file she received from the preceding WVTA legislative chairperson. She indicated that WVTA wants to eliminate the on the job training route to certification. Laurie Angell indicated that VT's that obtained certification through on the job training have trouble in passing the VTNE, a problem which is further exacerbated by the fact that there are no remedial courses available for this exam. She indicated that the WVTA offers its support to the Board if it chooses to pursue elimination of the on the job training route to VT certification.

**9:55 A.M. APPEARANCE – Laura Lien, CVT, BS, VTS (LAIM), Veterinary Technician Instructor and Program Director, Moraine Park Technical College – Regarding On the Job Training for Veterinary Technicians**

Laura Lien and Dr. Kelly Mowell, Moraine Park Technical College, appeared before the Board in support of the elimination of an on the job route to VT certification and presented arguments in favor of elimination. They indicated that on the job training does not prepare veterinary technicians for successful completion of the VTNE and raised public protection issues in terms of patient safety and public health matters. Laura Lien supported the implementation of a sunset date for this method of VT credentialing.

Following the scheduled appearances the Board worked to identify its position regarding the on the job training VT certification option. The Board discussed if access issues would develop if it were to eliminate on the job training. Gail Pizarro, Ph.D., noted statistical data regarding the number of VT's that are certified through on the job training. The Board took the action outlined in the motion below.

**MOTION:** Donald Peterson moved, seconded by JoAnn Kleman, to reaffirm the changes requested in 2008 and to pursue legislative change to eliminate on the job training as an option for licensure. Motion carried. Opposed – Two (2)

**REQUESTING CONTINUING EDUCATION DOCUMENTATION AT CASE OPENING FOR CASE ADVISORS TO REVIEW AS A WAY TO MONITOR FOR MANDATORY CONTINUING EDUCATION REQUIREMENT – MARTHINA GREER**

Dr. Greer raised an issue regarding the fact that documentation of continuing education completion is not being received by case advisors. The Board discussed the Department's position in auditing continuing education completion. Dennie Petersen, DOE Intake Supervisor, joined the Board for discussion of this issue. She indicated that the utilization of a 10-day letter was recently approved for the purpose of obtaining continuing education documentation for case advisor review. The Board was thanked Dennie Petersen for joining the meeting and for the information she provided.

**BACHELOR OF SCIENCE DEGREES FOR LICENSING VETERINARY  
TECHNICIANS – GAIL PIZARRO, PH.D., EXAMINATION SPECIALIST – OFFICE  
OF EDUCATION AND EXAMINATIONS**

Gail Pizarro, Ph.D., joined the Board for discussion of this topic. The Board considered whether it should accept a bachelors of science degrees for the purpose of credentialing Wisconsin veterinary technicians. Board discussion of blanket acceptance of a bachelors of science degree and whether it would prepare a veterinary technician for examination and practice ensued. During the course of discussion the Board reviewed the origins of this topic and noted that there is not a large demand for acceptance of this degree. The Board decided that it would consider degree equivalence determination requests on a case-by-case basis.

**BOARD CONSIDERATION AND DISCUSSION REGARDING THE NORTH  
AMERICAN VETERINARY LICENSING EXAMINATION (NAVLE) CANDIDATE  
TESTING DEADLINES**

Michele Miller Hayes informed the Board of a discrepancy in the Department's contract with the National Board of Veterinary Medical Examiners (NBVME) and the Board's rule provisions outlining testing deadlines. She proposed that the Board move forward with emergency rules to address this discrepancy by changing the deadline as provided in rule to 140 days prior to the date of the scheduled examination period. The Board indicated that it would like to include recommendations that have been made by the Rules Review Committee relating to PAVE in this emergency rule. Michele Miller Hayes cautioned the Board about the addition of language outside of what she recommended today as it may slow or stall the emergency rule process, but indicated that she would work to incorporate the Rules Review Committee PAVE recommendations as requested by the Board.

**MOTION:** Wesley Elford moved, seconded by Theresa Waage, to accept the change in both the deadline for NAVLE to 140 days and to include the recommendation made by the Rules Committee relevant to PAVE. Motion carried unanimously.

**UPDATE REGARDING BOARD ACCESS TO THE WVMA RECORDING KEEPING  
COURSE**

Nora Wilson reported that the WVMA has requested that the Board submit a written request if it wishes to receive a copy of its record keeping course. The Board discussed its desire to review this course prior to making a decision regarding endorsement of this program for remediation purposes.

Kim Brown-Porkorny, WVMA, informed the Board that WVMA's record keeping course is the only course that requires completion of an examination to achieve credit or completion of this course.

**MOTION:** Marthina Greer moved, seconded by Wesley Elford, to request that Nora Wilson send a letter to the WVMA requesting a CD copy of its record keeping course on behalf of the Board. Motion carried unanimously.

**BOARD DISCUSSION: VETERINARY INFORMATION VERIFYING AGENCY (VIVA) DATABASE ESTABLISHED BY THE AMERICAN ASSOCIATION OF VETERINARY STATE BOARDS (AAVSB)**

Marthina Greer addressed the Board regarding a disciplinary tracking database established by AAVSB. She explained that she was approached at the 2010 AAVSB Annual Meeting regarding the fact that Wisconsin does not submit disciplinary data to the Veterinary Information Verifying Agency (VIVA). Dr. Greer indicated that AAVSB collects information from the Department website in order to keep its database current.

The Board discussed who would be responsible for submitting disciplinary data to the VIVA database. Nora Wilson will contact AAVSB to identify what is entailed in submitting information to the VIVA database and will work to determine the feasibility of Department submission of this information. The Board will revisit this topic in February 2011.

**BOARD REMINDER AND DISCUSSION  
MODEL LANGUAGE FOR ORDERS – MARTHINA GREER**

The Board noted that this issue was addressed at a previous meeting and noted that this change is being incorporated.

**UNLICENSED PRACTICE DISCUSSION**

**Review Report of Pending Unlicensed Practice Cases Relating to the Practice of Veterinary Medicine**

Dennie Peterson joined the meeting to answer questions posed by the Board in reviewing the report of pending unlicensed practice cases. The Board indicated that its request was to receive all unlicensed practice complaints related to the unlicensed practice of veterinary medicine. The Board asked that information about the cases that are being screened out by the Department be included in future reports.

The Board discussed a recent meeting of the Department with representatives of the WVMA. Kim Brown Porkorny reported that at this meeting Secretary Jackson indicated that the Department has limited jurisdiction and suggested that this matter be addressed via public relations campaign.

The Board discussed whether or not the Attorney General would pursue these cases. The Board discussed the possibility of contacting the Attorney General to voice its concerns about issues relating to unlicensed practice of veterinary medicine in terms of the threats posed to public health and patient welfare. The Board contemplated the pursuit of statutory change that would provide it with the authority to regulate those individuals that are not licensed and noted that promulgation of such legislation would impact other professional boards and would not be easily accomplished.

**Discuss Louisiana Act No. 764 to Prohibit Euthanasia by Carbon Monoxide Gas Chambers**

The Board noted this topic as an informational item.

**RULES REVIEW COMMITTEE REPORT**

William Rice reported to the Board regarding the progress of the Rules Review Committee. He indicated that the Committee considered the need to expedite certain matters in terms of recommendations for statutory change, but has decided to present all of its recommendations as a package. Dr. Rice informed the Board that there are recommendations for rule change that it would like to make; however these changes cannot be made without changing statutes. He spoke to the complexity of rule writing and its effect on the work of the Committee.

The Board requested that the Committee provide its recommendations to the Board's membership at least one meeting prior to Board consideration so that everyone has sufficient time to review the recommendations. The Board requested that the Committee's recommended rule revisions be included in its next agenda packet.

**Board Review of WVMA Recommendation: VE 7.06 Make it Unprofessional Conduct to Use or Donate Expired Medical Materials to Animal Shelters**

Dr. Spencer indicated that this matter originally came to the Board as a practice question. The Board discussed whether it is unprofessional conduct to use or donate expired medical materials. Dr. Rice informed the Board of an opinion provided by Pamela Stach, DOE Attorney, pertaining to the use or donation of expired medical materials, as presented to the Rules Review Committee. Michele Miller Hayes advised that should the Board decide that donation or use of expired medical materials is in fact unprofessional conduct, the Board's rules would need to incorporate such a provision.

**MOTION:** Wesley Elford moved to identify that it is unprofessional conduct to dispense or administer out dated drugs without a client's permission. Motion failed due to lack of a second.

The Board discussed the use of expired medical materials at length and determined that additional information would be required for it to make a determination as to whether use or donation would constitute unprofessional conduct. Kris Anderson, Paralegal, will conduct research relating to the use or donation of expired medical materials and will provide this information to the Board for its consideration at a future meeting. Kim Brown Porkorny, WVMA, provided comments during the course of Board discussion. The Board felt it was important to note that while it does not have a rule that currently addresses this issue, the Board acknowledges that dispensing outdated medical materials for patient use, without client consent, is unprofessional conduct.

**Rules Review Committee Request for Board Discussion and Feedback of Practice Question: What Veterinary Medical Acts may be Delegated to Certified Veterinary Technicians? – d.) Obstetrical Treatment**

The Board reviewed a question it had referred to the Rules Review Committee regarding the types of obstetrical treatment that would be covered under Chapter VE 7.02 (3)(d). The Committee indicated that it was not sure what services were intended to be covered under this rule and asked the Board to provide feedback.

JoAnn Kleman informed the Board that she has a record of the types of obstetrical treatment that can be delegated to a veterinary technician and requested that discussion be carried forward to the Board's next meeting. The Board will continue its discussion of this matter at its next meeting.

**PRACTICE QUESTIONS AND FREQUENTLY ASKED QUESTIONS**

**Clarification of Process for Legal Questions**

Michele Miller Hayes explained how she approaches practice questions and in what scenarios she would contact a member of the Board for feedback about questions. The Board discussed whether all questions should be directed to the Board for response or if the Board should only address questions where an answer is not clear. Kim Brown Porkorny, opined that when the Board approaches a rather significant matter it should be addressed in a more visible fashion. The Board decided that questions will go to Michele Miller Hayes and if further clarification is needed the Board will work to address that issue.

**Practice Question - Client Records and Confidentiality**

The Board reviewed a question from a veterinarian regarding the legalities of releasing a patient's medication purchase history. Kim Brown Porkorny, WVMA indicated that this question had been addressed previously by the Department, but the veterinarian challenged the response. She indicated that the veterinarian fielding this question felt that informed consent sessions that were held around the state seemed to indicate that this sort of information could not be released, because of client confidentiality provisions.

The Board reviewed the answer to this question as provided by Michele Miller Hayes and noted its agreement with the response provided to this question. The Board added that this veterinarian may want to obtain client consent prior to distributing records of medication history.

**Practice Question – Is Equine Dentistry the Practice of Veterinary Medicine?**

The Board reviewed a question about whether equine dentistry is in fact the practice of veterinary medicine. Michele Miller Hayes informed the Board that this question has been resolved.

**Review and Discuss Adequate Record Keeping**

The Board reviewed a question that asked for guidance in identifying the minimum standards for adequate record keeping. Michele Miller Hayes indicated that this is a question to which she had previously responded. Kim Brown Porkorny provided clarification to the Board about the context of this question. The Board discussed the information that needs to be documented for record keeping purposes.

The Board decided that the scenario outlined by the veterinarian asking this question would be an example of an individual that is maintaining records above and beyond the minimum documentation requirements of the Board. The Board indicated that it is acceptable to exceed its minimum record keeping requirements.

**PRACTICE QUESTIONS RECEIVED AFTER PREPARATION OF THE AGENDA**

The Board reviewed questions that were received by the Department after the agenda for today's meeting had been prepared.

**Practice Question – Ultrasound Pregnancy Diagnosis on Dairy Farms**

The Board reviewed a series of questions submitted with respect to who can legally perform ultrasound pregnancy diagnosis. Following discussion of this issue the Board indicated that there must be an actively licensed Wisconsin veterinarian with valid veterinary/client/patient relationship involved in the pregnancy diagnosis.

Kim Brown Porkorny asked the Board to provide clarification about the legality of a farm owner using a farmhand to make these determinations. The Board indicated that a farm hand is compensated for their services and as such this would constitute the practice of veterinary medicine.

**Practice Question – Can a Veterinarian in Wisconsin Prescribe and Dispense a Pentobarbital for an Owner to Use at Home**

The Board discussed if a veterinarian can prescribe or dispense pentobarbital for an owner to administer to their pet at home. Kim Brown Porkorny informed the Board that the WVMA has previously contacted the DEA and was informed that at home euthanasia would be unacceptable. The Board discussed whether more information should be obtained from the DEA prior to making a determination. Michele Miller Hayes will follow-up with the DEA to gain more information relating to its position on at home euthanasia.

**REPORT OF THE 2010 ANNUAL AAVSB MEETING – MARTHINA GREER**

Marthina Greer provided the Board with a written copy of her report outlining her experience at the 2010 Annual AAVSB meeting. She referenced her written report and promoted continued attendance by the Board at future conferences. Dr. Greer added that AAVSB is now offering to assist with travel costs. The Board discussed the possibility of sending an additional delegate to a future conference. She noted that the 2011 AAVSB Annual meeting is scheduled to occur on September 15-17, 2011 in New Orleans, LA.

**CLOSED SESSION**

**MOTION:** JoAnn Kleman moved, seconded by Theresa Waage, to convene to closed session to deliberate on cases following hearing (Wis. Stat. 19.85(1) (a)), to consider licensure or discipline (Wis. Stat. § 19.85(1) (b)), to consider individual histories or disciplinary data (Wis. Stat. § 19.85(1) (f)), and to confer with legal counsel (Wis. Stat. § 19.85(1) (g)). Motion carried by a roll call vote: Wesley Elford-yes; Marthina Greer-yes; JoAnn Kleman-yes; Donald Peterson-yes; William Rice-yes; Robert R. Spencer-yes; and Theresa Waage-yes.

The Board convened into Closed Session at 1:53 p.m.

**RECONVENE INTO OPEN SESSION IMMEDIATELY  
FOLLOWING CLOSED SESSION**

**MOTION:** Donald Peterson moved, seconded by Theresa Waage, to reconvene into open session. Motion carried unanimously.

The Board reconvened into open session at 2:18 p.m.

**VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION IF  
VOTING IS APPROPRIATE**

**DELIBERATION OF PROPOSED STIPULATIONS**

**W.G. JANESSEN, DVM  
06 VET 054**

**MOTION:** William Rice moved, seconded by Wesley Elford, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order in the matter of disciplinary proceedings against W.G. Janessen, DVM (06 VET 054). Motion carried unanimously.

**TIMOTHY LABARGE, DVM  
06 VET 033**

**MOTION:** Wesley Elford moved, seconded by Theresa Waage, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order in the matter of disciplinary proceedings against Timothy LaBarge, DVM (06 VET 033). Motion carried unanimously.

**SCOTT MCDONALD, DVM  
10 VET 021**

**MOTION:** Marthina Greer moved, seconded by Theresa Waage, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order in the matter of disciplinary proceedings against Scott McDonald, DVM (10 VET 021). Motion carried unanimously.

**JANET SCHNELL, DVM  
06 VET 010**

**MOTION:** JoAnn Kleman moved, seconded by Theresa Waage, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order in the matter of disciplinary proceedings against Janet Schnell, DVM (06 VET 010). Motion carried unanimously.

**CASE STATUS REPORTS**

Noted.

**CASE CLOSINGS**

**09 VET 050**

**MOTION:** William Rice moved, seconded by Wesley Elford, to close case 09 VET 050 for insufficient evidence. Motion carried unanimously.

**09 VET 041**

**MOTION:** Donald Peterson moved, seconded by Marthina Greer, to close case 09 VET 041 for prosecutorial discretion (P7). Motion carried unanimously.

**10 VET 018**

**MOTION:** Marthina Greer moved, seconded by William Rice, to close case 10 VET 018 for prosecutorial discretion (P2). Motion carried unanimously.

**06 VET 053**

**MOTION:** Wesley Elford moved, seconded by Donald Peterson, to close case 06 VET 053 for prosecutorial discretion (P1). Motion carried unanimously.

**CONSULTING WITH LEGAL COUNSEL**

Michele Miller Hayes, Legal Counsel, was available to the Board for consultation for the duration of closed session deliberations.

**ADJOURNMENT**

**MOTION:** Donald Peterson moved, seconded by Theresa Waage, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 2:22 p.m.