

1 STATE OF ALASKA
2 DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
3 DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
4

5 ALASKA STATE BOARD OF VETERINARY EXAMINERS
6 MINUTES OF MEETING
7 MAY 11, 2018
8

9 By authority of AS 08.01.070(2) and in compliance with the provision of AS 44.62,
10 Article 6, a scheduled meeting of the Board of Veterinary Examiners was held on
11 May 11, 2018 at 333 Willoughby Avenue, 9th Floor – Juneau, AK
12

13 **These draft minutes were prepared by the staff of the Division**
14 **of Corporations, Business and Professional Licensing.**
15 **They have not been reviewed or approved by the board.**
16

17 **Agenda Item 1 – Call Meeting to Order**
18

19 Dr. Hagee called the meeting to order on Friday May 11, 2018 for the Board of Veterinary Examiners at
20 9:02 a.m. This meeting was public noticed on April 13, 2018 in the Anchorage Dispatch News and on
21 the Alaska Public Notice system.
22

23 Those present, constituting a quorum of the board were:
24

25 James Hagee, DVM, Chairman, Trapper Creek, AK
26 Hal Geiger, PhD, Secretary, Public Member, Juneau, AK
27 Rachel Bergartt, DVM, Juneau, AK
28 Chris Michetti, DVM, Anchorage, AK
29 Tamara Rose, DVM, Fairbanks, AK
30

31 Present from the Division of Corporations, Business and Professional Licensing:
32

33 Sara Chambers, Deputy Director
34 Jeanette Akers, Investigator III
35 Marilyn Zimmerman, RP Paralegal II
36 Laura Carrillo, Board of Pharmacy Supervisor & PDMP Manager
37 Patricia Lonergan, Licensing Examiner
38

39 Dr. Hagee welcomed Chris Michetti to the board.
40

41 **Agenda Item 2 – Review Agenda**
42

43 Dr. Hagee asked if there was anything members wanted to add to the agenda. Hearing none, he
44 then reviewed with the board that were very time sensitive items on the agenda, and other items that
45 were not time sensitive, he asked the board to consider addressing items earlier than the specific time
46 listed on the agenda as time allows. There were no objections from the board.
47

48 **Deviated to Agenda Item 4 – Public Comment**

49

50 Dr. Hagee asked if there were any members of the public in attendance. There were no members of
51 the public in attendance at the meeting, nor did any member of the public call into the meeting.

52

53 **Deviated to Agenda Item 3 – Review & Approve Prior Meeting Minutes**

54

55 Dr. Hagee inquired if everyone had an opportunity to review the minutes January 12, 2018 Final
56 Meeting Minutes. Dr. Geiger asked the board to consider revising lines 200 and 201 to read (rather
57 than employee veterinarians), to ensure that employee veterinarians would not be responsible for
58 implementing the plan of patient medical records disbursements.

59

60 On a motion duly made by Dr. Hagee, seconded by Dr. Chris Michetti and approved
61 unanimously it was: Resolved to approve the January 12, 2018 meeting minutes as
62 amended.

63

Board Member	Yea	Nay	Recuse
Dr. Hal Geiger	X		
Dr. Rachel Bergartt	X		
Dr. Chris Michetti	X		
Dr. James Hagee	X		

64

65 Dr. Hagee advised the board that the letter drafted to the Governor regarding the PDMPreferenced
66 in the previous meeting minutes was not sent, depending on the discussion today with Laura Carrillo
67 and Dr. Delker, a determination will be made if it is appropriate for a letter to be sent.

68

69 TASK: Dr. Hagee to sign and send the minutes to staff.

70

71 **Deviated to Agenda Item 7 – Ethics**

72

73 Dr. Hagee asked if there were any ethics violations to report. There were no ethics violations reported
74 from the board or staff.

75

76 **Deviated to Agenda Item 8 – Regulation Requirement**

77

78 Dr. Bergartt advised the board the AVMA has a site with resources on it that they put together to
79 help veterinarians with diversionary resources, it is what the AAVSB is also utilizing. Staff will work on
80 updating the Board's website with the AVMA link.

81

82 Dr. Tamara Rose joined the teleconference.

83

84 TASK: Staff will post AVMA link on the Board of Veterinary Examiners website.

85

86 **Deviated to Item 5 - Budget**

87

88 Deputy Director Sara Chambers joined the meeting and reviewed with the board FY17 third quarter
89 numbers, the board is on par with previous year's expenses. The board then reviewed the fee analysis

90 provided by the division. Deputy Director Chambers reviewed with the board that the division has set
 91 a guideline to have one year of expenses on hand, and that the director is proposing a fee increase.
 92 Discussion centered on the fact that the division does take the input of the board into consideration,
 93 what is asked of the board is to look at all of the factors and advise if what the division is proposing is
 94 reasonable. The board thanked Deputy Director Chambers for reviewing with them the division's
 95 proposal, and voiced that in 2016 the board had advised the division that a fee increase, especially
 96 for the technicians was not something they wanted to happen, yet, the division raised the fees. The
 97 board also advised this current proposal conflicts with the principals discussed during the last fee
 98 increase and does not address concern previously expressed by the board. The board is also
 99 concerned with the acceleration of the reserve the department is expecting from the profession,
 100 and that the division is proposing fee increases to those least able to bear that burden.
 101 The board reiterated that they want to protect new veterinarians and new veterinarian technicians
 102 from licensing fee increases. Deputy Director Chambers thanked the board for their frank comments,
 103 advising that, being able to share services between all licensing programs does reduce overall
 104 expenses and that we all share the same goal of providing adequate regulatory services to
 105 veterinarians and the clients of veterinarians. Deputy Director Chambers agrees with the Director that
 106 a fee increase is needed, and encouraged the board, before adjourning this meeting, to look at
 107 where the fee increases are proposed and make some recommendations as to where those
 108 increases would create less harm and a potential compromise can be made. The board expressed
 109 their appreciation for the services that the department offers and the board acknowledged that
 110 investigations is a huge part of overall expenses, and that the profession itself is causing a lot of
 111 investigative expenses. Deputy Director Chambers thanked the board again for their comments and
 112 advised she would take their comments back to the Director.
 113

114 **Agenda Item 6 – Investigative Report**

115 Jeanette (Nina) Akers joined the meeting and introduced herself as the new Investigator for the Board
 116 of Veterinary Examiners. Between December 21, 2017 and April 13, 2018 the division opened two (2)
 117 matters and closed five (5) matters. Two (2) matter remains on-going and/or under active
 118 investigation. There is one veterinarian on probation and he/she is in compliance with the terms of
 119 their license probation as of the day of this report. The board had no questions concerning thereport.
 120

121 Marilyn Zimmerman, RP Paralegal II joined the meeting. On a motion made by Mr. Hal Geiger,
 122 seconded by Dr. Rachel Bergartt, and approved unanimously, it was: Resolved to go into
 123 executive session in accordance with AS 44.62.310(c)(2) and the Alaska Constitutional right to privacy
 124 provision, for the purpose of discussing Case No. 2017 – 000935 and Case No. 2017-001088.
 125
 126

Board Member	Yea	Nay	Recuse
Dr. Hal Geiger	X		
Dr. Rachel Bergartt	X		
Dr. Chris Michetti	X		
Dr. Tamara Rose	X		
Dr. James Hagee	X		

127
 128 Off the record at 10:11 AM
 129 On the records at 10:30 AM
 130

131 On a motion duly made by Dr. Hal Geiger, and seconded by Dr. Chris Michetti, and approved
 132 unanimously, it was: Resolved to accept the consent agreement for Cailin L. Slachta.
 133

Board Member	Yea	Nay	Recuse
Dr. Hal Geiger	X		
Dr. Rachel Bergartt	X		
Dr. Chris Michetti	X		
Dr. Tamara Rose	X		
Dr. James Hagee	X		

134
 135 On a motion duly made by Dr. Hal Geiger, and seconded by Dr. Rachel Bergartt, and approved
 136 unanimously, it was: Resolved to accept the voluntary surrender of the veterinary technician license
 137 for Lynley S. Pair.
 138

Board Member	Yea	Nay	Recuse
Dr. Hal Geiger	X		
Dr. Rachel Bergartt	X		
Dr. Chris Michetti	X		
Dr. Tamara Rose	X		
Dr. James Hagee	X		

139
 140 Dr. Hagee opened discussion regarding off label use of medication. The board discussed that the
 141 intent of regulations is to turn decisions over to the practitioners, and that the board would only be
 142 involved is if there is definite negligence. As a state board, there is not a way to change the federal
 143 regulations for the extra drug label act, and that as a state board, is only charged with determining
 144 what is and is not negligence on the state level, not on the federal level. The criteria in making that
 145 decision is, what would an ordinary member of our state practice do? Our statutes only address
 146 negligence in relations to the average veterinarian. Do we need to address extra label use in statute
 147 or regulation? The board does not believe there is a need to so.
 148

149 TASK: Dr. Hagee will sign the consent agreement and the voluntary surrender documents and send
 150 the signed documents to staff.
 151

152 **Deviated to Agenda Item 9 – Annual Report**

153
 154 Dr. Hagee advised that he had completed the narrative statement and the goals and objectives and
 155 had forwarded those the prior licensing examiner. Staff will follow-up, update the report and send it
 156 out for approval. The board discussed the AAVSB 2018 Annual meeting, and discussed that the
 157 AAVSB pays all expenses for attendees.
 158

159 On a motion duly made by Dr. Rachel Bergartt, and seconded by Dr. Tamara Rose, and approved
 160 unanimously, it was resolved: Resolved that Dr. Rachel Bergartt and Dr. Hal Geiger will attend the
 161 2018 AAVSB Annual meeting in Washington D.C.
 162

Board Member	Yea	Nay	Recuse
Dr. Hal Geiger	X		

Dr. Rachel Bergartt	X		
Dr. Chris Michetti	X		
Dr. Tamara Rose	X		
Dr. James Hagee	X		

163

164 TASK: Staff will update the annual report and send it out to the board for review and approval.

165 TASK: Staff will complete travel authorization forms for Dr. Rachel Bergartt and Dr. Hal Geiger.

166

167 **Agenda Item 10 – Board Business**

168

169 The board scheduled the following meetings.

170 October 12, 2018 in Anchorage

171 January 25, 2019 Teleconference

172 May 17, 2019 Teleconference

173

174 The board reviewed two questions from licensees that were sent in to the licensing examiner. A
 175 licensee inquired if all continuing education hours could be completed by taking on-line courses.
 176 Dr. Tamara Rose advised this question had come up a couple of years ago and there is nothing in
 177 regulations that specify a specific number of on-line courses, so all continuing education can be
 178 completed online as long as they are documented hours. Staff will respond to the licensee.
 179

180 The next question the board asked about CBD oil for pets. Consumers do have access to this oil, the
 181 board is unable to make recommendations at this point. We are unable to prescribe it, there is not
 182 much that can be said at this time. There is nothing outside of anecdotal evidence regarding CBD oil,
 183 there is no scientific evidence. The board is unable to make any recommendations at this point. Dr.
 184 Hagee will draft the response letter, the board will review it and it will be sent out from the division on
 185 Board of Veterinary Examiners letterhead.
 186

187 The board decided that it is too soon to elect new officers, Dr. Hagee will continue on as Chairman,
 188 and Dr. Geiger will continue as Secretary. Election of new officers will happen again when current
 189 board members leave the board.
 190

191 TASK: Staff will respond to licensee regarding online continuing education.

192 TASK: Dr. Hagee will draft response letter re: CBD for board review and send it to staff.

193 TASK: Staff will send out CBD letter to the board for review and approval. Once approved, staff will
 194 put the letter on division Board of Veterinary Examiners letterhead and send to the licensee.
 195

196 The board adjourned for lunch at 11:20 AM

197 The board was back on the record at 1:30 PM

198

199 **Agenda Item 10 – Board Business**

200

201 Dr. Hagee advised he would be limiting the VCPR discussion to half an hour. Dr. Robert Gerlach, State
 202 Veterinarian and Mr. Michael Murphy with the FDA joined the teleconference. Chairman Hagee
 203 thanked both gentlemen for joining the meeting for this discussion. Dr. Gerlach reviewed with the
 204 board that due to the concern of antibiotic resistance impacting human and animal health, the FDA
 205 had initiated the veterinarian feed directive to address the use of antibiotics in food producing

206 animals for both major and minor species. Before antibiotics can be used in either feed or water there
207 has to be a valid veterinarian feed directive established by the veterinarian and the feed mill or
208 producer of the feed, and the client. There needs to be a clear veterinarian client/patient relationship
209 established and the rule for that is the important part; Alaska is large, there is not an even distribution
210 of veterinarians across the entire state; in relation to our hatcheries, the state needs to have a
211 definition for the client patient relationship that would allow aquacultures and veterinarian
212 consultation so there is access to proper treatments to maintain the proper care and humane
213 treatment of those fish species that they have in the hatcheries.
214

215 Dr. Hagee reviewed the proposed regulation language broad based VCPR that was presented and
216 tabled during the last board meeting.
217

218 Dr. Murphy addressed the relationship between the VCPR and the Veterinary Feed Directive rule, in
219 order to write a lawful VFD a VCPR needs to exist, and the second part is that a VCPR is required for
220 the vet to prescribe or dispense a prescription drug – veterinary feed directive drugs are a third
221 category of drugs, they are their own legal category, and advised that a state VCPR must be in place
222 to supersede the federal law. At the federal level, a VCPR relationship cannot be established by
223 telephone, video or electronic means, veterinarians have to visit the premises. The state VCPR can
224 establish electronic means for that relationship. There was brief discussion about how the state law
225 allowing electronic communication, would supersede the federal law only if the following three items
226 were established within the state law; Engage the client, have sufficient knowledge of the facility, and
227 provide for necessary follow-up or care.
228

229 It was discussed that currently there is nothing in the regulation that indicate what a veterinarian client
230 patient relationship is in Alaska, why do we need to react to the federal regulation, why do we need
231 to create this language?
232

233 Dr. Gerlach indicated that his concern was from the federal standpoint, the relationship can only exist
234 if the veterinarian has recently seen and is personally acquainted with the keeping and care of the
235 animals. It does not just affect a few cases, this definition affects any veterinarian who practices
236 remotely. The definition of how recently the animal has been seen to keep the relationship active is
237 what the board needs to define for the feed directive and the VCPR. Does the board want to allow
238 the courts to determine the definition of recently? Putting a time frame in regulation, to establish
239 being acquainted with the animal and the care and feeding of the animal would create what that
240 definition is.
241

242 Chairman Hagee tabled this discussion to the next meeting and thanked Mr. Gerlach and Mr. Murphy
243 for joining the teleconference.
244

245 TASK: Staff will forward to the board the document from the January Board meeting Dr. Hagee
246 reviewed during this discussion.

247 TASK: Board will consider how to address the federal VCPR in relation to the feed directive and in
248 relation to those who practice remotely to determine if there is a need to define the term recently in
249 regulation. Once this is decided, the board will either revise and move forward the proposed
250 regulation reviewed during the January board meeting to the regulations specialist, or, continue to
251 table for further discussion.
252

253 Ms. Laura Carrillo, Board of Pharmacy Supervisor and PDMP Manager and Dr. Delker, Legislative
254 Liaison for the AKVMA joined the meeting. Chairman Hagee, again set a half hour time limit for these
255 two discussions.
256

257 Ms. Carrillo provided a quick overview of the PDMP program, the program started in 2008, and
258 mandatory registration began July of 2017. On April 22, 2018 a 25.00 registration fee will be due at
259 renewal. HB159 added the ability for the board to discipline licensees who are not in compliance with
260 the PDMP in AS 08.98.050. The vet board is unique in that continuing education hours are not required
261 for renewal, the board is only required to establish resources licensees can access to identify an
262 animal owner who may be at risk for abusing or misusing an opioid. Dr. Geiger addressed the biggest
263 problem is that veterinarians have access to HIPPA protected data. Ms. Carrillo advised that the
264 PDMP information is not considered a HIPPA covered entity. When licensees interact with the PDMP
265 the HIPPA requirements do not apply. Laura asked the board if they have received an actual legal
266 opinion of the ability to review the animal owner's medical information. Dr. Hagee stated that there
267 has been no legal representative on the board.
268

269 Dr. Delker reviewed with the board that he met with Dr. Butler. Dr. Delker had reached out to Dr.
270 Butler due to the concern that the pharmacy board was not listening to veterinarians have in
271 reducing the opioid issues. We have looked at other states, more and more states are exempting
272 veterinarians from the PDMP requirements. Veterinarians are willing to be a due their part, but if we
273 are not contributing to it significantly, it's hard to be a part of the reduction in opioid misuse. The
274 program is set up for people who have software that seems to interact with the PDMP platform. Most
275 veterinarians are sole proprietors, very few have certified technicians that would qualify to use the
276 reporting software, it takes valuable time away from the practitioner to complete the reporting
277 requirements, and that takes away from client care. If there is a way to alter the law so that
278 veterinarians are exempted from this law, or a way to ease compliance for veterinarians is what we
279 are moving forward with. Going forward, we would like to pursue being excluded from the PDMP
280 requirements.
281

282 Dr. Hagee thanked Ms. Carrillo and Dr. Delker for their comments and the information they provided
283 to the board. The board briefly discussed drafting a letter to an interested legislator. Dr. Delker stated
284 that he will be contacting Senator Micciche, and will work on getting the members of the AKVMA to
285 contact their individual legislators regarding this issue.
286

287 Dr. Geiger inquired on the status of the letter. Dr. Hagee advised he will rework the original letter and
288 send it to Dr. Geiger and Mr. Delker for review, then have it put on State Board stationary and sent out.
289

290 TASK: Board will consider if a legal opinion is needed to confirm that veterinarians have the legal
291 ability to review an animal owner's medical information.

292 TASK: Board will consider if obtaining diversionary statistics from the investigative unit is necessary.

293 TASK: Dr. Hagee will re-draft the letter to the Governor, that was started from the January board
294 meeting and send that letter to staff.

295 TASK: Staff will send the draft letter from Dr. Hagee to the board for review and comments, the letter
296 would also need to be reviewed and receive approval from Director McCullough prior to being sent
297 to the Governor.

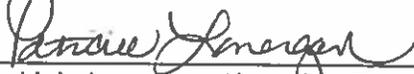
298 TASK: Once the board letter receives approval from Director McCullough, staff will put the board
299 approved letter on division Board of Veterinary Examiners letterhead and forward it to the Governor.

300 **Agenda Item 11 – Adjourn**

301
302 Dr. Hagee asked if there was any other matters to be brought before the board, hearing none, he
303 adjourned the meeting at 2:35 PM

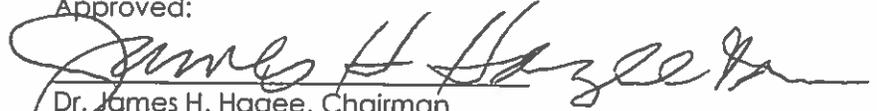
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Respectfully Submitted:


Patricia Lonergan, Licensing Examiner

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316

Approved:


Dr. James H. Hagee, Chairman
Alaska Board of Veterinary Examiners

10-18-18
Date