

1 *State of Alaska*
2 *Department of Commerce, Community and Economic Development*
3 *Division of Corporations, Business and Professional Licensing*
4

5 ***BOARD OF VETERINARY EXAMINERS***

6
7 *MINUTES OF THE MEETING*

8 *Tuesday, July 7, 2020*

9
10 *By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.61, Article 6,*
11 *a scheduled meeting of the Board of Veterinary Examiners (BOVE) was held by*
12 *teleconference.*
13

14
15 *Agenda Item 1a* *Call to Order/ Roll Call* *Time 9:03 a.m.*

16
17 *The meeting was called to order by Board Chair, Dr. Rachel Bergartt, at 9:03 a.m.*
18

19 Board Members present, constituting a quorum:

20 Rachel Bergartt, DVM- Juneau
21 Hal Geiger, PhD- public member- Juneau
22 Scott Flamme, DVM- Fairbanks
23 Denise Albert, DVM- Denali Park
24

25 Division Staff and State Employees present:

26 Ilsa Lund, Occupational Licensing Examiner (Hereafter denoted OLE)
27 Lacey Derr, Records and Licensing Supervisor (Hereafter denoted ARLS)
28 Sher Zinn, Regulations Specialist (Hereafter denoted RS)
29 Richard Holt, Board Chair of the Alaska Board of Pharmacy
30 Laura Carrillo, Executive Administrator for Board of Pharmacy (Hereafter denoted EA)
31 Lisa Sherrell, Prescription Drug Monitoring Program Manager
32 Bob Gerlach, DVM- State Veterinarian
33 Harriet Dinagar-Milks, Department of Law
34 Erika Prieksat, Investigator
35 Amber Whaley, Senior Investigator
36 Greg Francois, Chief Investigator
37

38 Members of the Public present:

39 Sarah Coburn, DVM- President of the Alaska Veterinary Medical Association (AKVMA)
40 Pat Anderson, Executive Administrator of the AKVMA
41 Warren Hess, American Veterinary Medical Association (AVMA)
42 Gail Golab, AVMA

43 Ashley Morgan, AVMA

44
45 In accordance with AS 44.62.310(e) and AS 44.62.175, this meeting of the Board of Veterinary
46 Examiners was public noticed in the Alaska Online Public Notice System on June 12th as well as
47 in the Anchorage Daily News.

48 Dr. Bergartt began the meeting by reading the mission statement of the Board of Veterinary
49 Examiners:

50 **To protect the health, safety, and welfare of Alaskans by ensuring that**
51 **veterinarian practitioners possess and maintain a level of skill and knowledge**
52 **necessary to provide safe, competent professional veterinary services to consumers**
53 **and to protect the public from veterinary practitioners who pose a risk to the**
54 **public's health, safety, and welfare.**

55
56 *Agenda Item 1b* *Review Meeting Agenda* *Time 9:05 a.m.*

57 **On a motion duly made by Hal Geiger, seconded by Denise Albert, and with unanimous**
58 **approval it was:**

59 **RESOLVED to APPROVE the agenda for this meeting as written.**

60
61 *Agenda Item 1c* *Review Past Meeting Minutes* *Time 9:06 a.m.*

62 **On a motion duly made by Hal Geiger, seconded by Denise Albert, and with unanimous**
63 **approval it was:**

64 **RESOLVED to APPROVE the minutes of the June 2, 2020 meeting as written.**

65
66 *Agenda Item 1d* *Ethics* *Time 9:08 a.m.*

67 Dr. Flamme stated that he had been in contact with Dr. Grant Miller of the California veterinary
68 licensing board to gain insight to their PDMP computer software program and discuss that state's
69 veterinary compliance with that program. He was also in touch with Texas and Arizona about
70 their PDMP, but both of those states have exempted veterinarians from the PDMP.

71
72 *Agenda Item 2/3* *Investigations/ PDMP* *Time 9:15 a.m.*

73 Investigator Prieksat went over the board's investigative report. It was reported that the board
74 has 37 investigative cases open. All cases that were recently opened pertain to non-compliance
75 regarding the PDMP –totaling 31 cases. Since the report was generated on June 26th, one
76 additional case had been closed.

77 Dr. Bergartt inquired as to the number of investigative cases concerning the PDMP. It was
78 previously reported to the board that 118 individuals were referred to Investigations for potential
79 PDMP violations. CI Francois clarified that the cases are in the process of being referred. After
80 an initial flood of referrals, he requested only 5 cases be reported per day to not overwhelm or
81 overburden investigative staff or the investigative process. As a result, each case will be given
82 due diligence and none will fall through the cracks due to the sheer volume of cases.

83 Dr. Bergartt asked if CI Francois could speak to the volume of PDMP potential violation
84 referrals other affected boards are experiencing. CI Francois said that he could not share any
85 specifics, but other boards are experiencing similar volumes of referrals to Investigations. He
86 anticipates that other boards with more licensees and higher percentage of licensees required to
87 register with and utilize the PDMP, like the Medical, Nursing, and Dental Boards, will
88 experience a larger volume of cases referred.

89 Chair Bergartt asked Dr. Rich Holt, board chair of the Alaska Board of Pharmacy, to join in the
90 conversation. She wondered how other boards are managing similar investigative caseloads
91 regarding PDMP and how the BOVE could avoid having to pursue investigations into alleged
92 PDMP violations. She cited issues such as lack of educational materials specific to veterinarians
93 and lack of support from Appriss Health as reasons for non-compliance. The BOVE is strongly
94 opposed to spending time and financial resources investigating veterinarians when regulations
95 are not yet in place. She stated that pursuing investigations into such matters is akin to putting
96 the cart before the horse.

97 Chair Holt explained that the Board of Pharmacy (BOP) is obligated by statute to monitor
98 compliance and report alleged violations (through the Executive Administrator) with respect to
99 the PDMP. The BOP was designated as the gatekeepers of that database. BOP has their own
100 non-compliant licensees that they are investigating. The PDMP laws are now over 2 years old.
101 At their last board meeting, the BOP decided to suspend taking action on alleged violations until
102 a disciplinary matrix was put in place. (It was clarified several times throughout the meeting that
103 this does not mean BOP is putting a stop to any and all PDMP investigative cases. That is not an
104 option as the PDMP requirements are mandated in statute and Division staff is obligated to
105 proceed with any alleged violations. The BOP is simply waiting until the matrix is in place to
106 take action such as issuing a letter of advisement or imposing civil fines on to licensees in
107 violation of the laws.) The BOP drafted a letter to send out to non-compliant licensees, giving a
108 hard deadline to come in to compliance with regard to registration with the PDMP before
109 implementing daily civil fines for non-compliance.

110 Dr. Flamme expressed concern that prescriptions written by veterinarians and filled by
111 pharmacies are being incorrectly reported. He used hydrocodone as an example, stating that he's
112 written a prescription for a three-day supply, but then when reviewing his PDMP, saw that the
113 pharmacist had indicated the prescription as a 15-day supply. He wondered if discrepancies such
114 as that would lead to veterinarians being falsely reported to Investigations. If the PDMP
115 software is the initial source of reporting any potential violations, practitioners could be falsely
116 accused of violations.

117 Chair Holt explained that when pharmacists and pharmacies submit a prescription, the length of
118 the prescription is based on the directions given by the practitioner. If the directions say to give
119 “x” amount every four hours and there is not a maximum, softwares automatically compute the
120 length of time the supply will last even if the intention of the prescription was only for three
121 days. This is to ensure that pharmacies are compliant with the false claims act. Insurance
122 companies interpret prescription billing by the number of days in the supply of the prescription.
123 That’s the “why” behind the 15-day supply. If the practitioner puts on any prescription that the
124 day supply equals three, etc., that is what the pharmacy will bill the prescription as. Chair Holt
125 said that perhaps that question can be better answered when PDMP staff joins the meeting.

126 Chair Holt went on to say that part of the hesitancy to spend a whole lot of time, money and
127 effort trying to figure out specifics with Appriss is due to the fact that their contract with the
128 State ends in September. It may be that, after that time, the State will choose a different PDMP
129 vendor.

130 Dr. Flamme inquired as to how entering in the Nation Drug Code (NDC) number works in
131 AWARxE for compounded drugs. This information is mandated to be entered by Sec.
132 17.30.200(b)(5). This could not be answered during the meeting; however, EA Carrillo followed
133 up with Appriss after the meeting. Appriss responded that, once the compound box next to the
134 NDC field is selected, the prescriber will be able to add multiple NDCs –one for each of the
135 controlled substances contained within the compound.

136 Dr. Flamme also inquired as to how prescription numbers (Rx number) are supposed to be
137 generated. While this field of information is not mandated by statute, it is required by Appriss.
138 Some prescribing software may generate a Rx number, but how might practitioners using paper
139 records go about creating that number for their prescriptions? Are dummy numbers acceptable?
140 After the meeting, Appriss responded by saying Rx numbers must be required as they use that
141 information to ensure that a prescription is not a duplicate; however, there are no requirements as
142 to what the Rx number needs to be. Their recommendation is that veterinarians use an Rx
143 number that contains the date the record was submitted. This would assist prescribers in
144 referencing historical prescriptions, if need be. For example, if a prescriber submitted several
145 prescriptions on the day this meeting took place, the RX numbers could be [YYYYMMDD#]
146 2020070701, 2020070702, 2020070703, etc.

147 During previous meetings, the board told EA Carrillo that they would prefer to hear information
148 reported that includes the most commonly prescribed controlled substances by veterinarians. EA
149 Carrillo came prepared and stated that the top three prescriptions prescribed by veterinarians
150 over the past two quarters are phenobarbital, tramadol HCl and Hydrocodone bitartrate. She also
151 reported that there are 17 new registrations since January, which is a 1,600% increase from the
152 same time period last year; however, login and review rates continue to decline.

153 Dr. Bergartt said the conversation is obvious, to her and the licensees listening and the other
154 board members, that beginning investigations before there is (a) an educational video,
155 (b) regulations, (c) specific wording to guide licensees, and (d) all the answers to questions
156 licensees have, logically does not make sense. There is something wrong with proceeding with

157 investigations before the board has had a chance, in earnest, to provide information and allow
158 licensees to come into compliance. Dr. Bergartt wanted to know what the board can do to
159 continue to move forward to help licensees come into compliance without the significant
160 expenditure and significant amount of stress and anxiety for practitioners who are being
161 investigated.

162 Harriet Dinegar-Milks, an attorney with Department of Law, responded that it is important to
163 know the nature of the errors. The board cannot know that information until the investigation
164 proceeds a little bit. Complaints have been filed. It is known for a fact that there have been
165 failures to register, failures to make the required query before dispensing—those are things that
166 need to be investigated. It is difficult to assume that everything has to happen on a separate
167 track. At this point, the Investigations department has received information that errors are being
168 made. The Investigators are obligated, by law, to pursue those and find out the nature of the
169 complaint. The BOVE, as the regulatory entity, have the job of figuring out what to do with a
170 case once it is presented to them and to determine whether to discipline or not. At this point, the
171 investigations must go forward and proceed up to a certain point.

172 Ms. Dinegar-Milks went on to say, at the same time, this has been an important conversation to
173 have to understand that there has been insufficient, or unideal communication. There has been
174 no allegation of malfeasance, but mistakes have been made. This is going to have to be a
175 combination of educating licensees and allowing the investigations to go forward so that the
176 board has a complete picture of what the nature of the alleged failures are. At the same time, the
177 conversation should go forward with the BOP and Appriss. Maybe this is all something that will
178 result in a change of operating systems so that these errors are not so easily made in the future.
179 Sometimes these things have to move along on parallel tracks. It is a logical mistake to think
180 that investigations have to stop, and then figure out how to resolve the issues. Legally that
181 cannot happen. It is known that veterinarians who hold DEA numbers are required to register
182 with the PDMP and perform a query before prescribing or dispensing a scheduled II or III drug
183 under certain circumstances. This is all laid out in Sec. 17.30.200. We know that and we know
184 some veterinarians are failing to do those things. That’s just a fact. That information needs to be
185 communicated to those individuals, but that can’t happen until the investigations are allowed to
186 proceed to a certain point.

187 CI Francois chimed in to explain about the investigative process. He said he understands the
188 concern of the board having “unlimited” investigations. There have been a few cases in the past
189 that took place over an extended period of time for one reason or another. The investigator’s
190 paramount concern, with any case that is the due process rights of any licensees they are
191 investigating. The information about a potential violation is sent from the PDMP staff to the
192 OLE of the respective board. The OLE then prepares a report to send to Investigations. Each
193 referred case is assigned a case number with the name of the licensee and the potential violation
194 attached. Once Investigations receives a referral, the investigator has to gather all the facts
195 regarding the potential violation –during the complaint phase –in order for a licensed board
196 member to make a clear and objective review to determine whether there was a violation or not.
197 The only way this can be done is to subpoena the PDMP (as required by Sec. 17.30.200(d)(1)) to

198 find out what caused the potential violation in accordance with the law. Prescribing records may
199 have to be obtained, interviews may have to be conducted, the respondent will be notified that a
200 complaint has been filed to let them know what is going on. The respondent is offered the
201 opportunity to provide a letter of explanation. The board is the final adjudicatory body that
202 decides whether a disciplinary action is handed down. The board has to determine if there was
203 or was not a violation. The law is clear on this matter that if a practitioner does not register,
204 perform a query, or report a dispensation, it is a violation. This has been going on since 2017.

205 If the professional license holding board member decided to issue a letter of advisement, the
206 letter will be sent to the respondent and the case will be closed. The information will then be
207 presented to the board at their next meeting as a closed PDMP violation. A letter of advisement
208 does not go into the licensee's file. It is a confidential memorandum between the board member
209 and the licensee. Alternately, the board member could recommend the imposition of a civil fine,
210 or to enter into a consent agreement with the respondent. The licensee has the due process right
211 to appeal any disciplinary action. A case could, potentially, go all the way to the Alaska
212 Supreme Court, which is why investigators have to be extremely careful in the beginning. The
213 end of the case needs to be considered at the beginning of the case. The board members must be
214 kept objective so the board is able to render objective opinion.

215 Dr. Bergartt asked Ms. Dinegar-Milks to weigh in on something CI Francois stated earlier in his
216 explanation of the investigative process—that cases referred to OLEs will only be reported in
217 accordance with the wishes of the board. Could that potentially be used as a way to prevent
218 investigative cases from moving forward or temporarily suspend cases, if it is the will of the
219 board, until more information is gathered from Appriss and that information is disseminated to
220 licensees?

221 Ms. Dinegar-Milks responded that the chances for that to work in a way that would suspend
222 investigations is very limited because of the language in statute and regulation that requires
223 practitioners to register and perform queries. She said that she cannot advise the board to tell
224 investigations or the OLE to not pursue any reported violations of failure to comply with the
225 statutes. The statute is not discretionary. It is mandatory. Practitioners are required to do these
226 things. It is not so simple as the board saying they need to work things out with Appriss, so they
227 are going to suspend pursuit of these things. She said she doesn't know of any process where
228 that kind of mandatory language can be suspended. Ms. Dinegar-Milks said that she would
229 continue to think about it and look into it to see if there is a way that something can be done, but
230 she could not be any more optimistic because of the language of the statute.

231 Ms. Dinegar-Milks went on to say that she had some updates for the board based on the
232 conversation she had with Chair Bergartt the previous day. HIPAA does not apply to
233 veterinarians. Dr. Bergartt expressed concern that there was a number of licensees who were
234 wondering what they needed to know to be HIPAA compliant and what they needed to
235 understand about HIPAA. Veterinarians have no responsibilities under HIPAA because they are
236 not covered entities under that statute. She went on to recommend that the board consider the
237 regulations from the Board of Nursing regarding PDMP requirements when drafting their own
238 regulations. She specifically cited 12 AAC 44.455(g). The language of that regulation is similar

239 to the language proposed by Dr. Bergartt, but she may want to consider using the nursing
240 regulation as a model.

241 Ms. Dinegar-Milks went on to address a concern that Chair Bergartt had about not being able to
242 define “veterinary medical facility” through regulation. To clarify, the board does have the
243 authority to define veterinary medical facility, but since they do not have authority to regulate
244 facilities, the board cannot mandate, through regulation, how a veterinary medical facility must
245 be operated. The issue with the previous proposed regulation is that the board was trying to
246 regulate who the manager of a veterinary medical facility must be, which they do not have the
247 authority to do. She advised the board to not stray too far from the common definition if they
248 decide to pursue definitions in regulations.

249 Lastly, Ms. Dinegar-Milks responded to Dr. Bergartt’s inquiry into the possibility of proxy
250 voting. She said a big part of voting, as part of any regulatory board, is participating in the
251 deliberation. A board member may have everything worked out in their own mind, but it’s
252 amazing how one’s perspective may change while participating in a very dynamic discussion.
253 Department of Law continues to feel, in order for a board member to participate in voting, it’s
254 best they be present at the meeting and be a part of the deliberation. If a board member is not
255 able to be present for a scheduled meeting and feels they must have their voice heard, the advice
256 from Department of Law would be to change the date or the time of the meeting. A board
257 member is certainly able to submit a written statement to be read on the record to make their
258 position known, but it cannot substitute for a vote.

259 After Ms. Dinegar-Milks left the meeting, Dr. Bergartt questioned Dr. Holt about the issues of
260 subpoenas. The BOVE had been previously told that, since the PDMP is housed under the
261 authority of the BOP, future subpoenas may be reviewed and approved by that board. Dr. Holt
262 explained that the disciplinary actions are handed down by respective boards. The BOP cannot
263 discipline a veterinarian. Statute says that the BOP is responsible for maintaining the PDMP’s
264 confidentiality and security. Even as a licensed pharmacist and board member, Dr. Holt cannot
265 access the database to pull out records. Subpoenas must be issued for investigators to access the
266 PDMP database.

267 CI Francois stepped in to clarify that under Sec. 08.01.087, the Commissioner has the authority
268 to issue subpoenas to further determine if there is a violation of statutes and regulation under
269 Title 8. In this, investigators will determine if there is a violation that they will need records for.
270 At that point in time the licensing board will be polled whether they object or approve the
271 issuance of a subpoena and the investigator will sign an affidavit that this happened. The
272 subpoena will return to the Chief Investigator who has the authority of the Director and
273 Commissioner to sign the subpoena, and the subpoena will be issued to the PDMP –if there is no
274 objection to the issuance of the subpoena. He went on to explain that he is in discussion with
275 Department of Law to figure out what steps may be required if a board rejects a subpoena. He
276 wants to ensure that the Division is acting in the proper ways. The BOVE is not giving up any
277 authority by rejecting subpoenas, but it may lead to the BOP being polled about subpoenas. He
278 reiterated that he is in discussion with Department of Law to ensure that the Division is correct

279 or to see if there are any issues to be resolved. He wants to ensure that everything is handled
280 legally and responsibly.

281 EA Carrillo inquired as to the goal or purpose to reject a subpoena from being issued. Dr.
282 Bergartt responded that she feels very strongly that until the board, in conjunction with the
283 State, provides clear, concise, practical guidance to licensees, investigating someone before they
284 even have a chance to understand what the rules are, is a waste of resources. It's damaging to
285 the profession. It's damaging to Alaska as being a welcoming place to be a professional.

286 EA Carrillo said she wants to make sure the PDMP staff is doing their best to support the boards
287 who in turn support the licensees to come into compliance. She is confused as to what the
288 BOVE's needs are and what the PDMP staff has not addressed. Given the advice that
289 Department of Law has given and the clarification that just a few fields are required to search
290 that database, what additional information is needed from PDMP staff in order for the BOVE to
291 help their licensees? At the last meeting, one barrier that was pointed out by the BOVE was that
292 they were not aware of the controlled substances being prescribed. That information was
293 reported back to the board earlier in this meeting. Only scheduled II and III drugs need to have a
294 query performed before prescribing. PDMP staff is happy to supply the board with any
295 information they require in order to inform their licensees, staff just needs to be made aware of
296 the needs of the board.

297 Dr. Bergartt said the mandate to register is very clear. She has no moral or ethical turmoil over
298 reaching out to practitioners who have failed to register. Her main concern is investigating
299 practitioners for failure to query because the board is still learning how to define "patient" as it
300 applies to veterinary medicine in regard to the PDMP. It is actually the client that needs to be
301 queried. The querying question still needs to be answered for licensees because it is not the
302 patient, but the client that is to be queried. Without that guidance to the licensees, those
303 individuals are being unduly penalized as well as wasting financial and time resources.

304 Dr. Geiger said he was only very recently made aware that there is a form for practitioners to fill
305 out and submit if they are unable to make electronic submissions due to lack of reliable internet.
306 (The Request for Paper Submission of Data to the PDMP (form 08-4591) has been available
307 since 2014 and is available on the PDMP webpage under the PDMP Records Request Forms
308 section of the [Applications & Forms](#) webpage.)

309 Dr. Bergartt reiterated that investigating licensees before information and resources are widely
310 available is premature and highly inappropriate.

311 RLS Derr said that she wanted to clarify something on the record on behalf of the State. Board
312 members keep using the turn of phrase "putting the cart before the horse." The PDMP went into
313 effect three years ago in July of 2017. The "horse" was put in place in 2017. The board has
314 been receiving the same level of non-compliance reports for at least the last two years. As of this
315 point, veterinarian licensees have been given a grace-period of three years to come into
316 compliance. It was not until licensees started being reported to Investigations that the board
317 decided to take action. The time to be proactive about the PDMP has well passed. The Division
318 has provided all of the resources that the board has requested in order to put together the

319 resources and draft regulation. The board members are the best individuals to accomplish this
320 task. It has come to the point that everything needs to move forward. It is understandable that
321 there is frustration towards the inelegance of the process, but there have been so many steps
322 back, there is nowhere else to go but forward.

323 EA Carrillo called attention to the fact that, in existing veterinary regulations, a veterinary
324 prescription is issued to the owner (12 AAC 68.900). Staff have provided as much guidance to
325 the board as possible, and will continue to, but establishing how to define an owner or client now
326 falls to the BOVE. That is not something that the BOP or the Division can do on behalf of the
327 BOVE because those terms are under veterinary regulations. Having been involved in this
328 discussion for several years and hearing the same themes come up repeatedly, how to define an
329 owner seems to be a major sticking point. (“Client” is already defined in veterinary regulations
330 under 12 AAC 68.990.) During a previous conversation, Dr. Flamme informed her that many
331 veterinary practices already require photo identification of the owner. Perhaps some language
332 could be included in regulation regarding that. If an animal has multiple owners, perhaps that is
333 something the board could require, is mandating that veterinarians review multiple individuals if
334 necessary.

335 Dr. Bergartt rebutted that, while she understands where staff is coming from and she doesn’t
336 want to go down the same roads the board has already been down, the fact is that the BOVE, in
337 conjunction with the State, have not been able to effectively educate licensees. Training videos
338 for veterinarians have just been created. She went on to say that while the “horse” may have
339 been in place since 2017, the board has been struggling with educational materials without any
340 additional legislative appropriations, grant money, etc., and the board is just now receiving
341 educational tools. She acknowledged that the board has not advised licensees appropriately.
342 Pursuing investigations without appropriate advice to licensees is something that she and other
343 board members are struggling with. Investigations without clarity is a disservice to the
344 profession and the State of Alaska.

345 Dr. Bergartt said the board members are all well aware of how long regulations projects take.
346 This is not something that can be solved overnight. Licensees are not going to be notified until
347 the regulations project is complete. That is a major issue.

348 EA Carrillo pointed out that advice was given to the BOVE by Department of Law back in 2018,
349 that, for the purpose of reviewing the PDMP, it is the owner’s information that must be
350 reviewed. It has to be the owner that is reviewed because an animal cannot divert the
351 medication. To move forward, the BOVE needs to start advising their licensees. The Division is
352 happy to help in any way the board needs. Notices can be sent out through the PDMP
353 announcement feature, interested parties can be notified through a Listserv, etc. There is already
354 great information available that can start being disseminated to licensees. Once the board is
355 ready to do that, they will receive the help they need from staff.

356 OLE Lund stated that, in accordance with advice Dr. Bergartt received from Department of
357 Law, the board is encouraged to issue a policy statement for licensees to educate them on PDMP

358 related issues while the regulations are in process. That will ensure the information gets out to
359 affected licensees in a timelier manner.

360 EA Carrillo stressed that licensees can come into compliance with reviewing if they are given
361 guidance from their board on how to do that. There are veterinarians who are reviewing and
362 reporting and having no issues with the PDMP. If the board feels it will be helpful, those
363 individuals can be contacted to receive their feedback. Perhaps they could present a picture to
364 their fellow licensees on how their interaction with the database is working.

365 In accordance with the provisions of Alaska Statute 44.62.310(c)(3), the board entered into
366 executive session for the purpose of discussing matters which by law, municipal charter, or
367 ordinance are required to be confidential to review a video created by Appriss to assist
368 veterinarians in utilizing the PDMP.

369 *Off record: 11:40*

370 *On record: 11:53*

371

372 **Agenda Item 4** **Health Mandate 15** **Time 11:53 a.m.**

373 Health Mandate 15 is still in place. The Governor had proposed the idea of rescinding the
374 mandate and moving towards board issued guidance, but that had not happened as of the time of
375 this meeting. As health care professionals, veterinarians are required to follow the mandate.
376 They are also encouraged to follow the additional guidance issued by the board that is available
377 on the board webpage.

378

379 **Agenda Item 5** **Lunch** **Time 12:00 p.m.**

380 *Off record: 12:00 p.m.*

381 *On record: 1:02 p.m.*

382 **Agenda Item 6** **Regulations** **Time 1:02 p.m.**

383 Board members reviewed all of the public comments received on proposed regulations before the
384 meeting. Dr. Geiger stated that he is opposed to making changes to the proposed VCPR
385 regulation. He noted that having a less stringent regulation does not necessarily completely do
386 away with the requirement that an in-person physical examination of the animal take place but,
387 especially for extremely remote rural communities, leaves the decision as to what a timely visit
388 may be up to the discretion of the veterinarian. As the public member of the board, he felt
389 compelled to speak on behalf of the individuals who may not have known that the regulation was
390 proposed, but the adoption of the regulation would affect the most –the residents of the rural
391 communities. In Alaska, it is important to delegate the decision of when a physical exam is
392 absolutely necessary –or for practical, pragmatic reasons it is not possible –up to the local
393 veterinarian who is potentially entering in to the agreement with the client.

394 Dr. Albert said that she agrees with the statements relayed by Dr. Donlin, the Executive Vice
395 President of the AVMA, and the vast majority of veterinarians that made oral and written
396 comments. A major concern is the suggestion in the proposal to bypass/replace the physical
397 exam of animals/premises to create a VCPR, which the US FDA clearly states is required in CFR
398 Title 21 A530.3, the VFD and FARAD. Dropping the physical exam not only directly conflicts
399 with these federal requirements, it lowers the standard of veterinary care provided in the state.
400 This was pointed out in the comments of Dr. Phil Meyer, a vet experienced in remote Alaskan
401 practice. The VCPR federal guidelines override any state regulations that do not meet the federal
402 standard. To remove confusion for practicing vets, creating a VCPR in agreement with these
403 guidelines is ideal. The AVMA compliant VCPR could be written with amendments to allow for
404 care for kennels and pets off the road system specifically, where a veterinarian may not be able
405 to examine the animal in person to create the VCPR. Animal related businesses of any sort
406 should be able to manage a yearly exam to comply with VCPR requirements.

407 Dr. Bergartt appreciates the spirit of leaving the decision up to the practitioner; however, if the
408 board were to say that a VCPR is required and can only be established by a physical exam, how
409 many veterinarians would the board be putting in a bad spot? Those veterinarians who regularly
410 work with folks off the road system are going to receive phone calls and are going to want to do
411 something. Is the board going to be telling those veterinarians that they can't do anything
412 without a physical exam? Or, is there some way that the board can carve out provisions for
413 certain scenarios? She has not found an elegant solution to address these issues. The board
414 needs to be mindful to not do a disservice to people in rural areas as well as be mindful to not put
415 veterinarians in a position where they will, essentially, be having to choose whether or not to
416 treat patients or violate regulations.

417 Dr. Flamme said that, as a practitioner in Fairbanks, he gets a lot of clients that drive down from
418 Kaktovik and other rural communities. Some of the clients are not able to make it to the city in
419 time to help their animals. Looking at Tennessee's VCPR regulations, they require an exam at
420 least within the last 12 months. Dr. Flamme does not think that is unreasonable. There has to be
421 a timeframe within which the veterinarian is required to examine the animal. There are a lot
422 more things that can go wrong in veterinary telemedicine versus human telemedicine.
423 Veterinarians are also stewards of using antibiotics properly. He recommended redrafting the
424 regulations using Tennessee and Texas regulations to come up with a hybrid that will work for
425 Alaska.

426 Dr. Bergartt read a written statement from Dr. Michetti regarding the VCPR regulation. After
427 reviewing the public comment, Dr. Michetti recommended adopting the language submitted by
428 the AVMA or redrafting the regulation to be more concise and defined that would be acceptable
429 at the federal level.

430 **On a motion duly made by Denise Albert, seconded by Hal Geiger and with unanimous**
431 **approval it was:**

432 **RESOLVED to ADOPT 12 AAC 68.015(c), 12 AAC 68.045(a)(3), and 12 AAC**
433 **68.046(a)(3) as written.**

434 **On a motion duly made by Hal Geiger and seconded by Denise Albert it was:**

435 **RESOLVED to ADOPT 12 AAC 68.075 regarding VCPR as written.**

Board Member	Yes	No	Absent
Rachel Bergartt		x	
Hal Geiger	x		
Chris Michetti			x
Scott Flamme		x	
Denise Albert		x	

436

437 **On a motion duly made by Hal Geiger, seconded by Scott Flamme, and with unanimous**
438 **approval it was:**

439 **RESOLVED to WITHDRAW 12 AAC 68.075 and 12 AAC 68.990 from the**
440 **current regulations project.**

441

442 Dr. Bergartt split the board into working groups to work on drafting regulations outside of a
443 regularly scheduled meeting.

444 VCPR regulation: Dr. Albert and Dr. Geiger

445 PDMP regulations: Dr. Bergartt and Dr. Flamme

446 OLE Lund recommended that the board update the language of 12 AAC 68.010 and 12 AAC
447 68.315 in their next regulations project. Due to constrictive limitations within these regulations,
448 veterinary students will not be allowed to apply to sit for the VTNE of the NAVLE through this
449 jurisdiction in a timely manner due to the national associations who administer those exams
450 adjusting the testing windows to try and accommodate test-takers during the time of COVID.

451 Dr. Bergartt said she would work with OLE Lund to draft proposed changes to the regulations.

452

453 **Agenda Item 7**

Public Comment

Time 2:30 p.m.

454 **Dr. Sarah Coburn of the AKVMA-** Based upon the unknowns of COVID-19 and the CE
455 requirements being waived, the AKVMA has decided to cancel their annual CE symposium for
456 this fall. The next CE symposium will be scheduled for October 8-10, 2021 at the downtown
457 Sheraton in Anchorage.

458 Communication with licensees came up a lot during this meeting. She had been following the
459 BOVE webpage and has found it difficult to find information, even though she knows what she
460 is looking for. There may be some more opportunities, as the board is looking to get more
461 information out to the public and licensees to do some formatting and get things up in the
462 webpage in a timely manner to encourage licensees and the public to utilize that webpage more.
463 There is a lot of information there but it is difficult to navigate. If one is not visiting that website

464 with some regularity, it may be difficult to even find what one is looking for. In addition, the
465 BOVE might be able to coordinate with the State Veterinarian's office or the AKVMA, using
466 their Listserv, to help disseminate information.

467 She appreciates the BOVE's efforts to help clarify some of the issues regarding PMDP. She
468 agrees that the investigations "cart" is ahead of the outreach and education "horse." There has
469 been a flow of information about the PDMP. Outreach and education will go farther and be
470 cheaper than pursuing investigations.

471

472 The board scheduled their next full meeting for October 27, 2020.

473

474 Chair Bergartt adjourned the meeting at 2:46 p.m.

475

476 **Respectfully Submitted,**

477

478

479

Ilsa Lund

11/10/2020

480 **Ilsa Lund, Licensing Examiner**

Date

481

482

483

484

Rachel K Bergartt

11/10/2020

485 **Rachel Bergartt, DVM**

486 **Board Chair, Board of Veterinary Examiners** **Date**

487

488