



Veterinary Regulation News

Preparing for the Future

by Robyn Kendrick, Executive Director

2013 Highlights

- Increased membership from 57 to 58 jurisdictions
- Delegates from 46 jurisdictions (an all-time high) were represented at the 2013 Annual Meeting & Conference
- Completed the 2nd Annual Member Board Profile Survey
- VIVA transferred over 5,600 national exam scores for Veterinarians and veterinary technicians
- More than 1,560 RACE programs representing nearly 30,000 hours of CE were approved as well as 156 providers
- With the addition of North Carolina in 2013, 39 jurisdictions now accept PAVE
- 2,000 PAVE certified veterinarians are practicing in the U.S., Puerto Rico & the U.S. Virgin Islands
- A new exam blueprint has been created for the VTNE

The last few years have been challenging for many organizations, but for the AAVSB they have been among some of the most successful and satisfying in our history. We have increased awareness of the AAVSB's mission, expanded Member Board participation and continuously improved the quality of our programs all while optimizing organizational performance and sustainability.

Given the AAVSB's prestigious history and significant accomplishments, one could imagine it being challenging to chart a course for the next few years. But as the Board of Directors embarks upon a strategic planning refresh in 2014, we have been charged with ensuring that the AAVSB continues to provide quality resources for our Member Boards and continues to focus on the AAVSB's core mission and vision.

This means balancing all of those elements that have been essential to making our organization exceptional, while anticipating those which the future will demand in order to sustain that level of excellence and achieve even greater heights. Back in 2007, we created our first strategic plan of the 21st century. Since then, each plan that followed was informed by, and built upon, the foundations laid by its predecessor.



Robyn Kendrick, Executive Director

Now is the perfect time to imagine our future and find ways to grow and become stronger.

Our refreshed strategic vision will be completed in early 2014 and will be the blueprint for moving the association forward. It will provide a multi-year direction and focus that will build upon current programming and resource development.

As we look to the future, we do so with the intent of building a stronger, more profound community. We approach this work knowing that our success is dependent upon gathering long time supporters and new partners alike who wish to help build our future.

As always we welcome your input and look forward to working with you in the coming year. We wish you a happy and safe New Year!

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The Legal Corner *with Dale Atkinson*

Six Minus Four = Six Thousand

Boards of veterinary medicine are created and empowered to protect the public by regulating the profession through the enforcement of the practice act. As is evident to regulators of all professions, the resources are limited and boards must make difficult choices prioritizing how such limited resources will be expended. Administrative prosecutions and appeals thereof can create difficult decisions, in part driven by financial considerations. One hopes that important prosecutorial decisions do not depend solely on the resource issue. Further, it is imperative that significant board public protection determinations are not ignored merely for ease of disposal of the particular matter.

With that said, boards of veterinary medicine cannot always control the actions of the accused/respondent. Indeed, more licensees are engaging legal counsel to protect their interests and the investment in a license and professional practice. Counsel for a respondent can provide efficient guidance in effectively identifying the issues and assist in reasonable resolution. Counsel, at times, may also become an impediment to an efficient resolution. In the end, both prosecution and defense must make judgment calls on the pursuit and resolution of any particular case. Prosecutions and appeals can take years to resolve. Consider the following.

In May 2006, a complaint was filed against a veterinarian (Licensee) in Arkansas. The complaint alleged substandard care related to veterinary services provided to a dog. After a hearing in January 2007, the Arkansas Veterinary Medical Examining Board (Board) found the Licensee to have violated six regulations and suspended his license for a minimum of six months. The Licensee appealed this decision

and the Circuit Court upheld four but reversed two of the Board findings of violations. The Circuit Court upheld the six-month suspension. That decision was appealed to the Court of Appeals that held that two of the violations (relating to recordkeeping and aiding and abetting the unlicensed practice) were indeed supported by substantial evidence, but reversed the remaining violations as not supported by the evidence. The court remanded the matter back to the Board to determine the appropriate sanctions. (*Zepecki v. Arkansas Veterinary Medical Examining Board*, 2010 Ark. App. 187, 375 S.W. 3d 41).

On remand, the Board scheduled a hearing for December 2010 but the proceedings were continued multiple times based upon requests from the Licensee. Finally, in November 2011 a hearing was held over the objection of the Licensee. At such hearing the Licensee again asked for a continuance due to illness of his counsel. This request was denied by the Board and the hearing proceeded with the Licensee unrepresented by counsel. At the conclusion of the hearing, the Board determined a two-month suspension was warranted and also imposed a \$3,000 civil penalty for each of the two violations totaling \$6,000. The Licensee appealed the matter and the Circuit Court upheld the two-month suspension, but reduced one of the civil penalties to \$1,500, thus reducing the total fine to \$4,500. Both parties appealed to the Court of Appeals with the Licensee arguing first that the penalties were arbitrary and capricious and second that the failure to continue the hearing violated his due process rights. On its appeal, the Board argued that the reduction of the civil penalty was in error.

Licensee first argued that nothing in the record indicated that his conduct was in willful violation of the

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Six Minus Four = Six Thousand (cont'd from page 2)

law and that there was no harm to the animal caused by his treatment. He further argued that the initial sanction imposed in the first case did not include any civil penalty nor continuing education requirement. Because the latest findings reduced the number of violations from six to two, the Licensee argued that the increase in the sanctions to include a civil penalty and continuing education was arbitrary and capricious.

First, the court noted “there is no requirement that a veterinarian act willfully or that an animal be injured in order for there to be a violation of the rules governing the practice of veterinary medicine.” But, the court held that there is some evidence that the Licensee’s actions were willful. In fact, the record reflects that the Licensee willfully procured the services of a chiropractor to perform chiropractic treatment on the complainant’s dog without immediate supervision by a veterinarian as required by law.

Citing a previous pharmacy case, the Licensee argued for leniency based upon his non-willful actions defense. The court rejected this argument distinguishing the pharmacy case as such case was an attempt to permanently bar a person from practicing a profession. To permanently bar licensure requires clear evidence that the licensee “embarked on a calculated course.” In the current case, the Licensee was only removed from practice for a two-month period. Examining the totality of the evidence, the court held that the sanctions imposed by the Board were not arbitrary and capricious in spite of the additional sanctions imposed.

Turning its attention to the due process argument, the court cited the fact that the Licensee has the burden to show that the Board abused its discretion and that he was prejudiced to the point of a “denial of justice.” The court reviewed the facts of the case that included numerous continuances at the behest of the Licensee

and, at the last continuance, the Licensee stated that if his attorney did not show up at the November 2011 hearing he would “be here without one” and would “represent himself.” Under these circumstances, the court found that a denial of this continuance was not an abuse of discretion. Further, the court held that the Licensee failed to show that he was prejudiced by the denial of the continuance.

Finally, the court examined the cross appeal of the Board that argued the reduction of the civil penalty by the lower court was made in error. The court agreed with the Board that the \$3,000 penalties for each violation was not arbitrary and capricious and, thus would be reinstated. Accordingly, the court upheld the two-month suspension and reinstated the \$6,000 civil penalty.

This case involved several years of litigation and multiple appeals and remands. It presents an example of how disciplinary actions can be time consuming and costly. However, the Board elected to pursue this matter and was successful, solidifying its legal position and creating jurisprudence that will be beneficial to public protection and to all licensing boards.

Zepecki v. Arkansas Veterinary Medical Examining Board, 2013 Ark. App. 697, 2013 Ark. App. LEXIS 721 (App. Ct. AR 2013)

Boards can solidify legal position & create jurisprudence beneficial to public protection & all licensure boards.

Mr. Dale Atkinson
Atkinson & Atkinson
1466 Techny Road
Northbrook, IL 60062
1-847-714-0070
Dale@atkinsonfirm.com



2013 ANNUAL MEETING & CONFERENCE RECAP

SEPTEMBER 19-21, 2013 ~ KANSAS CITY, MO

The 2013 Annual Meeting and Conference was held in the AAVSB's hometown – Kansas City, Missouri. Attendance was at all-time high with 149 participants including 27 first-timers. There were 46 voting delegates, which included 37 funded delegates. Attendees and guests enjoyed networking at The American Jazz Museum located in Kansas City's historic jazz district. The meeting commenced Friday morning when Anne Duffy, RVT, AAVSB President welcomed everybody and introduced the AAVSB Board of Directors. The slate of Board of Directors candidates was presented to the delegates and elections were held during the Saturday morning business session (see election results on pg 5). The AAVSB staff and Committee chairs reported on the year's activities and educational sessions addressed topics relevant to veterinary regulation. Ms. Duffy presided over the meeting and on Saturday afternoon, during the closing ceremony, installed the newly elected officers. President-Elect Dr. Beckey Malphus then assumed the new role of the AAVSB President.



The Hilton President Hotel

Thank you for all of the effort put forth by the attendees, committee members and the AAVSB Board of Directors to make the conference a major success. The 2013 Annual Meeting and Conference summary and presentation slides are posted on the AAVSB website. You may access them through your MyAAVSB account. Please contact Chrissy Bagby at cbagby@aavsb.org to set up an account.

We are eager to welcome you to coastal St. Petersburg, Florida in 2014!



Record attendance for the Networking Event at the American Jazz Museum & Negro Leagues Baseball Museum



Dr. John Lawrence, AAVSB President-Elect chats with attendees



Lobby of the Hilton President Hotel



AAVSB Delegate Assembly



2013-2014 AAVSB Board of Directors

THANK YOU TO ALL OF OUR MEMBERSHIP, VOLUNTEERS, AND STAFF!

2013 ELECTION & VOTING RESULTS

AAVSB Board of Directors:

President-Elect: John Lawrence, DVM (MN)
Director: Mark Olson, DVM (KS)
Director: Roger Redman, DVM (OH)
A complete list of the 2013-2014 AAVSB Board of Directors is located on the back of this newsletter.

AAVSB Representatives to NBVME:

Bruce Louderback, DVM (CO)
The other AAVSB representatives to the NBVME include Jon Betts, DVM, Joyceanne Fick (ID) and Jay Hedrick, DVM (KS)

2014 Nominating Committee:

Joni Edwards, DVM (CO)
Nicole Oria (TX)

2013 AAVSB Voting Results:

Proposed Amendment #1: The amendment proposes modifying the qualification of a candidate to the Board of Directors to having the support of the Member Board on which they previously served.

Not Passed

Proposed Amendment #2: The amendment proposes that Directors ceasing to meet eligibility criteria may be eligible to serve up to two (2) additional terms on the Board of Directors.

Not Passed

Do you have a MyAAVSB account?

Having an account will give both administrators and board members of Member Boards access to exclusive members only content, forums and also allow you to upload license updates and disciplinary final action.

If you don't have an account, contact Chrissy Bagby at cbagby@aavsb.org or call 1-877-698-8482.



WE'RE HEADING TO ST. PETERSBURG... SAVE THE DATE!

It's not too early to start planning for next year. The 2014 AAVSB Annual Meeting & Conference will be held in St. Petersburg, Florida on September 11-13. The location is the Vinoy Renaissance St. Petersburg Resort & Golf Club. Watch the AAVSB website, our Facebook page, and Twitter updates for more details.

We will see you in September!

Meet AAVSB's President of the Board of Directors



Dr. Beckey Malphus, DVM, moved from her position as President-Elect into the President position and will serve a one-year term in this role. Dr. Malphus joined the AAVSB Board as a Director in 2008 and has served on the Practice Act Model Taskforce, Conference Committee and the PAVE Committee.

With over 19 years of practice experience, Dr. Malphus is co-owner of a clinic in Thomasville, Georgia specializing in small animal practice. She also conducts herd work at several local farms. Since 1999, she has completed and qualified for the Master National AKC hunt test/retriever trials. Dr. Malphus has a special interest in soft tissue and orthopedic surgery, geriatrics, oncology and reproduction.

A member and former President of the Georgia State Board of Veterinary Medicine since 2005, she is currently licensed in good standing in Georgia and Florida. Dr. Malphus is also an active member of her Thomasville, Georgia community serving on the Thomasville-Thomas County Humane Society, the Plantation Wildlife Arts Festival Committee and the Tallahassee Hunting Retriever Club.

In 2010, Dr. Malphus won the Georgia Veterinary Medical Association, Veterinarian of the Year award.

AAVSB Welcomes Newest Board of Directors Members



Dr. Mark R. Olson received his Bachelor of Science degree and DVM from Kansas State University after graduating from Decatur Community High School.

Dr. Olson is member of the Kansas Veterinary Medical Association, and has served as Northwest District Trustee for four years. He served as President of the Kansas Board of Veterinary Examiners (KSBVE) for two years prior to moving to Vice President to serve on a Kansas legislative task force to determine if the KSBVE should be a merged agency with the Kansas Department of Agriculture.

Dr. Olson enjoys spending time with his wife, Barbara, going to Kansas State football and basketball games, golfing, and serving as an elder at Christ Community Church.

Dr. Roger Redman received his Bachelor of Science degree and DVM from OSU after graduating from Triway High School. He has been the owner of the Ark since 1992 and has been an active member of a number of state and national veterinary boards, including appointments by Governors Taft and Kasich to the Ohio Veterinary Medical Licensing Board.



Dr. Roger Redman with his dog, Jazzy

Dr. Redman was born with veterinary medicine in his blood, as his father is a retired veterinarian from the Ohio Agricultural Research and Development Center. Dr. Redman has two children, Connor and Morgan and an adopted yellow lab, Jazzy. In addition to caring for animals, he loves water skiing, wakeboarding and fresh and salt water fishing. He has a passion for flying single engine aircraft and woodworking.

AAVSB Program Updates and Highlights



At the AAVSB Annual Meeting in September, the AAVSB Board of Directors announced the development of the new Qualifying Science Examination (QSE), Step 3 of the program. The QSE blueprint has been drafted and subject matter experts in the veterinary profession are being identified to substantiate the blueprint, the content areas, and the weights assigned to the content areas. After the QSE blueprint validation in early 2014, item writers will be identified to create questions for the exam. A web-based system will be used for question submission by the item writers and will be followed by an in-person workshop for writing and reviewing. First administration of the new QSE is scheduled for September 2014.

For more information, please contact Carol Sparrow at pave@aavsb.org or 1-877-698-8482, ext. 228; or Nancy Grittman, at ngrittman@aavsb.org or 1-877-698-8482, ext. 226



This year VIVA transferred over 5,600 national exam scores for veterinarians and veterinary technicians. Significant progress has been made on the VCET (VIVA Continuing Education Tracking) initiative which is developing a method to track and report CE for individual licensees to assist in the fulfillment of license renewal requirements. VCET will develop and maintain a repository for licensees to record completed CE programs. The licensee's record of completed CE programs will be entered through the MyAAVSB portal and be available to both licensees and AAVSB Member Boards for tracking, reporting, and auditing.

For more information, please contact Monika Whitmore, at viva@aavsb.org or 1-877-698-8482, ext. 231.



The RACE program has made strides with use of the online program, vastly improving communication between staff, consultants and RACE Committee members. The online procedure is creating efficiencies for the whole application process.

For more information, please contact Jess Klein at race@aavsb.org or 1-877-698-8482, ext. 224.



This year the VTNE saw a 16% growth in candidates from 6,000 in 2012 to over 7,000 in 2013. The program is gearing up for an even bigger year in 2014 with the addition of California candidates. More details will follow soon. This year also saw the release of a new VTNE blueprint with fewer questions for the July/August 2013 administration along with two new Practice Tests.

For more information, please contact Carol Sparrow at vettech@aavsb.org or 1-877-698-8482, ext. 228; or Nancy Grittman, at ngrittman@aavsb.org or 1-877-698-8482, ext. 226.

AAVSB Welcomes New Staff Members

Chrissy Bagby joins the AAVSB staff as Member Services Coordinator in December. She is responsible for the organization's marketing and outreach efforts, including the Annual Meeting and Conference and is the staff contact for the VIVA Task Force. Prior to joining the AAVSB, Chrissy held positions at DSK Solutions, American Association for Justice and Security Industry Association. Having graduated from Missouri State University, she holds a degree in Marketing Management. Chrissy enjoys archery, the theater and curling up with a good book.

Carol Sparrow joined the AAVSB staff in October as Program Assistant for the VTNE and PAVE Programs. She previously worked for Blue Valley High School, as a Special Education Paraprofessional. Carol provides assistance to VTNE candidates by processing applications and score transfers. She also assists veterinarians from foreign countries in navigating the process as they work toward PAVE certification. She enjoys baking, cooking, and trying out new recipes in Overland Park, Kansas with her family.



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380 W 22nd St, Suite 101
Kansas City, MO 64108
www.aavsb.org

AAVSB MISSION

To reliably provide quality resources and accurate information for veterinary regulatory agencies and professionals and allied groups in the interest of public protection.

AAVSB VISION

To inspire active participation of all veterinary regulatory agencies in North America and to be their collective voice.

AAVSB VALUES

Responsive, resourceful service while striving for continuous improvement.

AAVSB Board of Directors

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Georgia

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Executive Director

Robyn Kendrick

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