

BOARD OF VETERINARY EXAMINERS
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

Date: Wednesday, July 17, 2013

Time: 10:04 a.m.

Place: Queen Liliuokalani Conference Room
King Kalakaua Building, 1st Floor
335 Merchant Street
Honolulu, Hawaii 96813

Present: Elwood I. Kita, Vice-Chairperson
Alan Kaufman, D.V.M., Member
Wendy L. Mah, Member
Jenee Odani, D.V.M., Member
Michael O. Woltmon, D.V.M., Member
Mellissa Yuen, D.V.M., Member
Shari Wong, Deputy Attorney General ("DAG")
Lynn Bhanot, Executive Officer
Lori Nishimura, Secretary

Excused: John K. Kaya, D.V.M., Chairperson

Guests: None

Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Hawaii Revised Statutes ("HRS") section 92-7(b).

Call to Order: There being a quorum present, the meeting was called to order at 10:04 a.m. by Vice-Chairperson Kita.

Additions/
Revisions
to Agenda: Executive Officer Bhanot requested the following additions to the agenda:

Add:

4. APPLICATIONS

D. Restoration of License
1) FUNDAK, Brett L.

6. NEW BUSINESS

B. Ethics Advisory 2013-3

7. CORRESPONDENCE

B. 7/16/13 email from Jenee S. Odani, D.V.M.
Re: Mississippi State DVM student Hawaii visit –
shelter medicine

C. 7/16/13 email from Darcy Adin, D.V.M.
Re: Veterinary licensure question

After discussion, it was moved by Dr. Kaufman, seconded by Dr. Woltmon, and unanimously carried to approve the above additions to the agenda.

Approval of
Minutes of the
April 17, 2013
Board Meeting:

It was moved by Dr. Kaufman, seconded by Dr. Yuen, and unanimously carried to approve the minutes of the April 17, 2013 Board meeting as circulated.

Ms. Mah stepped out of the meeting at 10:07 a.m.

It was moved by Dr. Woltmon, seconded by Dr. Yuen, and unanimously carried to approve the executive session minutes of the April 17, 2013 Board meeting as circulated.

At 10:09 a.m., it was moved by Dr. Yuen, seconded by Dr. Odani, and unanimously carried for the Board to enter into Executive Session to consider and evaluate personal information relating to individuals applying for licensure in accordance with HRS section 92-5(a)(1), and to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities in accordance with HRS section 92-5(a)(4).

EXECUTIVE SESSION

At 10:15 a.m., it was moved by Dr. Odani, seconded by Dr. Kaufman, and unanimously carried for the Board to move out of Executive Session.

Applications:

A. Approval for State Board Examination

After discussion, it was moved by Dr. Kaufman, seconded by Dr. Woltmon, and unanimously carried to approve

Lori J. Maness for state board examination.

B. Ratification of Issued Temporary Permit

After discussion, it was moved by Dr. Woltmon, seconded by Dr. Yuen, and unanimously carried to ratify the following issued temporary permits:

- (1) AHANA, Bryce A.
- (2) CASEY, Christopher G.

C. Ratification of Issued License

After discussion, it was moved by Dr. Woltmon, seconded by Dr. Yuen, and unanimously carried to ratify the following issued licenses:

- (1) VOGEL, Peter L.
- (2) WHITE, Carrie R.

D. Restoration of License

After discussion, it was moved by Dr. Kaufman, seconded by Dr. Yuen, and unanimously carried to approve the restoration of the following license:

- (1) FUNDAK, Brett L.

Ms. Mah stepped back in the meeting at 10:29 a.m.

Old Business:

A. Follow-up with the Pharmacy Board Regarding Veterinary Products/Medications Guidelines

Executive Officer Bhanot stated that the Pharmacy Board has yet to discuss the veterinary products/medications guidelines, as she has been informed by the Pharmacy Board's Executive Officer that they are going through Board member changes, as well as committee member (re)assignments; and thus may need to defer discussion of this topic until the new members are educated and informed on this topic. Ms. Bhanot commented that the two Board's committees may be able to meet together in the near future.

New Business: A. RICO Veterinary Examiners Advisory Committee – Effective January 1, 2014

The Regulated Industries Complaints Office (“RICO”) provided to the Board for their review and approval, the RICO Veterinary Examiners Advisory Committee list – Effective January 1, 2014:

- Dr. Mark H. Caspers
- Dr. Manuel G. Himenes, Jr.
- Dr. Lissa W.G. Kam
- Dr. Roger K. Kehler
- Dr. Craig M. Nishimoto
- Dr. Herbert M. Richards III
- Dr. Suzanne Sylvester
- Dr. Lisa B. Wood

The Rico Veterinary Examiners Advisory Committee list also included “Addendum to RICO Veterinary Examiners Advisory Committee List” which states that “The RICO Veterinary Examiners Advisory Committee also includes any additional interim appointees that RICO deems necessary to aid in its investigations.”

After discussion, it was moved by Dr. Yuen, seconded by Dr. Odani, and unanimously carried to approve the RICO Veterinary Examiners Advisory Committee list and the Addendum language – Effective January 1, 2014.

B. Ethics Advisory 2013-03

Board members were provided a copy of the Ethics Advisory 2013-03, by the Hawaii State Ethics Commission. Executive Officer Bhanot provided a brief summary of this memorandum, which the Commission issued to inform applicable personnel “that the State Ethics Code requires a board member to resign as a member of the board when he decides to apply for a position that is hired, selected or approved by the board”.

Correspondence: A. Request for Board response to April 29, 2013 letter from the Hawaii Board of Pharmacy, regarding “Whether it is permissible for a pharmacy to pay veterinarians a percentage of reimbursement received for prescriptions for veterinary drugs”

Discussion ensued on an inquiry received from the Pharmacy Board concerning "kickbacks"; whether this Board has regulations that would allow or disallow a veterinarian to receive a percentage of reimbursement for prescriptions for veterinary drugs. It was noted that there were federal laws prohibiting payments from pharmacies to prescribers (the Federal Anti-Kickback Law) which applies to human patients where a federal health care program pays for the drugs.

Executive Officer Bhanot informed the Board that the inquirer described it as a new pharmacy business model involving an originating website that is not licensed as a pharmacy where people can buy a variety of products on-line (prescription and non-prescription) and involving a pharmacy and veterinarians. Dr. Kaufman commented that it sounds "distasteful" and may be against their principal to "practice the best medicine possible". Dr. Woltmon commented that "it feels unethical".

After further discussion, the Board informally decided that it is unethical for a veterinarian to receive a percentage of reimbursement for prescribing veterinary drugs because this practice is contrary to the recognized principles of medical ethics adopted by the American Veterinary Medical Association ("AVMA"), and the statutory grounds contained within HRS §471-10(b)(12).

The Principles of Veterinary Medical Ethics of the AVMA states in relevant part:

V. Influences on Judgment

- B. Veterinarians should not allow their medical judgment to be influenced by agreements by which they stand to profit through referring clients to other providers of services or products.
- C. The medical judgments of veterinarians should not be influenced by contracts or agreements made by their associations or societies.

In accordance with section 16-201-90, Hawaii Administrative Rules, the above interpretation is for informational and explanatory purposes only. It is not an

official opinion or decision, and thus, is not to be viewed as binding on the Board.

- B. 7/16/13 email from Jenee S. Odani, D.V.M.
Re: Mississippi State DVM student Hawaii visit – shelter medicine

Discussion ensued on an email inquiry received from Dr. Odani who inquired whether a student would be able to provide “shelter medicine”. Executive Officer Bhanot reiterated that the Board had a similar discussion at its January 16, 2013 meeting and that the Board “commented that veterinary students/technicians are not allowed to perform surgeries”. Ms. Bhanot reconfirmed with the Board that their position did not change.

- C. 7/16/13 email from Darcy Adin, D.V.M.
Re: Veterinary licensure question

Discussion ensued on an email inquiry received from a licensed veterinarian in the state of Ohio, Darcy Adin, D.V.M., on whether a license would be needed to provide cardiology telemedicine work; he would be a consultant to the primary veterinarian and would not enter into a client-patient relationship as there is no communication with the pet owners.

After discussion, the Board informally opined that pursuant to HRS §471-2(5), which states, in pertinent part, that nothing in the licensing statute prevents or prohibits: “any person licensed to practice veterinary medicine in any state, or any certified scientist or professional in animal care, from practicing in this State when in actual consultation with or under the sponsorship of veterinarians of this State; provided that the person licensed from another state, or the certified scientist or professional in animal care, shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State;” (emphasis added.)

In accordance with HAR section 16-201-90, the above interpretation is for informational and explanatory purposes only. It is not an official opinion or decision, and thus, is not to be viewed as binding on the Board.

Legislation: A. SB 8 SD 1 HD 2

Executive Officer Bhanot stated that at the previous meeting, she reported Senate Bill No. 8, S.D. 1, H.D. 2, relating to veterinary medicine, which would prohibit a pet owner or the owner's employees from performing surgical procedures on the pet animal, with certain exceptions, was moving forward; but in fact, the conference committee discharged the bill. Ms. Bhanot commented that this bill may be a carryover to the 2014 Legislative session.

Executive Officer's Report: A. National Board of Veterinary Medical Examiners ("NBVME")
(1) May 2013 Quarterly Newsletter of the NBVME

The May 2013 Quarterly Newsletter of the NBVME was circulated to the Board.

(2) June 18, 2013 NAVLE Bulletin of Information for Candidates

The NAVLE Bulletin of Information for Candidates was circulated to the Board.

B. American Association of Veterinary State Boards ("AAVSB")

(1) May 23, 2013 Recommendations on Proposed Bylaws Amendments

The Recommendations on Proposed Bylaws Amendments was circulated to the Board.

Examinations: A. Results of the State Veterinary Licensing Examination Administered on April 19, 2013

Candidates Eligible:	5
Exams Administered:	5
Successful:	3
Failed:	2
No Shows:	0

Next Board Meeting: Wednesday, October 16, 2013
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Dr. Odani stated that she may not be able to make the next Board meeting.

Adjournment: There being no further discussion, the meeting adjourned at 11:34 p.m.

Taken and recorded by:

/s/ Lori Nishimura

Lori Nishimura, Secretary

Reviewed and approved by:

/s/ Lynn Bhanot

Lynn Bhanot, Executive Officer

LB:ln

08/14/13

[] Minutes approved as is.

[X] Minutes approved with changes. See Minutes of October 16, 2013