

# Report to Licensees

of the

LOUISIANA BOARD OF VETERINARY MEDICINE

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## *Reminder – All License and Certificate Renewals Due on/before September 30, 2008.*



### Investigative Protocol

Mike Tomino, Board Legal Counsel

I would like to take the opportunity to respond to questions we receive at times regarding complaints received by the LBVM and its investigative protocol, more particularly the initial step of sending a certified letter of inquiry to the veterinarian.

At the outset, it can be stated that no veterinarian who receives such a certified letter is overjoyed. Furthermore, sending a certified letter to a veterinarian is not my favorite task for the LBVM, and I can assure you that sitting in judgment of a peer is very difficult for the LBVM members.

However, such obligations are part of our respective jobs, and our duty. I attempt to make such a potentially emotional situation more bearable by informing the recipient that “please understand the LBVM is not making accusations, but merely conducting an inquiry based upon information it has received. The LBVM is obligated by law to make this inquiry.”

On occasion, I hear a certain comment from a recipient of a letter of inquiry that any disgruntled client can file a complaint. Such a comment cannot be seriously disputed. But, such a reality is part and parcel of the privilege of providing professional services to the public. More importantly, there is the element of accountability. The LBVM receives approximately 60+ new complaints per year. Not all are filed by clients, but even if they were, I am sure that you will agree that out of the hundreds of veterinarians attending to the animals owned by thousands of clients in LA during the year does not support the perception that mere unhappy clients are rampantly filing unfounded complaints.

I have been representing regulatory boards in LA since December 1987, and every now and then I hear harsh and undue criticism regarding a regulatory board’s handling of these matters, including the LBVM. Therefore, I will address the LBVM’s protocol and its reasoning.

First, the LBVM is obligated to follow-up on any and all complaint information it receives. It is a consumer protection agency. The LBVM does not actively solicit the filing of complaints. All investigations are handled in the same manner as all other consumer complaint inquiries.

Everyone is treated the same in each and every case—both veterinarians and consumers comply with the identical protocol.

Since the law requires the LBVM to conduct an inquiry regarding all complaints submitted by the public, what can be more simpler than directly contacting the veterinarian by mail to respond. In

fact, a certified letter is required by law to be sent to verify receipt. Obviously, it is hard to dispute that obtaining the veterinarian’s version of what occurred is paramount as the first step in the inquiry. Unfortunately, no one has the mystical power to weigh the validity of a new complaint simply by reading the allegations initially made to the LBVM office. A written response from the veterinarian is necessary.

Perhaps, some recipients would like to “personally chat” with a LBVM member about the complaint first and, then “if necessary,” respond in writing. This cannot and will not occur. I do not intend to waste your time explaining what you should already know, but for the sake of making the point, again please remember that the LBVM is a consumer protection agency and how would such an approach be viewed legally and legitimately by interested parties, both governmental and private. Please consider the potential for the LBVM to be abolished due to “white washing” accusations resulting in another agency, or super board, assuming the legal authority to regulate you and the practice of veterinary medicine. Perhaps the “other agency or super board” is not comprised of veterinarians who would know your profession and its nuances, or may have interests in conflict with your current practices. Need I go further on this subject?

Second, no formal charges are filed against the veterinarian prior to sending the certified letter of inquiry. The certified letter of inquiry is the initial step. We are simply attempting to obtain all possible pertinent information so that an informed decision can be made regarding the disposition. It is hoped that you understand a thorough gathering and review of “both sides’ version of events” at the inquiry stage is far better for all concerned, than hastily filed formal charges with the sorting out of facts at a public hearing—which is the alternative to the current protocol.

In fact, the vast majority of complaints are closed once all pertinent information is received and reviewed.

Third, the LBVM cannot, and would not, take any action against a licensee without the veterinarian first receiving a written notice of the formal charges and the opportunity for a public hearing. If formal charges are filed against a veterinarian, they will be done so by the LBVM member reviewing the inquiry, and not the consumer. At a formal hearing, the other LBVM members, all of whom are veterinarians, will render a decision after carefully weighing pertinent evidence presented to them.

Again, at a public hearing the veterinarian accused of wrongdoing will have the opportunity to present evidence to the whole LBVM including documents and witness testimony.

You may wish to read Rule 1400 et seq. which clearly sets forth the investigative/disciplinary process, which includes dispositions by Consent Order when applicable. When the evidence supports a finding of wrongdoing, a Consent Order is the generally preferred form of resolution by both the LBVM and the veterinarian

Again, the laws and protocol are in place to insure the protection of the public which is the LBVM's obligation mandated by law, as well as maintain the standards of practice regarding veterinary care. As a licensed professional, you are also part of these objectives and should take satisfaction in knowing that the Board is discharging its duty. After all, the LBVM is just the vehicle, its professional licensees actually regulate the practice to maintain these standards. What would happen to these standards if the LBVM would "pick and choose" which inquiries it would conduct by a cursory review of the

complaint and/or by a superficial determination of the motive/status of the person submitting the complaint?

The true intent of the investigative/disciplinary process is to correct wrongful behavior if such is ultimately determined to have occurred. It should be viewed as an educational endeavor for the veterinarian. I can assure you that neither the LBVM nor I relish receiving a complaint made against a licensee. However, part of the function of the LBVM in regulating your profession is to follow-up on all matters submitted.

The LBVM is very active due to the number and diverse types of matters presented (the investigative process being only a significant minority), and I invite you to attend a board meeting to see the process in action and what topics are facing your profession. At present, for example, a very intense Legislative Session is keeping us rather busy. And, in closing, constructive suggestions based on informed opinions are always welcome.



## Disciplinary Cases

**Case No. 07-0321V** – Based on the Consent Order, the Board found that the respondent veterinarian was in violation of LSA RS 37:1526A and Board rules, Title 46, Part LXXXV, Sec. 1001 et seq., Section 1023, 701A2, and 106, in that the respondent was negligent in failure to properly perform surgery on a dog's leg and failure to properly place patient identification information on radiograph. Respondent was fined \$1,500, and ordered to pay the amount of cost recovery for the proceeding.

**Case No. 06-0627V** – Based on the Consent Order, the Board found that the respondent veterinarian was in violation of LSA RS 37:1526A and Board rules, Title 46, Part LXXXV, Sec. 1001 et seq., Section 1023 and 106, in that the respondent was negligent in failure to perform radiograph prior to and after a surgical procedure and/or offering to perform radiograph to client. Respondent was fined \$500, and ordered to pay the amount of cost recovery for the proceeding.

**Please Take Note...Per Rule 305D:** "It is the duty of the licensee to maintain a current address with the office of the Board of Veterinary Medicine and to notify the board's office if an annual re-registration form is not received."

**Rules Update** – Please call or write the Board office for a copy of any Notice of Intent or Rules described below. No rule revisions in progress at this time.

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