



# Report to Licensees of the



## LOUISIANA BOARD OF VETERINARY MEDICINE

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**Board Changes...** The members of the Louisiana Board of Veterinary Medicine and staff of the Board office would like to welcome Board member, Fenton Lipscomb, DVM. Dr. Lipscomb practices in the Gonzales area and has been appointed to serve through July 31, 2018. We extend a warm welcome and best wishes for a productive team.

The members of the Louisiana Board of Veterinary Medicine and staff of the Board office would like to congratulate and welcome back Board member, John Emerson, DVM, who has been appointed to serve an additional five year term through July 31, 2018. Dr. Emerson was previously appointed to fill the vacancy of Dr. Mica Landry and serve through July 31, 2013.

The Board will certainly miss departing member, Gary Levy, DVM, whose term with the Board concluded October 2013. During his 6 year term, Dr. Levy has shared insight and experience pertinent to veterinary medicine and regulatory functions of the Board. He was supportive of the current CAET training program, as well as streamlining the approval process for continuing education. The Board appreciates his service and wishes him well on future endeavors.

### 2014 Board Meeting Dates

The Louisiana Board of Veterinary Medicine will meet at 8:30 a.m. on the following dates:  
Thursday, February 6, April 3, June 5, August 7, October 2, and December 4, 2014.



### Disciplinary Cases

**Case 13-0709 V-** Veterinarian failed to personally discuss euthanasia with client prior to commencement of ending animal's life as required by Rule 1039 which is intended to end any confusion regarding loose terminology such as "putting to sleep" and "putting down." Consent Order entered whereby a fine and administrative costs were paid.

**Case 13-1210 V-** Veterinarian failed to meet the appropriate standard of clinical care for proper/sufficient examination and for proper/sufficient pain management. Patient dog was not provided appropriate veterinary care, including the failure to properly examine her, including not taking any radiographs nor performing blood work, and the failure to administer/dispense the proper amount and type of pain medication resulting from the injuries suffered by her in the dog attack. The medical records describe a "fracture/avulsion" of the left foreleg, however, with no radiograph, the full extent of her injuries were not determined and, therefore, appropriate medical care (including a clear need exhibited by the animal's behavior as described by both veterinarian and client for additional pain control) could not be offered or delivered. Consent Order entered whereby a fine and administrative costs were paid.



### License Renewal Statistics 2013-2014

Active DVM – 1300, Inactive DVM – 191, RVT – 134, CAET – 185, RED – 3

### Consent Forms/Electronic Signature Pad

With the rapid and continued development of computer and software technology in the business community, a recent issue has arisen regarding the use of an electronic signature capturing device to attach a client's signature to consent forms in a medical records' software format. This issue is an off-shoot of the continued desire to move to a paperless society and, more

specifically, computer generated and maintained medical records.

The scenario at hand involves a client stating that he never had the opportunity "to read what he signed," nor was he allegedly given a copy of the document before and/or after the asserted signing. In short, the client was asked to sign the electronic signature pad without having been provided (either before or after signing) with a copy or the text of the document associated with the signed consent.

Rule 712A.1 regarding Record Keeping states that "the documentation standards set forth above do not mandate a particular format, however, a record must include these elements, as well as any other documents required by law or the Board's rules. Examples include General Anesthesia Consent Forms, Euthanasia Consent Forms, ..." More specific to the issue, Rule 1039 addresses the requirements regarding the Anesthesia Consent Form (Subsections B and C) and Euthanasia Consent Form (Subsection E) which expressly and specifically set forth the content of and protocol for the use of each particular form.

The current Rules do not, in general, prohibit the use of an electronic signature pad for the client. Therefore, the issue becomes one of proof since the electronic signature pad, which the client signs, is not physically on the form itself during the signing, but magically transferred to the document via IT technology. It is not just an issue of perhaps records space saving, but also one of time regarding understanding when and what one is actually consenting to. In the legal realm, with the use of the electronic signature pad alone how can it be confirmed the client saw and understood what he was asked to sign? Perhaps the client initialing the actual document would satisfy the concern, but then the client can just as easily be required to actually sign the consent form. In short, the "actual use" must comply with the concept of informed consent by the client being timely provided the form for his signature which will support his understanding of what he is consenting to by signing the electronic signature pad.

Please keep in mind that the primary purpose of the signed form is the requirement to provide (and confirm) "informed consent" regarding the anesthesia or euthanasia procedures. Bottom line is that the client must understand what he is signing for consent to be informed. Such requirement also has the added benefit of the veterinarian being able to later defend himself against accusations of wrongdoing regarding the lack of informed client consent for the provision of the procedure performed.

In the scenario discussed above, the client understood he gave consent for anesthesia (for dental), but unfortunately, his pet was euthanized. The electronic signature pad alone, without the review of the actual consent form, did not constitute informed consent. The facility's error obviously could not be corrected after the fact. One could claim that the client could have (should have?) requested to see what he was signing, but the ultimate duty rests with the licensed professional providing the service. To assert otherwise, relegates a noble profession to the status of a trade and, even so, the caveat of "buyer beware" is not absolute when dealing with the concept of "informed consent."

The Board is well aware of burgeoning computer/software technology, and advancements in business practices. Generally speaking, technology and business practices may legally co-exist with the standards of proper veterinary practice, as long as the former does not violate the latter in its practical application. It is strongly suggested that you review your actual practices regarding legally sustainable "informed consent" by the client.

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## **RULE PROMULGATION**

The Board, in keeping with its jurisdiction, has filed a Notice of Intent on the following:

- Licensure Procedures – Rule 301, 303, 307
- Veterinary Practice – Rule 700, 702
- Registered Veterinary Technicians – Rule 801, 803, 816
- Preceptorship Program - 1103
- Certified Animal Euthanasia Technicians – Rule 1200, 1201

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## **RVTs and Lay Persons**

It is the purpose of this article to provide information to you regarding an issue facing the profession which the Board is legally obligated to address. It is the need for clarification, and perhaps establishment, of the duties, tasks, and limitations of veterinary supportive personnel, being para-professionals (registered veterinary technicians - RVTs) and lay persons (non-registered persons) employed at a veterinary practice. The Board has received legitimate inquiries and comments in one form or another on the distinction between these two categories of supportive personnel from differing interested persons,

such as veterinarians, RVTs, lay persons, students, faculty, associations, and members of the public.

The Practice Act provides for the status of RVT and sets forth the requirements for registration. Per the Practice Act, an RVT must graduate from a two year AVMA accredited program in veterinary technician subject matter, pass a national examination, and obtain registration to practice under the direct supervision of a licensed veterinarian as a para-professional. An RVT must also annually renew the certification and is subject to an approved annual continuing education requirement. It is also most important to note that, at present, there are four RVT schools in Louisiana accredited by the AVMA.

In comparison, a veterinary assistant (currently functioning under a variety of names or titles) is a lay person who must also work under the direct supervision of a licensed veterinarian. There is no educational requirement or national examination, nor any registration as the law allows such entity to provide supportive assistance of a more unskilled nature than an RVT. There is also no approved continuing education requirement.

However, with regards to the educational requirement for certification, the Practice Act provides an alternative avenue for a veterinary assistant to obtain status as an RVT when she “has successfully completed a board approved program in veterinary technology at an accredited institution of higher education and has two years actual experience working in a veterinary practice under the direct supervision of a licensed veterinarian.” Since the enactment of this provision of the Practice Act, technology has progressed and now online programs offer courses which would comply with the educational criteria of this alternative avenue to registration. There are, of course, the other standard requirements for registration consistent with those for AVMA accredited graduates.

It is the Board’s obligation per the Practice Act to clarify and establish the duties, tasks, and practice limitations of each entity so as to discharge its duty of better protecting the health, welfare, and safety of the people and animals of Louisiana. Unfortunately, at present, the Board’s Rules do not clearly and sufficiently address the growing issues at hand.

The Board is well aware that prior to the establishment, and the AVMA accreditation, of the four programs now existing in this state, the practitioner trained his lay staff to perform certain duties and tasks under his direct supervision. Such is still occurring. However, there is no consistency regarding the standards of training, and the tasks and duties of supportive personnel vary from one practice to another.

It will also take a short time for the four AVMA accredited programs to graduate a sufficient number of candidates that will become RVTs to help satisfy the need for such para-professionals in LA. In addition, a certain amount of time will be needed for lay persons interested in the alternative avenue of education to become qualified for registration. Those qualified individuals (two years actual experience working in a veterinary practice under the direct supervision of a licensed veterinarian) who may be interested in registration should consider pursuing this line of education.

Given the Practice Act’s provisions for RVTs, the Board must address the duties, tasks, and limitations of veterinary supportive personnel through its rule-making function per its legal mandate. Recently, the Board, taking into consideration all issues and points of view involved, has begun an effort at addressing the subject matter. It should be obvious to all that the Practice Act intends for the registered para-professional (RVT), regardless of educational avenue accomplished, to be more qualified to perform certain to-be-defined limited duties and tasks than the employed lay person. The challenge of course for the Board is in the detail of clearly distinguishing the allowable duties and tasks between the two supportive personnel. No doubt the RVT will ultimately be allowed to perform certain duties and tasks that the lay person cannot lawfully perform based on the formal education, etc. requirements for registration.

It is the Board’s intent to accomplish the objective with the least amount of turmoil and uprooting of existing business practices and personal interests as possible. However, the Board understood from the very beginning that not all interested persons would be completely happy with the concepts and resulting actions. There is apparently too many competing interests in the practice for all to be completely satisfied with any outcome. But, the present status quo cannot be legally maintained.

Let us end this article by stating that this matter is a work in progress for which a time line for finish cannot be legitimately calculated. The rule-making procedure for the Board is well established in state law which requires a publication in the State Register of any proposed rules’ revision with a fair time period for the submission of public comment, either pro or con, to the Board, as well as a public hearing, if necessary. All of this occurring prior to any effective date of any new rule.

As with all matters under its jurisdiction, the Board takes this subject matter very seriously and is diligently working to address all issues and concerns to the best of its ability within its lawful protocols. If and when the time is proper, the Board will initiate the rule-making procedure at which time you are invited, and encouraged, to participate in accordance with the law regarding rule-making.

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**Louisiana Board of Veterinary Medicine**

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