

the  
**LOUISIANA BOARD OF VETERINARY MEDICINE**  
**Report to Licensees**

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**LIMITED LIABILITY COMPANIES AND  
THE PROFESSIONAL VETERINARY MEDICINE CORPORATIONS ACT**

The Board of Veterinary Medicine has recently been asked by several licensed veterinarians to review the relationship between the Limited Liability Companies Act and the Professional Veterinary Medicine Corporations Act. The specific question that the Board has reviewed is whether or not it is permissible for an individual who is not licensed to practice veterinary medicine to form and own an interest in a limited liability company which is created for the practice of veterinary medicine. The Board sought and received legal advice on this issue and would like to inform all licensees of its position.

Pursuant to the Limited Liabilities Companies Act, a section has been enacted by the Legislature with regards to the purpose of a limited liability company. LSA R.S. 12: 1302 provides as follows:

A limited liability company that is subject to regulation by another provision of State law may be formed under this Chapter if not prohibited by such other law. Such a limited liability company shall be subject to all limitations of such other law.

Upon review, LSA R.S. 12:1152 of the Professional Veterinary Medicine Corporations Act requires that one or more natural persons, of full age and duly licensed to practice veterinary medicine in this State, may form a corporation for the purpose of practicing veterinary medicine. Additionally, pursuant to LSA R.S. 12:1155(B), it is required that the shareholder or owner of a Professional Veterinary Medicine Corporation shall be a natural person duly licensed to practice veterinary medicine in this State.

The Board is of the opinion that a limited liability company created for the practice of veterinary medicine must be formed and owned only by an individual or individuals licensed to practice veterinary medicine in this State. This opinion also applies to partnerships.

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**Prescription Labeling and Packaging**

A few licensees have expressed concern over prescription drug packages they have obtained from clients who had received the medications from another veterinarian. The concerns raised have dealt with the safety of the packaging and the labeling. The Board would like to remind licensees of Rules 705 (C) and 706.

Rule 705(C) states that all repackaged drugs dispensed by a licensed veterinarian shall be stored in approved safety closure containers, except that this provision shall not apply to drugs dispensed to any person who requests that the medication not be placed in such containers, or in such form or size that it cannot be dispensed reasonably in such containers.

Rule 706 provides that a medication label must include the following information:

1. name, address and telephone number of clinic;
2. name of veterinarian dispensing medications;
3. patient name and client name;

4. name of medication and/or other veterinary product dispensed;
  5. quantity and strength of product;
  6. directions for administration;
  7. date dispensed; and
  8. precautionary statements as required by law, i.e., not for human consumption; poisonous, etc.
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### **U.S. Postal Service Requests Proper Shipping Container Use for Specimens**

The U.S. Postal Service has asked the Board to inform veterinarians that proper containers should be used when shipping laboratory specimens. The Postal Service has informed the Board office of several recent incidents where specimens have been damaged in handling because improper containers were used.

The Postal Service recommends that you contact the laboratory you are using, the U.S. Postal Service Business Center (888-520-8787), or your local Postmaster to determine the recommended shipping containers to comply with OSHA regulations and state law. You may also contact Alvee Carlini, R.N., C.O.H.N.-S, Occupational Health Nurse Administrator for the Postal Service, at 504-589-1363 or 800-453-0620.

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### **Rules Update**

[Note: Rule changes made after May 20, 1998 and prior to the mailing of license renewal documents will be included with next year's license renewal packet.]

#### **Veterinary Dentistry and Ketamine**

The Board's intent to change Rule 710 concerning Veterinary Dentistry and Rule 704(B) concerning the use of Ketamine by animal control agencies was presented in the December 1998 newsletter. Those rule changes became effective on March 20, 1999.

#### **Ownership of Records**

The Board has issued a Notice of Intent concerning Rule 701 concerning ownership of records. The relevant amendment is contained in proposed Rule 701(B)(3):

The records of a veterinary facility are the sole property of that facility, and when a veterinarian leaves salaried employment or contract services therein, the departing veterinarian shall not copy, remove, or make any subsequent use of those records. The copying, removal, or any subsequent use of those records by the departing veterinarian shall be considered a violation of the rules of professional conduct within the meaning of R.S. 37:1526.

The Board expects this rule to become effective on May 20, 1999.

#### **Prescribing and Dispensing Drugs (Human Use Prohibition)**

The Board has issued a Notice of Intent concerning Rule 705(A)(3), which is actually only a rewording of an existing rule to make clear that "any drug, medicine, or controlled substance prescribed, dispensed, administered, delivered or ordered pursuant to this rule must be intended for the use of the patient and shall not be prescribed, dispensed, administered, delivered, or ordered for the use of the client or any other human."

#### **Business Names**

The Board has issued a Notice of Intent concerning Rule 1053, which provides for the business names of veterinary facilities. The proposed amendment will expand the options a licensee has in naming a veterinary facility. A copy of the proposed amendments may be obtained by calling or writing the Board office.

#### **Expired Drugs**

The Board has issued a Notice of Intent concerning Rule 705 to make clear that it is a violation of the rules of professional conduct for a veterinarian in the course or his veterinary practice to use or dispense any products, including drugs, which are expired. The amendments also state that it shall be a violation of the rules of professional conduct for a veterinarian to be in possession of drugs or other medical products which are over six months past their expiration date unless the materials are obviously removed from use and it can be documented that said drugs are in the process of being returned or otherwise disposed of. A copy of the proposed amendments may be obtained by calling or writing the Board office.

#### **Partnerships, Corporations, and Limited Liability Companies**

The Board has issued a Notice of Intent concerning Rule 1015 which provides that in the formation of corporations or limited liability companies for the practice of veterinary medicine, no person shall be admitted as an owner who is not a member of the veterinary profession, duly licensed to practice in this state, and amenable to professional discipline. The amendment also provides that corporations or limited liability companies created or owned by licensed veterinarians in conjunction with non-veterinarians shall not be permitted if a part of the company's function consists of the practice of veterinary medicine. These stipulations are already included in the existing rule pertaining to partnerships.

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## Disciplinary Cases

**97-0430V:** A Consent Order was entered into which stated, in part, the following findings of fact: (1) On two occasions veterinarian sold Testosterone Ethanate to a police officer; on one occasion, veterinarian sold Winstrol-V to a police officer. In each of these instances, veterinarian did not have a veterinarian-patient-client relationship and the drugs, which are anabolic steroids, were intended for human use. (2) In various ways, veterinarian did not maintain proper medical records. (3) Veterinarian did not maintain a dispensing log of controlled substances; veterinarian received controlled substances from another veterinarian without proper records of the transaction, including the date of receipt and the name, address and registration number of the person from whom the controlled substances were received; veterinarian did not maintain a dispensing record for controlled substances which includes the number of units or volumes of the drug which has been dispensed, the name and the address of the person to whom the substance was dispensed, the date the drug was dispensed, the number of units or volumes dispensed, and the written or typewritten name or initials of the individual who dispensed and/or administered the substances on behalf of the dispenser. (4) Veterinarian failed to label properly the drugs dispensed. (5) Veterinarian's facilities did not provide separate reception room and/or office area, a separate examination room, and a separate surgical area; kennel areas for exercise and housing areas for treatment and post-surgical observation did not exist. Based on these findings, the Board found veterinarian violated the following rules: 701(A)(1)(a); 705(A)(2-3); 705(B); 705(E); 705(D); 705(F); 706(A); 711(A)(1-3)(6-7); 711(B)(1)(3); and 1055.

Discipline, in part, included: (1) public letter of reprimand; (2) inspections for a three-year period by Board with veterinarian responsible for costs; (3) payment of costs incurred by the Board in investigation of case; (4) license to practice veterinary medicine suspended for five years; however, said suspension suspended for four years with the effective suspension being one year; if any term of the Consent Order is violated within five years of the Order, veterinarian's license shall be summarily revoked; (5) take and pass at own expense the state rules of professional conduct exam; (6) voluntarily surrender DEA/DHH controlled substance permits and veterinarian must obtain the Board's approval before reinstatement of permits (7) veterinarian shall forever refrain from possessing,

ordering, purchasing, prescribing and/or dispensing any anabolic steroid (violation of this prohibition at any time in the future shall result in the summary revocation of veterinarian's license to practice veterinary medicine); (8) veterinarian shall successfully complete 15 weeks of course work at an AVMA-accredited school of veterinary medicine in specific subjects prescribed by the Board.

**97-0604V:** A Consent Order was entered into which stated, in part, the following findings of fact: (1) Veterinarian had several employees in positions of trust who systematically ordered, stole and diverted controlled substances from veterinary facility; these employees were arrested. A DEA inspection revealed record-keeping violations; shortages of Winstrol-V, Equipoise, and testosterone products; and no biennial inventory. The Board accepted that the veterinarian had no knowledge of the drug theft or diversion, and that the record keeping deficiency was partly due to the employees' purposeful attempts to cover up the thefts; however, as the DEA registrant, the veterinarian is responsible for proper maintenance of the drugs. (2) Veterinarian possessed the drug Clenbuterol, which, at the time of the investigation, could not be legally marketed in the United States. Veterinarian admitted to using Clenbuterol with patients. The Board noted that, subsequent to the investigation of this matter, the U.S. Food and Drug Administration has approved Clenbuterol for use in the United States. (3) Veterinarian admitted using the drug Clenbuterol in patients prior to the drug's receiving FDA approval, and veterinarian admitted knowing that this use was illegal. Veterinarian admitted to not advising clients who were requesting Clenbuterol that it was illegal to use it. Based on these findings, the Board concluded that the veterinarian violated Rules 705(B); 705(E); 1009; and 1011.

Discipline, in part, included (1) public letter of reprimand; (2) inspections for a three-year period by Board with veterinarian responsible for costs; (3) payment of costs incurred by the Board in investigation of case; (4) license suspended for six months; however, said suspension is suspended provided that all other Consent Order requirements are met; and (5) veterinarian shall be responsible for providing instruction to staff on maintaining, administering, dispensing and prescribing controlled substances in compliance with state and federal laws.

**98-0108V:** A Consent Order was entered into which stated, in part, the following findings of fact: (1) Veterinarian voluntarily admitted to ordering a legend drug for human use. Veterinarian believed that this act was legal so long as a valid prescription had been issued by a medical doctor. (2) Veterinarian voluntarily admitted to knowing that another veterinarian within the same practice had possession of an illegal drug, Clenbuterol, and had used the drug. The Board noted that, subsequent to the investigation of this matter, the U.S. Food and Drug Administration has approved Clenbuterol for use in the United States. Based on these findings, the Board found that the veterinarian violated Rules 705(A)(3) and 1007.

Discipline, in part, included (1) public letter of reprimand and (2) inspections for a three-year period by Board with veterinarian responsible for costs.

**98-0822V:** A Consent Order was entered into which stated, in part, the following findings of fact: (1) Veterinarian failed to record anesthesia used, doses, or

routes of administration for ovariohysterectomy procedure, and veterinarian failed to record the stay or treatment (deworming) of three patients (kittens) which were left with the mother. (2) Veterinarian dispensed medication without a label. (3) Veterinarian used Drontal on kittens weighing less than 1.5 pounds, which is a specific contradiction to Drontal's manufacturer's label. Based on these findings, the Board concluded that the veterinarian violated Rules 701(A); 706(A); and 1023.

Discipline, in part, included (1) public letter of reprimand; (2) inspections for a three-year period by Board with veterinarian responsible for costs; (3) payment of costs incurred by the Board in investigation of case; and (4) veterinarian shall complete, at own expense, 40 hours in small animal medicine and 40 hours in pharmaceutical prescription filling, labeling and record keeping at an AVMA-accredited school of veterinary medicine.

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### **Questions from the Real Lives of Veterinarians and Other Interested Persons**

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**May a registered veterinary technician (RVT) or trained layperson perform animal euthanasia under the direct supervision of a licensed veterinarian?**

No, animal euthanasia is not among those tasks and procedures (see Rule 702) which may be performed under direct supervision of a licensed veterinarian.

### **License Renewals and Address Changes**

License renewal documents will be mailed in late June. If your address has changed since last year or if you anticipate a change, please inform the Board office. If you do not receive a license renewal packet by mid-July, please contact us.

#### **Continuing Education Reminder**

If your license expires on September 30, 1999, you must have earned 16 hours of continuing education (CE) to renew it. All license holders, active or inactive, must complete 16 hours of CE each year, and proof of attendance must be attached to the renewal form. For the next renewal period, the hours must be completed during July 1, 1998-June 30, 1999, to avoid payment of the late CE fee of \$25.00. If you take the hours after June 30, 1999, you may still submit them, but you will need to include a \$25.00 payment in accordance with Rule 413(D). New licensees who were issued their initial license on or after May 1, 1998, are required to earn CE hours between July 1, 1998, and June 30, 1999, for renewal of their licenses for 1999-2000, as are all other licensees.

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**ADDRESS CORRECTION REQUESTED**