

**MINUTES OF THE MEETING OF THE
BOARD OF VETERINARY MEDICINE AND SURGERY**

April 8, 2020

ROLL CALL

The meeting of the Board of Veterinary Medicine and Surgery was called to order at 9:00 am by Chairperson, Micah R. Kohles, DVM, MPA in the LU1 Conference Room at the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. Board members present and answering roll call were:

Micah R. Kohles, DVM, MPA, Chairperson
Joshua Schlote, LVT, Vice-Chairperson
Elizabeth Farrington, DVM, Secretary
Christopher G. Byers, DVM, DACVECC, DACVIM (SAIM), CVJ
Public Position Vacant

Absent: None

A quorum being present, the meeting convened. Also present to participate in the meeting: Jesse Cushman, Program Manager, Jan Gadeken-Harris, Health Licensing Coordinator, Mindy Lester, Assistant Attorney General, Teresa Hampton, Department Legal, Anna Harrison, Compliance Monitor and Larry Wiehn, Investigator.

Kohles announced that there is a copy of all the public documents being reviewed at this meeting available in the meeting room pursuant to the Open Meetings Act.

ADOPTION OF AGENDA

Farrington moved, seconded by Schlote, to adopt the Agenda. Voting aye: Byers, Farrington, Kohles, and Schlote. Voting nay: None. Absent: None. Motion carried.

PRESENTATION BY TIMOTHY LOULA, DVM

APPROVAL OF MINUTES

Schlote moved, seconded by Farrington to approve the January 29, 2020 minutes as written. Voting aye: Byers, Farrington, Kohles and Schlote. Voting nay: None. Absent: None. Abstain: None. Motion carried.

Farrington moved, seconded by Byers to approve the February 12, 2020 minutes as written. Voting aye: Byers, Farrington, Kohles and Schlote. Voting nay: None. Absent: None. Abstain: None. Motion carried.

INVESTIGATIONAL REPORTS AND APPLICATION REVIEW – CLOSED SESSION

Schlote moved, seconded by Farrington, to go into closed session at 9:30 a.m., for the purpose of review and discussion of investigative reports, licensure applications, and other confidential information, and for the prevention of needless injury to the reputation of the individuals. Voting aye: Byers, Farrington, Kohles, and Schlote. Voting nay: None. Absent: None. Motion carried.

Byers moved, seconded by Farrington, to open the session at 11:05 a.m. Voting aye: Byers, Farrington, Kohles, and Schlote. Voting nay: None. Absent: None. Motion carried.

Board Break 11:05 a.m.

Board Reconvene 11:10 a.m.

APPLICATION REVIEW – OPEN SESSION

There were no applications for review by the Board at this meeting.

BOARD DISCUSSION(S)

A. 2022 Renewal CE Requirements for Controlled Substances

Veterinarian's beginning with the renewal period of 4/2/2020 – 4/1/2022 will need to comply with LB 731 which was approved by the Governor on 4/19/2018.

38-145 (6) Beginning with the first license renewal period which begins on or after October 1, 2018, the continuing competency requirements for a nurse midwife, dentist, physician, physician assistant, nurse practitioner, podiatrist, and veterinarian who prescribes controlled substances shall include at least three hours of continuing education biennially regarding prescribing opiates as defined in section [28-401](#). The continuing education may include, but is not limited to, education regarding prescribing and administering opiates, the risks and indicators regarding development of addiction to opiates, and emergency opiate situations. One-half hour of the three hours of continuing education shall cover the prescription drug monitoring program described in sections [71-2454](#) to [71-2456](#). This subsection terminates on January 1, 2029.

On the renewal application the applicant will need to attest if they prescribe CS, if the answer is yes, then they will need to attest if they have completed the CE requirement.

The applicant does not need to submit the proof of CE unless they are selected by random audit.

B. Telehealth for the Veterinary Profession

In Nebraska if a DVM has an established VCPR they can engage in Telehealth practices, however a VCPR cannot be established through Telehealth practices.

38-3316. Veterinarian-client-patient relationship, defined.

Veterinarian-client-patient relationship means that:

- (1) The veterinarian has assumed the responsibility for making clinical judgments regarding the health of the animal and the need for medical treatment, and the client has agreed to follow the veterinarian's instructions;*
- (2) The veterinarian has sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by virtue of an examination of the animal or by medically appropriate and timely visits to the premises where the animal is kept; and*
- (3) The veterinarian is readily available or has arranged for emergency coverage and for followup evaluation in the event of adverse reactions or the failure of the treatment regimen. Source: Laws 2007, LB463, § 1098.*

Short Term – the Board of Veterinary Medicine and Surgery would like to put forth a request to the Governor's office that Veterinarians be allowed to engage in Telehealth practices not only for clients with whom they have an established VCPR, but to be extended to allow for the establishment of a VCPR and seek treatment through Telehealth for companion animals during this state of emergency for the COVID-19 pandemic.

Long Term – Telehealth for the Veterinary Profession will need to be addressed through the Legislature for Statutory changes.

At the present time Veterinary Medicine and Surgery is excluded from the Telehealth Practice Act <https://nebraskalegislature.gov/laws/statutes.php?statute=38-1,143>

38-1,143.

Telehealth; provider-patient relationship; prescription authority; applicability of section.

(1) Except as otherwise provided in subsection (4) of this section, any credential holder under the Uniform Credentialing Act may establish a provider-patient relationship through telehealth.

(2) Any credential holder under the Uniform Credentialing Act who is providing a telehealth service to a patient may prescribe the patient a drug if the credential holder is authorized to prescribe under state and federal law.

(3) The department may adopt and promulgate rules and regulations pursuant to section [38-126](#) that are consistent with this section.

(4) *This section does not apply to a credential holder under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, the Dialysis Patient Care Technician Registration Act, the Environmental Health Specialists Practice Act, the Funeral Directing and Embalming Practice Act, the Massage Therapy Practice Act, the Medical Radiography Practice Act, the Nursing Home Administrator Practice Act, the Perfusion Practice Act, the Surgical First Assistant Practice Act, the **Veterinary Medicine and Surgery Practice Act**, or the Water Well Standards and Contractors' Practice Act. Source: *Laws 2019, LB29, § 2. Effective Date: September 1, 2019**

Cross References:

- **Veterinary Medicine and Surgery Practice Act**, see section 38-3301.
- You can visit the DHHS website for the Veterinary Medicine and Surgery Statutes and Regulations <http://dhhs.ne.gov/licensure/Documents/VeterinaryMedicineSurgery.pdf>

FDA Comments

It has come to the attention of the NE Department of Agriculture that many accredited veterinarians and owners of livestock and producers are confused by the recent FDA decision on allowing “telemedicine” for veterinarians.

Please note that issuing certificates of veterinary inspection (CVI's) for international, interstate, or intrastate movements can only be done by accredited veterinarians who have done direct inspections of the animals.

This requirement for direct inspection is required by USDA and state laws, under the requirements of performing accredited veterinary services. FDA's ruling does not apply for veterinary accredited work services, which would include testing or vaccinating for regulated diseases, reporting of foreign and regulatory diseases, issuing CVI's, etc.

Unfortunately, this ruling by FDA could endanger accredited veterinarians and animal owners, who could misinterpret the direct inspection requirements; both could be held liable and prosecuted for violation of state and federal laws on animal movement requirements.

Please see the link below which is circulating in publications to various livestock and poultry industry groups: <https://www.dairyherd.com/article/telemedicine-now-available-treat-livestock-and-pets-fda-says>

C. Compounding-shortage or out of stock drugs

It is the opinion of the Board that FDA issued Guidance's be followed

D. Compounding from bulk agents into readily available and routinely used products

It is the opinion of the Board that noted violations need to be addressed to the Investigation Unit.

E. CBD's for the Nebraska Veterinary Profession

Use of CBD's is currently illegal or prohibited by Nebraska Law. It is not illegal for a DVM when asked, to educate his clients, however they cannot recommend CBD's due to current legislation.

F. COVID-19

The Governor's office has issued Executive Order No.20-10 on March 27, 2020 and also Directed Health Measure Order 2020-010. To learn about COVID-19 and recent updates visit the DHHS website: <http://dhhs.ne.gov/Pages/default.aspx>

A number of Prometric Testing Centers have been closed until various dates due to the COVID-19 outbreak. Since this continues to impact many NAVLE candidate appointments, ICVA is proactively authorizing an additional extension to June 30 for all current April NAVLE candidates to facilitate rescheduling with

Prometric. Please check the ICVA website for updates (<https://www.icva.net/news-and-updates/>), and contact ICVA if you have any other questions.

G. 2020 License Renewal

The license renewal period of 10/2/2018 – 10/1/2020 has ended. Many DVM's, Veterinary Technician's and Animal Therapist's voiced questions concerning deferrals or waivers for continuing education requirements during the COVID-19 pandemic. CE waivers/deferrals are currently being considered by the Department and the Governor's office. Please check the DHHS website for all the recent information regarding COVID-19. <http://dhhs.ne.gov/Pages/default.aspx>

H. Roles and Responsibilities for Board Members, DHHS Staff and Attorneys

Jesse Cushman, Program Manager for the Board of Veterinary Medicine and Surgery reviewed a power point presentation with the Board reiterating the functions and responsibilities of the Board and the supporting staff.

It is the opinion of the Board that they would like to continue to educate the public on topics such as: Animal Therapist rules and regulations, Continuing Education, Standard of Care, and the Nebraska Veterinary Medical Association.

REGULATIONS UPDATE

As of this date Public Hearings have not been scheduled for the proposed amendments to Regulations for Title 172 Chapter 180 Regulations Governing the Practice of Veterinary Medicine and Surgery and Title 172 Chapter 182 Licensure of Animal Therapist.

For updates on the schedule for Public Hearing Notices for Draft Regulations, please visit the Secretary of State website link listed below:

<https://www.nebraska.gov/nesos/rules-and-regs/regtrack/index.cgi>

2020 LEGISLATION UPDATES

The following is a list of some of the legislative bills that will be followed by the Veterinary Medicine and Surgery Board during the 106th Legislature, 2nd Session:

LB742 - Change penalty, sentencing, and hearing application provisions relating to offenses against animals

Current Status: Notice of hearing for February 26, 2020

To learn more about LB742, please visit:

<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB742.pdf>

LB791 - Change provisions of the Livestock Animal Welfare Act relating to ownership, possession, or seizure of animals

Current Status: Notice of hearing for January 21, 2020

To learn more about LB791, please visit:

<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB791.pdf>

LB857 - Require state agency review of rules and regulations

Current Status: Notice of hearing for January 31, 2020

To learn more about LB857, please visit:

<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB857.pdf>

The 106th Legislature, 2nd Session, is not in session.

Check the calendar to see legislative activity.

The Legislature is adjourned until the speaker calls.

In light of growing public safety concerns regarding the coronavirus pandemic, the 2020 legislative session and all public hearings have been suspended until further notice. Session will remain adjourned until the situation has stabilized and the Speaker of the Legislature deems it safe to reconvene.

During this pause in the legislative session, senators and their offices continue their work. The health, safety and well-being of all of our neighbors are the top priorities.

Updates will be announced as they become available.

SCHEDULE OF THE NEXT BOARD MEETING

The next Board of Veterinary Medicine and Surgery will be scheduled for Wednesday July 29, 2020. The schedule will be posted on the DHHS website. <http://dhhs.ne.gov/licensure/Pages/Agendas-and-Minutes.aspx>

ADJOURNMENT

There being no further business, Farrington moved, seconded by Schlote, to adjourn the meeting at 1:35 p.m. Voting aye: Byers, Farrington, Kohles, and Schlote. Voting nay: None. Absent: None. Motion carried.

Respectfully submitted,

signature available upon request

Elizabeth L. Farrington, DVM, Secretary
Board of Veterinary Medicine and Surgery