

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

MINUTES

Date: March 11, 2022

Time: 10:00 a.m.

Place: Virtual Videoconference Meeting - Zoom Webinar
(use link below)
<https://dcca-hawaii-gov.zoom.us/j/99540512463>

Present: Leianne K. Lee Loy, D.V.M., Chairperson
Craig Nishimoto, D.V.M., Vice-Chairperson
Nathaniel Lam, D.V.M., Member
Aileen Wada, Public Member
Marcella Chock, Public Member
Shari J. Wong, Esq., Deputy Attorney General (“DAG”)
Candace Ito, Acting Supervising Executive Officer, PVL, DCCA
Kerrie Shahan, Executive Officer
Chelsea Fukunaga, Executive Officer
Leanne Abe, Secretary
Kawehi Mau, Technical Support

Excused: None.

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).

A brief video was played to explain procedures for this virtual meeting and how members of the public can participate and interact with the Board during the meeting.

Call to Order: Chairperson Lee Loy proceeded with roll call. All Board members confirmed they were present. There being a quorum present, the meeting was called to order at 10:06 a.m. by Chairperson Lee Loy.

Approval of the Minutes of the February 11, 2022 Chairperson Lee Loy asked if any members of the public would like to provide oral testimony on this agenda item. There were none.

Board Meeting:

After discussion, it was moved by Dr. Lam, seconded by Ms. Wada, and unanimously carried to approve the February 11, 2022 open session and executive session meeting minutes as circulated.

Board Orientation: Chairperson Lee Loy asked if any members of the public would like to provide oral testimony on this agenda item. There were none.

Executive Officer Shahan shared the following information:

The Board was established by statute and created by the legislature and all of the powers, duties, and responsibilities that the Board has are also created by Hawaii Revised Statutes (“HRS”) chapter 471. The Board’s statutes are clarified and amplified by the Board’s Hawaii Administrative Rules (“HAR”).

Pursuant to HRS 471-3, a Hawaii board of veterinary medicine, consisting of seven members, four of whom shall be residents of the city and county of Honolulu and three of whom shall be residents of counties other than the city and county of Honolulu, shall be appointed and maybe removed by the governor. Five of the members of the board shall be veterinarians who have been licensed to practice for at least five years and shall be actively engaged in the practice of veterinary medicine, or if not active at the time of appointment, shall have previously been so engaged for ten years and two shall be public members.

As with all boards, it is intentionally set that there are licensed and public members to bring different perspectives and different experience to the board.

The purpose of having licensed members on the Board is to utilize their knowledge and experience in conducting the Board’s business; however, the Board’s foremost duty is to protect the health and safety of the public, not the veterinary profession.

From both an ethical and legal perspective, the general rule is that State employees, including Board members, normally do not engage in decisions in the area they are regulating. There is an exemption for Board members because their participation is necessary for any matters that come before the Board that affects the profession as a whole, for example, applications, continuing education, and scope of practice inquiries. Board members should recuse themselves from decisions on matters where the member or the member’s clinic or employer is involved.

It is important, that Board members remember the primary purpose of the Board is to promote the public interest and protect consumers. Decisions need to be made with this purpose in mind. While the opinions of other entities may be of interest and inform a topic, the Board's purpose remains to promote the public interest and protect the consumer and Board members should base their decisions on that purpose and the guidance the rules and statutes. "Keeping your Board hat" on during Board meetings.

Quorum is a majority of the number of members to which the Board is entitled or four (4); It is not a majority of the members present at any given meeting. A quorum is required to carry a motion or to make valid any action of the Board.

The powers and duties of the Board are enumerated in HRS Chapter 471 and HRS Section 436B-7. Some of the Board's principal responsibilities are to:

- Grant licenses to applicants who meet the qualifications set forth by the Legislature; The Board reviews and ratifies licenses that satisfy all requirements and are ministerially issued by staff. The Board reviews and considers all applications that request licensure through experience or those applications that indicate an arrest/conviction or disciplinary action against a license.
- Suspend or revoke any license and refuse to grant, renew, restore, or reinstate any license for any cause, which would be grounds for revocation or suspension of a license;
- Issue informal nonbinding interpretations of the statutes and rules governing the Board (e.g. scope of practice inquires, general correspondence inquiries);

EO Shahan stated that recent examples are the approving of continuing education sponsors and the inquiry concerning whether an individual could be issued more than one temporary permit

- Adopt/amend/repeal administrative rules as the Board may deem proper to fully effectuate HRS chapter 471 and carry out the purpose thereof, which is the protection of the general public;

All decisions of the Board are recorded in meeting minutes that are required to be kept in written form and made available to the public.

At each regular Board meeting, the Board must typically approve the minutes of the previous meeting (both the public/open session and the executive session meeting minutes).

The Board enters into Executive Session to consider and evaluate personal information relating to individuals apply for professional or vocational licenses, or 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 Hawaii Revised Statute ("HRS") section 92-5(a)(1) and (4). This portion of the meeting is private as confidential and personal information may be distributed in order to inform the Board members on the agenda item being discussed. The information shared needs to remain confidential. The Board will return to public session to make any determination on the agenda item.

DAG Wong shared the following information:

Just as the government has three different branches and functions, so do Boards and Commissions: Executive, Legislative, and Judicial.

- Executive: HRS Chapter 92 Sunshine Law, open to public, voting happens in the public, minutes are public. Executive Session pursuant to HRS section 92-5 is not open to the public, executive session minutes are not public.
- Judicial: HRS Chapter 91, the Board acts as a judge or adjudicatory body when it makes disciplinary decisions on existing licensees. Oral arguments, if any, are open to the public but the Board's deliberations or consultation with counsel are not open to public.
- Legislative: rulemaking for HAR that clarify the HRS.

Disciplinary Process for Administrative Boards:

- Complaint is received by the Regulated Industries Complaints Office ("RICO") → Investigation → Legal Section (staff attorney review) → Close
 - No jurisdiction
 - Insufficient evidence/no violation found
 - Technical violation with no consumer harm
 - Civil remedy to be pursued by consumer
 - Advisory letter
- Complaint is received by the Regulated Industries Complaints Office ("RICO") → Investigation → Legal Section (staff attorney

- review) → Settlement Agreements (negotiated agreements between RICO & respondent (licensee) → Board may not change settlement agreements → Board can either accept or reject settlement agreement → if accepts, Board's Final Order
- Pre-petition settlement agreement
 - Post-petition settlement agreement
- Complaint is received by the Regulated Industries Complaints Office ("RICO") → Investigation → Legal Section (staff attorney review) → Settlement Agreements (negotiated agreements between RICO & respondent (licensee) → Board may not change settlement agreements → Board can either accept or reject settlement agreement → if rejects, RICO may drop the case, RICO may bring amended settlement agreement back to Board, or RICO may take case to hearing → Contested Case Hearings → Recommended Order by Hearings Officer (findings of fact, conclusion of law, or recommended order sanctions) → Board may also accept recommended order as is, back to hearings officer for further hearing, or Board may change recommended order → Board's Proposed Final Order (exceptions, statement of support, or oral argument) → Board's Final Order (can be appealed Circuit Court)

EO Shahan outlined the legislative process a bill goes through as follows.

The Legislature is in session from mid-January to early May. The Department must submit proposed legislation to the Administration by mid-November. During the legislative session, the Board will discuss bills related to the profession and determine whether to support or oppose the bill. The Executive Officer will provide testimony based on the Board's discussions at each legislative committee hearing and during conference.

Each bill must address only the items referred to in the bill's title. All bills go through the same process in the Senate and the House.

All bills will have three readings. After the first reading the bill is assigned to an appropriate committee. The committee can either pass without changes, with changes, or defer/no vote (in which case the bill has "died").

If the committee passed the bill, it will then go to second reading, and on to the Finance Committee.

If Finance Committee passes the bill, it will go to a third reading and then will cross-over to either the Senate or the House to repeat the process.

If one house disagrees with changes made by the other house, the bill will go into Conference for deliberation. If the Conference comes to an agreement the bill is referred for its final reading.

After the final reading, the bill is sent to the Governor who may sign it into law, let the bill become law without signature, or veto the bill. A Governor's veto may only be overridden by a 2/3 vote in both the House and the Senate.

Applications:

none.

Chairperson Lee Loy asked if any members of the public would like to provide oral testimony on this agenda item. There were

At 10:33 a.m., it was moved by Vice-Chairperson Nishimoto, seconded by Dr. Lam, and unanimously carried via a roll call vote by Chairperson Lee Loy for the Board to enter into Executive Session to consider and evaluate personal information relating to individuals applying for professional or vocational licenses, or 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 sections 92-5(a)(1) and (4).

EXECUTIVE SESSION

At 10:46 a.m., the Board returned to public session.

Applications:

Chairperson Lee Loy asked if any members of the public would like to provide oral testimony on this agenda item. There were none.

A. Ratification of Issued Licenses

After discussion, it was moved by Vice-Chairperson Nishimoto, seconded by Ms. Chock, and unanimously carried to ratify the following issued licenses:

- i. Quitania, Tiffany
- ii. Takiguchi, Amanda
- iii. Gehring, Lindsay
- iv. Keppler, Bryan R.
- v. Jenny, Jesse C.A.
- vi. Gaines, Laurie J.

- vii. Pfeifer, Julie M.
- viii. Speelman, Marguerite A.
- ix. Fulkerson, Christopher M.

B. Approval of Restoration Application

- i. None

C. Application Review

- i. Horner, Candice E.

It was moved by Dr. Lam, seconded by Ms. Wada, and unanimously carried to defer the veterinarian application for exam of Candice E. Horner pending receipt of additional documentation.

Continuing Education –
Accredited Universities

Chairperson Lee Loy asked if any members of the public would like to provide oral testimony on this agenda item. There were none.

Executive Officer Shahan provided the Board with a statement of continuing education attendance certificate noting fourteen (14) hours of continuing education (“CE”) sponsored by the University of Illinois Veterinary Continuing Education Public Service/Extension. She noted that the University of Illinois is an AVMA accredited school of veterinary medicine, however it is not listed on the Hawaii Board approved sponsor list.

Chairperson Lee Loy stated that since the University of Illinois is an AVMA accredited school of veterinary medicine and the CE is part of the veterinary continuing education public service/extension, she does not see a problem accepting this CE.

After discussion, it was moved by Vice-Chairperson Nishimoto, seconded by Dr. Lam, and unanimously carried to recognize the University of Illinois and all other accredited universities of veterinary medicine as approved continuing education sponsors.

Examinations:

Chairperson Lee Loy asked if any members of the public would like to provide oral testimony on this agenda item. There were none.

A. Results of the State Veterinary Licensing Examination Administered on February 18, 2022

Candidates Eligible:	9
Exams Administered:	8
Successful:	8
Failed:	0
No Shows:	1

Correspondence: Chairperson Lee Loy asked if any members of the public would like to provide oral testimony on this agenda item. There were none

A. International Council for Veterinary Assessment (ICVA) – Board of Directors Call for Nominations

Executive Officer Shahan reported that the ICVA is seeking nominations for three At-Large positions on the ICVA Board of Directors. Two of these positions are unopposed, and the third position does have an incumbent eligible for reappointment. Nominations must be received by April 15, 2022.

B. International Council for Veterinary Assessment (ICVA) – Assessment Development Committee

Executive Officer Shahan reported that the ICVA is seeking individuals who would be interested in serving on the Assessment Development Committee. Nominations must be received by April 15, 2022.

Legislation: Chairperson Lee Loy asked if any members of the public would like to provide oral testimony on this agenda item. There were none.

A. HB2319 HD1

Requires the department of agriculture to be responsible for all neighbor island inspection permit fees for service animals that are located in the State and are being transported for release at Kona, Kahului, or Lihue airports. (Tracking)

The bill was passed with amendments by the Committee on Agriculture (AGR) on February 4, 2022. The amendment added a section 3 with appropriated funds to cover the cost of implementing the bill and changed the effective date to July 1, 2050. On February 17, 2022 the Committee on Consumer Protection & Commerce (CPC) recommended the bill be passed and referred it to the Finance Committee (FIN) which unanimously approved the CPC report.

B. SB609

Provides veterinarians who provide emergency care to an animal immunity from civil liability in the absence of gross negligence. (Support)

To date this bill has not been scheduled.

C. HB472_HD1

Exempts telehealth-related gifts from procurement requirements. Codifies the authorization of advanced practice registered nurses to use telehealth to assist a patient, including those advanced practice registered nurses who are not licensed in the State, under certain conditions. Makes permanent certain telehealth-related exemptions for licensed health professions issued by recent gubernatorial proclamation. (Oppose)

To date this bill has not been scheduled.

D. HB1598

Authorizes the board to grant temporary courtesy and relief permits for out-of-state veterinarians. (Support)

The bill was heard by Committee on Consumer Protection & Commerce (CPC) on February 8, 2022 and passed with amendments suggested by the HVMA.

E. SB2798

Authorizes the board to grant temporary courtesy and relief permits for out-of-state veterinarians. (Support)

The bill was heard by the Committee on Agriculture and Environment (AEN) on February 7, 2022 and passed unamended. The bill passed AEN's second reading on February 18, 2022 and was referred to the Committee on Consumer Protection & Commerce (CPN). CPN passed the bill with amendments suggested by the HVMA, the Department of Agriculture and the Board on February 23, 2022.

The Board supports the intent of this bill and offers the following comments respectfully requesting amendments to: (1) align terminology used in the bill with the definitions in the Board's statute and administrative rules; and (2) align the bill's proposed requirements with the existing capability of the Department of Commerce and Consumer Affairs' Professional and Vocational Licensing Division's (Division) licensing software:

- Page 2, lines 11 and 12:
(2) Practice under the level of direct or indirect supervision determined by the sponsor [~~either directly or indirectly~~];

The terms “direct” and “indirect”, when referring to the necessary level of supervision, are currently defined in the Board’s statutes and rules.

- Page 8, lines 11 to 13:
(f) A veterinarian may provide veterinary telesupervision for tasks that do not require [~~immediate~~] direct supervision as specified by rules adopted by the board. The Board recommends replacing the term “immediate” with “direct” to denote the level of supervision established 471-D(f) as “direct” supervision is currently defined in statute while “immediate” is not.
- Page 12, lines 13 to 17:
“Veterinary teletriage” means using electronic [~~consultation~~] communication with a client, including through a poison control agency, to provide a timely assessment and decision as to whether to immediately refer a patient to a veterinarian for emergency or urgent care.”
The Board recommends changing “consultation” to “communication” in the definition of “veterinary teletriage” as the term “consultation” is used in a manner contrary to its defined meaning as reflected on page 9, lines 10 to 15.
- Adding a new fees; disposition section as follows:
§ _____ Fees; disposition. (a) Upon issuance of a new license and at each license renewal period, each veterinarian shall pay, in addition to a license fee or renewal fee, a surcharge of \$100, which shall be maintained in a separate account within the compliance resolution fund established pursuant to section 26-9(o). At the end of each quarter, the moneys contained in the separate account established pursuant to this section shall be transferred to the compliance resolution fund until such time that the total transferred amounts equal the amount appropriated in section 1 of Act _____, Session Laws of Hawaii 2022. Thereafter, no surcharge shall be assessed, and any funds in excess of the amount appropriated in section _____ of Act _____, Session Laws of Hawaii, 2022, shall be deposited into the compliance resolution fund.
(b) Application fees paid pursuant to this chapter shall not be refundable. Pursuant to section 26-9(l), the director shall establish examination, reexamination, license, renewal, restoration, enforcement, and other fees relating to the administration of his chapter by rule.
(c) Fees assessed pursuant to this chapter shall be used to defray the costs incurred by the department in implementing this chapter.

In consultation with the Division, it is the Board’s understanding that the creation of these two new methods of licensure and developing the computer software and applications forms, and establishing the requirements for licensure in the existing system can take upwards of 600 hours. These hours would be added on to the already extensive daily workload of the Division’s developer, program analyst, and others outside of the Division. In consideration of this, it is requested that this bill be amended to include a fees and disposition section, which would allow the Division to assess a new license fee and at each renewal period, a surcharge, which shall be maintained in a separate account within the Compliance Resolution Fund. This will allow the Board and Division to charge

those applying for the new license types envisioned by this measure an assessment fee to create these licenses, thereby mitigating a cost that was not in the Division's budget.

- Page 17, section 7 be amended as follows:

This Act shall take effect upon approval; provided that section 1, 471-A courtesy permits and 471-B relief permits, takes effect on July 1, 2024.

This will allow the Division adequate time to create the permits in the Division's licensing software, update its applications, and make the appropriate web updates.

F. HB1715 HD1

Limits civil and criminal liability for persons who remove unattended animals from motor vehicles that are in physical danger if the actions are reasonable, in good faith, and in accordance with other requirements. (Tracking)

The bill was heard by the Agriculture and Environment (AGR) and passed with amendments on February 9, 2022. The amendments are non-substantial and change the effective date to July 1, 2050. The bill passed second reading and was referred to JHA on February 16, 2022.

G. SB2837 SD1

Establishes a spay neuter special fund and allows funds from an income tax check-off to be deposited into a special fund. (Tracking)

The Committee on Agriculture and Environment (AEN) passed the bill with amendments on February 14, 2022. The bill passed AEN's second reading on February 18, 2022 and was referred to the Committee on Ways and Means (WAM). WAM passed the bill with amendments on February 23, 2022. The amendments are non-substantial and change the effective date for sections 4 and 5 to July 1, 2022.

Executive Officer's Chairperson Lee Loy asked if any members of the public would like to

Report: provide oral testimony on this agenda item. There were none.

A. One open Board positions (licensed member)

Executive Officer Shahan stated that one application was received and there is one licensed Board member position still open for neighbor islands.

Next Meeting: Friday, April 8, 2022
10:00 a.m.
King Kalakaua Conference Room
HRH King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii 96813

Adjournment: There being no further business to discuss at this time, the meeting was adjourned at 11:23 a.m.

Reviewed and approved by:

Taken and recorded by:

/s/ Kerrie Shahan

/s/ Leanne Abe

Kerrie Shahan
Executive Officer

Leanne Abe
Secretary

KS:la

03/24/2022

- [X] Minutes approved as is.
[] Minutes approved with changes. See minutes of.