

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

MINUTES

Date: December 13, 2024

Time: 10:00 a.m.

Place: PVL Exam Room 330
HRH King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, HI 96813

Virtual Videoconference Meeting - Zoom Webinar

<https://dcca-hawaii-gov.zoom.us/j/83909418455?pwd=XV6Vb1np83qxyuPdnPQkaXjbNCgx6X.1>

Zoom Recording Link: <https://youtu.be/ealsfPmdmwU?si=6WerVC7UhaEj27OF>

Present: Marcella Chock, Chairperson ("Chair")
Lisa Wood, D.V.M., Vice-Chairperson ("Vice-Chair")
Craig Nishimoto, D.V.M., Member
Tiffany Hummel, D.V.M. Member
Aileen Wada, Public Member
Shari J. Wong, Esq., Deputy Attorney General ("DAG")
Kerrie Shahan, Executive Officer ("EO Shahan")
Marc Yoshimura, Secretary

Excused: None.

Guests: Gabrielle Asay, D.V.M.

Agenda: The agenda for this meeting was posted on the State electronic calendar 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: Chair Chock proceeded with roll call. All Board members confirmed they were present. There being a quorum present, the meeting was called to order at 10:12 a.m.

Welcome New Board Members: Chair Chock stated this agenda item to be delayed as the new Board members were not currently in attendance.

Approval of the October 23, 2024 Chair Chock asked if any members of the public would like to provide oral testimony on this agenda item. There were none.

Minutes: Vice-Chair Wood made the motion, seconded by Ms. Wada, and unanimously carried to approve the Open and Executive session minutes of the October 23, 2024 meeting.

Board Orientation: Chair Chock stated that this agenda item to be delayed as the new Board members were not currently in attendance.

Applications: Chair Chock asked if any members of the public would like to provide oral testimony on this agenda item. There were none.

A. Application Review

None

B. Ratification of Issued Licenses

- i. WHITNEY FERGUSON
- ii. TIARE TAKAESU
- iii. EMILY VAN RYS
- iv. SHAWNA FUJITA
- v. MALLORY ROSAS
- vi. DOMINQUE JETTE
- vii. MEGAN BREIT
- viii. LIAM IVERSON
- ix. TERRY PAIK
- x. STEPHANIE JONES
- xi. ANNA FOSTER
- xii. JOELLE BELLA LARCY
- xiii. JULIE RYDELL

Dr. Nishimoto made the motion, seconded by Vice-Chair Wood, and unanimously carried to ratify the issued licenses (items i-xiii) as listed above.

C. Ratification of Courtesy/Relief Permits

None

D. Restored License

- i. BRUCE BURCH

Vice-Chair Wood made the motion, seconded by Ms. Wada, and unanimously carried to approve the restored license listed above.

Executive Officer Report: A. Results of the State Veterinary Licensing Examination for October and November 2024

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

EO Shahan provided the results of the following examinations:

A. Results of the State Veterinary Licensing Examination
Administered in October 2024

Exams Administered: 8
Successful: 7
Failed: 1
Pass Percentage: 87.50%

B. Results of the State Veterinary Licensing Examination
Administered in November 2024

Exams Administered: 7
Successful: 7
Failed: 0
Pass Percentage: 100%

B. Exam Question Follow Up from Last Meeting

At the previous Board meeting, the Board asked EO Shahan to inquire with PSI to acquire data pertaining to passing rates on the first attempt, second attempt of the exam and the questions which are most frequently answered incorrectly.

EO Shahan stated that PSI informed that industry standards require at least 100 individuals to take an exam as any less will not provide a large enough sample to provide reliable data regarding an examination. As of today, only 42 individuals have taken the exam since it changed over to PSI. Of the 42 individuals, 29 individuals passed the first time. Six individuals failed the first time and did not retest. Five people passed the second time and two people failed their second time.

EO Shahan asked the Board if they would be inclined to have her reach out to PSI again when 100 individuals have taken the exam so to retrieve their requested data. She suggested this number would likely be met around this same time next year.

Dr. Nishimoto stated he would agree to that. The Board concurred.

Dr. Tiffany Hummel entered the meeting at 10:18 a.m.

Board Orientation
(Reconvened):

Chair Chock reconvened discussion of the Board Orientation.

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

DAG Wong stated the following with regards to imperative information pertaining to the legal responsibilities of being a Board member:

- Boards or Commissions act like a mini government where you wear three hats under the Executive, Legislative and Judicial branches;
- The Executive Branch, which Boards are part of, is subject to the Sunshine Law, HRS Chapter 92. Board meetings are open to the public; they can join the meeting in-person or remotely via Zoom;
- All voting takes place in the open session which open session minutes are completed and is approved at the following Board meeting;
- The Board may choose to enter Executive Session during the meeting to discuss the following, pursuant to HRS §92-5:
 - To consider and evaluate personal information relating to individuals applying for professional or vocational licenses, pursuant to HRS §26-9;
 - To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities
 - In reviewing personal evaluation information, such as convictions, rationally or directly related to the profession of veterinary medicine and to assess whether there is sufficient evidence of sufficient rehabilitation
- Under the Legislative hat, rulemaking is conducted by the Board, which the Board recently undertook. The Board has Hawaii Administrative Rules and Hawaii Revised Statutes which govern the Board.
 - Revised statutes are addressed by the Legislature, and can only be amended, changed, appealed, or added through the Legislature which convenes annually from January-May
 - Rulemaking falls under the administrative rules which are to flesh out the details or though not conflict with the revised statutes
- Under the Judiciary hat, this references the Board meetings when the Board has to recess into Chapter 91, which does not have to be on the agenda as it does not fall under the Sunshine Law
 - Oral arguments are conducted during the open session;
 - Board deliberation is to be done during recess, a private discussion involving strictly the Board members, staff, and DAG

In continuation with the Judiciary responsibilities, DAG Wong stated the following pertaining to disciplinary actions taken by the Board against an applicant or licensee:

- Process beings with a complaint from a consumer, another licensee, or any individual. Complaints are submitted to and received by the Regulated Industries Complaints Office (RICO);
- RICO acts as the Board's investigative and prosecutorial arm, as the Board cannot investigate or prosecute on its own. They

investigate, then will send to the legal section where a staff attorney will review;

- The legal section will close it if there is no jurisdiction, insufficient evidence/no violation found, technical violation with no harm to the consumers, or they may issue an advisory letter;
- If not, settlement agreements will be presented to the Board which has been previously negotiated between the prosecutor, RICO and licensee. The Board does not have the ability to change terms of the agreement when discussed between all respective parties. The Board is responsible to accept or not accept the settlement agreement.
 - A Pre-Petition settlement agreement – a licensee may not want to provide details of allegations, so they choose not to petition. The legal section will try to settle before a petition.
 - A Post-Petition settlement agreement – the Board will receive the petition as well as the settlement agreement. The information may be limited, similar to a pre-petition, dependent on how much the parties are able to gather.
- If a more serious case, and the individual requests a contested case hearing, the case will go to the Office of Administrative Hearings (OAH), where their administrative judge and they hear both sides, similar to a trial. A RICO attorney will be the prosecutor and the licensee will be the respondent
 - Following the hearing, the hearings officer will issue a recommended order including findings of fact, conclusions of law and a recommended order (sanction).
 - The parties are able to conduct an oral argument on the recommended order; then the Board will get to consider whether they want to change, accept, or not accept the recommended order.
 - If the Board decides to increase the sanctions recommended by the hearings officer, a proposed final order will be drafted, in which case due process will be offered to consider exceptions, an oral argument, or statement in support.
- Finally, a Board's final order will be created of which the licensee can appeal to the First Circuit Court

EO Shahan shared the following pertaining to overview of the Board:

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 inquiries, 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.

Legislative Process for a Bill

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.

Correspondence: Chair Chock stated there is no correspondence for the Board to discuss.

New Business: Chair Chock asked if any member of the public would like to provide oral testimony on this agenda item. There were none.

- A. Continuing Education Providers
American Association of Veterinary Laboratory Diagnosticians (AAVLD)
United States Animal Health Association (USAHA)

Chair Chock stated that a licensee submitted continuing education (CE) completed through the AAVLD and the USAHA, both of which are currently not Board approved CE providers. She stated that the Board needed to determine if it would accept these CEs and add the organizations to the list of approved CE providers.

EO Shahan provided the Board with printouts of AAVLD and USAHA's vision and mission information from each organization's website. EO Shahan stated that if the Board need additional information she will reach out to the organizations.

Vice-Chair Wood stated she is familiar with both organizations and has no reservations.

It was moved by Vice-Chair Wood, seconded by Dr. Nishimoto, and unanimously carried to approve the acceptance of CEs completed through the AAVLD and USAHA.

- B. Continuing Education Audit Requests

- i. What constitutes "within one year of the licensee's first renewal"?

Chair Chock stated the Board will deliberate and consider its interpretation of 471-9, Hawaii Revised Statutes, section (d) "A licensee who has graduated from an accredited veterinary school within one year of the licensee's first license renewal shall not be subject to the continuing education requirement for the first license renewal".

EO Shahan stated there are two licensees, one who graduated May 13, 2023 and one who graduated June 7, 2023. Neither licensee completed 20 hours of CE as they believed they were exempt. The renewal date was June 30, 2024, which is more than a year from the graduation date for both licensees. EO Shahan asked the Board if "within one year" means the date (day) of renewal (June 30th) or the month of renewal (June)?

Dr. Nishimoto shared that theoretically, as a student, you gain the latest information while in school, so they do not necessarily need to complete

continuing education courses immediately after graduation. He asked for confirmation that licensees are renewed every two years but these licensees had to complete the required CEs within one year.

EO Shahan confirmed that is correct, as the statute was written indicating within one year after graduation - if the licensee has been out of school for more than one year, completion of CE is required.

Dr. Gabrielle Asay raised her hand to provide testimony.

Dr. Asay shared that most states allow new graduates to skip the first license cycle, with regard to submission of CEs, in lieu of the recency of graduation as shared by Dr. Nishimoto.

EO Shahan agrees but reiterated the statute and it would require a statutory change with the Legislature for any amendment. She added that, to the best of her knowledge, this was the first request the Board has received since this statutory requirement was enacted in 2018.

She reminded the Board that every licensee signs their application attesting they have read and understand the rules and statutes pertaining to this license type.

Dr. Nishimoto asked for confirmation that licenses are good for two years.

EO Shahan clarified that veterinarian licenses are renewed every biennium, which runs from July 1st of an even-numbered year to June 30th of the next even-numbered year. Despite the date of graduation, if one was licensed in October 2023 and the other licensed in January 2024, all licensees are required to renew by June 30, 2024.

Dr. Nishimoto asked if these licensees, given only a few months until the renewal deadline, they were still required to complete the required 20 hours when others may have had the full two years?

Vice-Chair Wood confirmed yes.

EO Shahan reiterated to the Board that she is inquiring on the Board's interpretation of the provided statute.

DAG Wong expanded indicating that the Board may interpret as one year (365 days) from the date of graduation, or would they expand it to the end of the month they graduated in. It is important for the Board to be consistent with their decisions, as it would set a precedent.

Ms. Wada asked the licensed Board members how important the CEs are knowledge-wise.

Dr. Nishimoto stated that these two licensees must have the knowledge but that is not the issue at hand.

The Vice-Chair agreed with Dr. Nishimoto that recent graduates have a wealth of knowledge in this field.

Dr. Nishimoto asked what the penalty would be for not completing the required 20 CE hours.

EO Shahan stated if the CEs were not completed as required, then she would report the licensee to RICO. RICO would negotiate with the licensee and most likely issue a settlement letter, possibly a fine. The settlement would be presented to the Board, of which the Board would approve or deny.

Dr. Nishimoto continued to voice concern that these licensees did not have the full two years.

EO Shahan provided that unfortunately this is already set in statute and this type of incident may not have been discussed or believed to be an issue, or that there is still ample time to complete.

DAG Wong indicated that other Boards have a workaround in their rules to provide additional time to complete missed CE hours or provides another option. Some licensees may have extenuating circumstances. The Board could consider amending their rules, as the rules are not overseen by the Legislature.

Chair Chock shared that some professions provide three additional months to complete the required CEs.

Dr. Hummel added she believes that the California does something similar.

DAG Wong summarized the discussion stating that the Board is inclined to be expansive in allowing CEs accepted through the month of June preceding the June biennium of 2024, so June 1, 2023. The applicant who graduated on June 7, 2023 would be okay, though the licensee who graduated in May 2023 will not.

Dr. Hummel indicated that the licensee who graduated in May 2023 currently completed 24 CE hours.

EO Shahan stated during RICO's investigation, they may ask the licensee what they have already completed; the licensee would send proof to RICO; RICO would inquire with her if she would accept those CEs.

Vice-Chair Wood asked EO Shahan if she will be sending a letter to the licensee who graduated in May 2023 to advise that the Board will not accept the CEs though to encourage to complete the CEs while going through the process with RICO.

EO Shahan stated yes.

Dr. Nishimoto asked EO Shahan if the Board can have further discussion during a future Board meeting regarding amending the statute or rule as he does not believe that a licensee who is licensed in the second half of the biennium is required to complete 20 CEs.

DAG Wong stated that the Board cannot amend the rules, as Dr. Nishimoto's inquiry is specific to the statute which is required to be introduced to the Legislature.

DAG Wong asked for clarification if the recommended overall goal is to exempt for the whole two-year biennium.

Dr. Nishimoto answered yes.

Dr. Wood asked Dr. Asay and Dr. Hummel if they believe that would be appropriate.

Dr. Asay answered yes, adding that the Board would run into a lot less new graduates making the mistake in this particular issue.

Dr. Hummel provided that South Carolina and California provide an exemption for the first two years.

DAG Wong stated that DCCA is beyond the deadline to submit administrative bills to the Legislature for consideration. But, if a Board member is interested in approaching their local legislator, the cut off to introduce a bill for consideration is in January 2025.

EO Shahan clarified that the Board is looking to provide exemption for the CE requirement for the first biennium of licensure.

EO Shahan reiterated that, in regard to the inquiries, the Board interprets HRS §471-9 as within the month of June as pertaining to the one-year period, not the exact date of graduation.

It was moved by Vice-Chair Wood, seconded by Dr. Nishimoto, voted on and unanimously carried to interpret HRS §471-9 as within the month of June pertaining to the one-year period, not the exact date of graduation.

Dr. Wood asked EO Shahan and DAG Wong if she can work with both of them to draft language for the proposed amendment to the statute as discussed earlier.

EO Shahan and DAG Wong said yes.

- ii. What constitutes "evidence satisfactory" and/or "documentation verifying compliance"?

Chair Chock stated the Board received copies of cancelled checks from a licensee rather than CE certificates as evidence of having completed the

CE requirement. Are these cancelled checks considered satisfactory evidence of CE compliance?

EO Shahan stated that HRS §471-9 does not specifically state what satisfactory evidence is. Generally, CE certificates and RACE transcripts are accepted. No licensee has previously provided copies of checks. Some of the copies provided are made payable to HVMA though there is no indication it is for a CE course/s. She asked the Board if they would consider these cancelled checks are proof as satisfactory evidence.

Chair Chock indicated that the checks do not provide information indicating a CE course.

EO Shahan stated she will advise the licensee that the Board opined that the cancelled checks do not qualify as satisfactory evidence of CE completion and to request with HVMA for verification to reflect CEs were provided/offered at the HVCA annual meeting and how many hours were offered.

It was moved by Dr. Nishimoto, seconded by Vice-Chair Wood, voted on and unanimously carried that cancelled checks are not considered adequate for documentation of CE.

- iii. Is there a provision for granting an extension to complete continuing education hours?

Chair Chock stated the Board received an extension request from a licensee to complete the required CE as they have been taking care of an ill family member. She added that HRS §471-9 does not provide any provisions for extensions.

EO Shahan indicated that the Board may look to amend their rules to allow extensions for instances such as illness, active-duty military service.

DAG Wong provided there are other Boards which provides extensions due to extenuating circumstances pursuant to their rules or statutes.

DAG Wong asked the Board the length of the extension they would like to provide.

Dr. Nishimoto indicated six months.

DAG Wong stated she is aware of a Board that will require the licensee to complete the double amount of CEs for the next biennium. In the case of this Board, it would be 40 CE hours.

Chair Chock mentioned that the licensee completed 18 CE hours within the biennium and is only lacking 2 CE hours.

Vice-Chair Wood suggested to EO Shahan that the licensee is to be advised that the Board is unable to grant an extension but to complete the

remaining 2 CE hours so they are completed when RICO conducts their investigation.

EO Shahan requested that Dr. Wood can also add the request for extension to the proposed amendments to the statute as stated in the prior discussion. She asked what the Boards preference would be.

After further discussion, the Board agreed to request for the amendment to provide six months to complete and provide proof of CEs to the Board.

C. Legislative Liaison(s)

Chair Chock asked if any member of the public would like to provide oral testimony on this agenda item. There were none.

EO Shahan stated the responsibility of the legislative liaison would be to provide insight, or advice to speak on behalf of the Board when questions arise for bills that are introduced during the Legislative session. She asked for volunteers.

Ms. Wada volunteered Vice-Chair Wood and Dr. Nishimoto.

Both Vice-Chair Wood and Dr. Nishimoto agreed to volunteer as legislative liaisons.

Next Meeting: Friday, March 19, 2025

Videoconference Meeting Zoom Meeting and

In-Person
Location: Queen Liliuokalani Conference Room
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 11:33 a.m.

Reviewed and approved by:

Taken and recorded by:

/s/ Kerrie Shahan

/s/ Marc Yoshimura

Kerrie Shahan
Executive Officer

Marc Yoshimura
Administrative Assistant

KS:my

11/22/2024

[X Minutes approved as is.

[] Minutes approved with changes. See minutes of