

1 Draft - MINUTES

2 KANSAS BOARD OF VETERINARY EXAMINERS

3 Sunday, June 3, 2018

4 Hilton Garden Inn  
5 410 South 3<sup>rd</sup> St [Board Room]  
6 Manhattan, Kansas

7  
8 Board Meeting  
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11 This meeting of the Kansas Board of Veterinary Examiners was called to order at 10:03  
12 A.M. by Board President Dr. Dodson. Board Members in attendance in addition to Dr.  
13 Dodson were Drs. Bentz, Kobuszewski, Ritter, Snyder, Bogue, and Joseph Allen. Also  
14 present in Manhattan were Dr. Hedrick; Konrad Coe, Cheryl Mermis, Matthew  
15 Provencher, General Counsel Athena Andaya, Litigation Counsel Jane Weiler.  
16 GUESTS: Virginia Brunner-Livingston, Beverley Earles, Linda Henriksen, Clancey  
17 Livingston, Mark Olson, DVM, Carol Vandeventer, Harold Vandeventer and Mary  
18 Wood.

19  
20 Dr. Dodson welcomed and thanked those in attendance, then read the mission  
21 statement for the agency.  
22

23 After Dr. Dodson announced adding a line item "e", under staff reports, Athena Andaya  
24 will be presenting the attorney report regarding upcoming legislation, Mr. Allen made a  
25 motion to adopt the revised agenda, and Dr. Bogue seconded the motion. The motion  
26 passed on a voice vote with no dissenting votes.  
27

28 Dr. Dodson announced that there is five minutes allotted to each individual wishing to  
29 speak during the public forum.

30 Virginia Brunner-Livingston initiated a discussion by announcing a 4-minute visual  
31 video [no verbal narration] presentation. Linda Henriksen disputed the penalty  
32 rendered, by KBVE, to the Respondent named in her 9/11/2017 complaint- involving  
33 her dog-Kodi and to formally request that the Board reopen her complaint case.  
34 Clancey Livingston gave supporting testimony to the Board, saying that he and his wife  
35 provide respite care for Kodi prior to and post the procedure performed by the  
36 Respondent Veterinarian in Ms. Henriksen's complaint. Mr. Livingston stated that he  
37 does not believe the Board rendered a fair judgment or assessed an appropriate  
38 penalty.

39 Beverly Earles introduced herself as an animal owner and advocate in animal rescue  
40 who also had a complaint against the same Respondent Veterinarian as Ms.  
41 Henriksen. Ms. Earles queried the Board as to whether there are guidelines for  
42 penalties other than fines. Speaking for the group Ms. Earles stated that they would  
43 like to see the details of fact finding that the KBVE engaged in, for the final  
44 determination[s]. Ms. Earles would like see the KBVE publish all complaint cases with  
45 board findings so that the general public can make informed decisions with regards to  
46 seeking veterinarian practitioners and make the publication of complaint  
47 investigations/determinations retroactive.

48 Mary Wood is an acquaintance to both Ms. Henriksen and Ms. Earles and is aware of  
49 the details of each of those complaints to KVBE and the Boards' decisions. Ms. Wood  
50 posed two questions for the Board's consideration; *did the sanctions you gave to*

51 *Respondent Veterinarian in both Earles/Henriksen complaints support the standards*  
52 *[you want] in your professional field – AND – is the Respondent Veterinarian, in both*  
53 *Earles/Henriksen complaints the type of person [you] would like in [your own] private*  
54 *practice.*

55 Carol Vandeventer let the KBVE know that she is a concerned consumer that believes  
56 the public needs to be aware of the consumer complaints to the KBVE and the Boards'  
57 final determinations.

58 Dr. Dodson thanked all those that voiced their concerns and reassured the group that  
59 the KBVE takes their concerns very seriously and that the Board is currently evaluating  
60 the complaint process and developing the mechanism to keeping the public informed.  
61 The KBVE is committed to reassessing the Boards' protocols and procedures.

62 Dr. Dodson asked Dr. Hedrick to send a Board response to the E-mail messages that  
63 he received from Bev Earles and Linda Henriksen, on May 14, 2018, within two weeks.

64

65 Dr. Mark Olson/President of AAVSB was present for the public forum to provide KBVE  
66 information on the services available to member boards, through AAVSB-American  
67 Association of Veterinary State Boards. Dr. Dodson asked for a motion to send two  
68 board members to the AAVSB annual conference; Sept. 13-15, 2018 in Washington  
69 DC. Drs. Bentz and Ritter will check their schedules and inform the office staff, of their  
70 availability.

71 Dr. Bogue is willing to serve as an alternate attendee if he hasn't been replaced [Dr.  
72 Bogue's term on the KBVE was to expire on 6/30/2017]. Dr. Bogue made the motion  
73 to send two delegates to the AAVSB conference and Dr. Kobuszewski seconded the  
74 motion. The motion passed on a voice vote with no dissenting votes.

75

76 There was one correction to the minutes from the April 4, 2018 minutes; on line 76,  
77 the presentation to KSU occurred on 4/13/2018 not 5/13/2018. Dr. Ritter made a  
78 motion to approve the corrected board minutes from the 4/4/2018 board meeting, Dr.  
79 Snyder seconded the motion. The motion passed on a voice vote with no dissenting  
80 votes.

81

82 Dr. Hedrick signed the MOU-Memorandum of Understanding with Heart of American  
83 Professional Network (HAPN) after legal review by both Athena Andaya and Jane  
84 Weiler; a finalized document is located in the KBVE office. This agreement is to  
85 monitor veterinarian practitioners with substance abuse issues. There is no mention  
86 of registered veterinary technicians in the Practice Act, but the MOU with HAPN will  
87 not exclude veterinary technicians if there is a need for that agency to monitor a  
88 veterinary technician. There is no cost to KBVE, the participant pays the cost as  
89 assessed by HAPN.

90

91 Following discussion on the complaint process the Board agreed that legal  
92 representation would be present during probable cause determination, both telephone  
93 and face-to-face meetings.

94

95 Dr. Dodson is willing to take the KSU-student presentation that was provided to 3<sup>rd</sup>  
96 year veterinary students in April, to the KVMA meeting on June 3, 2018. This  
97 presentation will explain the board's roles and responsibilities, as well as and common  
98 violations. The board supports this presentation to include future KVMA district  
99 meetings.

100

101 Dr. Hedrick presented a proposal to board members that the KSU student  
102 presentation be expanded to include the two-days of orientation that incoming interns  
103 and residents are mandated to attend. KSUCVM is supportive of this proposal to  
104 inform interns and residents of the legal requirements for institutional licensure in  
105 Kansas. Records and communication skills would be highlighted during this  
106 presentation. Board members were supportive of the proposed endeavor and directed  
107 Dr. Hedrick to proceed.

108  
109 Dr. Hedrick reported that the agency office will relocate within the same building, to  
110 two adjoining rooms, across the hall from the existing office. The monthly rent  
111 payment is \$575; \$6900 for a year.

112  
113 Strategic Plan UPDATES:  
114 Dr. Dodson presenting her “Demystifying KBVE” presentation to KVMA board meeting  
115 and perhaps on to future district meetings.

116 Dr. Ritter and Dr. Kobuszewski have completed their task – creating a “balanced”  
117 guideline for Board composition and succession guidelines for Board members and  
118 staff.

119  
120 Drs. Bentz, Snyder, and Mr. Allen were tasked with identifying all areas that need  
121 updating in the Practice Act. This groups’ focus centered on embryo transfer and  
122 teeth floaters. According to statute, the Board has the authority to regulate  
123 prescription drug usage; tranquilizers, sedatives and everything else that has a legend  
124 on a container that depicts, ‘*on or by the use of a licensed veterinarian*’. However, if  
125 the KBVE receives information about an unlicensed individual possessing and/or  
126 administering a controlled substance – there would be criminal issues that crosses  
127 numerous jurisdictions; the KBVE can impose license action on a licensed practitioner  
128 and the KBVE has some legal authority over unlicensed individuals.

129 Ms. Andaya suggested adding “teeth floater(s)” to K.S.A.47-816(h).

130 Drs. Bentz, Snyder, Hedrick, and Mr. Allen will look at partnering with other interested  
131 groups/organizations for the purpose of introducing statute/regulation changes to the  
132 Kansas Legislature; additionally the work group will utilize AAVSBs practice act model  
133 as a guide and make a request to AAVSB staff to gather other states language  
134 pertaining to teeth floaters and embryo transfer.

135  
136 STAFF REPORTS

137 Mr. Coe reported inspecting 98 premises since the last meeting; which included 2 non-  
138 compliance, 1 new facility, and 2 OMDR changes. Mr. Coe reported on two instances  
139 of solo practitioners passing away with controlled inventory. Konrad destroyed the  
140 small amount of controlled substances in one case. The second veterinarian had a  
141 larger inventory of controlled drugs on site. Following Dr. Hedrick consulting with DEA  
142 staff, information was relayed to family representatives that DEA form 222 could be  
143 used to transfer controlled substances to a DEA licensed individual.

144  
145 Ms. Mermis provided board members a written office report which detailed the group  
146 effort sending out the 2018-2019 renewal forms to licensed veterinarians.

147 On 5/21/2018 all staff assisted with folding and stuffing approximately 2744  
148 envelopes; paper renewal forms were mailed to all non-renewed licensees on June  
149 1<sup>st</sup>. KBVE provided licensees the option to renew their license and veterinary  
150 premises registration on-line through a secure web portal with Kansas Information

151 Consortium (KIC). A new procedure was implemented this renewal season, the  
152 agency website is updated daily with renewed licensee information. Many drug  
153 companies are requiring proof of a renewed veterinary license before filling drug  
154 orders. This new step will eliminate telephone inquiries from drug companies  
155 checking proof of licensure before filling orders.

156  
157 Matthew Provencher reported at the last board meeting there were 9 open cases; 5  
158 have went to the probable cause committee- 4 cases resulted in findings by the  
159 probable cause committee that violations occurred, and no violations were found in 1  
160 case. There will be 3 cases presented to reviewers on June 3, 2018. There have  
161 been 7 new complaint cases since 4/4/2018; 5 cases are currently under investigation.  
162 Mr. Provencher is waiting on additional information from complainants on 2 cases  
163 before an investigation begins. Compliance update on 2 cases: on one case an  
164 unannounced clinic visit occurred, during which records and clinic logs were obtained  
165 and an informal interview occurred with the veterinarian who currently has a revoked  
166 license who was at the veterinary premises at the time of Mr. Provencher stopped at  
167 that location, On a second case for compliance review, the veterinarian complied with  
168 lab testing. The board members would like legal counsel to research veterinary  
169 practice ownership by a non-licensed individual.

170 There was some discussion about providing licensees periodic newsworthy  
171 information, a short newsletter, to refresh/enhance licensees understanding on  
172 compliance strategies; Mr. Provencher, Mr. Coe and Dr. Hedrick will collaborate on  
173 hot topic issues and present to the board at a later date.

174  
175 Dr. Hedrick announced that he has been working to finalize the purchase of a new  
176 agency vehicle before fiscal year-end; KBVE has encumbered the funds and it is  
177 expected that the purchase will post in FY18.

178 The office staff has received numerous inquiries about the use of CBD oil; Dr. Hedrick  
179 received the Attorney General's 1/24/2018 opinion, at that time it was illegal in Kansas  
180 but subsequently the Kansas Legislature has passed and the Governor signed 2018  
181 SB 282. The law became effective on May 24, 2018. Therefore, to the extent that  
182 Attorney General Opinion No. 2018-5, issued on January 24, 2018, opined it is  
183 unlawful to possess or sell products or substances containing any amount of  
184 cannabidiol, that portion of the opinion is no longer valid. As amended by 2018 SB  
185 282, cannabidiol is excluded from the definition of marijuana in K.S.A. 21- 5701(j)(2)  
186 and (3), and in K.S.A. 65-4101(aa)(2) and (3). Therefore, possession or sale of CBD,  
187 without any amount of tetrahydrocannabinol, is legal under Kansas law.

188 Dr. Hedrick informed the board members of Konrad's recent inspection of  
189 approximately 24 new premises located in Tractor Supply locations throughout the  
190 state; these locations will be conducting intermittent vaccination clinics. Following a  
191 discussion that introduced a query about whether sales barns should be registered,  
192 Dr. Dodson ask legal counsel to review definition of premises and report back to the  
193 board. Athena stated that she would provide the information in a legal memo.

194  
195 Athena Andaya informed board members that there is a new piece of legislation that  
196 passed both Houses and received the Governor's signature-- H.B.2280; any new  
197 proposed statute/regulation will have to be approved by the Division of Budget before  
198 moving on for approvals from Division of Administration and the Attorney General's  
199 office; this additional step will most likely add more time it takes to get regulations  
200 through the process.

201  
202 After discussion on the requirement from the Department of Administration that board  
203 member travel be at rental car rates. Dr. Bentz made a motion that board members'  
204 time should be factored in the calculation for personal vehicle mileage reimbursement  
205 comparison to car rental costs. Dr. Ritter seconded the motion, the motion passed on  
206 a voice vote with no dissenting votes.

207  
208 Next meeting of the board will be Wednesday, August 15, 2018; Wednesday,  
209 November 14, 2018, both at 10:00 A.M. in Wamego.

210  
211 Mr. Allen made the following motion, *"In order to protect the privacy of the non-elected*  
212 *personnel involved, I move that the Board recess into executive session to discuss an*  
213 *individual employee's performance. We require Dr. Hedrick to be admitted to the*  
214 *executive session, when requested, to aid the Board in their discussions. The Board*  
215 *will reconvene the open meeting in this same location in 20 minutes seconded by Dr.*  
216 *Bogue, at 1:30 P.M."* At 1:30 P.M. the meeting resumed in open session.

217  
218 Mr. Allen made the following motion, "In order to protect the privacy of the non-elected  
219 personnel involved, I move that the Board recess into executive session to discuss an  
220 individual employee's performance. We require Dr. Hedrick to be admitted to the  
221 executive session, when requested, to aid the Board in their discussions. The Board  
222 will reconvene the open meeting in this same location in 10 minutes. The motion  
223 was seconded by Dr. Bogue. The meeting resumed in open session at 1:42.

224  
225 Mr. Allen made a motion to adjourn the meeting at 1:46 P.M., and Dr. Bogue  
226 seconded the motion. The motion passed on a voice vote with no dissenting votes.

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229  
230 Signed Sheila M. Dodson 8/22/18

231  
232 \*The meeting has been rescheduled to August 22, 2018 at 10:00 a.m. in the Board  
233 Conference Room in Wamego, Kansas.

