

# Vermont State Veterinary Board NEWSLETTER

Vermont Secretary of State, Office of Professional Regulation

**Topics discussed in this issue include: brief biographies of board members; information regarding complaints; changes in the Board's laws; proposed legislation; updated policies; disciplinary actions; Q & A; Statistics, etc.**

## Board Members

Members are appointed by the Governor. Listed below are the current members of the State Veterinary Board and the date their terms expire (under the statute, Board members serve until a successor is appointed).

Mark A. Basol, D.V.M., Chairman, (12/08); Ronald S. Svec, D.V.M., Secretary, East Dummerston, VT, (12/06); Robert Bergman, D.V.M., Vice-Chair, (12/07); Kristin M. Haas, D.V.M. (12/08); and public members: Heather Hoisington, Norwich, VT, (12/04); and Eveleen C. Cecchini, Shelburne, VT, (12/07).

The Board and the Office of Professional Regulation thank Michele R. Tulis, D.V.M. of Jericho and David T. Lamb, D.V.M. of South Strafford for their many years of service. We also want to give a special thanks to Heather Hoisington who has served for many years as a public member on the Board. Their efforts and dedication to the profession should be known to all.

The Board generally meets in Montpelier, Vermont, on the 2nd Thursday, every other month beginning in February. The meetings are public and we encourage you to attend.

## About the Members

Dr. Mark Basol received his

undergraduate degree in Animal Science from North Dakota State University in 1978 and his DVM degree from Iowa State University in 1982. A certified acupuncturist, he completed the IVAS basic course in 1992 and served as a teaching assistant to the 1994/1995 course in Houston, Texas.

Since 1987 he has been in partnership with Vergennes Animal Hospital and has continued to shape the practice to meet the changing demographics of the area.

Dr. Basol and his partner built a new hospital ten years ago to better serve the growing needs of small animal clients. It has since grown to include five full-time veterinarians and a trained support staff offering 24/7 coverage. Dr. Basol's work encompasses all aspects of the small animal side of the practice with a special interest in alternative medicine. Dr. Basol has been a member of the Board since 2000 and became Chairman in 2004. Dr. Basol lives with his wife Julie and active teenager Craig. His passion for sailing and skiing makes Vermont a perfect place to live and work!

Dr. Bergman completed his undergraduate work at the University of Pittsburgh and received his Veterinary degree from the University of Pennsylvania in 1978. He has practiced with his wife/partner Dr. Anna Worth in

Shaftsbury at West Mountain Animal Hospital since 1979. His office is a full service AAHA certified companion animal hospital employing five veterinarians. He has special interests in wellness medicine and dentistry. When out of the office, he would prefer to be on his skis, bicycle, motorcycle, kayak or running shoes.

Dr. Ron Svec graduated from Kansas State University in 1983. He lives in Dummerston, VT with his wife, Priscilla and their two daughters, Hannah and Tori. Originally working with both large and small animals, he now practices primarily small animal medicine and surgery. He is in partnership at the Vermont-New Hampshire Veterinary Clinic, a five doctor AAHA accredited mixed animal practice. He also attends to many exotic species especially birds and reptiles. He is involved with raptor care and rehabilitation, and is a consulting veterinarian to the Vermont Institute of Natural Science. Each March, he enjoys participating as a staff veterinarian for the Iditarod Sled Dog Race in Alaska. His interests also include exploring forests and wetlands by foot or by kayak, coaching middle school soccer and little league baseball, adult softball and especially being a dad.

Dr. Kristin Haas graduated from the University of Georgia in 1995. She is an equine veterinarian with Burlington Equine Veterinary

Services, a multi-veterinarian practice in Charlotte. She has an interest in equine reproduction and pediatric medicine. She enjoys fly fishing, photography, hiking and camping.

Ms. Heather Hoisington owns and manages Northern Nights Yarn Shop in Norwich. She is currently very involved in the yarn industry. For a number of years she raised sheep and boarded horses.

Ms. Eveleen Cecchini is a Wildlife Rehabilitator specializing in raptors. She founded and directs a nonprofit wildlife education organization. She is currently involved with the Vermont Bald Eagle Restoration Initiative.

### Introduction

The Vermont State Veterinary Board is pleased to bring you this issue of our Newsletter. We want to update you as to changes in the laws or rules, Board Policies, and general information. We encourage your feedback and input in these matters.

### Contact Us

Diane Lafaille, Board Administrator. To contact the Board, please call Ms. Lafaille at (802) 828-2390 or E-Mail: dlafail@sec.state.vt.us.  
Carla Preston, Unit Administrator. To reach Ms. Preston, you may call (802) 828-2875 or via E-Mail: cpreston@sec.state.vt.us

### Complaints

The State Veterinary Board must investigate all allegations of unprofessional conduct submitted. What follows is a composite of some of the issues that may result in the filing of a complaint against a practitioner. Having a complaint filed against you can be extremely disruptive and upsetting. If a case

alleges unprofessional conduct, as defined by the Board's laws and rules, the Office will order an investigation.

Although many complaints do not result in disciplinary action, they are still investigated. Many of those complaints that are closed without prosecution might have been avoided altogether had the practitioner better communicated with the client.

If a complaint is filed and the Investigative Team finds unprofessional conduct, the Board may take disciplinary action after a hearing. We hope that you will read this carefully. It does not cover every possible scenario, but it may help you avoid common pitfalls that result in a complaint, and/or disciplinary action.

1) Poor communication. Be sure to communicate well with your clients, your colleagues, and with your employees.

2) Attitude. The Investigative Teams find that many cases are brought to the Office of Professional Regulation because the professional appears to have had an "attitude" that was flippant or seen as condescending.

3) Release Instructions. Investigative Teams have found that many practitioners simply verbalize post operative care which may involve multiple instructions to clients. Often those instructions are not followed properly, which may have disastrous results.

The Board strongly recommends that practitioners prepare written instructions for post operative release care, which covers administration of medications, foods, activities to avoid, and so on.

4) Expired License. Failing to renew and continuing to practice with an

expired license is unprofessional conduct.

5) Poor Record keeping. Failing to maintain adequate patient records, drugs prescribed, anesthesia used, a drug inventory, etc. is unprofessional conduct.

### Record Keeping

The State Veterinary Board would like to remind all practitioners of the huge importance of thorough record keeping. It has been our experience that all too often incomplete and illegible records of patient care and client communications are provided to investigate a complaint.

Each patient should have its own medical record identifying the client's information and all patient information. On each dated occasion for an examination, records need to show the presenting complaint based on signs, not the owner's presumed diagnosis. A thorough history and findings should be documented outlining a tentative or definitive diagnosis. Diagnostic and therapeutic plans including all tests performed and medications prescribed must be documented. Any surgical procedure should be described in adequate detail to include findings, treatment, and anesthetics used. Clear instructions are a major portion of the appointment or discharge. It is helpful to include in the records any suggestions regarding referrals to a specialist or client waivers of recommended care. All conversations regarding an animal should be noted on its patient history. It is also important to record the patient's response to the care.

Record keeping should be of the problem-oriented approach for clarity and ease in retrieval. This method recognizes that multiple problems can exist at one time, and

prevents the information for each from being compiled together with another. All notes should be legible to anyone reading the notes and signed at each entry with the provider's initials or name. All of these recommendations not only help insure good and thorough medicine, it also is your means of support in legal matters.

### New Laws - 2003

#### **26 V.S.A. § 2404. IMMUNITY FROM LIABILITY FOR REPORTING SUSPECTED CASES OF ANIMAL CRUELTY**

(a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, a veterinarian licensed to practice in this state who, in good faith and in the normal course of practice, reports suspected cases of cruelty to animals, as defined in sections 352 and 352a of Title 13, to any humane officer or officer as defined in subdivision 351(4) of Title 13 or local board of health officer or agent.

(b) There shall be no monetary liability on the part of, and no cause of action for damages against, a veterinarian licensed to practice in this state who accompanies a humane officer during the execution of a warrant pursuant to section 354 of Title 13, or evaluates the health of and provides medical attention to, including a decision for euthanasia, an animal brought to that veterinarian for health assessment, pursuant to section 354.

(c) There shall be no monetary liability on the part of, and no cause of action for damages against, a veterinarian licensed to practice in this state who inspects premises or orders a quarantine pursuant to section 3682 or 3683 of Title 20. Effective July 1, 2003

#### **26 V.S.A. § 2405.**

#### **IMMUNITY FROM LIABILITY FOR GOOD SAMARITAN ACTS was added to read:**

(a) For purposes of this section, an "emergency" shall include a fire, flood, storm or other natural disaster, hazardous chemical or substance incident, vehicular collision with an animal, or other transportation accident where an animal is injured or in need of assistance to protect its health or life.

(b) A veterinarian licensed by the board or any other person who, in good faith, provides care and treatment to an animal during an emergency shall not be held liable for civil damages by the owner of the animal, unless his or her acts constitute gross negligence or unless he or she will receive or expects to receive remuneration.

(c) Nothing contained in this section shall alter existing law with respect to tort liability of a practitioner of veterinary medicine for acts committed in the ordinary course of his or her practice. Effective June 27, 2002.

#### **3 V.S.A. 127, Unauthorized Practice**

(a) When the office receives a complaint of unauthorized practice, the director shall refer the complaint to the appropriate board for investigation.

(b) A person practicing a regulated profession without authority may, upon the complaint of the attorney general or a state's attorney or an attorney assigned by the office of professional regulation, be enjoined there from by the superior court and may be assessed a civil penalty of not more than \$1,000.00. The attorney general or an attorney assigned by the office of professional regulation may elect to bring an action seeking only a civil penalty of not more than \$1000.00 for practicing a regulated profession

without authority before the board having regulatory authority over the profession. Such hearings will be conducted in the same manner as disciplinary hearings.

(c) A person practicing a licensed profession without authority shall not institute any proceedings in this state for the enforcement of any right or obligation if at the time of the creation of the right or obligation it was acting without authority.

(d) The provisions of this section shall be in addition to any other remedies or penalties for unauthorized practice established by law. (Effective July 1, 2003)

#### **Title 3, Chapter 5 Unprofessional Conduct Standards for all professions and occupations regulated under the Vermont Secretary of State**

#### **§ 129a. Unprofessional Conduct**

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items, or any combination of items, whether or not the conduct at issue was committed within or outside the state, shall constitute unprofessional conduct:

- (1) Fraudulent or deceptive procurement or use of a license.
- (2) Advertising that is intended or has a tendency to deceive.
- (3) Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession.
- (4) Failing to comply with an order of the board or violating any term or condition of a license restricted by the board.

- (5) Practicing the profession when medically or psychologically unfit to do so.
- (6) Delegating professional responsibilities to a person whom the licensed professional knows, or has reason to know, is not qualified by training, experience, education or licensing credentials to perform them.
- (7) Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records.
- (8) Failing to make available promptly to a person using professional health care services, that person's representative, succeeding health care professionals or institutions, upon written request and direction of the person using professional health care services, copies of that person's records in the possession or under the control of the licensed practitioner.
- (9) Failing to retain client records for a period of seven years, unless laws specific to the profession allow for a shorter retention period. When other laws or agency rules require retention for a longer period of time, the longer retention period shall apply.
- (10) Conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession.
- (11) Failing to report to the office a conviction of any felony or any offense related to the practice of the profession in a Vermont district court, a Vermont superior court, or a court outside Vermont within 30 days.
- (12) In the course of practice, gross failure to use and exercise on a particular occasion or the failure to use and exercise on repeated occasions that degree of care, skill, and proficiency which is commonly

exercised by the ordinary skillful, careful, and prudent professional engaged in similar practice under the same or similar conditions, whether or not actual injury to a client, patient or customer has occurred.

(13) Exercising undue influence on or taking improper advantage of a person using professional services, or promoting the sale of services or goods in a manner which exploits a person for the financial gain of the practitioner or a third party.

(b) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. Failure to practice competently includes:

(1) performance of unsafe or unacceptable patient or client care; or

(2) failure to conform to the essential standards of acceptable and prevailing practice.

(c) The burden of proof in a disciplinary action shall be on the state to show by a preponderance of the evidence that the person has engaged in unprofessional conduct.

(d) After hearing, and upon a finding of unprofessional conduct, a board or an administrative law officer may take disciplinary action against a licensee or applicant, including imposing an administrative penalty not to exceed \$1,000.00 for each unprofessional conduct violation. Any money received from the imposition of an administrative penalty imposed under this section shall be deposited in the general fund, and upon request may be appropriated to the professional regulatory fee fund established in section 124 of Title 32 for the purpose of providing education and training for board members and advisor appointees..

(e) In the case where a standard of unprofessional conduct as set forth in this section conflicts with a standard set forth in a specific board's statute

or rule, the standard that is most protective of the public shall govern. Last Amended: 2003 Legislative Session - Effective July 1, 2003 (H.449 (Act 60))

### Proposed Legislation 2005 Legislative Session

Proposed language has been added to the Board's statute and to Title 3 pertaining to all boards for the current legislative session. The bill number is H.199. If you wish to check on the status of this bill, go to the Legislative Web site. <http://www.leg.state.vt.us/> (underlined text is new text)

#### Sec. 4. 3 V.S.A. § 129 is amended to read:

~~(H)~~(10) Issue temporary licenses to health care providers and veterinarians during a declared state of emergency. The health care provider or veterinarian to be issued a temporary license must be currently licensed, in good standing and not subject to disciplinary proceedings in any other jurisdiction. The temporary license shall authorize the holder to practice in Vermont until the termination of the declared state of emergency or 90 days, whichever occurs first, as long as the licensee remains in good standing. Fees shall be waived when a license is required to provide services under this subdivision.

#### Sec. 71. 26 V.S.A. § 2428 is amended to read:

§ 2428. REINSTATEMENT  
~~Reinstatement procedures for lapsed licenses may not include reexamination unless the license has been lapsed for at least four years. A person reinstating shall not be required to pay renewal fees for the years during which the license was lapsed. A license which has lapsed for five years or longer may be~~

reinstated upon successful completion of national board licensing examinations or upon proof that the licensee has actively practiced clinical veterinary medicine for 3,000 hours during the preceding three years in another state.

### Statutes regarding unlicensed or unauthorized practice

#### § 2402. PROHIBITION; OFFENSES

(b) A person who violates a provision of this chapter or who obtains a license by fraud or misrepresentation shall be imprisoned not more than 90 days nor less than 30 days or fined not less than \$500.00 or more than \$5,000.00, or both.

#### Board's Policy with regard to Examinations (or personal interview) on the Vermont Laws & Statutes

The Board has concluded that its general practice of requiring applicants to appear in Montpelier for an in person interview, while informative and helpful, can be very inconvenient for people who must travel long distances. With otherwise qualified candidates, the interviews do not afford an objective reliable means to determine the competence of applicants.

The Board feels that the information that it imparts to applicants can be provided in a manner which does not inconvenience them. Also, licensee familiarity with the statutes and rules governing the profession can be assured in a less burdensome manner.

Therefore, except in cases of change in practice focus where such an interview is to determine competence, the Board will cease requiring applicants to appear before it for an interview prior to licensure.

The Board will require that all applicants certify on the application forms and renewal forms that they have read and are familiar with the statutes and rules governing the practice as a veterinarian in Vermont in effect at the time. Adopted: March 10, 2005

#### Board's Policy for Approving Continuing Education Credits

It is the Board's intent that Licensees receive high quality Continuing Education credits from professionally recognized organizations at conferences. This creates personal interactions between veterinarians that will enhance the learning experience.

Nevertheless, the Board recognizes that valuable education programs are available elsewhere. The Board's Rule, at present, does not prohibit obtaining CEs from online programs. These must be approved by recognized organizations as detailed in Board Rule 3.7 (available via our Web site [www.vtprofessionals.org](http://www.vtprofessionals.org)).

Programs that are not pre-approved may be submitted to the Board for consideration. Continuing education credit may be given for programs that are relevant to the diagnosis, treatment, and prevention of animal disease. This approval may be given provided that the licensee demonstrates the professional level of the program by submitting a program outline, including learning objectives, names and qualifications (Curriculum Vitae) of the presenter(s) to the Board. Contact us for a CE Request form.

Program providers are encouraged to apply directly to the American Association of Veterinary State Board (AAVSB)'s, Registry of Approved Continuing Education

(RACE) for approval. Contact them by phone at (877) 698-VIVA, mail to 3100 Main Street, Suite 208, Kansas City, MO 64111, or E-Mail: [info@aavsb.org](mailto:info@aavsb.org). Visit their Web site at: [www.aavsb.org](http://www.aavsb.org)

#### Board's Policy with regard to Alternative Therapies

#### Re: Dentistry, Physical Therapy, Acupuncture, Chiropractic, etc. in Veterinary Medicine

Currently, in Vermont, there are no provisions to allow a person other than a licensed veterinarian to administer treatment or to authorize treatment to animals. The one exception is a person treating his or her own animal. A veterinarian may be assisted in the practice of veterinary medicine by a person other than a licensed veterinarian if that person is acting under the veterinarian's direct supervision.

Therefore, an acupuncturist, physical therapist, physician, chiropractor, dentist, dental hygienist, dental assistant, herbalist, animal dental technician, or other practitioner of medical arts, who is not a veterinarian may assist a licensed veterinarian in treating animals by administering treatments upon them, but only when the treatment has been prescribed by the veterinarian and the treatment is provided under the veterinarian's on-premise supervision. This applies to therapies and procedures on large and small animals.

It would constitute unlicensed practice if the veterinarian failed to exercise his or her independent judgement in the diagnosis and prescribing of appropriate treatment for the animal and merely acted as a

"conduit" for the unlicensed person to practice on animals.

A person, including an acupuncturist, herbalist, physical therapist, physician, chiropractor, dentist, dental hygienist, dental assistant, or animal dental technician, etc., who is not a veterinarian and who represents that he or she practices veterinary medicine independently of a veterinarian by treating animals, is in violation of the practice act and may be subject to criminal prosecution.

Any veterinarian who aids and abets the unlicensed practice of veterinary medicine may have action taken against his or her license for unprofessional conduct.

Policy adopted: July 23, 1992;

Policy amended: May 13, 1993;

Policy amended: July 15, 1993.

### Disciplinary Actions

The Office of Professional Regulation issues Press Releases of all disciplinary actions taken during the month. The Press Release includes the name of the Respondent, profession, and a brief description of the disciplinary action taken. The full text of decisions can be accessed for reading or printing from the OPR Web site noted below. The direct link to the search page is: <http://vtprofessionals.org/opr1/search/discipline.htm>.

The Board took action against licensees as indicated below (June 1, 2003)

A veterinarian from Rutland was disciplined for advertising that is intended or has a tendency to deceive; and failing to comply with the provisions of federal or state statutes or rules governing the

practice of the profession; violations of 3 V.S.A. § 129a (a)(2) and 3 V.S.A. § 129a (a)(3).

SANCTION: On November 18, 2003, the Board accepted a Stipulation and Consent Order which resulted in a Warning to the licensee.

A veterinarian from Charlotte was disciplined for unprofessional conduct (1) by not taking a new inventory of all stocks of controlled substances on hand at least every two years after the initial inventory is taken. The biennial inventory may be taken on any date, which is within two years of the previous biennial inventory date. 21 C.F.R. § 1304.11(c); and (2) by failing to comply with provisions of federal or state statutes or rules governing the practice of the profession pursuant to 3 V.S.A. § 129a(a)(3).

This veterinarian was the only veterinarian at the practice who held a Drug Enforcement Administration (DEA) license.

SANCTION: Pursuant to a Stipulation and Consent Order approved by the Board on May 14, 2004, the Board Reprimanded the licensee.

### Questions & Answers

**(Q)** How many online continuing education credits will the Board accept? I wish to complete continuing education programs that are offered online. The credits are approved by the AAVSB's RACE program or by another body accepted by the Board.

**(A)** **The Board finds significant value in licensees participating in live CE programs where one can interact with the presenter and colleagues. At this time, the**

**Board would not reject RACE approved on-line courses or other such programs offered by Board-approved presenters.**

**(Q)** Concerning Prescriptions  
The Board revisited the issue of writing and filling prescriptions. Attorney Christopher Winters, Counsel for the Board of Pharmacy, was consulted. The Board asked if veterinarians have the right or authority to fill a prescription for a patient that is not their client, which is written by another veterinarian who has seen the patient? Can a veterinarian who has seen the patient and has a veterinary-client-patient relationship, write a prescription and have it presented to a colleague down the road to have it filled? Who's liable?

**A)** Attorney Chris Winters said he found no prohibition against a veterinarian filling a prescription written by another veterinarian who has seen the animal and has a valid Veterinary-Client-Patient-Relationship. He said since many of the drugs are not available at pharmacies and veterinarians cannot stock all drugs, it is appropriate to do so.

**Note:** If a veterinarian has a valid V-C-P-R and has prescribed drugs, he or she must give the client a prescription if requested to do so.

### Statistics

License statistics are as follows: 548 active veterinarians, 227 of whom are non-residents.

### Annual Report

The Office of Professional Regulation's Annual Report is available online which contains statistics for all professions regulated under the Secretary of State's Office.

### Miscellaneous

For a complete copy of the current laws and rules, you may access the Board's homepage at:

**[www.vtprofessionals.org](http://www.vtprofessionals.org)**

**Other Web addresses:**

Vermont Department of Health:

**[www.state.vt.us/health](http://www.state.vt.us/health)**

Vermont Legislature:

**[www.leg.state.vt.us](http://www.leg.state.vt.us)**

Vermont Dept. of Agriculture:

**[www.agr.state.vt.us](http://www.agr.state.vt.us)**

The Board welcomes questions and concerns addressed to:

**Vermont State Veterinary Board**

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