AAVSB To Meet at Historic Hermitage Hotel

The 2002 AAVSB Annual Meeting is scheduled for July 13-16 at Nashville’s historic Hermitage Hotel. Make plans now to attend. The hotel is within walking distance of the Nashville Convention Center, the financial district and historic 2nd Avenue. The State Capitol and the Tennessee Performing Arts Center are located across the street, and Ryman Auditorium, Printer’s Alley and the Nashville Arena are only a few blocks away.

The hotel has only 120 rooms and suites - so AAVSB will account for half of the guest rooms that week end. Book your room early to have the best selection (request a capitol view!) The group rate for rooms is $149. The hotel will charge your credit card for one night’s stay when you make your reservation. Check it out on the Web at www.thehermitagehotel.com.

Plans are underway for provocative discussions and presentations. The Executive Committee will report on completed negotiations with the AVMA about the foreign graduate program. There are some important policies issues concerning the NAVLE on which the NBVME
AAVSB HQ Updates

Please welcome new staff members, Jennifer Roberts and Maria Liscano. Jennifer, the new Credentials Administrator, recently moved to Kansas City from Dallas. Her responsibilities include the VIVA Credentials program as well as quality assurance for VIVA Score Reports. She is a graduate of the University of Texas at Arlington. Her hobbies include filmmaking as well as her little Pug, Peabody.

AAVSB News

AAVSB / AVMA Resolution

Be it resolved that the AAVSB and AVMA Executive Boards each adopt the following changes to the current practices and make up of the ECFVG and PAVE:

1. The AVMA will charge ECFVG to: a. Use a specific order of progression through the ECFVG process and not permit progression until a specific step has been completed; b. Discontinue use of NAVLE as a part of the process of evaluating the educational background of foreign graduates; and c. Replace the use of NAVLE with another examination such as the one that tests pre-clinical knowledge as has been currently developed by NBEC.

2. The AVMA will change the make up of ECFVG to the following: a. 3 at-large representatives to be appointed by AAVSB with AAVSB paying their related expenses; 1 public member representative to be appointed by AAVSB with AAVSB paying the related expenses; 4 representatives to be appointed by AVMA with AVMA paying the related expenses; 1 representative from AAVMC; 1 representative from NBEC; 1 representative from the Canadian VMA with CVMA paying the related expenses; 1 liaison from the AAVSB Executive Committee with AAVSB paying the related expenses; and 1 liaison from the AVMA Executive Board with AVMA paying the related expenses. b. This new ECFVG will report directly to both the AAVSB and AVMA Executive Boards through the liaisons. Both boards will have veto power over proposed actions. For any item thus treated, the subject can be brought before joint AVMA-AAVSB meetings for discussion.

3. The AVMA Executive con’t next page
Resolution, con’t.

Board chair will establish an ad hoc committee to develop a time line and determine under what circumstances the ECFVG can become autonomous.

4. AAVSB will stop the development and implementation of PAVE with the approval of this resolution by both the AAVSB and AVMA Executive Boards.

Meeting __________ From page 1

Outgoing VTTC chair, Linda Merrill, LVT, led the committee in drafting objectives. They elected Teresa Sonsthagen from North Dakota as the new chair for 2002.

Job Analysis Update for VTNE

The Veterinary Technician Testing Committee (VTTC) began the process of updating the role delineation (job analysis) for the Veterinary Technician National Examination (VTNE) at their annual meeting in San Diego in September. This update becomes necessary as the role of veterinary technicians changes.

The VTTC is a voluntary committee appointed by various groups to review the VTNE each year. Under the capable guidance of Heidi Steigman, the new Program Administrator for the VTNE at Professional Examination Service, the group reevaluated all of the task statements that have been used for development of this exam since the early 90s. The VTNE is owned by Professional Examination Service and sponsored by AAVSB. During the last several years the committee has proposed several policies concerning the administration of the exam and its use in the regulatory process.

RACE on the Web

RACE information is now available on AAVSB’s Website in a format that is much easier to navigate. Anyone interested in locating a specific course or provider can now search using several variables. If you don’t know the exact name of a course, or if you want to find a course in a particular state or one to be held a specific time, you can limit the search based on the criteria you choose. The site also includes a list of states, designating the ones that accept RACE approval.

Providers have submitted several non-traditional programs for approval. The reviewers requested more guidance in the standards for such programs. A task force made up of the reviewers and representatives of AAVSB Member Boards drafted the requirements listed on page 5. AAVSB would appreciate your comments and suggestions.

See RACE, page 5
LEGAL CORNER

POLLY WANNA HEARING?

By Dale Atkinson
Atkinson & Atkinson

While disciplinary actions regarding practitioners generally focus upon the relationship between the licensee and the regulatory board, questions can arise as to the “rights” held by the impacted consumer. As has been stated on many occasions, regulatory boards are statutorily created and empowered as a means to regulate a profession and protect the public. Consumers make up that public in need of protection and boards of veterinary medicine may be petitioned by a consumer for a request to review or to express dissatisfaction over the actions of the board.

A consumer filed a written complaint with the North Carolina Veterinary Medical Board against a licensee. The complaint included allegations that the veterinarian failed to render appropriate medical treatment to the consumer’s African Gray Parrot, which died while under the care of the licensee. The Board conducted its investigation and, after finding probable cause as to several charges, disciplined the licensee by sending him a letter of caution, two letters of reprimand and fining him a civil monetary penalty of $3,000.

During the course of its investigation, the Board also discovered that the veterinarian had been practicing veterinary medicine in unlicensed facilities. By consent order, the Board suspended the veterinarian’s license for six months and fined him $5,000 for his failure to obtain facility inspections. For both such actions, the Board found it unnecessary to hold a full administrative hearing and the licensee did not request any such hearing.

Dissatisfied with the Board’s actions, the consumer submitted additional materials and asked the Board to reconsider its decision and “to issue appropriate disciplinary actions.” The Board considered this petition but denied the consumer’s request. Furthermore, the Board denied the consumer’s request for a full administrative hearing on her petition.

While the first matter was under investigation, the consumer also filed a second complaint with the Board against the same veterinarian raising additional issues regarding the licensee’s alleged mistreatment of her bird. The Board investigated the consumer’s second complaint but found no probable cause as to any of the allegations and dismissed it accordingly. Again, the consumer requested an administrative hearing with regard to her second complaint. This request was also denied by the Board. Relative to the denials of both petitions by the consumer for full administrative hearings, the consumer sought judicial review. The matters were consolidated into one proceeding and the trial court granted the Board’s motion to dismiss the matter. The basis for this dismissal was that the Board lacked subject-matter jurisdiction to hear the matter. The consumer appealed this decision to the Court of Appeals.

On appeal, the issue was framed as to whether the consumer was entitled under the North Carolina Administrative Procedure Act and the North Carolina Veterinary Practice Act to seek judicial review of the North Carolina Veterinary Board’s denial of her request for an administrative hearing. In order to resolve this issue, the Court addressed the issue of whether the consumer was an aggrieved person within the meaning of the relevant statutes.

In assessing this matter, the Court of Appeals summarized the general rule that the applicable Administrative Procedures Act confers procedural rights and imposes
procedural duties, including the right to commence an administrative hearing to resolve disputes between an agency and a person involving the person’s rights, duties or privileges, “unless that person is not a ‘person aggrieved’ by a decision of the agency.” In other words, any person aggrieved within the meaning of the applicable statute is entitled to an administrative hearing to determine the person’s rights, duties or privileges.

In its analysis, the Court of Appeals defined a “person aggrieved” as “any person or group of persons of common interest directly or indirectly affected substantially in his or its person, property or employment by an administrative decision.” The consumer asserted that she was a person aggrieved within the meaning of the statute and was, thus, entitled to an administrative hearing before the Board. She argued that she belonged within the zone of interest created by the Practice Act and Administrative Procedures Act and became a person aggrieved when the Board failed to properly discharge its duties to safeguard the public and its pets.

In disagreeing, the Court of Appeals held that the petitioner must first demonstrate that her personal property, employment or other legal rights had in some way been impaired. The Court stated that the consumer failed to show such impairment. Specifically, the actions of the Board against the licensee (or lack thereof) did not directly or indirectly affect the consumer’s personal, property or employment interests in any manner. The Court emphasized that the consumer was free to choose another veterinarian for future services. Also, the actions of the Board did not prevent the consumer from pursuing a negligence claim through civil action of the proper forum. Finally, the Court properly fulfilled its duties to safeguard the public by thoroughly investigating and disciplining the offending licensee for those violations for which the Board found probable cause.

The Court distinguished the various cases cited by the consumer and concluded that she had failed to demonstrate that her rights had been impaired by the Board’s refusal to hold an administrative hearing. Accordingly, she was not a person aggrieved within the meaning of the statutes and thus lack standing to seek judicial review.

Questions generally arise as to whether consumers who are impacted by the activities of the Board have standing to seek review of such administrative decisions. Generally, consumers likely do not have standing to force a regulatory board to impose additional administrative sanctions against a licensee. Consumers must resort to the courts under negligence theories for justice.

**In re Denial of Request for Full Administrative Hearing As to Complaint No. 97025-1-1 552 S.E.2d 230, (NC App.Ct. 2001)**

**RACE From page 3**

The first renewal period for RACE providers will begin in January. Provider approval is granted for a two-year period. AAVSB Executive Committee has approved a $75 renewal fee. The fee for new providers will continue to be $200, however, effective January 1, 2002, that initial approval will no longer include any hours for CE courses. For the first renewal period, the provider fee included 20 hours of CE at no additional fee. The per-hour fee for course approval will be $8. The Executive Committee established these new fees in order to make the RACE program solvent. It has operated at a deficit for the past two years.

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<tr>
<th>Additional Requirements for Approval for Providers of Programs in the area of Veterinary Alternative and Complementary Medicine:</th>
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<td>A. Submit three letters of reference from faculty members of Veterinary Colleges, who are able to testify to the Provider’s efforts to enhance the field of Veterinary Alternative and Complementary Medicine.</td>
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<td>B. Submit the contact information of an official at an accredited College of Veterinary Medicine who can verify that the course content is currently taught as part of the curriculum of their CVM. “Taught” is signifying that the modality is taught—and it is not simply an overview.</td>
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<tr>
<td>C. Submit a list of programs offered by this provider in the area of Veterinary Alternative and Complementary Medicine, in the last 24 months, including dates and locations.</td>
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<td>D. Submit a complete CV on the individual(s) who will coordinate the Programs of CE. As programs are submitted for approval, please include complete CVs for all who will provide lectures and labs.</td>
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<td>E. Additional information may be requested from the Provider as determined by the RACE approval committee.</td>
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AAVSB Calendar

**January 10-12, 2002**
Rescheduled CLEAR Annual Conference, San Antonio

**January 19, 2002**
NBVME Meeting, Ft Worth

**January 20, 2002**
AAVSB Executive Committee, Ft Worth

**January 21, 2002**
AAVSB/AVMA Meeting, Ft Worth

**February 8-10, 2002**
Annual FARB Forum, Las Vegas

**July 13-16, 2002**
Annual AAVSB Meetings, Nashville

Happy Holidays! from AAVSB Staff