



BOARD NOTES

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FROM THE EXECUTIVE DIRECTOR

One of the most serious and seldom used measures the Board has available to protect the public is the power to temporarily suspend the license to practice of a veterinarian. In the past few months, the Board has used this extraordinary measure due to reports or complaints that a given veterinarian was impaired to the extent that the licensee could not safely practice. The purpose of this brief report is to inform you why and how the Board takes such action and the protections afforded by law to you.

What is the authority for the Board to temporarily suspend a veterinarian's license? The Veterinary Licensing Act (the enabling statute that creates the Board) section 801.409 TEMPORARY LICENSE SUSPENSION provides as follows:

§801.409. TEMPORARY LICENSE SUSPENSION. (a) An executive committee of the board consisting of the president and two other board members appointed by the president may temporarily suspend the license of a license holder if the executive committee determines from the evidence or information presented to the committee that continued practice by the license holder constitutes a continuing or imminent threat to the public welfare. A temporary suspension may also be ordered on a majority vote of the board.

(b) The board by rule shall adopt procedures for the temporary suspension of a license under this section.

(c) A license temporarily suspended under this section may be suspended without notice or hearing if, at the time the suspension is ordered, a hearing on whether disciplinary proceedings under this chapter should be initiated against the license holder is scheduled to be held not later than the 14th day after the date of the suspension.

(d) A second hearing on the suspended license shall be held not later than the 60th day after the date the suspension is ordered. If the second hearing is not held in the time required by this subsection, the suspended license is automatically reinstated.

As you can see, the standard is "whether continued practice by the license holder constitutes a continuing or imminent threat to the public welfare." The Board looks at evidence or information that shows the license holder is incapable of safely performing the acts required to safely and competently practice veterinary medicine. In most cases this involves the abuse of alcohol and/or drugs to the extent that the veterinarian's judgment and ability to reason, perform surgery, diagnose or prescribe drugs etc. is so compromised, that to allow the doctor to continue to practice, would constitute a threat (whether continuing or imminent) to the public welfare.

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Important 2010 License Renewal Information

Renewal Notices:

As with renewal year 2009, the agency will send out post card renewal reminders in January for renewal year 2010. **All licensees should renew their license on-line at www.tbvme.state.tx.us on or before March 1, 2010.** The online renewal system will be available beginning January 5, 2010.

Practicing With An Expired License Is Illegal:

All licensees should be aware that if they have not renewed their license on or before March 1, 2010, **they must cease practicing until the license has been renewed.** This is the result of a change in law that took effect on September 1, 2005. The law now requires that veterinarians not practice without a current license. Penalties for practicing with an expired license can include a reprimand, a \$1,000 per day fine, or other measures.

Continuing Education Requirements:

Veterinarians must have attained 17 hours of acceptable continuing education during calendar year 2007 (January 1 through December 31). Of those 17 hours, seven must have been obtained from personal attendance at live seminars.

Individuals who were unable to attain the 17 hours due to circumstances beyond their control may apply to the agency's executive director for a hardship extension. Requests for the hardship extension must be received by **December 15, 2009**. Each request should list the number of hours attained, the number of hours needed and the reason the licensee was unable to meet the requirement. If an extension is granted, the number of hours lacking must be made up the following year.

Renewal Fees Increased

- Renewals - \$366
- Delinquent Renewals (90 days or less) - \$449
- Delinquent Renewals (90 days or more) - \$532
- Inactive Renewals - \$166
- Delinquent Inactive Renewal (90 days or less) - \$249
- Delinquent Inactive Renewals (90 days or more) - \$332
- Special License - \$361
- Delinquent Special License Renewals (90 days or less) - \$442
- Delinquent Special License Renewals (90 days or more) - \$523

Our Mission:

The mission of the Texas State Board of Veterinary Medical Examiners is to establish and enforce policies to ensure the best possible quality of veterinary services for the people of Texas.

Our Goals:

The Board and its staff will ensure that Texans are effectively and efficiently served by quality veterinary professionals by setting clear standards for professional conduct, by assuring compliance with the rules of professional conduct and the community standard of care, and seeking solutions to issues that strengthen the profession and protect the public.

Licensing Exam Dates

State Board Exam 2010

Exam Date	Application Deadline	Location
4/5/10	2/19/10	TAMU, College Station
6/7/10	4/23/10	UT, JJ Pickle Center, Austin
8/9/10	6/25/10	UT, JJ Pickle Center, Austin
10/11/10	8/27/10	UT, JJ Pickle Center, Austin
12/6/10	10/22/10	UT, JJ Pickle Center, Austin

NAVLE 2010

Exam Date	Application Deadline	Location
4/12/10 – 4/24/10	1/3/10	Various
11/15/10—12/11/10	8/1/10	Various



CONTINUING EDUCATION OFFERINGS

Information on available CE may be obtained through the following sources. Additional offerings may be available through other sources.

<p><u>RACE</u> (Registry of Approved Continuing Education) Search for Available CE: http://www.aavsb.org/RACE/RaceSearch.asp</p> <p>RACE requires approved providers to issue signed certificates of completion, maintain attendance records for four years and provide qualification of instructors and CE personnel who develop and implement courses.</p>	<p><u>Texas A&M</u> Phone: (979) 845-9102 Fax: (979) 862-2832 Email: ceoffice@cvm.tamu.edu</p>
	<p><u>Texas Veterinary Medical Association</u> www.tvma.org 8104 Exchange Dr. Austin, TX 78754 Phone: (512) 452-4224 Fax: (512) 452-6633</p>

In Memoriam...

“Let us hold our lives up to the light of those who walked before us, remembering the footprints they left behind and preserving the pathways they created.”

<u>NAME</u>	<u>CITY</u>	<u>VET. SCHOOL/GRAD YEAR</u>	<u>DATE OF DEATH</u>
Benjamin Riddle, DVM	Dallas	Texas A&M 1968	October 2009

ENFORCEMENT ISSUES

DISCIPLINARY ACTIONS

At the October 26, 2009 meeting, the Board accepted Agreed Orders in 19 docketed cases and at the December 8, 2009 meeting, the Board accepted Agreed Orders in 15 docketed cases. Following are summaries of the findings of 4 of those cases. These summaries do not contain all of the facts of each case. For the full text of an Agreed Order, please submit an open records request to our office.

Case No. 2009-83, TBVME vs. Gary F. Parker, DVM, Lic.# 4359, Mt. Pleasant, TX

On June 26, 2009, the Board found that Dr. Parker violated rules §573.43, MISUSE OF DEA NARCOTICS REGISTRATION and §573.60 PROHIBITION AGAINST TREATMENT OF HUMANS by purchasing 11,000 tablets of Hydrocodone between October 17, 2007 and December 29, 2008 for personal use for back pain and restless leg syndrome. **Disciplinary Action: Dr. Parker must do the following: 1. enroll in 90 day residential treatment program; 2. attend AA/NA or comparable support group at least once per week; 3. comply with drug testing protocols provided for in the VA substance abuse program; 4. VA counselor shall provide quarterly progress reports reflecting compliance with program; 5. execute confidentiality waivers allowing TBVME access to medical records and/or substance abuse treatment records; 6. request to retire license is withdrawn; 7. the order is to remain in effect for 1 year.**

Case No. 2009-79, TBVME vs. Cheryl Zengler, DVM, Lic.# 10475, San Antonio, TX

On October 26, 2009, the Board found that Dr. Zengler violated rule §573.22, PROFESSIONAL STANDARD OF HUMANE TREATMENT by leaving a canine unattended with two heat sources in post-surgical recovery for 2.5 hours resulting in severe heat stroke and thermal burns. **Disciplinary Action: Formal reprimand and must pay restitution of \$1,213.81.**

Case No. 2009-65, TBVME vs. Joe M. Jaksik,, DVM, Lic.# 6450, Adkins, TX

On December 8, 2009, the Board found that Dr. Jaksik violated rule §573.22, PROFESSIONAL STANDARD OF HUMANE TREATMENT by failing to correctly advise the client on rabies quarantine protocol which contributed to the client and their family's exposure to and subsequent treatment for the rabies virus. **Disciplinary Action: Formal reprimand.**

Case No. 2010-12, TBVME vs. Robert D. Langley, DVM, Lic.# 7764, Alvin, TX

On December 8, 2009, the Board found that Dr. Langley violated §801.402(3) of the Veterinary Licensing Act for failing to comply with the Peer Assistance Program. **Disciplinary Action: Dr. Langley's license is suspended for 5 years with all 5 years probated. Dr. Langley must also 1. admit himself into a multi-day formal assessment program at a facility agreed upon by the Peer Assistance Program Coordinator; 2. comply with all recommendations as a result of the formal assessment; 3. provide a hair sample once a quarter as part of drug testing under the Peer Assistance Contract for the life of the contract; 4. attend AA/NA/Caduceus meetings not less than 3 times per week for the period of his Peer Assistance Contract; and 5. submit to random drug testing.**

Continued on page 8...

From the Executive Director continued...

What is most important to note is that the Act gives the Board the authority to conduct the temporary suspension proceeding with or without notice to the license holder. In determining whether to conduct the proceeding with or without notice, the Board looks at the extent of the possible impairment, the timeliness of the information or the complaint, and the severity of the harm that could occur if immediate action is not taken.

If the Board determines to act without notice to the license holder, it must schedule and hold a hearing with notice to the license holder not later than the 14th day after the date of the "no notice" suspension. At the notice hearing, the license holder is entitled to be present, to be represented by counsel and to present evidence as to why the temporary suspension should be terminated. In a recent case of a temporary suspension ordered without notice, at the notice hearing, the Board terminated the suspension and allowed the doctor to return to practice provided the doctor entered an inpatient treatment facility for a 96 hour evaluation and also maintain participation in the Board's Peer Assistance Program.

If, however, the Board imposes a temporary suspension and that suspension is not terminated, the Board must file and hold a contested case hearing at the State Office of Administrative Hearings not later than the 60th day after the date the suspension is ordered. Following this hearing, the suspension may either be terminated or continued in effect until a final hearing to determine the ultimate decision on the veterinarian's license is held.

Finally, as provided for in the Act section 801.410, any appeal of any Board action must be filed in a District Court in Travis County. (Austin)

The Board has also adopted Rule 575.35, Temporary Suspension Proceedings. This Rule sets forth in greater detail the composition of the Executive Disciplinary Committee that hears the temporary suspension case as well as other substantive and procedural matters.

In closing, you should know that the Board and staff understand and appreciate the enormous implications to the veterinarian of suspending the license to practice and exercises its authority to do so only in the most serious and appropriate cases in order to protect the public welfare.

As always, if you have any questions or comments on this or any other matter of interest, please write, email or call me.

Frequently Asked Questions

Q. What are the different license statuses and what do they mean?

A. There are 3 license status: Active, Inactive and Retired.

1. Active license: You pay the active fee (may change annually) and you may practice in Texas. The license must be renewed annually or it is subject to cancellation as required by law. CE is required to maintain an inactive license.
2. Inactive license: You pay the inactive fee, which is a reduced fee. You CANNOT practice with an inactive license, unless it's on your own animals. This license must be renewed annually or it is subject to cancellation as required by law. No CE is required until the license is activated.
3. Retired license: You do not have to pay a fee. During the first year of retired status, you have the option to reactivate this license before the end of that year. After that time, it is considered permanently retired and can only be regained by petitioning the board, plus taking and passing licensing examinations, which may include the national examination.

Q. When is my renewal due?

A. Renewals are due annually, unless it's in a retired status, between January 1 and March 1. We do encourage on-line renewals. If you do not renew your license before March 1st, YOU MUST CEASE THE PRACTICE OF VETERINARY MEDICINE. Renewals after March 1st will be assessed a statutorily required late fee. Continued practice with a "delinquent" or "expired" license is illegal and action against your license can be taken.

Q. Is there a grace period during which I can practice without a license in this State?

A. There is **NO GRACE PERIOD** in which you can practice veterinary medicine without an active license.

BOARD ADOPTS CHANGES TO RULES

The Board adopted the following changes to rules at its October 26, 2009 Board meeting, these rules became effective November 22, 2009:

- **571.56, Military Service Fee Waiver.** *The amendment sets forth the procedure for waiver of the active license renewal fee for licensees discharged from active military duty. The amendment describes the status of the individual's license following the Board's receipt of documentation reflecting separation from military service. The amendment provides that upon receipt of form DD214 (separation documentation), the licensee's active license renewal fee is waived for the remainder of the calendar year in which the licensee is discharged from military service. The license is thereafter placed in "active" status, allowing the licensee to practice veterinary medicine in Texas, or renew the license in "inactive status" the year following military separation.*
- **573.10, Supervision of Non-Licensed Employees.** *The amendment sets forth that a licensee must personally sign any official health documents issued by the licensee, or any official health document for which the licensee has received compensation. Further, under the amendment, the licensee will be directly responsible for all actions of non-licensed employees acting under the licensee's directions or authorization, in addition to all actions of non-licensed employees for which the licensee receives compensation.*
- **575.25, Recommended Schedule of Sanctions.** *The amendment will allow the Board to impose, as a sanction for a licensee's commission of a Class A, B or C violation of the Veterinary Licensing Act and/or Board Rules, that the licensee sit for, and pass, the Texas State Board Licensing Exam, otherwise known as the "SBE."*
- **575.28, Complaints-Investigations.** *The amendment streamlines the procedure for requesting patient records from a licensee following the Board's receipt of a complaint and assignment of an investigator to the matter. Currently, the rule provides that, upon receipt of a complaint, the Board requests patient records from the licensee related to the subject animal. Upon receipt of said patient records, the Board furnishes the licensee with a copy of the complaint and requests a written response within 21 days. The amendment combines these steps and provides the licensee with a copy of the complaint contemporaneously with the request for patient records.*
- **577.15, Fee Schedule.** *The amendments increase by \$25.00, the required fees for current license renewals, inactive renewals, and special licenses. Proportional increases are also made in delinquent renewal fees. These fee increases are required to cover the costs of the Board's legislative appropriation for FY 2010. No changes are made to fees for the State Board Examination or Special License Examination, and the provisional license fee remains \$255.*

BOARD HOLIDAY CLOSINGS

The TBVME, as all other state agencies, will be closed the following days:

December
Thursday, December 24
Friday, December 25

January
Friday, January 1



BOARD PROPOSES CHANGES TO RULES

At the October 26, 2009 Board meeting, the Board directed staff to post the following proposed changes in the *Texas Register* for comment, the full text of the changes can be found on the agency website.

- **573.51, Rabies Control.** *The proposed amendment removes the requirement that the rabies vaccination certificate shall include the vaccine used producer and expiration date and adds the requirements of the vaccine used product name and manufacturer.*
- **573.69, Reporting of Criminal Activity.** *The proposed amendment adds a time period for the required reporting of criminal activity under the rule, specifically no later than the 30th day after the criminal activity. In addition, the proposed amendment clarifies the language in the rule to add the required reporting of the arrest for a felony to the Board.*
- **575.26, Complaint Form.** *The proposed repeal is in conjunction with a new rule proposed, §575.26. The proposed repeal will remove the form from rule and will allow board approved changes to be made to the form when needed without the requirement of a rule change. The proposed new rule requires all complaints filed against a licensee to be submitted to the Board on the Board-approved complaint form. The proposed new rule states where the complaint form may be obtained and how the complaint will be received by the Board.*
- **Rule Review of Chapter 577, General Administrative Duties.**
- **Rule Review Plan for Fiscal Years 2010 – 2013**

VETERINARY INVOLVEMENT IN DISASTERS – PART III

New Community Animal Response Planning Tools Available

In the August 2008 and Spring 2009 issues of the TBVME Board Notes, the role veterinarians can play in planning for animal-related issues during disasters was outlined, and the tools available for use in local planning, such as the Animal Issues Committee Guidance Document (AIC Guide) and the Guide to the Development of a Community Animal Response Plan – Shelter Function (Shelter CARP), were explained. Since those issues of Board Notes, two additional tools have been developed and released for use by those involved in planning for animal related issues during disasters. The two new tools are the guides to the development of Community Animal Response Plans (CARPs) for (1) Evacuation and (2) Carcass Disposal.

These two documents are intended to walk the user through the steps that need to be taken when planning a response to an animal-related disaster. They also contain links to more detailed information, which will enable communities to develop comprehensive animal-related plans that suit the needs and resources available in the community. To locate these planning tools, go to <http://www.tahc.state.tx.us/emergency/planning.html>. For more information on how a veterinary practitioner can assist with animal-related issues during a disaster, please contact your local Emergency Management Coordinator or Amanda Barnes, Assistant Emergency Management Coordinator for the Texas Animal Health Commission at 512-719-0792 or Kay Mayfield, Executive Director of the Texas State Animal Resource Team at 512-452-4224.

Enforcement Issues Continued...

The remaining approved Agreed Orders consist of:

- 5 who received Administrative Penalties and/or were required to obtain additional hours of Continuing Education for failure to obtain the required number of hours annually.
- 16 who received an Informal Reprimand and/or Administrative Penalties for failure to maintain their Department of Public Safety Controlled Substances Registration.
- 2 who received Administrative Penalties for failure to notify the Board of felony arrests.
- 1 who received an Administrative Penalty for inadequate record keeping.
- 1 who received an Informal Reprimand and a \$2,500 Administrative Penalty and is required to sit for and pass the TBVME Continuing Education module for purchasing, diverting, prescribing, delivering or ordered delivery of prescription drugs without a Veterinary-Client-Patient relationship and acting as a wholesale distributor of prescription drugs without a license issues by the Department of State Health Services.
- 1 who received an Informal Reprimand and is required to complete 6 hours of Continuing Education in Internal Medicine for failure to provide a feline with IV maintenance fluids during hospitalization and failure to communicate to the client the feline's deteriorating condition and discuss treatment and/or referral options.
- 1 who received an Informal Reprimand for the use of a cattle prod on a horse in a non-emergency situation.
- 1 who received an Informal Reprimand and must pay \$461.21 in restitution for failure to properly observe and or diagnose post-surgical complications and for prescribing an excessive amount of Metacam.
- 1 who received an Administrative Penalty of \$1,000 for failure to notify the Board of a misdemeanor arrest and for purchasing Hydrocodone and self-medicating.
- 1 who is required to enter into a 2 year extension of their Peer Assistance Contract due to 3 positive drug screens and 2 missed drug screenings.

CEASE & DESIST ORDERS

At the October 26, 2009 meeting, the Board approved 9 Cease & Desist Orders and at the December 8, 2009 meeting, the Board approved 6 Cease & Desist Orders.

- One individual in Weatherford, TX whom the Board identified as practicing veterinary medicine without a license by performing equine dentistry services.
- One individual in Georgetown, TX whom the Board identified as practicing veterinary medicine without a license by performing equine dentistry services.
- One individual in Call, TX whom the Board identified as practicing veterinary medicine without a license by performing equine dentistry services.
- Two individuals in Santa Fe, TX whom the Board identified as practicing veterinary medicine without a license by performing equine dentistry services.
- One individual in Cuero, TX whom the Board identified as practicing veterinary medicine without a license by performing equine dentistry services.

Enforcement Issues Continued...

- One individual in Odessa, TX whom the Board identified as practicing veterinary medicine without a license by performing equine dentistry services.
- One individual in Houston, TX whom the Board identified as practicing veterinary medicine without a license by performing equine dentistry services.
- One individual in Houston, TX whom the Board identified as practicing veterinary medicine without a license by failing to properly dispose of, as necessary, the ownership of a veterinary clinic along with patient records not later than the second anniversary of the death of the veterinarian.
- One individual in Houston, TX whom the Board identified as practicing veterinary medicine without a license by administering heart worm injections to canines.
- One individual in Houston, TX whom the Board identified as practicing veterinary medicine without a license by diagnosing the need for and administering vaccinations to canines and felines as well as providing animal chiropractic and other forms of musculoskeletal manipulation to diagnose, treat, and/or alleviate impaired or altered functions of equines.

<p style="text-align: center;">DID YOU KNOW???</p> <ul style="list-style-type: none"> ● This publication as well as other important information is available on our website, www.tbvme.state.tx.us. ● Unless you owe for more than the current year, all licensees can renew their license online through our website. 	<p style="text-align: center;">PEER ASSISTANCE</p> <p>If you or someone you know has a substance abuse problem, it is far better to voluntarily participate in the Peer Assistance Program than to run the risk of disciplinary action, up to and including license revocation. The toll free hotline number is 1-800-288-7996.</p>
<p><i>The TBVME does not discriminate on the basis of race, color, religion, sex, national origin, age or disability in employment or in the provision of services, programs or activities. Individuals requiring reasonable accommodations should contact the agency's ADA Coordinator at 333 Guadalupe, Suite 3-810, Austin, TX 78701-3998, or call (512) 305-7555 or 1-800-877-8973 (TDD). This document may be requested in alternative formats by contacting the Board offices.</i></p>	<p style="text-align: center;">ADA ACCOMODATIONS</p> <p>Individuals seeking ADA accommodations should contact the Board's ADA Coordinator, Loris Jones, at 512/305-7555 or by email at loris.jones@tbvme.state.tx.us.</p>

Board Meeting Dates

At the December 8, 2009 meeting, the Board voted to increase the number of meetings held each year from 3 meetings to 4. Once the dates for the meetings to be held in 2010 are finalized, they will be placed on the TBVME website under the Calendar link.

News from the Texas Animal Health Commission

Texas State Veterinarian to Retire December 31

Dr. Bob Hillman, Texas' state veterinarian and executive director of the Texas Animal Health Commission (TAHC), has announced that he will retire December 31, ending his nearly seven-year tenure with the state's livestock and poultry health regulatory agency. The TAHC's 13 governor-appointed commissioners will establish a committee to conduct a nationwide search to fill Dr. Hillman's position.

Dr. Hillman, a large animal veterinarian for 35 years, served a short stint with the USDA in Texas, and worked in private practice in both Texas and Idaho. For more than two decades, he served with the Idaho Department of Agriculture, 13 of those as the state veterinarian, during which he wrangled with controversial disease issues, including addressing the brucellosis infection in bison and elk in the Greater Yellowstone Area. He also worked closely with the state veterinarians and the cattle industry in Texas, New Mexico, Arizona and California and with Mexican livestock health officials to control cattle tuberculosis in Mexico, in order to prevent the spread of the disease by Mexican feeder and roping cattle imported to the U.S.

Lauded as one of the country's most influential state veterinarians, Dr. Hillman was the 2001 president of the U.S. Animal Health Association, and has chaired the organization's cattle tuberculosis, government relations and animal identification committees and served on the wildlife disease and brucellosis committees. He has served as president of the Western States Livestock Health Association, the National Assembly of State Animal Health Officials, and the Southern Animal Health Association. In 2007, he received the National Assembly Award, the highest honor from state regulatory animal health officials.

Dr. Hillman and his wife, Martha, will return to Idaho after retirement, where he can fish, hunt, pursue hobbies and they can spend time with their children and grandchildren. Dr. Hillman plans to retain strong ties to Texas and will work on animal health projects, but at a pace not requiring constant travel, agency management and endless work hours.

*For complete text of the press release
please see www.tahc.state.tx.us*

Dr. Dee Ellis Selected to Take Reins of Texas Animal Health Commission (TAHC)

Veterinarian Dee Ellis of Rockdale has been named as Texas' new state veterinarian and executive director of the Texas Animal Health Commission (TAHC), the state's livestock and poultry health regulatory agency. Dr. Ellis, originally from Comanche, was raised with a farming and dairy background. While completing his animal science degree from Southwest Texas State University (now Texas State University) in San Marcos, Dr. Ellis worked as a TAHC animal health inspector.

In 1984, Dr. Ellis obtained his doctorate of veterinary medicine at Texas A&M University, and practiced as an associate veterinarian in Gonzales. He returned to the TAHC as a field veterinarian in Wharton during some of the toughest battles to eradicate cattle brucellosis.

*For complete text of the press release
please see www.tahc.state.tx.us*

NOTICE OF ADDRESS CHANGE

Please email, fax, or mail to:

Texas Board of Veterinary Medical Examiners
333 Guadalupe, Suite 3-810
Austin, Texas 78701
FAX: 512-305-7556
Email: vet.board@tbvme.state.tx.us

Please print or type

Name _____

License Number _____

Mailing Address:

Street/PO Box _____
City, State _____ Zip Code _____

Practice Address:

Practice Name _____
Street _____
City, State _____ Zip Code _____
Phone _____ Fax _____

Home Address:

Street _____
City, State _____
Home Phone _____ Cell Phone _____
Email _____

Note: The mailing address is the default address. All documents, forms and letters sent to you from this agency will be mailed to this address.

The mailing address is printed on your license renewal certificate. If you have changed your mailing address and need a duplicate renewal certificate, please indicate below.

___ Please send a duplicate renewal certificate.

Pursuant to Board Rule 573.75(e) A veterinarian shall notify the Board of any change of name, address or name of clinic not later than the 60th day after the change takes place.