



MEETING MINUTES
MULTIDISCIPLINARY ADVISORY COMMITTEE

April 18, 2017
Waterfront Hotel
10 Washington Street, Oakland, CA 94607

10:00 a.m. Tuesday, April 18, 2017

1. Call to Order/Roll Call/Establishment of a Quorum

Multidisciplinary Advisory Committee (MDC) Chair, Dr. Jon Klingborg called the meeting to order at 10:03 a.m. Veterinary Medical Board (Board) Executive Officer, Annemarie Del Mugnaio called roll; eight members of the MDC were present and thus a quorum was established. Diana Woodward-Hagle was not present.

2. Introductions

Members Present

Jon Klingborg, DVM, Chair
Allan Drusys, DVM, Vice Chair
William Grant, DVM
David Johnson, RVT
Jennifer Loreda, RVT, Board Liaison
Kristi Pawlowski, RVT
Jeff Pollard, DVM
Richard Sullivan, DVM, Board Liaison

Staff Present

Annemarie Del Mugnaio, Executive Officer
Louis Galiano, DCA Webcast
Kurt Heppler, Legal Counsel
Ethan Mathes, Administrative Program Manager
Candace Raney, Enforcement Manager
Tara Welch, Legal Counsel

Guests Present

Al Aldrete, DVM
Jonathan Burke, Department of Consumer Affairs
Nancy Ehrlich, RVT, California Registered Veterinary Technician Association
Valerie Fenstermaker, California Veterinary Medical Association
Erica Hughes, State Humane Association of California
Bonnie Lutz
John Pascoe, DVM, University of California, Davis
Ken Pawlowski, DVM, California Veterinary Medical Association

Cindy Savely, RVT, Sacramento Valley Veterinary Technician Association
Leah Shufelt, RVT, California Veterinary Medical Association
Cheryl Waterhouse, DVM, Veterinary Medical Board

3. Review and Approval of January 17, 2017 Committee Meeting Minutes

The MDC made minor changes to the January 17, 2017 meeting minutes.

- Dr. Allan Drusys moved and Dr. William Grant seconded the motion to approve the minutes as amended. The motion carried 8-0.

4. Update from the Complaint Process Audit Subcommittee

Dr. William Grant and Dr. Jeff Pollard met on April 6, 2017 in Sacramento to review closed cases. Report writing issues and expert witness training strategies were then shared with the Expert Witness training group in Sacramento on April 17, 2017.

Bonnie Lutz requested that the interpretation of regulations be considered as part of the Expert Witness training. Enforcement Manager, Candace Raney, offered to gather more details from Ms. Lutz to explore whether the application of various regulations by experts may be inappropriate.

5. Discussion and Consideration of “Extended Duty” for Registered Veterinary Technicians Regulations; Potential Recommendation to Full Board

The letter from the California Registered Veterinary Technicians Association (CaRVTA) included in the MDC’s April 2017 meeting packet contained additional information on the list of “Suggestions for Extended Functions for Registered Veterinary Technicians (RVTs)” that CaRVTA originally submitted to the Board in October 2016.

The MDC asked several questions about CaRVTA’s list including:

- What is the intended type of practice to which the list would be applied?
- Are the procedures taught in the RVT programs?
- Are the items in the list being tested on the national examination?
- Should some of these items be limited to veterinarians only?
- What supervision levels should be required?

Dr. Klingborg opined that some of the job tasks contain some form of a surgical component; therefore, should only be performed by a veterinarian.

Dr. Klingborg inquired about complaint data relative to RVTs versus Veterinary Assistants. Ms. Del Mugnaio noted that when the Board receives a complaint from a consumer, it is sometimes difficult to determine which individual in the veterinary clinic [i.e. RVT or Veterinary Assistant (VA)] performed a task(s), since consumers are not always sure of the credentials of the person treating their animal, nor are they able to observe all clinical procedures.

Nancy Ehrlich suggested changing the regulations to state that veterinarians may assign a task to an RVT or a VA, but those tasks requiring the skills of an RVT, should only be delegated to an RVT.

Ms. Lutz opined that this is a standard of care issue and the responsibility to delegate animal health care tasks should fall to the veterinarian. Ms. Lutz warned that addressing items specifically in regulations may allow individuals to perform specific tasks that they may not be qualified to perform.

Kristi Pawlowski referenced California Code of Regulations (CCR) section 2035, relating to the duties of the supervising veterinarian, stating that existing language identifies that the veterinarian is responsible for determining what tasks staff are capable of performing, and that this section addresses what the discussion on “Extended Duties for RVTs” is trying to achieve.

Dr. Grant agreed that any clarifying language should be kept general and expressed support for developing a subcommittee to develop the language.

Ms. Del Mugnaio clarified that the reason this item is before the MDC is because CaRVTA requested that RVT tasks are re-examined for other potential allowable tasks and that the tasks had not been reviewed in years. Ms. Del Mugnaio added that the recent RVT Occupational Analysis (OA) may be helpful in terms of identifying the knowledge, skills, and abilities that are expected upon graduation and licensure. Tasks outside of what is expected for a new practitioner may require advanced certification.

In response to Ms. Ehrlich’s suggestion, David Johnson suggested addressing standard of care when assigning tasks to VAs. Jennifer Loredo agreed and suggested restriction of tasks by unlicensed personnel for more advanced procedures.

Ms. Ehrlich requested that the subcommittee, should it be formed, consider adding casting and splinting to the list of allowable RVT tasks under indirect supervision.

Ms. Del Mugnaio added that CCR section 2036.5(b) could be expanded to clarify that a supervisor shall not delegate a task to a VA that requires the formal training and skills of an RVT.

Dr. Klingborg clarified that an animal shelter setting would be separate from the discussion and the focus would be primarily regarding the levels of supervision and the delegation of tasks to the appropriate individuals within private practice.

Dr. Ken Pawlowski expressed concern that the suggestion to clarify that a supervisor shall not delegate a task to a VA that *requires the formal training and skills of an RVT* might leave room for interpretation.

- Dr. William Grant motioned and Dr. Allan Drusys seconded the motion to form a subcommittee to review the extended functions of RVTs in private practice and evaluate whether “splinting and casting” could be performed by an RVT under indirect supervision.

Ms. Loredo suggested adding an amendment to CCR section 2036.5(b) to be more inclusive of advanced, invasive, high-risk tasks. From a consumer protection standpoint, Ms. Loredo felt that it was more important to restrict those tasks from VAs than it was to include them as RVT-only tasks.

Dr. Richard Sullivan requested that the subcommittee consider having RVTs obtain advanced training and certification to perform any extended functions.

Legal Counsel, Kurt Heppler, suggested amending the motion to have the subcommittee examine all of the applicable and relevant sections of regulations and statutes and report back regarding what areas would need to be changed to encompass extended RVT functions.

Dr. Grant amended his previous motion.

- Dr. William Grant motioned and Dr. Allan Drusys seconded the motion to form a subcommittee to review extended functions of RVTs in small animal practice, review existing regulations and statutes with regard to RVT tasks, consider whether “splinting and casting” could be performed by an RVT under indirect supervision, and consider adding language to be more restrictive of high-risk, advanced procedures. The motion carried 8-0.

6. Review Legal Counsel’s Guidance on the Federal Drug Mobility Act and its Impact on Registered Veterinary Technicians Transporting Controlled Substances for Emergency Treatment

Ms. Del Mugnaio stated that at the January 2017 MDC meeting, the MDC recommended expanding CCR section 2069 to include “pain management and sedation” to the list of emergency tasks that an RVT may perform.

The Board’s new legal counsel, Tara Welch, reviewed the Controlled Substances Act (CSA) regarding provisions that allow an RVT to transport controlled substances under the direction of a veterinarian. Ms. Welch also reviewed the Federal Drug Mobility Act to determine if it had any bearing on an RVT Drug Enforcement Administration (DEA) registration.

Ms. Welch noted that the CSA requires a veterinarian to have a DEA registration if they are transporting controlled substances. The Federal Drug Mobility Act exempts the veterinarian from additional premises registration if the veterinarian is transporting controlled substances or administering controlled substances to a location other than their primary practice. When an RVT transports controlled substances to another location, the RVT is operating under the direction of a veterinarian and his or her DEA license.

Ms. Welch clarified that under the CSA, a Veterinary Assistant Controlled Substances Permit (VACSP) holder may be able to transport controlled substances under the direction of the veterinarian.

Dr. Allan Drusys expressed support for Ms. Welch’s legal analysis and interpretation and opined that it also solves the issue of administering controlled substances for the purposes of sedation and/or anesthesia by an RVT in shelter settings under indirect supervision of the veterinarian.

Ms. Welch clarified that her legal interpretation was written from the standpoint of a private practice setting and the review of regulations and statutes, as they may apply to the shelter setting, would have to be performed separately.

Ms. Ehrlich reminded the Board that while the CSA may allow a VACSP holder to transport controlled substances, current regulations still do not allow VACSP holders to administer controlled substances outside of an animal hospital setting.

7. Discussion and Consideration of Recommendations from State Humane Association of California and California Veterinary Medical Association Regarding Public and Private Shelters and Minimum Standards & Protocols for Shelter Medicine; Potential Recommendation to Full Board

Erica Hughes, State Humane Association of California (SHAC), updated the Board on the outcome of the meeting with the California Veterinary Medical Association (CVMA) held in February 2017. The

two organizations identified a need to strengthen the relationship between shelters and veterinarians, as well as to understand why some shelters do not have premises permits.

SHAC and CVMA are still in the information-gathering stage and hope to be able to provide a joint recommendation by the next MDC meeting in July 2017.

Ms. Del Mugnaio noted that the Board's staff can send Ms. Hughes a list of the premises with permits (by county) to identify access issues. The list will also be sent to Dr. Drusys, who offered to geocode the locations on a map based on the list.

Mr. Johnson reviewed the discussion highlights (e.g. rabies vaccination, premises permits, RVTs as premises permit holders, etc.) since the issue was first brought before the MDC in December 2015. Ms. Hughes noted that many, if not all, of the highlights were addressed at the joint meeting and further research of the issues may dictate which of the discussion points will be retained or discarded.

Valerie Fenstermaker, CVMA, noted that the joint meeting primarily focused on the immediate problem of the vaccinations, parasite control upon intake, and the potential of written protocols under a supervising veterinarian.

8. Review and Consider Proposed Regulations Regarding the Compounding of Drugs Pursuant to the Enactment of Senate Bill 1193 (2016), Potential Recommendation to Full Board

Ms. Del Mugnaio noted that she, Dr. Sullivan, and Dr. Klingborg met with the Board of Pharmacy on April 14, 2017 to explain the limited compounding provisions that the Board is trying to formulate for the purposes of veterinary medicine. The goal was to define veterinary in-office compounding as separate and apart from what a pharmacy and/or physician would perform. The discussion also included trying to find the best "beyond-use" date, specifically for sterile injectable compounded drugs.

The Board of Pharmacy expressed support for the Board regulating its own veterinary compounding. The Board will start off with a limited scope (e.g. training, quality assurance, supervision, simple compounding, limited sterile compounding with a conservative beyond-use date specification) and the Board of Pharmacy has agreed to provide guidance and expertise as needed.

Ms. Del Mugnaio noted there is a new United States Pharmacopeia (USP) 800 that will be introduced that will highly impact veterinarians' ability to compound chemotherapy and hazardous drugs.

Dr. Sullivan added that the Board of Pharmacy was concerned with the technical aspect of the language and opined that it will likely need to be refined in the future. Additionally, the Board of Pharmacy is concerned with stability of compounded drugs. The Board will need to document cases in which veterinary compounding was used to demonstrate that it is being performed safely and effectively.

Ms. Del Mugnaio noted that Business and Professions Code (BPC) section 4125 and CCR section 1711 are the Board of Pharmacy's laws and regulations, which clarify the requirements for pharmacies to conduct internal quality assurance. Quality assurance is confidential, performed in-house, and cannot be subpoenaed.

Dr. Klingborg added that there are three forms of drug stability studies that the Board of Pharmacy recognizes, two of which are experts and anecdotal information.

9. Discussion and Consideration of Proposed Amendments Regarding Drug Information to be Provided to Clients – Section 2032.1 of Title 16 of the California Code of Regulations; Possible Recommendation to Full Board

Dr. Sullivan updated the Board that the subcommittee, consisting of Dr. Pollard and himself, began developing proposed language with the assumption that the issue could be handled through regulations. However, the subcommittee decided to place their work on hold once the amendments to Senate Bill (SB) 546 were published as it includes similar language that appeared more prescriptive.

Ms. Del Mugnaio met with Bill Gage, Chief Consultant for the Senate Business Professions and Economic Development Committee (Committee) on SB 546. Ms. Del Mugnaio also noted that there will be a hearing on April 24, 2017 where she intends to provide preliminary comments to the Committee that the Board is in support of the Bill and is currently developing proposed regulatory language. By the next MDC meeting, there will likely be language that is ready to proceed through the legislative process via a Legislative Bill.

Dr. Grant expressed concern regarding the term “consultation” and suggested replacing it with the term “information”.

Ms. Ehrlich noted that there was an amendment to SB 546 published on April 17, 2017; however, Ms. Del Mugnaio clarified that it is not part of the MDC agenda; therefore, it cannot be discussed.

- Dr. Richard Sullivan moved and Kristi Pawlowski second the motion to table the drug counseling item until the final amendments to SB 546 are published.
- Kristi Pawlowski withdrew her second to the motion.

Mr. Heppler suggested that the MDC continue work on the item until a final version of SB 546 is published and presented to the Board. The MDC collectively agreed and a motion was not needed.

10. Discuss Definitions and Scope of Responsibility for “Induction” of Anesthesia vs. Sedation – Section 2034 of Title 16 of the California Code of Regulations; Potential Recommendation to Board

Dr. Klingborg reviewed the highlights of the “induction” of anesthesia vs. sedation discussion since the last MDC meeting in January 2017.

Ms. Pawlowski expressed that there is significant difference in the definitions of “anesthesia” and “sedation” and opined that RVTs should not be performing either task without the animal first being examined by a veterinarian. RVTs also do not have liability insurance, nor are they able to obtain it because it is not legal for RVTs.

For the purposes of the discussion, an example of a “matted cat” needing sedating and being treated in an emergency situation was shared. Ms. Pawlowski expressed concern with allowing an RVT to diagnose, prescribe, and potentially sedate or induce anesthesia, without an examination or prior history, for the purpose of removing mats. Ms. Pawlowski suggested looking at referring these types of services to an emergency clinic and/or looking at why a relationship to refer the services to another facility with a veterinarian presently does not exist.

In response to the “matted cat” example, Ms. Loreda argued that it may be considered an emergency situation when the cat is not just matted, but also covered in maggots, for example. Since a lot of facilities do not have access to RVTs and/or veterinarians, there appears to be an access issue.

Ms. Del Mugnaio suggested examining what is considered an “emergency” situation in a shelter setting.

Mr. Johnson suggested that “pain management” and “seizure control” be considered as additions to CCR section 2069.

Ms. Pawlowski referenced CCR section 2032.4, to remind the Board of the current anesthesia requirements under the Practice Act and opined that emergency anesthesia should require an examination by a veterinarian.

Dr. Klingborg suggested providing a recommendation to the Board to direct the MDC to research the expansion of emergency animal care in CCR section 2069.

Dr. Pollard pointed out that CCR section 2069(2) states “administration of pharmacological agents to prevent or control shock” could be interpreted as authority for RVTs to provide seizure control in emergency situations. Mr. Johnson shared that the original intent of that language was to allow RVTs to provide intravenous steroids and hook up the animal patient to Lactated Ringers.

Ms. Ehrlich suggested amending BPC section 4840.5 to establish the authority to amend CCR section 2069 to include “serious bodily injury”, which may not be life threatening, but should be considered an emergency situation.

Mr. Heppler suggested focusing the discussion on CCR section 2069 and enabling statutes to clarify what constitutes as an emergency and a life threatening situation, regardless of setting.

Ms. Hughes and the MDC discussed the issue of liability when an RVT happens to anesthetize the animal patient when it was not their intention to do so. An example was shared that if an animal does not respond to the initial sedative, another sedative may be given which unintentionally leads to anesthesia. Beyond the intent and dosage, Dr. Grant stated that there are other variables that may affect the outcome of the induction of sedation/anesthesia, such as the physiological state of the animal patient.

Dr. Klingborg stated that he will report back to the Board how the agenda item evolved into emergency protocols and request the Board’s guidance going forward.

11. Discuss Minimum Standards for Spay/Neuter Clinics

Dr. Grant suggested striking CCR section 2030.35(c)(3) regarding the “collection tank for disposal of waste material” since the intention of the language, as written for mobile clinics, does not apply in spay/neuter clinics.

Ms. Del Mugnaio noted that specialty clinics should not have a compliance issue noted regarding meeting minimum standards that are not applicable to the type of services provided at a given clinic. Ms. Del Mugnaio opined that there may not be a need to create separate minimum standards for spay/neuter clinics when inspections are specific to the type of services provided at a premises.

Regarding the requirement to establish a Veterinarian-Client-Patient Relationship (VCPR) on unowned animals, Ms. Del Mugnaio pointed out that the proposed language is not a standalone provision and applies in conjunction with other sections of the Practice Act.

The MDC identified CCR section 2030.35(e) regarding the “after hours emergency services” as not being specific to spay/neuter clinics, but applicable to fixed premises.

Dr. Klingborg identified two options:

1. Continue utilizing existing fixed premises minimum standards and allow inspectors to apply minimum standards as appropriate to each specialty clinic type.
2. Define minimum standards for each type of specialty practice.

Ms. Lutz expressed support for Option #1, but opined that there should be separate minimum standards for large animal practices.

- David Johnson moved and Dr. Richard Sullivan seconded the motion to reject the Minimum Standards for Spay/Neuter Clinics proposed regulatory language. The motion carried 8-0.

12. Discuss Minimum Standards for Mobile Specialists

Dr. Grant stated that issues were raised when trying to determine where to place the responsibility of patient care when cases are handed off to mobile specialists. After speaking with a number of medical doctors, veterinarians, and mobile specialists, Dr. Grant found that each case is so unique that it can be difficult to clearly define certain areas of responsibility between the primary veterinarian and the mobile specialist.

This is not an issue that can be resolved by regulation, but instead would be handled through the complaint process should animal harm occur.

13. Review, Discussion, and Possible Recommendation on Reciprocity Issues and License Eligibility for Veterinary Applicants Who Possess Work Experience in a Foreign Territory; Consider Equivalent Credentials of Board Certification (Business and Professions Code section 4848(b)(1))

Dr. Klingborg noted that the Board voted and passed a motion at the January 2017 Board meeting to clarify the Board’s intent that veterinary clinical experience for purposes of reciprocity eligibility must be in another U.S. state, Canadian province, or United States territory.

The MDC was tasked with determining if special consideration should be afforded to individuals who are “Board certified” as an equivalent pathway to reciprocity eligibility.

The MDC expressed concerns that Board certified specialists (e.g. Dermatologists) tend to have experience in one particular area and there is currently no way to restrict a Board certified specialist from entering general practice (and performing surgery on animals).

Ms. Del Mugnaio pointed out that individuals with work experience in a foreign territory are not ineligible to practice in California, nor are they precluded from taking the California State Board examination and applying for licensure under the traditional pathway. There is currently no equivalent pathway for individuals with foreign experience.

Dr. Klingborg reviewed the list of six items under “Application of Current Laws and Issues” prepared by Ms. Woodward-Hagle.

- Dr. Richard Sullivan moved and Dr. Allan Drusys seconded the motion to recommend to the Board that it not consider recognizing veterinary specialty Board certifications as satisfying the clinical experience requirements for reciprocity eligibility. The motion carried 8-0.

14. Public Comment on Items Not on the Agenda

There were no comments from public/outside agencies/associations.

15. Future Agenda Items and Next Meeting Dates –

- July 25, 2017 (Sacramento)
- October 17, 2017 (Fresno)

A. Multidisciplinary Advisory Committee Assignment Priorities

Dr. Klingborg reviewed the list of existing MDC assignment priorities:

- Structure and Audit Enforcement Case Outcomes
- Minimum Standards for Alternate Premises
- “Extended Duties” for RVTs
- Drug Compounding Regulations
- Sedation vs Anesthesia
 - Emergency Protocols
- Drug Counseling

B. Agenda Items for Next Meeting – Minimum Standards for Small Animal Spay and Neuter Clinics

The Minimum Standards for Small Animal Spay and Neuter Clinics agenda item has been removed from the MDC’s assignment priorities.

16. Adjournment

The MDC adjourned at 3:40 p.m.