



MEETING MINUTES
Multidisciplinary Advisory Committee
1747 N. Market Blvd. – 1st Floor Hearing Room
Sacramento, California

10:00 a.m. Tuesday, July 19, 2016

1. Call to Order- Establishment of a Quorum

Multidisciplinary Advisory Committee (MDC) Chair, Dr. Jon Klingborg called the meeting to order at 10:05 a.m. Veterinary Medical Board (Board) Executive Officer, Annemarie Del Mugnaio called roll; nine members of the MDC were present and thus a quorum was established.

2. Introductions

Members Present

Jon Klingborg, DVM, Chair
Allan Drusys, DVM, Vice Chair
William Grant, DVM
David Johnson, RVT
Jennifer Loredo, RVT, Board Liaison
Kristi Pawlowski, RVT
Jeff Pollard, DVM
Richard Sullivan, DVM, Board Liaison
Diana Woodward-Hagle, Public Member

Staff Present

Annemarie Del Mugnaio, Executive Officer
Nina Galang, Administrative Program Coordinator
Kurt Heppler, Legal Counsel
Ethan Mathes, Administrative Program Manager
Candace Raney, Enforcement Manager
Caesar Victoria, DCA Webcast

Guests Present

Kathy Bowler, Public Member, Veterinary Medical Board
Nancy Ehrlich, California Registered Veterinary Technician Association
Valerie Fenstermaker, California Veterinary Medical Association
Alex Henderson, Veterinary Allied Staff Education
Shelly Jones, DCA Board & Bureau Relations
Mark Nunez, DVM, Veterinary Medical Board
John Pascoe, DVM, University of California, Davis
Ken Pawlowski, California Veterinary Medical Association
Cindy Savely, RVT, Sacramento Valley Veterinary Technician Association
Dan Segna, California Veterinary Medical Association
Leah Shufelt, RVT, CVMA
Cheryl Waterhouse, DVM, Veterinary Medical Board

3. Review and Approval of April 19, 2016 Meeting Minutes

The Board made a few minor spelling corrections.

- Dr. Allan Drusys moved and Dr. William Grant seconded the motion to approve the minutes as amended. The motion carried 9-0.

4. Update on the Complaint Process Audit Task Force Subcommittee

Dr. Jeff Pollard updated the MDC regarding the audits performed by him and Dr. William Grant. Older cases were found to be less valuable than newer cases in terms of assessing expert review. The most interesting finding was that reviewing the case in a particular order may impact the expert witness's opinion and ultimately affect the outcome of the review. The Subcommittee suggested that the expert witness should read the medical records first, then the complaint and other related documentation.

Additionally, the Subcommittee found that the experts did not fully explain their reasoning and it may have been as a result of misunderstanding the expectations in the report writing process. Dr. Grant expressed that the information learned from this case audits need to be addressed with the expert witnesses and having Ms. Del Mugnaio and Ms. Raney present at the training would be critical.

Ms. Del Mugnaio, Candace Raney, and Ethan Mathes met with a legal firm that provides free legal service to California Veterinary Medical Association (CVMA) members. They discussed educating their members on how important it is to communicate with the Board on issues related to enforcement and continuing education.

Respondents are asked to respond to the Board's inquiry regarding an enforcement case, as required by regulations; otherwise the Board has no other choice but to proceed with enforcement action.

During Expert Witness Training, expert witnesses are reminded that if they are not an expert on a particular procedure a diagnosis, the case should be handed back to the Board. Expert witnesses are not obligated to weigh in on a case they are not expertly equipped to provide an opinion.

Ms. Del Mugnaio clarified that the motivation for the complaint is one aspect the Board staff considers when determining whether or not a case should be pursued, but it should not be a factor for the expert witnesses.

Ms. Del Mugnaio confirmed that no complaints against Registered Veterinary Technicians (RVT) have been reviewed by the Subcommittee, but if the Board decides to include RVT cases in the audit, it would be best to have an RVT Subcommittee member review the cases.

The MDC discussed the concern that the expert witnesses are not appropriately applying statutes and regulations. Ms. Del Mugnaio added the intent is for the expert witnesses to be extremely familiar with the Practice Act, not just the Disciplinary Guidelines.

Legal Counsel, Kurt Hepler, strongly urged against "helping the respondent," with their complaint submittal. While Board staff cannot provide legal counsel, Ms. Del Mugnaio added that staff have been working to provide as much guidance as possible regarding what information is necessary to adequately evaluate a case. The Board continues to work towards establishing a relationship with a veterinary profession and hopes to be an educational resource as well as the enforcement agency.

Valerie Fenstermaker noted that CVMA members have expressed that the initial letter sent by the Board does not state the nature of the complaint, therefore, they are reluctant to reply. Ms. Raney clarified that the initial contact letter includes a synopsis of the complaint with enough information to provide a response. The letter requests a statement and medical records from the respondent.

Ms. Fenstermaker expressed concern regarding only one expert witness review a case and asked the MDC to reconsider the model of an expert witness review panel. Dr. Grant noted that this issue was discussed at the previous MDC meeting and agreed that it would be beneficial to have more than one expert witness review the case. Dr. Grant clarified that the Board's current process is to have an in-house consultant review the case first, and then it is sent out to an expert witness, so there are at least two people currently reviewing the case.

5. Report from the Expert Witness Review Subcommittee

Diana Woodward-Hagle noted that she attended a two-day Expert Witness training on May 4-5, 2016 at the Veterinary Medical Board. After the training, Ms. Diana Woodward-Hagle, Dr. Pollard, and Ms. Raney met to discuss the concerns expressed at the training and create the overview contained in the Board packet, which was intended to generate discussion at the next Expert Witness Training. When writing the Expert Witness Report, Ms. Woodward-Hagle felt that the expert witnesses must: emphasize facts, discuss standard of care, and understand the difference between negligence, incompetence, and unprofessional conduct.

Dr. Pollard added that for future Expert Witness trainings, it has been suggested that findings from closed case reviews should be presented at the training.

The MDC discussed the difference between "negligence," "incompetence," and "unprofessional conduct." Ms. Del Mugnaio added that "unprofessional conduct" is not just behavioral, but may also include deviation from standard of care [e.g. failure to establish a Veterinarian-Client-Patient Relationship (VCPR)].

6. Update on Minimum Standards for Alternate Premises

David Johnson introduced the concept of changing "indirect supervision" to "general supervision" and changing "individual written order" to "standing general order."

Dr. Richard Sullivan suggested adding "diagnostic testing and treatment of medical conditions based upon clinical signs" as a general order and not specific orders for specific animals.

Ms. Del Mugnaio reminded the MDC that the intention of this update is not to consider formalized language for the Board, but instead to share it with the sheltering community to discuss at the October 2016 MDC meeting.

Mr. Johnson suggested looking into allowing an RVT to be the Managing Licensee as part of their extended duties.

Dr. Allan Drusys expressed that there are instances where an RVT should administer anesthesia over sedation for the betterment of the animal.

Jennifer Loreda noted that with regard to sedation, Animal Control Officers (ACO) may administer an undisclosed amount to dart the animal and a RVT administers a more accurate amount. Mr. Johnson added that RVTs can provide rescue services and administer sedation.

Mr. Heppler noted that the phrase in section 2035.5 (a)(1) “has direct knowledge of the animal population” may need to be modified for the purposes of providing clarity for the Office of Administrative Law (OAL).

Ms. Del Mugnaio added that the MDC should review section 2034 (i), Induce, at a future meeting. The language needs to define “induce” as the induction of “sedation,” which is separate and apart from “general anesthesia.”

Dr. Dan Segna, CVMA, noted that of the three CVMA Premises Task Force meetings held thus far, nearly half of the discussion was spent on the topic of shelter settings. As they related to shelters, the intent was to craft regulations that are non-prescriptive but served as guidelines.

Dr. Segna explained the reasoning behind the proposed regulations and suggested adding “diagnostic testing” language in section (a). Ms. Loreda added that diagnostic testing is not necessarily something that is done on intake.

Dr. Nunez asked the MDC if there has been any discussion on developing minimum standards for rescue groups. Dr. Drusys noted it will be discussed in Item #7.

Ms. Del Mugnaio clarified that the tasks performed in a shelter setting are still the practice of veterinary medicine and there is a misconception in the veterinary community that these tasks are exempt.

7. Update on Survey of Public and Private Shelters and Discussion of Minimum Standards & Protocols for Shelter Medicine

Dr. Drusys noted that surveys were sent out, but there have been issues the collection of the data.

Dr. Klingborg added that the MDC can expect more data to be available by the MDC meeting in October 2016.

8. Review and Discuss Veterinary Student Exemption [Duties and Supervision at University Hospitals]; Potential Recommendation to Full Board

Mr. Heppler reviewed the Veterinary Student Exemption memo and identified two statutory issues based on previous discussions that the MDC may consider:

- 1) Would it be beneficial to establish a link between the premises where the student performs animal health care tasks under supervision as part of their curriculum, and the expectations for the student, the supervisor, and perhaps the Board?
- 2) Should students with a specified amount of training be allowed to participate in surgery?

Mr. Heppler noted another concern regarding the provisions of CCR section 2027 allow a junior or senior student or a graduate of a recognized veterinary college to perform the duties of an RVT without a license and for an unspecified period of time.

Based on the understanding that the definition of “treatment” encompasses surgery, Dr. Grant expressed concern that BPC section 4826 (c) provides the authority to perform surgery at an off-campus site. The MDC agreed that the term “surgery” should be clearly stated if that is the intent.

Dr. John Pascoe, University of California, Davis (UCD), asked if the MDC would be open to a Task Force to develop language that meets the objective of ensuring that the educational institutions are graduating entry level veterinarians who are competent, where optimal patient care is provided in a

setting where students are actively engaged in learning, and where the consumer is protected. Dr. Pascoe volunteered to participate in the Task Force.

Dr. Pascoe clarified that the Council on Education's (COE) Standards for Education currently requires a minimum of four years to obtain a degree. From the UCD perspective, Dr. Pascoe noted that first and second year students have been getting more exposure to clinical experience. However, the MDC agreed that different educational institutions offer training on various areas of the required curriculum at different stages of the educational program.

Dr. Grant suggested using "students" instead of specifying a specific year in the student's veterinary education.

Dr. Klingborg identified three areas for the MDC to consider:

- 1) Should the MDC move forward with the language or form a Task Force?
- 2) Should the MDC decouple the language from exemptions and move it into a more appropriate section?
- 3) Should a veterinary graduate without a license be allowed to sit for the RVT license examination?

Dr. Sullivan suggested modifying BPC section 4830 (a)(5) to meet the MDC's objective.

Ms. Woodward-Hagle recommended considering limiting the statute to California students based on the challenges found with verification and enforcement of foreign graduates.

Nancy Ehrlich suggested allowing veterinary students to sit for the RVT license examination.

Dr. Sullivan agreed that the Task Force should consider this suggestion.

Dr. Drusys recommended including CCR section 2027 in the discussion, along with all of the documents that have been prepared under this item.

Ms. Del Mugnaio noted that it may be helpful to review the rulemaking record and research the intent of the changes that have occurred over time.

- Dr. Richard Sullivan moved and Dr. William Grant seconded the motion to convene a Task Force comprised of various educational institutions, members of the MDC and/or the Board, and Legal Counsel to study the BPC section 4830 (a)(5) and CCR section 2027 and present a recommendation to the full Board. The motion carried 9-0.

Dr. Sullivan requested to discuss premise permits for University clinics providing services to the public.

Ms. Del Mugnaio clarified that this issue is connected to the exemption in BPC section 4830 (a)(5). The change in SB 1193 removes the Universities and their facilities from the exemption to hold a premises permit, which is addressed under University licensure.

9. Discussion and Consideration of "Extended Duty" for Registered Veterinary Technicians Regulations; Potential Recommendation to Full Board

The Extended Duties Subcommittee, Kristi Pawlowski and Mr. Johnson, reported that they found no specific extended duties that need to be addressed for RVTs at this time other than duties performed within the shelter community. The Subcommittee felt that the work they have done appears to be a duplication of work performed by the CVMA Premises Task Force and agreed that it would be best to continuously look at where RVTs stand on new and current issues brought up at the MDC.

Mr. Johnson added that the goal is to identify access to care issues, not to enhance the job duties or functions of RVTs.

Ms. Ehrlich expressed that she was surprised to hear that there are no extended duties identified that would benefit the consumer as she is able to come up with a whole list of examples.

Ms. Del Mugnaio clarified that is the Board's duty to define the duties that are already currently in practice. The Board may expand existing duties only if there is an access issue or if there is a demand that is not being met which creates a risk to consumers. Ms. Del Mugnaio added that the Board's consumer protection includes the client and the animal patient.

Leah Shufelt, CMVA, noted that she reached out to their members requesting ideas for RVT extended duties from a "need" and not a career advancement perspective, and did not receive much of a response from its RVT members.

Cindy Savely noted three potential RVT extended duties discussed at the most recent Sacramento Valley Veterinary Technician Association (SVVTA) Board meeting: 1) administering vaccinations (e.g. rabies), 2) providing parasite control, and 3) performing wound debridement in a shelter environment.

Dr. Klingborg will keep this item on the agenda for the next MDC meeting in October and hopes to hear from California Registered Veterinary Technician Association's (CaRVTA) Board or representative on this issue. At that time, Dr. Klingborg will decide if the item should continue to stay on the agenda.

Dr. Drusys suggested that the MDC, from a transparency perspective, should be as open as it can be to all stakeholders. Ms. Del Mugnaio clarified that an RVT standing report is on the Board's agenda, not the MDC. The MDC's issues are delegated from the Board.

10. Review and Consider Implementing Regulations Regarding Veterinarian's and Registered Veterinary Technician's Authority to Compound Drugs Pursuant to the Adoption of Statutes in Senate Bill 1193.

Ms. Del Mugnaio reviewed various background documents, including Code of Federal Regulations Title 21, Part 530.13, a summary of Federal Drug Administration (FDA) guidance document #230, and proposed Pharmacy Board regulations regarding compounding, for the Board's consideration prior to crafting Drug Compounding regulations.

The definition of "compounding" has been taken from the Board of Pharmacy regulations, CCR section 1735, and will need to be referenced and re-stated in the Board's regulations.

The Board asked two representatives from UCD questions regarding their experience with drug compounding in their practice.

Medical Oncologist, Dr. Jenna Burton, stressed the importance of appropriately dosing cancer patients and noted that she relies on compounding pharmacies to compound drugs for her animal patients.

Dr. Gary Magdesian, an Equine Internist who served on the American Veterinary Medical Association (AVMA) Task Force for compounding from bulk drugs, added that he also relies on compounding pharmacies to compound drugs except when mixing immediate-use drugs.

Dr. Burton and Dr. Magdesian both expressed concern regarding the quality of product received from the compounding pharmacies. Dr. Burton opined that the inaccuracy of drug potency may be due to the

nature of working with bulk product. Dr. Magdesian added that the drugs are not FDA-approved and are not as well regulated as they could be.

Dr. Burton noted that UCD published a study comparing the same drug, of the same potency, from five different compounding pharmacies. The potency results varied anywhere from 50 percent to 115 percent, with only one sample falling within plus or minus 10 percent of the labeled concentration.

Dr. Magdesian updated that the AVMA Task Force has completed its document and recommended legislative language for federal oversight of bulk compounding.

From the AVMA Task Force's point of view, Dr. Magdesian added that the need for compounding from bulk is critical, but can vary for each veterinary sector. Ms. Del Mugnaio noted that the Board will need input to define necessity for bulk compounding. The availability or lack thereof, of obtaining compounded drugs from a compounding pharmacy for veterinary practice may help better define necessity.

Dr. Magdesian noted that the AVMA Task Force has concern over the FDA Guidance #230 document with regard to access and whether existing facilities would be willing to produce veterinary drugs and register as an outsourcing facility.

Mr. Heppler clarified that the State of California does not recognize guidance documents and regulations must be adopted in order to be enforceable. He stated that the MDC and Board need to clearly define need in the regulation documents.

11. Public Comments on Items Not on the Agenda

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

12. Agenda Items and Next Meeting Dates – October 18, 2016 (TBD)

Ms. Del Mugnaio noted that the next MDC meeting will be in Southern California.

Next year's MDC meeting schedule is as follows:

- January 17, 2017
- April 18, 2017
- July 18, 2017
- October 17, 2017.

A. Multidisciplinary Advisory Committee Assignment Priorities

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

1. Evaluate Structure and Audit Enforcement Case Outcomes
2. Develop Minimum Standards for Alternate Premises
3. Review Section 4830(a)(5) and Section 2027
4. Discuss Extended Duties for RVTs
5. Develop Drug Compounding Regulations
6. Rodeo Reporting and Requirements
7. Develop Minimum Standards for Spay and Neuter Clinics.

Dr. Grant requested Dr. Klingborg to address the issue of case management of mobile specialists such as surgeons or internists, doing procedures at hospitals as a priority assignment with the Board.

Dr. Klingborg will also ask the Board if the discussion on "sedation" vs. "anesthesia" can be added as a separate discussion item.

B. Agenda Items for Next Meeting

Ms. Del Mugnaio clarified that standing items cannot be discussed without material. Meetings may include standing reports, but you cannot discuss the items without the items being placed on an agenda.

13. Adjournment

The MDC adjourned at 3:23 p.m.