

Anesthesia-Free Teeth Cleaning on Animals April 2011

Anesthesia Free Dentistry

ISSUE: The Veterinary Medical Board is a consumer protection agency authorized by the Legislature to regulate licensees, but its authority over unlicensed persons is very limited. Unlicensed persons continue to run their businesses because violations of the law in regard to animals (civil and criminal), even when animals are hurt or even killed, are a low priority for local district attorneys when allocating resources because animals are legally designated in California as chattel or property. Some of the legal consequences for persons operating illegally include, but are not limited to a cease and desist letter, a citation and fine from the Board, disconnection of a business phone, and possibly reporting the violation to the Franchise Tax Board.

Section 4826 of the Business and Professions Code and Section 2037 of the California Code of Regulations govern the practice of dentistry in California. The laws are clear and straightforward in stating that performing dentistry upon an animal is the practice of veterinary medicine and needs to be done under supervision of a licensed veterinarian. The clarity of the laws was upheld and clearly stated in a precedential decision involving Canine Care and Cindy Collins in 2004/2005 (copies available upon request).

BACKGROUND: The issue of anesthesia free dentistry surfaced in 1989 when the Board took action against a groomer in Stockton CA who was using an ultrasonic dental scaler to clean the teeth of her client's pets. A judge ruled in that case that the use of the ultrasonic scaler was clearly the practice of veterinary medicine, but it was not clear whether the use of a manual scaler could be considered the practice of veterinary medicine. In 1990, subsequent to that ruling the Board promulgated regulations (CCR Section 2037 – copy attached) to clarify and define the parameters of veterinary dentistry and what was acceptable and what was not.

DISCUSSION/ANALYSIS: In 2004/2005 the Board issued a citation and fine against an anesthesia-free teeth cleaner after a client's dog, Rowdy, was found to have a broken jaw. The Board also issued a companion citation and fine to Ms Cindy Collins and her business, Canine Care, for aiding and abetting unlicensed, illegal activity regarding the practice of veterinary medicine. Although both cases were ultimately dismissed, the judge entered language into the decision that was determined to be precedential and that firmly established the fact that the use of scaler to clean animal's teeth was the practice of veterinary medicine.

Rowdy, the dog that was injured in the above referenced case, was a small dog of sweet temperament and disposition. Shortly after picking Rowdy up from the teeth cleaning, the owner noticed Rowdy was not his usual self, would not eat or drink and had blood around his mouth. The next day the owner took Rowdy to a veterinarian who determined that Rowdy's jaw was broken in three places. The judge opined that although the evidence was circumstantial, Rowdy most likely received his injuries during the teeth cleaning.

In the case, Ms Collins stated that her method did not include scaling tartar from beneath the gum line. Expert testimony made it clear that tartar build up begins below the gum line and if all tartar and plaque are not removed during a cleaning, especially the tartar below the gum line, severe problems may result, including gingivitis and tooth loss. The judge opined that the method of teeth cleaning taught by Ms Collins is incompetent for the purpose of preventing tooth and gum disease in dogs and cats.

During the hearing Ms Collins argued that a metal scaler was similar in nature to the items enumerated in subdivision (3) of Section 2037. The judge determined that she was wrong on that point. Again, although the citation was dismissed, the judge determined that Respondent Collins clearly aids and abets the unlawful practice of veterinary medicine. He went on to say that the method she teaches for pet teeth cleaning falls squarely within the statutory definition of a dental operation and she should be permanently enjoined from this practice. There is no grey area in the current law.