



NEWS & VIEWS

Happy
New Year
2005!



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Anesthesia Free Doggie Dentistry

What is the Harm?

By Susan Geranen, Executive Officer

There are a number of unlicensed people in California providing a service called anesthesia-free doggie dental care without any supervision by a licensed veterinarian. The majority of individuals providing this service appear to be affiliated with a franchise-type business called Canine Care, Inc.

In a recent decision involving anesthesia free dental cleaning services, an Administrative Law Judge rejected arguments by Canine Care, Inc. President Cindy Collins, who provides training in the procedure to independent contractors, that the teeth-cleaning method by lay people was cosmetic and permitted under

California law. (Ironically, Judge Dash dismissed the Veterinary Medical Board's citations against Collins and teeth cleaner Linden Clark that arose from injuries to a dog that had its teeth cleaned in 1999 at a Burbank pet salon. The judge found insufficient evidence to establish who actually cleaned the dog's teeth.) Nevertheless, the judge opined that Canine Care and Ms. Collins, who is not a licensed veterinarian, should be "permanently enjoined" from teaching, performing, or directing others to perform the technique, which includes placing a splint in the animal's mouth and removing plaque and tartar with a dental scraper.

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New Prescription Requirement

*SB 175 (Chapter 250, Statutes of 2003),
authored by Senator Sheila Kuehl and
signed by Governor Davis in September
2003 went into effect on January 1, 2004.*

The intent of Business and Professions Code, Section 4170, is to clarify existing law to ensure that the Pharmacy Board is responsible for regulating all human and animal drugs. Existing Pharmacy law defined a dangerous drug but excluded properly labeled veterinary drugs from the definition. This law clarifies that the Pharmacy Board has jurisdiction over all

dangerous drugs, regardless of whether such drugs are for human or animal use.

Because this law authorizes the Veterinary Medical Board, in conjunction with the Pharmacy Board, to enforce the existing Pharmacy law regarding prescribing and dispensing of dangerous drugs or devices and, in doing so, makes sure that all Internet drug sales are carefully regulated. Furthermore, the new requirements will ensure that the Pharmacy Board has a role in regulating veterinary pharmaceuticals

Continued on page 3, Prescription

Veterinarian Discovers Black Hole in Medical Records

Record Keeping Requirements

By Richard Spickard, DVM

It hasn't hit the mainstream media yet, but veterinarians across the state have discovered a quantum defect in the space-time continuum, that allows hours and hours of their hard labor to almost magically disappear. It's a little known phenomenon called the Medical Record Quantum Singularity.

How you say? The old adage holds true, "if it isn't written down, it didn't happen." As an example a medical record entry might be solely: "PE – WNL". In our busy practices with a healthy "well pet" exam, we might be tempted to make such sparse notations. What isn't recorded is any "data, including that obtained by instrumentation, from the physical exam" [CCR §2032.3 (a)(7)] which is required by law.

While the statute does not specify what must be included in the medical record, we use the "standard of care" in the community to determine when a record falls short. That community is the entire State of California; both rural and city, veterinarians are held to the same standard.

It's not only the law, it's for your own protection. When the VMB reviews a record that states "PE – WNL" the presumption is that essentially no physical examination took place. Certainly, the eyes and ears weren't examined. The teeth weren't examined. The heart and lungs were not assessed. The abdominal palpation isn't described. "But I did do a thorough exam, I'm just too busy to write all that down!" Was a neurological exam performed? How about a fundic exam? Tonometry? Blood pressure? Those all might be considered part of a complete physical exam in some practices. There are many examples of "complete" medical records too. Some use a sticker with check boxes for the major systems. Some use a pre-printed physical exam page, with fill-in and check boxes. The important key is to note normals, abnormal AND not examined. If there is a checkbox for "neurological exam" and you don't do a complete neuro exam, you should indicate it was not performed, not that it was "normal."

Can you actually diagnose a patient if you haven't interviewed the client for a history? Not unless our patients suddenly learn to talk. The pet owner is a source of invaluable information on our patients. Do you think a pediatrician would treat a toddler without asking the parents for the history? And that history must be recorded, or it's as if the conversation never happened.

Each entry for each visit should include a system by system evaluation of both abnormal AND normal findings. That's the

only legitimate way to arrive at an assessment. And then on to a treatment plan. All of which must also be documented in the medical record.

One of the items often skipped is client education. You might have pre-printed handouts, or spend 30 minutes educating the client on home care. But if it's not documented, it didn't really happen. When the client complains you didn't warn them against letting their recently spayed dog go with the dog walker to the beach for 2 hours, your "Routine OVH" notation before discharge won't protect you.

Don't let yourself be the victim of the Medical Record Black Hole. Document the history. Document each aspect of the physical exam. Actually write out your assessment and treatment plan. Include your recommendations and home care instructions. Include follow up contact and telephone consultations with the client.

Ask yourself, "Can another veterinarian, not familiar with my practice, easily understand my medical records and continue care of the patient?"

Legislative Update

SB 1548 authored by Senator Figueroa and signed by Governor Schwarzenegger on September 10, 2004, as Chapter 467, Statutes of 2004, becomes effective on January 1, 2005. This bill extends the Veterinary Medical Board's sunset date to 2009, requires liability insurers providing coverage to veterinarians to report settlement or arbitration awards of over \$10,000, authorizes an extension of a temporary license for up to one year for reasons of health, military service or undue hardship, and requires veterinarians to report animal abuse or cruelty.

For detailed information on this new law, visit the legislative page of our website at www.vmb.ca.gov and click on Bills Passed in 2004.

Doggie Dentistry, Continued from page 1

Judge Dash wrote, "Without question, the techniques of anesthesia-free teeth cleaning taught by Respondent Collins fall within the definition of a dental operation." (B & P Section 4826(d))

The dental cleaning service provided by unlicensed persons without supervision by a veterinarian is illegal and the claims made by people doing the dental cleaning are deceptive. Telling consumers that they do not need to take their pets to the veterinarian because the dental cleaning service that they are receiving is the same as the full professional dental cleaning at a veterinary hospital, excluding the use of anesthesia, is fraudulent and deceptive because the claim is not true.

Cleaning the surface of the teeth may improve the appearance of the teeth and sometimes helps to improve the animal's breath. However, because the outside of the teeth appear to be clean, the consumer is lulled into a false sense of the animal's health and does not ask the veterinarian to check the health of their pet's mouth. The veterinarian sees the clean outside surfaces and may not recommend a full mouth and teeth examination.

There are a number of reasons why dental operations performed by lay persons without supervision of a veterinarian can be detrimental to a pet's long term health, e.g., scraping the surface of the teeth can etche the enamel surface and actually accelerate the accumulation of plaque and tartar. Consumers see the teeth appear cleaner when the plaque is removed, but they are not readily aware of the long-term damage to their pet's teeth and gums because the effects of neglecting a pet's dental health take years to surface. People believe the claims made by Canine Care that it is not important to have regular professional dental checkups with a veterinarian. Unfortunately, they are being misled and by the time they see the effects of the neglect of their pet's teeth it is too late.

Canine Care claims that it is providing a much needed consumer service and that the Board is pursuing a vendetta against them. Contrary to that claim, the Board is receiving consumer complaints that demonstrate harm. In one complaint the consumer took his dog to an agent of Canine Care for teeth cleaning faithfully and regularly for five years thinking that he was getting what was advertised, a dental cleaning comparable to that offered at a veterinary hospital. Sadly that was not the case and he discovered that the claims were found to be fraudulent only after the periodontal disease was so rampant in the dog's mouth that it was too late to save his dog's teeth.

Another consumer took her pet in for a regular "dental cleaning" and two hours later when she returned to pick up her dog, an otherwise healthy 5-year old dog, she was told that the dog had died. A third consumer took her dog in for a regular cleaning and then took him home. When he refused to eat, she took him to

the veterinarian the next day to see what was wrong. The dog had suffered a broken jaw during the time he was supposedly getting his teeth cleaned.

Some of the comments from owners of grooming facilities where the dental cleanings are occurring have commented that their customers want the service and they do not understand why the Board is preventing them from receiving it. The Board is mandated to enforce the law and act on complaints filed by consumers. The action against Canine Care is based on consumer complaints. The Board cannot look the other way on valid complaints just because the negative effects of this procedure being performed by lay persons without proper supervision are not immediately evident to other consumers. The Board is advising business owners, pet stores, and grooming facilities that offering dental cleaning services by unlicensed persons without the supervision of a licensed veterinarian is illegal and that the business owner could be held liable for any harm done within their facility.

Board Member Information

Welcome New Board Member

Linda Starr of Gold River, California, was appointed as a public member of the Veterinary Medical Board by the Senate Rules Committee in June 2004. She is an enthusiastic member of the Board and is serving on the Legislative and Consumer Education Committees. Ms. Starr's term is effective until June 1, 2008.

Thanks! Well Done!

Ron Biron and Linda Zachritz, JD completed their terms on the Board and RVT Committee, respectively. The Board acknowledges their commitment to the Board's mission and greatly appreciates their leadership, dedication, and many contributions as Board and Committee members.

Prescription, Continued from page 1

Another important aspect of Section 4170 is that veterinarians must notify their clients that they have a choice of obtaining the prescription medication from the veterinarian OR they may request a written prescription and have it filled elsewhere. If the client chooses the written prescription, the veterinarian is required to provide one. The notification requirement can be met by posting a sign in a conspicuous place such as the waiting room.

For specific language visit our website and click on "Laws and Regs."

Disciplinary Actions & Reinstatements

Pursuant to Business and Professions Code Section 4883, the Veterinary Medical Board (VMB) has the authority to discipline licensed veterinarians, registered veterinary technicians, and veterinary hospitals. Disciplinary penalties are determined based on a number of factors, including, but not limited to, severity and recency of the offense, rehabilitation evidence, current ability to practice safely, mitigating factors, and past disciplinary history. In addition, the VMB has established Disciplinary Guidelines specific to each of the grounds for discipline in Section 4883. The Guidelines are published in its Practice Act.

Detailed disciplinary documents are available to the public and can be obtained via written request to the VMB at 1420 Howe Avenue, Suite 6, Sacramento CA 95825-3228.

For information regarding disciplinary action taken against the following licensees, please refer to the March 2004 *News & Views* on the Board's website at www.vmb.ca.gov.

Registered Veterinary Technicians

Leuregans, Jean-Michael – RVT #4868
Peck, Brian Dennis
Snow, Belinda Lee

Veterinarians

Bernaba, Naim – VET #7887
Gunther, Paul Steven – VET #6702
Harvey, Jodie – VET #3827

Hickey, Stephanie Rae – VET #12027
Haubert, James – VET #7706
Jordan, Edd Merida – VET #4261
Parayno, Ovidio – VET #5696
Spencer, Jack D. - VET #4825
Thomas, Samuel E. – VET #3885
Tobler, Earl Edward – VET #2816
Warehime, Orval Richard – VET #5540

Registered Veterinary Technicians

Amy Joelle Duggan, Sherman Oaks, California. Denial of application for certification as a registered veterinary technician, effective February 29, 2004. **Basis for denial:** Conviction of criminal acts that are substantially related to the qualifications, functions, and/or duties of a registered veterinary technician.

Debra Thatcher, TEC #5341, Fremont, California. Registration revoked by default effective May 23, 2004. **Basis for revocation:** criminal conviction, use of controlled substances, and fraud in obtaining and renewing registration.

Veterinarians

Fred Siegfried David, DVM #2336, Beverly Hills, California. One year suspension stayed/Five years probation effective September 4, 2004. **Basis for discipline:** In a stipulated agreement, Dr. David stipulated that cause for discipline existed based on negligence, incompetence, fraud or deceit, record keeping, false or misleading advertising, and unprofessional conduct.

Mandatory Terms and Conditions During Five Years of Probation include:

1. Standard terms and conditions of probation
2. Supervised practice for the first two years of probation
3. No management or administration of any veterinary hospital

4. Additional 25 hours of continuing education per year for each year of probation
5. Written examination

In addition, Dr. David was ordered to pay the Board its cost of investigation and enforcement in the amount of \$5,413 and a \$1,000 fine. He was also ordered to pay restitution to a patient's owner in the amount of \$1,000.

Daniel Koller, DVM #5490, San Diego, California. Revocation stayed/Four years probation effective November 19, 2004. **Basis for revocation:** In a stipulated agreement, Dr. Koller stipulated that cause for discipline existed based on using and administering a controlled substance, use of a dangerous drug to an extent or in a manner to be dangerous or injurious to himself, and unprofessional conduct.

Mandatory Terms and Conditions During Four Years of Probation include:

1. Standard terms and conditions of probation
2. Actual suspension from practicing for two years
3. No management or administration of any veterinary hospital
4. Psychological evaluation
5. Drug rehabilitation program
6. Submit biological fluid samples
7. Abstain from controlled substances

More Discipline Continued on page 5

Disciplinary Actions Continued . . .

8. Surrender of DEA registration
9. Supervised practice for the first year of probation following suspension

In addition, Dr. Koller was ordered to pay the Board its cost of investigation and enforcement in the amount of \$5,000 and a \$1,000 fine.

Greg Ogard, DVM #6008, Coalinga, California. Surrender of California license effective November 18, 2004. **Basis for surrender of license:** In a stipulated agreement, Dr. Ogard stipulated that cause for surrender of his personal veterinary license as well as his premises permit existed based on negligence, incompetence, failure to comply with Code, and failure to comply with regulations. Dr. Ogard was ordered to pay the Board its cost of investigation and enforcement in the amount of \$22,553 prior to petitioning for reinstatement of his license.

Melvyn Richkind, DVM #4772, Santa Fe, New Mexico. Surrender of California license effective November 1, 2004. **Basis for surrender of license:** In a stipulated agreement, Dr. Richkind stipulated that cause for surrender existed based on practicing while license was under suspension, operating a veterinary premises without a permit, failure to properly label a prescription, and misrepresentation or deception in obtaining a license. Dr. Richkind was ordered to pay the Board its cost of investigation and enforcement in the amount of \$13,187 prior to issuance of a new or reinstated license.

Thomas Richard Ross, DVM #8691, Tracy, California. Revocation stayed/ Three years probation effective November 22, 2004. **Basis for discipline:** In a stipulated agreement, Dr. Ross stipulated that cause for discipline existed based on negligence, incompetence, deception, and record keeping violation.

Mandatory Terms and Conditions During Three Years

Probation include:

1. Standard terms and conditions of probation
2. Actual suspension of individual license for 5 days
3. No management or administration of any veterinary hospital during suspension
4. Supervised practice for the first two years of probation
5. Additional 10 hours of continuing education per year for each year of probation
6. Clinical or written examination

In addition, Dr. Ross was ordered to pay the Board its cost of investigation and enforcement in the amount of \$2,000 and a \$1,000 fine.

Robert Schwarzmans, DVM #1757, West Los Angeles, California. Revocation stayed/Three years probation effective September 4, 2004. **Basis for discipline:** In a stipulated agreement, Dr. Schwarzmans stipulated that cause for discipline existed based on negligence, incompetence, unprofessional

conduct, and failure to comply with provisions of Title 16, California Code of Regulations.

Mandatory Terms and Conditions During Three Years

Probation include:

1. Standard terms and conditions of probation
2. Supervised practice for two years
3. No ownership of any veterinary hospital
4. No management or administration of any veterinary hospital
5. Additional 15 hours of continuing education per year for each year of probation

In addition, Dr. Schwarzmans was ordered to pay the Board its cost of investigation and enforcement in the amount of \$2,000 and a \$2,000 fine.

Richard Park Smith, DVM #6014, Pacifica, California.

Reinstatement of veterinary license granted, revoked, and stayed/ Three years probation effective April 11, 2004. **Basis for prior discipline:** Cruelty to animals.

Mandatory Terms and Conditions During Three Years

Probation include:

1. Standard terms and conditions of probation
2. Supervised practice for the first year of probation
3. No management or administration of any veterinary hospital

Mark Thomas Thomson, DVM #6360, Seaside, California.

License revoked effective May 27, 2004. **Basis for revocation:** Failed to completely and accurately account for controlled substances and to maintain records; prescribed or administered controlled substances for himself; obtained controlled substances for himself by fraud, deceit, misrepresentation or concealment of material fact; used dangerous drugs to an extent as to be dangerous or injurious to himself or to the public or to such an extent that such use impaired his ability to practice veterinary medicine with safety; and failed to maintain premises in clean and sanitary conditions. Dr. Thomson was ordered to pay the Board its cost of investigation and enforcement in the amount of \$16,000.

Rex Wallis Ulrich, DVM #7474, San Mateo, California.

Revocation stayed/Five years probation effective November 19, 2004. **Basis for discipline:** In a stipulated agreement, Dr. Ulrich stipulated that cause for discipline existed based on unprofessional conduct, negligence, record keeping violations, and a criminal conviction.

Mandatory Terms and Conditions During Five Years Probation

include:

1. Standard terms and conditions of probation
2. Actual suspension for 30 days
3. Supervised practice during probation
4. No management or administration of any veterinary hospital

More Discipline Continued on page 6

Put It In Writing . . .



Name Change?

Persons requesting a name change should mail or fax this request in writing to the Board. The written request should include your full former name and full new name, along with your license number. It is also necessary to include one of the following: a copy of a marriage license, divorce decree, revised drivers license, revised social security card, or another legal document verifying the name change.

If this change occurs during the two year licensing period, no new license is mailed to the licensee. Your license, with your former name, remains valid until the expiration date on the license. However, if you would prefer another license be issued with your new name, please return the license with your former name, along with a \$10 check made payable to the Veterinary Medical Board and a revised replacement license will be ordered.

Have You Moved?

Veterinarians and Registered Veterinary Technicians are required to notify the Board of a new mailing address within 30 days of the change (Business & Professions Code Section 4852). This notification should be done in writing and can be mailed or faxed to the Board at 1420 Howe Ave, Ste 6, Sacramento, CA 95825, (916) 263-2621. No official form is necessary to submit this change. Please include your full name and license number with your address.

If this change occurs during the two year licensing period, no new license is mailed to the licensee. Your license, with the old address, remains valid until the expiration date on the license. However, if you would prefer another license be issued with the new address, please return the license with the old address, along with a \$10 check made payable to the Veterinary Medical Board and a revised replacement license will be ordered.

Separate Surgery & Examination Room for Small Animal Mobile Clinics

Small animal mobile clinics where aseptic surgical procedures are performed are required to have a separate surgery and examination room, after January 1, 2006. This requirement follows a new law that became effective on January 1, 2004, to require fixed veterinary premises to meet the same requirement. If a facility performs aseptic surgery, there must be a surgery room separate and distinct from all others.

In addition to the separate surgery room requirement, small animal mobile clinics that offer aseptic surgical procedures must also have an examination area separate from the surgery room. The room must be large enough to conduct an examination.

In order to give licensees with small animal mobile clinics sufficient time to meet the new requirements, the Board will not require the separate rooms until January 1, 2006. Small animal mobile clinics where aseptic surgical procedures are performed must have a separate surgery room and examination room by this date or must cease offering such procedures.

More Discipline Continued from page 5

5. Additional 20 hours of continuing education per year for the first two years of probation
6. Clinical or written examination

In addition, Dr. Urich was ordered to pay the Board its cost of investigation and enforcement in the amount of \$6,875.

Sabrina Marie Weitz, DVM #12336, Vacaville, California. Surrender of California license effective November 5, 2004. **Basis for surrender of license:** In a stipulated agreement, Dr. Weitz stipulated that cause for surrender of license existed based on numerous violations of her probation such as failure to surrender DEA license, failure to obey all laws, failure to submit quarterly reports and interviews, failure to take the Veterinary Law Examination, failure to undergo a psychiatric evaluation and psychotherapy, failure to provide the name of an alcohol/drug rehabilitation program, failure to abstain from drinking alcohol, and failure to make any cost recovery payments to the Board. Dr. Weitz was ordered to pay the Board its cost of investigation and enforcement in the amount of \$19,480 prior to issuance of a reinstated license.

New Members Needed . . .

Registered Veterinary Technician Committee

The RVTC is composed of four professional members and one public member. Currently, the public member position is vacant and the RVTC is seeking applications for that position. Applicants for the public member position must have been residents of the state for at least 5 years, must not be currently working in the field of veterinary technology or associated with a practice or business related to veterinary medicine and not a licentiate of another state regulated profession. The members of the committee serve four-year terms and can serve up to a maximum of two consecutive terms.

Persons interested in applying for this appointment and future professional appointments should refer to the Board's website at www.vmb.ca.gov for application information. Questions regarding applications should be directed to Pam Licon or Susan Geranen at (916) 263-2610.

Board Seeks Diversion Evaluation Committee Members

The Veterinary Medical Board (VMB) has two vacancies for veterinarian members on the Diversion Evaluation Committee (DEC). The DEC monitors veterinarians and RVTs when abuse of dangerous drugs or alcohol affects competency, so that veterinarians and RVTs can be treated and returned to practice.

The VMB will consider, where appropriate, the appointment to the DEC of veterinarians who have recovered from impairment or who have knowledge and expertise in the management of impairment. The Board will consider Registered Veterinary Technicians as public members. Each appointee serves at the pleasure of the VMB for a term not to exceed four years. Each member receives per diem and expenses.

For appointment consideration, please send a letter and curriculum vitae to the VMB office. If you have any questions, please contact Jennifer Thornburg at (916) 263-2614.

California Veterinary Medicine Practice Act, 2005 Edition

NEW!

Order now and be the first to receive the 2005 Edition to be shipped early February 2005!

The new practice act includes selections from the Business and Professions Code, the Health and Safety Code, the Penal Code, and other important information for veterinary practitioners.

To order by telephone, call 1-800-533-1637 or on the internet at www.lexisnexis.com/bookstore (Search: California Veterinary)

Continuing Education Frequently Asked Questions (FAQs)

- 1. What documentation must be kept in my records?*
You must retain the certificate of completion and a record/log of the courses you attended if the continuing education provider offered concurrent and multiple courses.
- 2. Do I need to do CE for my first license renewal?*
There are no CE requirements for a licensee's first license renewal. CE will be required for subsequent renewals.
- 3. What is my time frame for earning CE?*
CE must be earned in the two years preceding your expiration date. For example, if your license expires on January 31, 2005, then approved CE earned between February 1, 2003 and January 31, 2005 can be applied toward license renewal.
- 4. Do I submit CE documentation with my renewal form?*
No. There is a signature verification on your renewal form. The only time your certificates must be submitted is during a random audit or to convert a license from inactive to active status.
- 5. How do I find out what providers are approved?*
There are two links to approved providers on the Veterinary Medical Board website. The website address is www.vmb.ca.gov click on the "Continuing Ed" button.
- 6. Can I get an extension on my renewal if I have not completed the required hours?*
No. There is no provision in the law to allow for an extension on a license renewal. The only options would be to renew as inactive or become delinquent until the hours are completed. You cannot practice veterinary medicine with an inactive or delinquent license.
- 7. Are Registered Veterinary Technicians (RVTs) required to complete continuing education?*
No. Currently there are no regulations that require RVTs to complete continuing education.
- 8. Do temporary licensees have to complete continuing education?*
No. Only permanently licensed veterinarians are required to complete continuing education.



California Approved, Registered Veterinary Technician Schools

Regulatory Changes

By Nancy Ehrlich, RVT

On August 19, 2004, new regulations went into effect regarding California Approved RVT Schools. The changes to Sec. 2065 of the Practice Act tighten the oversight of the schools by the Registered Veterinary Technician Committee (RVTC), enhance the requirements for faculty and administration, and create new standards for the withdrawal of approval.

Under the new regulations, schools are required to have a written agreement with externship sites and are also required to visit the sites at least yearly. Instructors must receive training in teaching methods and must have daily lesson plans. Programs are now required to have a director who is a licensed veterinarian or RVT who has experience in teaching, administration or clinical supervision and has taken classes in administration. The student/faculty ratio will be limited to a maximum of 15/1 in lab classes with live animals and 30/1 in other lab classes.

Schools are now required to maintain an average yearly pass rate on the registration examination no lower than 10 percentage points below the state average for first time test takers. If a school's pass rate falls below that average for a period of two years, an inspection will be triggered and the school may be placed on probation. If at the end of the probationary period the school has not met the required standards, the school's approval may be withdrawn.

For a complete copy of the regulations, please visit the Board's website at www.vmb.ca.gov.

Veterinary Medical Board

Registered Veterinary Technician Committee

1420 Howe Avenue, Suite 6
Sacramento, CA 95825-3228
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Fax: 916-263-2621
Website: <http://www.vmb.ca.gov>

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Susan M. Geranen, Executive Officer