

Ohio Veterinary Medical Licensing Board Newsletter

December 2012

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Tim Kolb

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Delaware, OH
Term: 3/14/10-12/31/12

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Term: 1/1/11-12/31/13

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Term: 2/7/05-12/31/12

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Wooster, OH
Term: 7/26/11-12/31/2013

Rebecca Salinger, DVM

Ashtabula, OH
Term: 8/1/12-12/31/2012

Cynthia Kidd, DVM

Jackson, OH
Term: 8/8/12-12/31/2014

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Vacant

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Medical Records By Tim Kolb, DVM

The old adage “if it isn’t documented, it didn’t happen” is as important as ever with regards to the veterinary medical record. The medical record helps provide quality patient care and helps provide continuity of care. Within a practice, a thorough and complete medical record allows subsequent care providers, whether DVM or RVT, to document ongoing care of patients, response to therapy, and progression of disease. All care providers should document the status of their patient and work to ensure the quality of the medical record. However, it is the veterinarian who bears the legal responsibility for the medical record and who will be held accountable in disciplinary proceedings.

The Record Keeping Rule,

4741-1-21 of the Ohio Administrative Code (OAC) <http://codes.ohio.gov/oac/4741-1-21> outlines the specific requirements for medical records. When the OVMLB considers complaints, the medical record serves as evidence that a physical exam was performed, that a valid Veterinary-client-patient relationship exists, that appropriate care was provided and outcomes were assessed. It is also very helpful to document conversations with clients, particularly diagnostic and treatment plan recommendations, communicated updates on the status of the patient, prognosis, and recommendations that clients decline.

The Board also receives a number of complaints that involve the release of medical records. 4741-1-21(D) OAC stipulates that “Records shall

be released upon request from a treating veterinarian and shall be returned to the originating practice within a reasonable time. Copies of records must be made available upon request from the owner of an animal at a reasonable cost to the owner.” It is not appropriate to refuse to release records to a treating veterinarian if the client owes you money; nor is it appropriate to require a client to sign an authorization form to release records when the records are being requested by a subsequent veterinarian.

Finally, 4741-1-21(E) OAC requires that records, which includes imagery, diagnostic tests, lab data, surgery reports, and all pertinent information, shall be kept for three (3) years following discharge of the animal(s) from veterinary care.

Ohio Veterinary Medical Licensing Board Guidelines On the Closing of a Veterinary Facility

Prior to closing a veterinary clinic/hospital, a veterinarian and/or their staff or the executor of their estate, shall make a good faith effort to provide at least sixty days notification of such anticipated closing to all known active clients. Active clients shall reflect those owners or caretakers who have brought an animal to the clinic within the past three years and whom to the best of the knowledge of the clinic/hospital staff, still own the animal or animals in question.

The notification shall include information as to the last day the clinic/hospital will be open, how an owner or caretaker can obtain a copy of their animal or animals’ records and what will happen to the records if the owner does not obtain the records prior to the permanent closing of the facility.

Notification efforts at a minimum could include:

- ◆ Notices by e-mail to the last known e-mail address of the owner.
- ◆ Information on the clinic website if one exists, as well as on any “social media” communication vehicles the clinic/hospital utilizes.
- ◆ Notice in front office reception area and on a flyer presented to clients when checking out once a closing date has been established.
- ◆ Notice by standard U.S. mail to clients for which an e-mail address is not known, has been returned as undeliverable or who have not visited the clinic/hospital since the closing has been announced and posted.

Adopted by the Ohio Veterinary Medical Licensing Board May 9, 2012

Continuing Education

The Board receives a lot of calls around renewal time regarding what satisfies a scientific requirement, for continuing education hours (CE), how many online courses are acceptable, and what is realtime? Rule 4741-1-11 OAC details the CE requirements for licensees which deems AVMA, OVMA, RACE and university educational opportunities automatically acceptable. Additionally, Board approved continuing education opportunities are posted on the board web site.

There is no limit on the number of online CE courses an individual can take for renewal of their license. The scientific courses are medically/clinically related and must be real-time. The non-scientific courses can be anything from office policy development to journal articles and do not have to be real-time. The reference to realtime regarding CE can be confusing. Realtime means that the hour spent on the CE is actually an hour and not a CE event that you can stop mid-way and come back to hours later. The event is in actual time which means it can be utilized toward your scientific hours. If the event is not realtime, it can only be used for the nonscientific hours.

Reminder: Veterinarians are required to have 20 scientific hours and 10 non-scientific hours for renewal. RVTs are required to have 6 scientific hours and 4 non-scientific hours within a renewal period. The CE obtained in January and February of a renewal year can be utilized for the next renewal cycle as long as it has not been used for the current renewal. (For instance, CE obtained at the OVMA conference in February, 2012 could possibly be used for the renewal cycle in 2014 if the conference was not used for renewal in 2012.) New graduates are exempt from the CE requirement for their first renewal.

Ohio Physicians' Health Program

The Ohio Physicians Health Program (OPHP) is a confidential resource for physicians, veterinarians, dentists, residents, medical students, other healthcare entities, and family members or colleagues who have concerns about a physician or other healthcare professional's health and well being. These may include:

- Substance use disorders
- Behavioral and mental health
- Stress, Burnout, or Aging
- Physical Illness

OPHP provides assistance through consultation, identification, intervention, referral, and case management which may include monitoring and recovery documentation. OPHP is not a disciplinary authority. OPHP protects the confidentiality and anonymity of program participants and referral sources.

When a veterinarian enters the OPHP via the Board disciplinary route, the OPHP will provide confidential reports to the Board assuring compliance with the program's treatment plan. The Board will work with OPHP and the impaired practitioner to support his or her successful recovery. To view OPHP newsletters or for further information, visit www.OPHP.org or call (614) 841-9690.

Agenda Preparation

The Ohio Veterinary Medical Licensing Board prepares the Agenda approximately two weeks prior to the Board meeting to enable the board members time to review the materials thoroughly. Board meetings are open to the public, except for when the board goes into executive session to discuss pending legal matters, investigations, and personnel matters in accordance with Revised Code 121.22(G). If you would like to be placed on the Board's agenda to discuss a topic of interest, please email info@ovmlb.state.oh.us or fax your request to 614-644-9038. Please indicate the topic of interest or concern, the organization that you are representing, if any, and an approximate length of time that you are seeking. [Please note that you are not permitted to discuss a complaint that is before the board for determination.] The request will be presented to the Board President for consideration when developing the Agenda. It is always best to notify the Board that you will be in attendance so that the Board can obtain a room that will accommodate the number who plan to attend.

If you would like to receive the Agenda prior to a meeting, please email info@ovmlb.state.oh.us and an Agenda will be emailed to you.

Compounding of Drugs:

Q: Can a veterinarian prescribe a compounded drug for a specific patient, have it shipped to the veterinary office and charge the client for it?

A: No, a veterinarian cannot sell a compounded drug. Compounding pharmacies can only compound patient-specific scripts. Additionally, they can prepare very limited quantities of a compound to veterinary offices for office use—NOT to be redispensed by the veterinarian. Which means, that the veterinarian can only administer the compounded drug, but cannot send the drug home with the patient. The following Board of Pharmacy Rules apply: 4729-5-25, 4729-9-21 and 4729-9-25 of the Ohio Administrative Code found under Law and Rules of www.pharmacy.ohio.gov.

Pharmacy Requirements regarding filling prescriptions

A frequent question to the Board is whether a veterinarian or animal hospital can fill prescriptions from other veterinarians outside of the practice. The answer is NO.

ORC 4729.28 (<http://codes.ohio.gov/orc/4729.28>) says only a pharmacist may compound or dispense dangerous drugs (e.g. prescription drugs). However, the law then makes an exemption for prescribers (e.g. veterinarians) who PERSONALLY FURNISH meds to their own patients in ORC 4729.29 (<http://codes.ohio.gov/orc/4729.29>).

In other words, a veterinarian may provide meds to his/her OWN patients, but may NOT provide prescription meds to another veterinarian's patients. The only way this could be done legally would be if the dispensing veterinarian also examines the animal, diagnoses the problem, and then determines and provides the appropriate therapy. Under the laws for veterinarians, a veterinarian must establish a valid veterinarian/client/patient relationship first. See ORC 4741.04 (<http://codes.ohio.gov/orc/4741.04>). Call the Board of Pharmacy at 614-466-4143 with additional questions.

Veterinary Student Loan Program

The student loan program was developed to provide large animal veterinary services in veterinary resource shortage areas. \$10.00 of each veterinary license renewal fee is deposited in the loan repayment fund. In June, 2012, the Board awarded Dr. Shaun Wellert, DVM \$15,000 for a two year service commitment, and Dr. Bryan Hirschbach \$9,000 for a one year service commitment. Applications for 2013 can be found on the Board's web site and are due by May 1st to the Board office.

Debarking a Dog

While there has not been a change in requirements for veterinarians in the debarking law (ORC 955.22 <http://codes.ohio.gov/orc/955.22>), the Board members recommend reviewing the law in light of the recent enactment of the "Vicious/Dangerous Dog" legislation. ORC 955.22 (G) states that the veterinarian **may** give the owner of the dog a written waiver prior to debarking. ORC 955.22(H) states that it is an affirmative defense if the veterinarian obtained the written waiver form. Therefore a waiver form is highly recommended.

Euthanasia Issues:

Euthanasia and the method of euthanasia continues to be raised with the Board members. At the December 2007 Board meeting, the following statement was made in relation to "cardiac stick" euthanasia: "The board determined by general consensus that as a general rule, the practice of intracardiac euthanasia is not the preferred method of euthanasia, but realize there are circumstances where it may be absolutely necessary. " The same holds true today keeping in mind that ORC 959.06 (A) states that "No person shall destroy any domestic animal by the use of a high altitude decompression chamber or by any method other than a method that immediately and painlessly renders the domestic animal initially unconscious and subsequently dead." (This law does not apply to or prohibit the slaughtering of livestock.)

AVMA is attempting to update the *AVMA Guidelines on Euthanasia*. You can access the 2007 version at http://www.avma.org/issues/animal_welfare/euthanasia.pdf which may be helpful in your practice. However, the AVMA Guidelines are only guidelines and are not to be considered law in the State of Ohio.

Please note that before euthanizing an animal, the staff (whether a shelter or veterinary hospital) need to ask if the animal has bitten anyone in the past 10 days. This is a public health issue that needs to be taken seriously. If the animal has bitten someone, it is required to be tested. You can access additional information at the Ohio Department of Health Rabies Program at <http://www.odh.ohio.gov/odhprograms/dis/zoonoses/rabies/rab1.aspx> or calling 614-752-1029.

Rules regarding Vaccination Clinics, Home Visit Practices & Human Trafficking

Issues have been raised with the Board as to what a vaccination clinic needs to do in order to comply with the current rules (4741-1-03 OAC stationary facility and 4741-1-08 mobile practices). Rule 4741-1-22 OAC currently reads: "A veterinarian participating in a vaccination clinic sponsored by a city or general health district(s) shall maintain a vaccination record. The veterinarian must maintain a copy of the vaccination record for a period of the labeled duration of the vaccination but not less than a period of three years."

The Board is presently gathering information from the AAVSB and AVMA Model Practice Act as well as law and rules from other state Veterinary Practice Acts for addressing issues related to vaccination clinics and veterinary medicine performed at home visits. There is no specific reference in Ohio rules related to veterinary home visits to companion animals.

Input from interested parties is being accepted by the Board until April 1, 2013 and can be submitted to the Board office via email, fax or US mail. The board members will then begin to develop rules. Once a draft version is ready, it will be placed on the Board's web site for further input. Recommendations will then be reviewed for possible changes prior to filing the rules with the appropriate state agency.

As a result of proposed legislation, there may need to be a rule change that would require all licensees in the State of Ohio to take a one hour course on human trafficking. This CE will be included in the total hours of mandated hours per biennial renewal and would be a "one time only" requirement. It is anticipated that the CE will be available on-line with some regional events that any licensee can attend. Please check the Board website for updates.

Criminal Background Checks and Licensure

In 2010, criminal background checks became mandatory for all new licensees. A question that the Board staff routinely receives revolves around the same issue: What misdemeanors or felonies will disallow an applicant from receiving a license or registration? The answer is generally that the Board is sympathetic to their plight, however the Board staff cannot provide a firm answer. A misdemeanor or felony conviction does not automatically disqualify an applicant from obtaining a license. Please note, however, that a felony conviction involving physical violence or drugs will be reviewed more carefully by the Board members.

At the time that the applicant submits their application for licensure or registration, the Board will review the circumstances surrounding the conviction and any other mitigating factors as determined by the Board members sitting on the Board. The Board members serve for three year periods and those terms are staggered. Therefore, the Board may have different members serving each year. Those members may have different views than the ones serving today. As a result, the Board cannot comment on what a Board will decide regarding the application submitted for license or registration in the future.

In some circumstances, the Board may license an individual, but enter into a Consent Agreement where they would place practice restrictions on the individual for a probationary period. It is always best to be truthful with the Board and provide as much information that might be helpful to the Board in making an informed decision.

Ohio State Board of Pharmacy

The Board of Pharmacy has revised their web site at www.pharmacy.ohio.gov where individuals can sign up for the Pharmacy Board's Newsletter and important update listserve.

Application Changes

As of January 1, 2013, the Ohio Veterinary Medical Licensing Board is requiring all documents, except for the Criminal Background Check, to be submitted with an initial application for licensure. The Criminal Background Check must be sent directly to the Board from the Bureau of Criminal Investigation. This process will create a more efficient and timely result for the applicant.