



Newsletter



Volume 19

Idaho Board of Veterinary Medicine

May 2013

President's Message

Dave Clark, DVM
Kimberly Veterinary Hospital

Greetings to all Idaho licensed veterinarians and technicians!

Another year has passed, and once again it is time to reflect on some of the happenings with the Idaho Board of Veterinary Medicine and to look to changes that are occurring for the future of the Board and our licensees.

The Board has had a challenging year. We have dealt with financial considerations, Board of Pharmacy concerns, legislative issues, and the implementation of our new database software. I think we have successfully dealt with all those concerns.

I have to say thank you to all licensees for enduring the fee increase that went into effect last fiscal year. Without the revenue generated from that increase, our Board would not have been able to stay financially solvent, and we likely would have fallen back under the umbrella of the Bureau of Occupational Licensing (IBOL). While IBOL does a masterful job of regulating the twenty-nine professions currently assigned to their

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The following article was presented at the 2013 Western Veterinary Conference in Las Vegas, Nevada. It is reprinted here by permission of the author.

Avoid Board Complaints and Malpractice Lawsuits

Edward J. Guiducci, Esq
Guiducci & Guiducci, P.C.
Arvada, CO, USA
Ed@guiduccilaw.com
www.Guiduccilaw.com

Being sued for malpractice or receiving a veterinary board complaint is stressful for the most senior of veterinarians and can be downright devastating to a young veterinarian. A percentage of veterinary contacts with animals that occur each day will end with a bad result. When a bad result occurs, there is always a risk that a veterinarian will be sued or have a veterinary board complaint filed against him or her.

Whether an experienced veterinarian or a new graduate, veterinarians must be vigilant to avoid conduct that increases their exposure to legal and board action liability. Fortunately, there are steps that can be taken to reduce the risk of a veterinary malpractice claim and/or a veterinary board complaint. This session will address common veterinary practice issues and assist veterinarians in dealing with the challenges of board complaints and malpractice.

Basics to Protecting Yourself from Claims

Keep Good Patient Charts

Veterinarians must always focus on improving their practice's documentation of treatment plans. Every time that a veterinarian or technician touches an animal the treatment must be adequately documented. If you advise a client of an option on a medical procedure and the client turns down a procedure, then you need to

Avoid Board Complaints . . . continued on page 2

Bureau, I feel strongly that veterinary medicine should be regulated by veterinarians.

With the change in fee structure, the Veterinary Board should be in good financial standing for hopefully another five years or more. Right now, your veterinary license costs you about 50¢ per day, much less than that daily cup of coffee, soda, or bottled water you drink.

Serving on the Board has definitely been a learning process, and one that I encourage veterinarians to consider applying for. This year, the governor will be looking for an appointee from the Magic Valley veterinary association, so if you are from that region, please consider throwing your name into the hat.

I encourage everyone to take the time to read your copy of the most recent **Veterinary Practice Act**. The Practice Act truly is an evolving set of rules and regulations that change over time. Reviewing the Practice Act will also give you a “refresher” on the rules relating to veterinarians and veterinary technicians.

Our most current concern involves changing the Veterinary Practice Act to comply with the Board of Pharmacy rules. We are working diligently with the IVMA. We will post the outcome of those efforts on the Board's website at www.bovm.idaho.gov. A special thanks to Dr. Les Stone, Dr. Brett Bingham, Vicki Smith, and anyone else involved with this process. Their efforts have really been instrumental in protecting the veterinarians' right to dispense medications and getting this oversight cleared up.

It has been my pleasure to work with all the Board members and the staff we rely on at the Board office. We truly have quality people handling the tasks involved with the Board of Veterinary Medicine.

Have a great summer and be of good cheer! ■

Did you know . . . ?

The application requirements for a Temporary Permit are the same as for a regular license, except for the additional Temporary Permit fee of \$150 for Vets and \$50 for CVTs.
IDAPA 46.01.01.013

Did you know . . . ?

42% of the veterinarians licensed to practice in Idaho do not actually live in Idaho.

Avoid Board Complaints, cont.

make sure that your chart reflects that the patient turned down the procedure. A notation in the chart should be made every time that a client cancels or fails to show up for an appointment.

It is unlikely that a veterinarian will be believed if he or she can only claim memory of a conversation that occurred with a client years before a malpractice action goes to trial. The only viable way to convince a jury regarding what was or wasn't discussed between a client and veterinarian is to have it documented in a patient's chart.

It is also extremely important that veterinarians not permit charts to build up in their offices without having completed their charting. It is extremely important that the charting be completed when the treatment is fresh in a veterinarian's mind.

Maintain Medical Skills

There is little excuse for a veterinarian failing to stay current with new developments in veterinary medicine. There are ever increasing opportunities for veterinarians to attend continuing education and stay abreast of current developments. Veterinarians must take steps to maintain their competency.

Hire Based on Competence and Attitude and Provide Training

It is important for veterinarians to keep in mind that they have an obligation to maintain medical skills of staff through training and continuing education. It is equally important that veterinarians hire staff with abilities and with a positive attitude about continually improving their skills to provide quality care. Making good hiring decisions and implementing good training protects you and your practice from malpractice suits and veterinary board complaints.

Veterinarians need to keep in mind that the competency of staff will have an impact on the opinions of clients about your competency as a veterinary practice. A practice can cause clients to question the competency of a veterinary practice if the practice has constant turnover of staff and the front desk continues to make mistakes and fails to understand simple procedures. This risk can be minimized by properly training your staff.

Avoid Board Complaints . . . continued on Page 3

Law and Ethics in Veterinary Practice

Carol Eklund, DVM
Board Member

Last year, as the new member on the Board, I volunteered to complete an online ethics course entitled, “**Moral, Ethical, and Legal Decision Making – a Philosophy**” by James Wilson, DVM, JD. We were considering the applicability of this course to situations that arise before the Board. It is an excellent source for all veterinarians, and I would like to share a few gems from each section.

The first section covered actual **Decision Making in Our Day-to-Day Practices** regarding many of our moral dilemmas, such as cruelty issues, how to handle a client’s ability to pay, how far to go with treatment for patient benefit, and when to consult colleagues or specialists. Have you ever considered our legal dilemma in cases of neglect or abuse: Do we serve the client or the patient? Only eight states require the reporting of animal cruelty, but we should all have copies of the Idaho statutes and be aware of our responsibilities.

Animals and the Law encompassed animal rights vs. animal welfare, owners vs. guardians, economic vs. non-economic damages, and laws regarding animal liability, restraint, protection, and disposal. We should all consider how our changing attitudes toward animals as family members (rather than property) may impact damages awarded by the courts.

Applied Ethics relating to colleagues is often an overlooked topic. How often do we call or receive a call from colleagues who have seen a case we are evaluating? We should not be quick to judge another veterinarian, since we often do not have the whole story. Notifying the involved veterinarian in a non-confrontational way, and with the client’s permission, can build a professional relationship. Dr. Wilson reminds us to “*do unto others as we would have them do unto us*”. Open communication between veterinarians improves our relationships and enhances our practice of medicine.

Principles of Contract Law addresses how our legal contracts (both written and oral) with clients are made, and what may constitute a breach of those contracts. A cost estimate given to a client is a type of contract that needs to be updated regularly as condition / charges

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Avoid Board Complaints, cont.

Don’t Rely Upon Release Forms

It is important that veterinarians keep in mind that a client cannot waive a claim for veterinarian professional negligence by signing a release form. Release forms generally are only helpful for purposes of proving that there was informed consent for the medical care. Notwithstanding the limited purpose of a release, it is important that practices use properly drafted medical releases. A medical release should identify the client’s name, the pet’s name, the procedure that is scheduled to be performed, and the individuals discussing the procedure with the client. The release should state what was discussed regarding the scheduled procedure and the risks associated with the procedure.

Maintain Up-To-Date Instruments/Equipment

Outdated and poor functioning equipment must be repaired or replaced. Failing to meet the standard of care because your equipment wasn’t working or is outdated is a difficult position to be in when defending a malpractice claim.

Offer Clients all Options – Regardless of Cost

Never fail to offer a client a medical option because you don’t believe that the client can afford the level of care. Failing to offer top quality medicine options isn’t fair to the client who wants top quality care and exposes the veterinarian to malpractice claims. An example of this is failing to offer pre-anesthetic blood tests.

Listen to the Client – Don’t Ignore!!!

It is important to keep in mind that lawsuits and veterinary board complaints can be filed for any reason. Lawsuits and veterinary board complaints sometimes occur simply because veterinarians ignore clients when issues arise. It is reasonable for clients to expect their veterinarians to return telephone calls and report the results of testing within a reasonable time frame.

Educate Yourself on Professional Liability Insurance

It is extremely important that veterinarians maintain professional liability insurance that has commercially reasonable policy limits to protect the practice in the event of a malpractice claim. To determine what is a commercially reasonable policy limit you should consider the type of practice that you have and consider what policy limit would protect you and your practice in the event that one or more claims were to occur in a given policy year.

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change. Also consider the case presented by a caretaker, i.e. a pet sitter or boarding facility who does not have written consent for treatment from the owner, nor the ability to contact the owner. We must document:

- 1) That treatment is needed immediately
- 2) Who is requesting the treatment
- 3) All attempts made to contact the owner

Section Five contains an in-depth discussion of the legal use of drugs in veterinary medicine, including defining the veterinarian-client-patient relationship. Extra-label drug use, online pharmacies, labeling requirements, adverse reaction liability, and controlled substances are all addressed. Soon we may be required to provide drug information sheets whenever we dispense drugs, just as human pharmacies do.

The two most informative sections were ***The Law of Professional Negligence*** and ***Medical / Business Record Keeping***. These two topics go hand-in-hand. Dr. Wilson covers the origin of client complaints, how to prevent complaints, and how to proceed with a complaint has been lodged against you. (*See accompanying article beginning on Page 1 of this newsletter*). His in-depth discussion of record keeping accentuates the goal of medical and business records and their importance when facing a complaint. Our records should always be our ally. Never forget the adage, *“If it wasn’t written down, it didn’t happen”*. Any veterinarian should be able to read through our legible records and have a good understanding of our findings and treatment plan(s). It is important to note that negligence is not only failing to do something that would normally be done, but also includes doing things that would NOT normally be done.

Dr. Wilson’s book, ***“Law and Ethics of the Veterinary Profession”*** would be an excellent resource for any practice. You can hear Dr. Wilson speak at this year’s Jackson Hole Rendezvous in June. If you are interested in taking this online course, you can contact the Board office staff for more information. ■

Litigation costs and attorneys’ fees can quickly mount. It is important that a veterinarian understand whether or not the costs of litigation and legal fees are included or excluded from the policy limits. If the costs and legal fees are part of the policy limits then the professional liability insurance may not be adequate to protect you from a claim.

If you are working as a volunteer veterinarian or as a relief veterinarian then you must investigate if your professional liability insurance is location specific or covers medical care provided as a volunteer or relief veterinarian.

Summary

Veterinarians cannot prevent lawsuits from being filed or veterinary board complaints from being made but they can decrease the likelihood by being vigilant in practicing quality medicine and being cognizant of the causes of such claims. ■

. . . veterinarians must be vigilant to avoid conduct that increases their exposure to legal and Board action liability.

2013 License and Certificate Renewal Season

Here are a few tips to prevent a delay in processing your renewal application:

1. **Answer all questions truthfully.** Any “Yes” answers must be explained in a written and notarized affidavit.
2. Don’t forget to **include your Social Security Number** on Page 1 of the renewal form. We are unable to renew your professional license without that information.
3. **Please sign and date** your application on Page 3
4. **Please print legibly.** The information in our database is only as accurate as the information you provide.
5. **Complete the Child Support section.** If you are not under a Child Support Order, please check the appropriate line.
6. **Don’t rely on your office staff** to complete and submit your renewal form and payment. You are the licensee, and you alone are responsible for timely submission of forms and fees. ■

Introducing our newest Board member

David B. Gerber, DVM
Board Member

How is it that the Idaho Practice Act is often held up as one of the best in the nation....and from little old Idaho? I think it may have a lot to do with the dedicated Board members through the years. As the newest member of the Board, I am in my infancy. Having recently attended my first meeting, I must say that I was in awe of the thoughtfulness, caring, and commitment of each of my new colleagues. It doesn't need saying that I am honored and humbled to be included. It quickly became clear that I have taken on quite a responsibility for the next five years.

Briefly, I am a 1978 Colorado State graduate. I opened and operated a small animal practice in Coeur d'Alene from 1980 to 1993. I then opened and operated Simmons & Associates Northwest until I sold it last year. Simmons does practice appraisals, brokerage, and management consulting. Because I thoroughly enjoy working with veterinarians, I have remained active with the IVMA, NIVMA, and AVMA.

Having owned a practice myself, I know how easy it is to mess up. None of us is above doing stupid things. So it is easy for me to understand how mistakes occur, often innocently. However, there needs to be an oversight body to investigate the complaints and, hopefully, resolve these issues with caring and compassion. I am learning the many ways that these problems can be resolved through discussions and education much of the time. Of course, sometimes more "attention-getting" measures are required, but this is not done without substantial deliberation.

Aside from resolving complaints, the other important task I am just beginning to learn involves the continual tweaking and modifying of the Practice Act itself to make it more "user-friendly". There is continuing work with legislators and the legal folks to improve and clarify the Act.

Finally, it is clear that each board member understands the significance and consequences of every board decision. Their sincere dedication is second to none. Surely, I have a lot to learn, but I will try to be a good student. Thank you for this opportunity. ■

BOVM Staffing Update

David G. Clark, DVM
Board President

If you have telephoned the Board office in the last year, you may have noticed the absence of the Board's long-time Executive Director, Karen Ewing.

Ms. Ewing became seriously ill last spring, and so far her condition has not responded well to multiple treatment plans.

The Board, and Karen, recently came to the reluctant conclusion that Karen would be unable to return to her current job duties.

We are currently conducting a national job search for a new Executive Director. Until the new Director is hired and trained, Carol Youtz will continue to fill in as the Acting Executive Director, a job she has performed since July 2012.

Many, many thanks are due to Ms. Ewing for her years of dedicated service to the Board and the people of Idaho. The Board can find a new Executive Director, but will never be able to find another Karen Ewing.

We wish her well in her continued recovery efforts. ■

Rule changes adopted during the 2013 Legislative Session

Adopted Rule changes:

1. Added the Board's website and e-mail information and simplifying filing requirements;
2. Adopted an updated version of the American Veterinary Medical Association's principles of ethics;
3. Made all certified veterinary technician application fees nonrefundable;
4. Reorganized existing provisions applicable to a Certified Euthanasia Agency (CEA) and a Certified Euthanasia Technician (CET);
5. Streamlined and clarifies procedures for a CEA and CET;
6. Eliminated any potential ambiguity in the grounds for discipline against a CEA or CET; and
7. Provided clarity to the procedures and requirements for addressing deficiencies found during an inspection of a Certified Euthanasia Agency. ■

Frequently-asked Questions

Q: *When are my continuing education (CE) credits due, and how many credits do I have now?*

A: Veterinarians and Certified Veterinary Technicians are on a two-year cycle for earning and reporting CE credits.

Whether a licensee is on an odd-year cycle or an even-year cycle depends on the date of his/her original licensure. For example, if Dr. James Herriott was first licensed in Idaho back in January 2009, his CE credits are due every odd year (2011, 2013, 2015, etc).

The earned CE credits for each licensee are listed on your annual renewal forms. You can also phone the Board office to receive this information.

Q: *How do I report my CE credits to the Board office?*

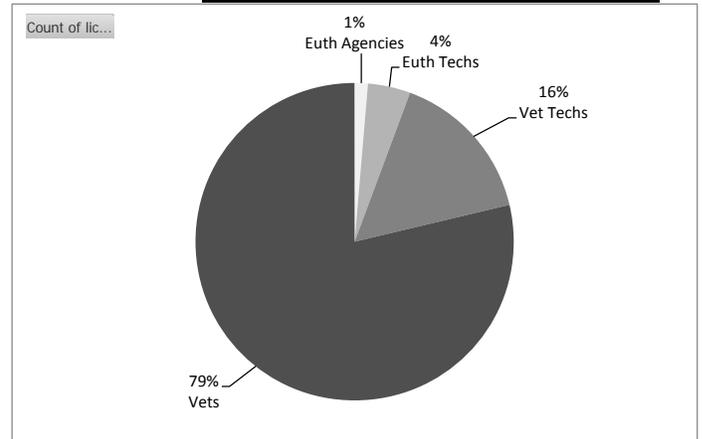
- A:** Two ways. You can either:
1. Mail or fax copies your *CERTIFICATES OF ATTENDANCE* for each course to the Board office as you complete them –
- OR
2. Attach copies of the *CERTIFICATES OF ATTENDANCE* to your completed renewal form. ■

Statewide License Statistics

AS OF APRIL 3, 2013

Licensed Veterinarians with Active Status	971
Licensed Veterinarians with Inactive Status	143
Certified Veterinary Technicians	221
Certified Euthanasia Agencies	19
Certified Euthanasia Technicians	61

TOTAL 1415



PERCENTAGE OF TOTAL REVENUES generated by each program:

Veterinarians	85.6%
Euth Program	5.8%
Vet Techs	8.5%

PERCENTAGE OF TOTAL EXPENSES generated by each program:

Veterinarians	78.4%
Euth Program	14.6%
Vet Techs	7.0%

Did you know . . . ?

A valid Veterinarian/Client/Patient Relationship (VCPR) must be established before prescribing or dispensing any controlled substance, prescription, or legend drug.

A valid VCPR will exist when . . . the veterinarian has seen the animal within the last twelve (12) months or is personally acquainted with the keeping and care of the animal . . . by virtue of an examination. . . ■

IDAPA 46.01.01.150 and 152

Veterinary technicians are not allowed to accept fees for providing services to a client. ■

IDAPA 46.01.01.105.14

Veterinarians should not slander or injure the professional standing or reputation of other veterinarians in a false or misleading manner. ■

Principles of Veterinary Medical Ethics of the AVMA (revised 2008)

CURRENT BOARD MEMBERS & STAFF

President:	David G Clark, DVM
Liaison Officer:	Douglas J Walker, DVM
Veterinary Members:	John R Coplin, DVM Carol Eklund, DVM David B Gerber, DVM Kathy Simpson
Public Member:	
Acting Executive Director	Carol P Youtz
Technical Records Specialist	Cindy A Hedge
Consultant/Investigator	Barry L Rathfon, DVM
Mailing Address:	Physical Address:
PO Box 7249	2270 Old Penitentiary Rd
Boise, ID 83707	Boise, ID 83712

Email:
bovminfo@agri.idaho.gov

Website:
www.bovm.idaho.gov