



DECEMBER 2013

# Newsletter

## OKLAHOMA STATE BOARD OF VETERINARY MEDICAL EXAMINERS

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Vice-President	Clint J. Gardner, D.V.M.
Secretary/Treasurer	Frank O. Denney, D.V.M.
Member	Carole Dulisse, Esq.
Member	Lawrence F. McTague, D.V.M.
Member	Christine C. Kunzweiler, D.V.M.

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Executive Director	Cathy Kirkpatrick
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Investigator	Aaron Sedberry
Investigative Assistant	Melody Thompson, RVT
General Counsel	Jim Barwick

## FROM THE BOARD PRESIDENT

By Jim P. Lee, DVM

In 1913, the state legislature recognized the necessity to establish rules and regulations governing the practice of veterinary medicine in Oklahoma to protect the public welfare. Consequently the Oklahoma State Board of Veterinary Medical Examiners was established. This year - 2013 - we are celebrating our Centennial Anniversary. As we look back over 100 years of veterinary medicine history in Oklahoma, we have to appreciate the actions, efforts, vision, and sacrifices of those who preceded us. We owe our predecessors a tremendous debt of gratitude for all the difficult work they performed, and the foresight they demonstrated to develop the comprehensive practice act we have today - their efforts cannot be overstated!

At this time of year, when we take time to reflect on our many blessings, let us remember all the men and women who worked so tirelessly to help establish our practice act and validate our profession. And, let us find the time to say thank you. A single phone call, card, or email - unsure of who to contact- check your license - there are the first six on your list!

And as I enter my ninth year on the board, my personal thank you list includes all the men and women veterinarians and lay members - friends all - that I have had the pleasure and privilege to serve with. Their guidance, counsel, and friendship will never be forgotten. And last, and certainly not least, the Board Staff and our Assistant Attorney General. Every board member knows that we could not fulfill our mission without your hard work, dedication, and support - all of you are valued and we appreciate all that you do for us and the state of Oklahoma!

And as always, my wish for all of you is that your blessings be many and your troubles be few. Have a Merry Christmas and Happy New Year.

*Merry*   
*Christmas* 

## PRE ANESTHETIC BLOOD WORK

By Dan G. Danner, DVM

Anesthesia and pre anesthetic blood work can be very concerning and confusing to your clients with all the information that is out there with their doctors and the internet. This is a great opportunity to review the health needs of your patients with their owners and to educate them of the important need to know the health status before any sedation and procedures are done! Not only have you increased the success rate of sending your patients home but have improved your financial gains. Obviously a win - win situation. If they decline your recommendation, then it is very important to have the owners sign a waiver showing such. Remember legally, if it is not written down, then it did not happen! Unfortunately in today's world, too many individuals are looking for a quick buck and the Veterinary Profession is the "low apple on the tree just waiting to be plucked" according to the schools who teach veterinary law!

## NEWEST BOARD MEMBER

Dr. Christine Kunzweiler our newest Board member was appointed by Governor Fallin for a five year term. Dr. Kunzweiler is a 1987 Missouri graduate and is a small animal practitioner in the Tulsa area, she was appointed from Congressional District 1. Dr. Kunzweiler attended 12 different schools in 13 years, living throughout the Midwest. She has resided in Oklahoma the past 24 years and considers Oklahoma to be her home.

Dr. Kunzweiler has been married to Steve the past 25 years; he is Chief of the Criminal division in Tulsa. It will be an interesting year as he will be running for District Attorney this next year. They have three daughters; Sandra a Wells Fargo financial advisor in Dallas, Jenny attends the University of Arkansas, Jackie (13 years old) is a competitive soccer player and middle school student. Please join us in welcoming Dr. Kunzweiler aboard.

### WE HAVE MOVED

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# **Veterinary Prescription Drugs and Veterinary Client Patient Relationship (VCPR)**

## **By Larry McTague, DVM - Board Member**

From Oklahoma Veterinary Practice Act, Oklahoma Statutes, Title 59, Section 698.1 through Section 698.29

### **§ 698.2**

13. "Veterinary-client-patient relationship" means when:

- a. the licensed veterinarian has assumed the responsibility for making medical judgments regarding the health of an animal or animals and the need for medical treatment, and the client, owner or other caretaker has agreed to follow the instructions of the licensed veterinarian; and
- b. there is sufficient knowledge of the animal or animals by the licensed veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal or animals in that:
  - 1. the licensed veterinarian has recently seen or is personally acquainted with the keeping and care of the animal or animals,
  - Or 2. the licensed veterinarian has made medically necessary and timely visits to the premises where the animal or animals are kept or both, and
- c. the licensed veterinarian is readily available for the follow-up in case of adverse reactions or failure of the regime of therapy, or has arranged for emergency medical coverage, and
- d. the licensed veterinarian's actions would conform to applicable federal law and regulations;

15. "Veterinary prescription drugs" means such prescription items as are in the possession of a person regularly and lawfully engaged in the manufacture, transportation, storage, or wholesale or retail distribution of veterinary drugs and the federal Food and Drug Administration-approved human drugs for animals which because of their toxicity or other potential for harmful effects, or method of use, or the collateral measures necessary for use, are labeled by the manufacturer or distributor in compliance with federal law and regulations to be sold only to or on the prescription order or under the supervision of a licensed veterinarian for use in the course of professional practice. Veterinary prescription drugs shall not include over-the-counter products for which adequate directions for lay use can be written.

The U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration requires these products to be labeled with "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian."

**From Administrative Rules, Title 775, Chapter 1 through Chapter 30.**

### **Chapter 25. Recordkeeping and Supervision Requirements**

#### **775:25-1-3. Dispensing and Labeling Requirements**

- (a) All controlled dangerous substances and veterinary prescription drugs lawfully possessed and to be dispensed for use by a companion animal shall be dispensed only on the order of a licensed veterinarian who has an existing veterinary-client-patient relationship as defined by the act and the rules of the Board. The veterinarian shall ensure that labels will be affixed to any unlabeled container containing any medication dispensed and to each factory labeled container that contains veterinary prescription drugs for companion animals. The label shall be fixed to the immediate container and shall include the following information:
- (1) the name and address of the dispensing veterinarian, and the veterinarian's telephone number if the drug is a controlled dangerous substance;
  - (2) the date of delivery or dispensing;
  - (3) the name of the patient, the client's name, and the client's address if the drug is a controlled dangerous substance;
  - (4) the established name or active ingredient of the drug, strength, and quantity of the drug dispensed;
  - (5) directions for use specified by the practitioner including dosage, frequency, route of administration, and duration of therapy: and
  - (6) any cautionary statements required by law, including the words "For Veterinary Use Only", and/or any withdrawal periods associated with the drug. If the size of the immediate container is insufficient to be labeled, the container shall be enclosed within another container large enough to be labeled.
- (b) "Companion animal" shall mean those animals considered to be a pet, and may include horses (for the purposes of this chapter only), birds and exotics, but shall exclude poultry and horses intended for food purposes.
- (c) All controlled dangerous substances and veterinary prescription drugs to be dispensed or prescribed for use in food or for administration to a food or commercial animal for medical purposes, may be dispensed only on order of a licensed veterinarian with an existing veterinary-client-patient relationship as defined by the Act and the rules of the Board. The veterinarian shall ensure that labels will be affixed to each factory labeled container, or multiple unit/dose container or box containing any medication dispensed or prescribed that contains any controlled dangerous substance or veterinary prescription drugs for food or commercial animals.
- (d) All controlled dangerous substances and veterinary prescription drugs shipped directly from a wholesale or retail distributor to the client, to be dispensed or prescribed for use in food or for administration to a food or commercial animal for medical purposes, may be dispensed only on the written order of a licensed veterinarian with an existing veterinary-client-patient relationship as defined by the Act and the rules of the Board. The veterinarian and the wholesale/retail distributor shall ensure that labels will be affixed to each factory labeled container, unlabeled container, or multiple unit/dose container or box containing any medication dispensed or prescribed that contains any controlled dangerous substance or veterinary prescription drugs for food or commercial animals. The veterinarian shall maintain the original written order on file in the veterinarian's office. A copy of the written order shall be on file with the distributor and a second copy shall be maintained on the premises of the patient-client.
- (e) The label and the written order if applicable with respect to paragraphs (c) and (d) shall include the following information:
- (1) the name and address of the veterinarian and the veterinarian's telephone number if the drug is a controlled dangerous substance;
  - (2) the date of delivery or dispensing;
  - (3) the name of the patient or herd identification, the client's name, and the client's address if the drug is a controlled substance;
  - (4) the established name or active ingredient of the drug, or if formulated from more than one ingredient, the established name of each ingredient, as well as the strength and quantity of the drug or drugs dispensed;
  - (5) directions for use specified by the practitioner, including the following:
    - (A) the class or species of the animal or animals receiving the drug or some other identification of the animals; and
    - (B) the dosage, the frequency and route of administration, and duration of therapy; and
    - (C) any cautionary statements required by law, including "For Veterinary Use Only" or whether there are withdrawal periods associated with the drug.

(Con't from VCPR - page 2)

(f) the written order if applicable with respect to paragraph (c) and (d), shall include a written statement from the veterinarian confirming that a valid VCPR exists as defined by the Oklahoma Veterinary Practice Act in addition to the information in paragraph (e) above.

**From Oklahoma Pharmacy Lawbook, Laws and Rules Pertaining to the Practice of Pharmacy, Oklahoma Statutes, Title 59, Chapter 8. And Title 535. Oklahoma State Board of Pharmacy.**

**535.13. Unlawful and prohibited acts relating to pharmacists and pharmacists assistants.**

G. Nothing in the Oklahoma Pharmacy Act shall prevent veterinary prescription drugs from being shipped directly from a wholesaler or distributor to a client; provided, such drugs may be supplied to the client on the order of an Oklahoma licensed veterinarian and only when a valid veterinarian-client-patient relationship exists.

1. Prescriptions dispensed pursuant to the provisions of this subsection shall not be required to be certified by a pharmacist prior to being dispensed by a wholesaler or distributor.

2. It shall be a violation of state law for an owner or their authorized agent to acquire or use any prescription drug other than according to the label and/or outside of a valid veterinarian-client-relationship (VCPR);

3. It shall be a violation of state law for a wholesaler or distributor to sell a prescription labeled drug to an owner or their authorized agent without a valid VCPR in place; and

4. Compliance of this act as it relates to veterinary prescription labeled drugs shall be done in accordance with and pursuant to rules that shall be promulgated by the Oklahoma State Board of Veterinary Medical Examiners and in consultation with the State Veterinarian in accordance with state law.

**Comment:**

*Please note that in the Oklahoma Veterinary Practice act VCPR is defined as veterinary-client-patient relationship and in the Oklahoma Pharmacy Lawbook VCPR is defined as veterinarian-client-patient relationship.*

*From the above, the responsibility of the veterinarian who signs a prescription is great. The veterinarian needs to satisfy his ethical understanding of the VCPR.*

*From the Model Veterinary Practice Act-January 2013, of the Judicial Council of the AVMA, "A veterinarian-client-patient relationship cannot be established solely by telephonic or other electronic means".*

*Your signature on a prescription and in fact printed prescription forms with your, hospital/clinic /practice name, address, etc. should be protected.*

*Each veterinarian needs to consider their liability releasing signed (or unsigned) forms to prevent their diversion to unintended purposes. It is your discretion to protect this and make sure that their mailing, telephonic or electronic transmission is not diverted from the client.*

## HYDROCODONE UPDATE

Effective November 1, 2013, prescription for any medication containing Hydrocodone may not be refilled. This applies even if the prescription was written prior to November 1<sup>st</sup>. Transfers are considered to be a refill of a pre-existing prescription and are not allowed. Partial fills would be permitted (i.e. a prescription is written for 100 but the patient only wants to purchase 20 at a time). Documentation for partial fills would be required in accordance with OAC 475:30-1-12. Hydrocodone with another active ingredient (i.e. Acetaminophen or Ibuprofen) is still considered to be a C III prescription and may still be prescribed by mid-level practitioners.

If you are ordering prescription pads for Controlled Dangerous Substances the doctor's printed name (not just their signature is required). Be sure you add the printed name to save yourself some time.

## DISCIPLINED DOCTORS\* April 2013 - November 2013

### Marianne Kelley, DVM:

The Board received information that Ellison Feed and Seed was selling Heartgard without a prescription or written order from a veterinarian. The Board staff visited Ellison and purchased a dose of Heartgard by just informing the clerk the drug was needed for a dog. No veterinarian was on site and no VCPR was established. The Board again received information that Ellison was selling Heartgard over the counter without a prescription. The Board staff entered Ellison and noticed prescription drug products were located behind the sales counter. Staff inquired about differences between Interceptor and Heartgard and what they were used for. After the discussion the Ellison sales clerk gave advice on the differences between the two drugs and what they were used for. Board staff chose to use Interceptor, whereupon the Ellison clerk gave a form of questions to fill out, answer and sign. Essentially the clerk made a diagnosis for the dog by prescribing the type and dosage of medicine which should be used in treating the dog, no prescription label was affixed to the Interceptor, no veterinarian was on site and no animal was examined. Dr. Kelley stated that since 1990 she volunteered to appear at Ellison twice per year for half days to provide free examination of any pets brought to the store. According to Dr. Kelley, approximately 100 to 150 animals were examined in each half day period at Ellison. She stated that over 90% of the animal owners have no regular veterinarian. The animals examined are given routine vaccinations at a reduced price and if the animal requires something else that cannot be given or treated within a few minutes, the owner is directed to seek additional veterinary care for the animal. In addition, Dr. Kelley provides heart worm medication for purchase by the animal owners at the time she examines the pet. However, she stated many pet owners cannot afford to purchase heart worm medicine at the time of the examinations, so it became her practice to make the medication available for purchase at Ellison. Dr. Kelley admitted making Heartgard, Interceptor and Sentinel available for purchase at Ellison at her direction.

Agreed Order: Probation for two years; take and pass the Board's jurisprudence exam; submit copies of five animal patient/client records per calendar quarter which involve the dispensation and/or prescription of veterinary prescription drugs for the animal; give the Board at least five days advance written notice of conducting and/or participating in any offsite vaccine clinics; shall not dispense, sell, administer, and/or prescribe veterinary prescription drugs without first establishing a valid VCPR; attend and complete 6 hours of CE per year during probation focused in the area of ethics, shall be in addition to the required annual CE of 20 hours; pay \$20,000.00 fine (includes \$2,500.00 for costs of investigation), pay the Board a probation fee of \$50.00 per month payment of a portion of the fine in the amount of \$10,000.00 is hereby deferred until June 22, 2015, at which time payment shall be waived upon timely compliance with the other terms of this Agreed Order.

\*Further details of Board actions can be obtained by contacting the Board

# Band-Aids Just a Cover-up!

By Angela Wall (OBND - PMP Educator)

Drug abuse cannot simply be fixed with a Band-Aid. As a society, it seems to be easier to ignore a problem and let someone else handle it instead of realizing if **everyone** did their part it would make a big issue smaller. According to the Centers for Disease Control and Prevention, prescription drug abuse has become an epidemic and Oklahoma is the #1 state in the nation with this problem. So what has been done?

Innovative and intelligent people at the Oklahoma Bureau of Narcotics (OBN) have created a way to help deter the use of prescription drugs for illegal purposes. The system created is called the Prescription Monitoring Program (PMP).

In 1990, Oklahoma became the first state in the US to implement a computerized prescription monitoring program. OBN has continued improving the system to make it more effective and efficient for their registrants. Although many states have since created their own version of the PMP, Oklahoma is still the only state that has the "Real Time" reporting benefit - information of a controlled dangerous substance (CDS) being reported within 5 minutes of being dispensed. So how can the system be used?

By **all** dispenser's accurately reporting information into the system, Health Care Professionals (HCPs) that are authorized to use the system can receive patient-specific reports along with their own prescribing reports. These reports can help determine those with a legitimate use for prescription drugs and guard against those using them illegally.

By using the "Patient Report", HCPs can receive dispensed CDS data on people they have a doctor/patient relationship with, including new patients that have scheduled an appointment. The HCP can use the report to check for any prescription fraud, including "Doctor Shopping", and to see what CDS have been prescribed in order not to overprescribe. The information can also be discussed with the patient to verify accuracy but may not be given to the patient or placed in their medical file.

By using the "Prescriber Report", all prescribing activity under the prescriber's DEA# can be compiled for a specified period of time. This report can be checked for any unusual prescribing activity and fraud. Remember, employee fraud can also occur.

If **all** OBN registrants register for the PMP, use it regularly and dispensers enter information accurately, then prescription drug abuse will be reduced in Oklahoma. It doesn't matter how much or how little is prescribed or dispensed, a drug seeker will try to get whatever they can from whomever they can. No HCP wants to be taken advantage of, so using the PMP will not only help guard against diversion but it will ultimately safeguard the HCP, their name and their reputation.

In the end, many patients need to understand that pain is their body's way of saying something is wrong and pills can't fix everything. HCPs need to **all** realize it is time to rip off the Band-Aid and expose prescription drug abuse for what it really is - a big problem.

Those who have questions about PMP registration may contact the Help Desk at 877-627-2674. If any groups (large or small) need PMP training, please contact Angela Wall at 800-522-8031 ext. 162.

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