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advancing animal welfare and human health while ensuring the vitality of the profession

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October 19, 2009

Pennsylvania Department of State
Bureau of Professional and Occupational Affairs
State Board of Veterinary Medicine
Attn: Michelle Roberts, Administrator
P.O. Box 2649
Harrisburg, PA 17105-2649

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Re: 16A-5722 – Responsibility to Clients and Patients

Dear Ms. Roberts:

On behalf of the Pennsylvania Veterinary Medical Association (PVMA) and its 1,900 member veterinarians, thank you for the opportunity to provide comments on proposed rulemaking, 16A-5722 – Responsibility to Clients and Patients. Our comments and questions are as follows:

We support the proposed language under (a) on page 1 which states that a veterinarian may not neglect an animal which has an established veterinarian/client/patient relationship and (1) the requirement of veterinarians providing humane euthanasia to an animal that is physically presented to the veterinarian at the veterinarian's facility regardless of an established veterinarian-client-patient relationship. These proposed requirements are consistent with the American Veterinary Medical Association's professional veterinary medical ethics and are in the best interest of the welfare of suffering animals. However, we have concerns about what the definition of "reasonable attempts" to contact is? Who establishes this? Our concern is that without being defined more clearly, it will be left to subjective interpretation which could be to the detriment of the client, the patient, and the veterinarian.

Under (e) on page 3, "Veterinarians shall explain the benefits and *significant* potential risks of treatment options to clients." Who defines "significant?" Again, without a clearer definition or meaning, "significant" could be held to subjective interpretation. One example of where this is important in relation to requiring a written consent form is in an emergency/critical care facility. In this type of practice, veterinarians are constantly re-evaluating their patients and discussing options with clients several times a day and receiving consent on the phone. Obtaining written consent is not feasible for every decision. Verbal consent over the phone, possibly with a witness such as another employee, to verify the consent is recommended as an acceptable means to gain and document consent.

In addition, in a situation where the client is not present to provide a signature, a verbal authorization over the phone should be sufficient to move forward with the procedure or euthanasia. If needed, a witness such as a veterinary technician, could be used to confirm the conversation and authorization took place over the phone. However, it is not realistic to expect to get a signature after the procedure is done. Often, when euthanasia is authorized over the phone, it is the last contact with the client unless a private cremation has been elected. Sending the euthanasia consent form after the fact or requesting that the client come in to sign it will appear as inappropriate, inconsiderate and cause undue stress to a client at a difficult time. In addition, there may be instances where the client refuses to sign the consent form. For instance, a veterinarian receives consent over the phone for an emergency procedure which has a less than desirable outcome. The client may be too upset or angry to sign. Is the veterinarian in violation of the regulation if the client refuses to sign?

In section (f) on page 4, "acceptable and prevailing standards of veterinary medical practice" and "acceptable and prevailing standards of care" can vary from region to region, general vs. specialty practice, etc. These terms should be spelled out to prevent subject interpretation.

Similarly, section (g) on page 4, "reasonable period of time" is not defined. If a client desires to consult with another veterinarian about the same case and withdraws from the case, we recommend that the records be transferred to the new veterinarian in adherence to the requirement outlined in Chapter 31 under § 31.22. "Recordkeeping. (8) Release of information to clients which requires that the information be provided within 3 business days of receipt of the client's written request.

In section (h) on page 4, must the client provide a written release for the medical records as currently required by Chapter 31 under § 31.22. "Recordkeeping. (8) Release of information to clients?" If the intent is to require a written release by the client, it should be reiterated in this section to avoid confusion. Other concerns that were raised were: 1) what is the protocol when an animal is adopted by another person and the original owner cannot be located or does not respond to contact attempts? What protection does the veterinarian have when releasing those records? What recourse does the new owner have in obtaining the records?

Thank you again for the opportunity to comment. We commend you on your efforts to protect the public and elevate the profession's practice of veterinary medicine. We look forward to receiving clarification on our concerns and appreciate your consideration of our suggestions. If you have any questions, please feel free to contact Charlene Wandzilak, Executive Director, at cwandzilak@pavma.org or 717-533-7934.

Sincerely yours,



Lisa A. Murphy, VMD, DABT
President

Cc: Ms. Robin Bernstein, Chair, State Board of Veterinary Medicine
Ms. Teresa Lazo, Assistant Counsel, State Board of Veterinary Medicine
House Professional Licensure Committee
Senate Professional Licensure Committee
Ms. Joyce McKeever, Independent Regulatory Review Commission
Mr. John Jewett, Independent Regulatory Review Commission
Ms. Michale A. Totino, Independent Regulatory Review Commission