



# COMMONWEALTH OF VIRGINIA

## Meeting of the Board of Pharmacy

Perimeter Center, 9960 Mayland Drive, Second Floor  
Henrico, Virginia 23233

(804) 367-4456 (Tel)  
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### Tentative Agenda of Wildlife Rehabilitator Workgroup Meeting

*August 27, 2015*

10:00AM – 1PM

Pages

**Call to Order:** *Ellen Shinaberry, Chairman*

- Welcome & Introductions
- Reading of Emergency Evacuation Script

**Call for Public Comment**

**Approval of Previous Board Meeting Minutes**

1-3

**Discussion:**

- Letter from Senate
- Draft Report

4-5

6-9

**Adjournment**

DRAFT/UNAPPROVED

**VIRGINIA BOARD OF PHARMACY  
MINUTES OF WILDLIFE REHABILITATOR WORKGROUP**

July 21, 2015  
Second Floor  
Board Room 3

Perimeter Center  
9960 Mayland Drive  
Henrico, Virginia 23233-1463

- CALL TO ORDER:** The meeting was called to order at 9:05am
- PRESIDING:** Ellen B. Shinaberry, PharmD, Chairman Board of Pharmacy
- MEMBERS PRESENT:** Kelly Gottschalk, DVM, Board of Veterinary Medicine member  
Megan Kirchgessner, DVM, Department of Game and Inland Fisheries  
Jim Husband, Department of Game and Inland Fisheries  
Martin Betts, DVM, Virginia Veterinary Medical Association  
John Welch, Virginia State Police  
Ed Clark, Wildlife Center of Virginia
- STAFF PRESENT:** Caroline D. Juran, Executive Director, Board of Pharmacy  
Leslie Knachel, Executive Director, Board of Veterinary Medicine  
Elaine J. Yeatts, Senior Policy Analyst, DHP  
Beth O'Halloran, Licensing Manager, Board of Pharmacy
- PUBLIC COMMENT:** Melissa Stanley, founder and Executive Director of the Richmond Wildlife Center, provided comment and handout materials to educate the workgroup on the services provided by the Richmond Wildlife Center. She, along with Dr. Carolyn Clay, DVM, proposed a pilot program for a category III facility which would take the animal itself as opposed to a wildlife rehabilitator admitting the animals into their homes.
- REVIEW OF AGENDA:** Ellen Shinaberry provided a review of the agenda packet and the information provided within.
- PRESENTATIONS:** Jim Husband presented a review of the permitting and training of wildlife rehabilitators and the changes made to permit conditions in November 2014. A summary of the permit conditions are that the rehabilitators must document an apprenticeship, have an initial inspection, and document 6 hours of continuing education. The permits are issued to both individuals and facilities. No requirement for training associated for administration of drugs. The assumption is that they are under the veterinarian of record. Caroline Juran provided an overview of the Drug Control Act statues that

relate to this topic and the Board of Pharmacy's involvement in the issue. A brief review of the Board of Pharmacy Guidance Document 110-30 that addresses the allowances to purchase, possess and administer drugs within a public or private animal shelter was also given.

Leslie Knachel provided a brief review of Chapter 38 section titled practice of veterinary medicine. In addition Board of Veterinary Medicine Guidance Document 150-22 titled Veterinarians and Wildlife Rehabilitators – Prescription Drugs and Guidance Document 15-13 titled Controlled Substances (Schedule II-VI) in Veterinary Practice was reviewed.

#### DISCUSSIONS:

There were several key discussion points regarding several topics at the workgroup meeting. Leslie Knachel commented on the research she has done to find out how other states regulate wildlife rehabilitators and if any state allows them to possess a stock of drugs for treating the wildlife. It appears that there are no other states in her research that allow a general stock of drug for wildlife rehabilitators. Most states, she found, allow for patient specific drugs only.

Dr. David McGruer was asked by Ed Clark to comment on the medical conditions and what specific drugs may be required for wildlife rehabilitators. His comments were that many are treating pain, infection and dehydration. Drugs specifically suggested were meloxicam, broad spectrum antibiotics, rehydration fluids, and antiparasitic drugs (deworming) mainly to keep humans safe.

Caroline Juran provided comment that it would be problematic for the department to inspect a drug stock maintained at a private residence and that a search warrant may be necessary if no license is held with the Board of Pharmacy. First Sgt. John Welch, while not providing binding legal comment, suggested that this was true.

Dr. Martin Betts pointed out that there are also financial constraints and that a rehabilitator may also not feasibly order large quantities of drug as this costs money and the clients cannot pay for services.

Several suggestions for recommendations were discussed. Ed Clark suggested that the vet-client-patient relationship that is in statute be redefined that would allow the veterinarian to prescribe to a group of animals similar to a herd. He would also like to redefine the rehabilitator as the custodian of the animal, limit the stockpile to a 90-day supply, have specific training courses to address storage and administration of drug and amend the permit conditions for wildlife rehabilitators. Elaine Yeatts stated redefining the vet-client-patient relationship for one group of prescribers would not be feasible. She also provided comment that training would have to be integral to legislation.

General concerns were expressed for possible inappropriate use of antibiotics which could increase antibiotic resistance, lack of sufficient oversight presently for wildlife rehabilitators, lack of uniform training

and education, and an inability to appropriately treat wildlife without access to a stock of medications.

In lieu of presenting a report with one recommendation, Ms. Yeatts suggested the report could summarize the various options discussed by the group such as: take no action; increase the training and education of wildlife rehabilitators, clarify the role of the supervising veterinarian, and improve drug storage and disposal options prior to considering authorization to possess a stock of drugs; recommend wildlife rehabilitators be allowed a limited supply of drugs, except for antibiotics, under §54.1-3408 and to administer for emergency purposes under a standing protocol; recommend wildlife rehabilitators be allowed a limited supply of drugs, including antibiotics and to administer for emergency purposes under a standing protocol; and, require wildlife rehabilitators to obtain a controlled substances registration from the Board of Pharmacy similar to animal shelters to possess a stock of drugs.

There was a consensus to reconvene for a second meeting of the workgroup on August 27, 2015 at 9:00am to further discuss the options to be recommended. Staff will provide a draft report for the workgroup to consider and edit.

ADJOURN:

With all business concluded, the meeting adjourned at approximately 12:36 pm.

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Ellen B. Shinaberry, Chairman

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Caroline D. Juran, Executive Director

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DATE:

\_\_\_\_\_  
DATE:



## Commonwealth of Virginia

GENERAL ASSEMBLY  
RICHMOND

February 26, 2015

Ms. Caroline Juran, Executive Director  
Virginia Board of Pharmacy  
Department of Health Professions  
Richmond, VA

Dear Ms. Juran,

On behalf of the Senate Committee on Education and Health which has jurisdiction over matters related to the Department of Health Professions, and the Senate Committee on Agriculture, Conservation and Natural Resources, which has jurisdiction over the Department of Game and Inland Fisheries, we would like to request the Board of Pharmacy to convene a working group to review current laws and regulations related the possession and use of certain Schedule VI Controlled Substances required by individuals and organizations engaged in the practice of wildlife rehabilitation, as authorized and regulated by the Department of Game and Inland Fisheries.

Because wildlife is a public trust resource, individual wild animals are not privately owned. Therefore, when they are sick or injured, unlike pets or livestock, traditional veterinary care is not generally available; a traditional doctor/patient relationship may not be practical. To accommodate the public's interest in providing care for sick and injured wildlife, the Department of Game and Inland Fisheries authorizes certain individuals and organizations who meet regulatory requirements to provide emergency and rehabilitative care, under the supervision of a licensed veterinarian.

Because of the special circumstances surrounding the needs of injured and orphaned wildlife, certain laws and regulations related to more typical veterinary practice simply may not accommodate the special circumstances associated with wildlife rehabilitation. As you may know, in the 2014 session of the General Assembly, legislation was passed exempting wildlife rehabilitators who are hold permits from the Department of Game and Inland Fisheries from the requirement to be licensed by the Board of Veterinary Medicine in order to provide care to native wildlife.

As currently written, the Virginia Drug Control Act does not authorize wildlife rehabilitators to possess controlled substances, which is problematic for their care of sick and injured animals. While we clearly recognize the need restrict and regulate prescription

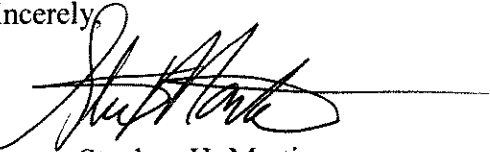
medications and other controlled substances, there needs to be a practical balance between these competing public interests.

On behalf of the aforementioned Committees of the Senate, we are requesting the Board of Pharmacy to convene a workgroup for the purpose of examining the current language of the Code to recommend options for licensed veterinarians who supervise and work with wildlife rehabilitators to dispense and supervise the use of certain Schedule VI drugs and other controlled items, outside the traditional doctor/patient relationship. We further request that you include in the workgroup the Board of Veterinary Medicine, the Department of Game and Inland Fisheries, the Virginia Veterinary Medical Association, and the Wildlife Center of Virginia.

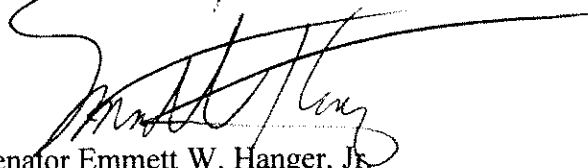
We would like to request that a report to our respective committees be generated by November 1, 2105, and that this report contain options and recommendations to resolve the issues outlined herein. During the course of the deliberations of this workgroup, we would request that input from the regulated community, at large, as well as the public be solicited.

Thank you for your consideration. We look forward to hearing from you.

Sincerely,



Senator Stephen H. Martin  
Chair, Senate Committee on Education and Health



Senator Emmett W. Hanger, Jr.  
Chair, Senate Committee on Agriculture,  
Conservation and Natural Resources

Cc: Department of Health Professions, Board of Veterinary Medicine, Department of Game and Inland Fisheries, Virginia Veterinary Medical Association, Wildlife Center of Virginia

## DRAFT

### **Report of the Wildlife Rehabilitator Workgroup**

In a letter from the Senate Committee on Education and Health and the Senate Committee on Agriculture, Conservation and Natural Resources, the Board of Pharmacy was requested to convene a working group to review current laws and regulations related to the possession and use of certain Schedule VI controlled substances and individuals engaged in the practice of wildlife rehabilitation. The Board was asked to report to the committees on options and recommendations on the issue of whether wildlife rehabilitators should be allowed to possess and administer a stock of controlled substances to care for sick and injured animals.

As requested, membership on the workgroup included representatives from the Boards of Pharmacy and Veterinary Medicine, the Department of Game and Inland Fisheries (DGIF), the Virginia Veterinary Medical Association, the Virginia State Police, and the Wildlife Center of Virginia.

At its first meeting, the Workgroup heard the following presentations:

- From Jim Husband with the Department of Game and Inland Fisheries, a review of the permitting and training of wildlife rehabilitators and the changes made to permit conditions in November 2014. To obtain a permit as a wildlife rehabilitator, a person must document an apprenticeship, have an initial inspection of his facility (typically a residence), and document six hours of continuing education. The permits are issued to both individuals and facilities. There is no requirement for training associated with administration of drugs because the assumption is that they are administered under the direction of veterinarian's valid order. There are 347 total wildlife rehabbers.  
Category I (Apprentice, sponsored by a Category II or III) – 67  
Category IIA – Individuals (May care for all wildlife except threatened or endangered species; work in cooperation with a veterinarian) – 145  
Category IIB – Organizations (same as above) – 13  
Category III (Professionally operated facility with on-sight veterinary staff) – 26  
Category IV (Care provider to work with wildlife at facility of permittee) - 96
- From Caroline Juran with the Board of Pharmacy, an overview of the Drug Control Act statutes that relate to this topic and the Board's involvement in the issue. A brief review of the Guidance Document 110-30 that addresses the allowances to purchase, possess and administer drugs within a public or private animal shelter was also given.
- From Leslie Knachel with the Board of Veterinary Medicine, a brief review of Chapter 38 of Title 54.1 on the practice of veterinary medicine. In addition, the Board's Guidance Documents 150-22, titled *Veterinarians and Wildlife Rehabilitators and Prescription Drugs*, and Document 150-13, titled *Controlled Substances (Schedule II-VI) in Veterinary Practice*, were reviewed.

Current law does not authorize a person who holds a wildlife rehabilitator permit to possess a stock of drugs that have not been prescribed to an animal by a veterinarian. Advocates for a change in the law assert that rehabilitators need immediate access to certain Schedule VI medications to stabilize and provide emergency care for the animal. Drugs specifically mentioned are meloxicam, broad spectrum antibiotics, rehydration fluids, and antiparasitic drugs. It was suggested that the law could be amended to allow such drugs to be possessed by wildlife rehabilitators and administered to injured wildlife via a written protocol by the supervising veterinarian.

The Workgroup discussed wildlife rehabilitation in other states to determine if there were models for the availability of a stock of drugs. It does not appear that any state allows wildlife rehabilitators to have a general stock of drugs, but Wisconsin does allow a consulting veterinarian to have a protocol for the possession of certain drugs with a rehabilitator.

Concerns about a proposal to allow wildlife rehabilitators to possess a stock of drugs as expressed by members included the following:

- A decision about whether to administer and the appropriate dose would appear to require a diagnosis of the animal by a wildlife rehabilitator, an act currently restricted to a licensed veterinarian. Category I and Category II permitted wildlife rehabilitators are authorized to only provide “basic care” and a decision on which drug and whether to administer a drug is a “prescribing” decision requiring a diagnosis of a disease or condition.
- There appears to be a wide variance in the level of education and training of wildlife rehabilitators. While the permit application requires six hours of continuing education, there is no verification of the hours, content or instruction listed. Indeed, it is possible for permits to be renewed annually without completing that portion of the application. Wildlife rehabilitators have no requirement for formal education and training, and there are no standards for the two years of apprenticeship in Category I. As stated by DGIF, there is no requirement for training associated with the administration of drugs because the assumption is that drugs are administered under the direction of a veterinarian’s valid order.
- There is concern about the oversight of wildlife rehabilitators and their practice locations. All are required to have a working relationship with a veterinarian. Reportedly, some work closely with veterinarians and others are operating virtually independently with little or no oversight for their practice. While applicants have a site inspection performed by DGIF prior to issuance of a permit, DGIF does not have the resources to routinely inspect the location of each permit holder. (The permit fee to become and operate as a wildlife rehabilitator is only \$10.)
- In general, the Board of Pharmacy is authorized in the Drug Control Act to inspect facilities in which a stock of drugs is maintained. Private and public shelters may have a stock of drugs by obtaining a controlled substance registration from the Board and



receiving proper training from the State Veterinarian. Such a permit requires an initial and a regular inspection to ensure drugs are being stored and administered safely. If drugs are stocked in a private residence (the location for most wildlife rehabilitators), it would be problematic for the Department of Health Professions to inspect. If there is no license or permit with the Board of Pharmacy, it may be necessary to obtain a search warrant for an inspection of a private residence. First Sgt. John Welch, while not providing binding legal comment, suggested that this was true.

- Finally, concern about the proliferation of antibiotics and increased risk of antibiotic resistance and creation of “superbugs” was expressed. While controlled substances such as oxygen, lidocaine, sterile saline, and epinephrine are allowed by the Drug Control Act to be in possession of persons who are not licensed prescribers, the persons so named are either licensed health care professionals or have very specific training for administration of those drugs. None have been authorized to possess and administer antibiotics.

In response to the request for options and recommendations, the Workgroup presents the following:

Option 1: Make no changes to the Drug Control Act to authorize wildlife rehabilitators to possess a stock of drugs until the training and oversight of permit holders and the veterinarians with whom they work has been reviewed and strengthened.

Option 2: Amend the Drug Control Act to authorize wildlife rehabilitators to possess certain Schedule VI drugs, including anti-inflammatories to treat pain, sterile saline for rehydration, and antiparasitics for deworming. Such authorization would be:

- Pursuant to an oral or written order or standing protocol issued by a veterinarian for use in emergency cases for stabilization of the animal and safety of the humans coming in contact; and
- Granted to a wildlife rehabilitator who has obtained a special permit from DGIF for possession of drugs requiring specified education and training and oversight by the veterinarian writing the order.

Option 3: Same as Option 2 but the order or standing protocol could be inclusive of broad spectrum antibiotics.

Option 4: Amend § 54.1-3423 to authorize wildlife rehabilitators to obtain a controlled substance registration (CSR) from the Board of Pharmacy with provisions similar to subsection E for public and private animal shelters. For shelters, the Code provides: “The list of Schedule VI drugs used for treatment and prevention of communicable diseases within the shelter shall be determined by the supervising veterinarian of the shelter and the drugs shall be administered only pursuant to written protocols established or approved by the supervising veterinarian of the shelter and only by persons who have been trained in accordance with instructions established or approved by the supervising veterinarian. The shelter shall maintain a copy of the approved list of drugs, written protocols for administering, and training records of those persons administering drugs on the premises of the shelter.” Shelters that apply for and maintain a CSR for possession

and administration of drugs are inspected by the Board of Pharmacy. If the CSR is to be issued to a private residence, board counsel and DHP must determine if inspecting a private residence is feasible.

Option 5: Amend the Drug Control Act and § 54.1-3303 to redefine the veterinarian-client-patient relationship to allow the veterinarian to prescribe to a group of animals similar to allowances for prescribing to a herd. This option would allow a veterinarian to “prescribe” for a group of deer, rabbits, raccoons, etc.

All options assume a need for more specific training for wildlife rehabilitators on the proper storage and administration of drugs. Any additional authority for possession and administration of drugs would also necessitate new permit conditions for wildlife rehabilitators.

DRAFT