

NEWSLETTER

Volume 27 Number 2 Summer 05

Upcoming IACUC-Advanced Workshops

SCAW's IACUC-Advanced will address advanced protocol review and other issues, such as what to look for in a protocol that includes relieved and/or unrelieved pain and distress; how to recognize and evaluate the level of pain and distress; appropriate end points stated in the protocol; special environmental conditions required because of potential pain and/or distress. The format of these two workshops in 2005 will let small groups discuss specific, advanced topics that are relevant to IACUC functions. Each workshop will be structured in similar design, with slight changes made to update information and to meet special needs. *Attendance at this workshop is limited to experienced IACUC members and administrators, principal investigators, attending veterinarians, regulatory personnel and laboratory animal care staff.*

September 19
IACUC-Advanced
Research Triangle Park, NC

October 14
IACUC-Advanced
Chicago, IL
Some of the topics for the Chicago workshop will be:
Regulations, Guidelines,
Assessment

Scientific Merit and IACUC Protocol
Review

con't. in next column...

Occupational Health Issues Standards for All Biosafety Levels:
Risk Assessment

Comparison of Grants and Protocol Review

Principal Investigators: Write the Perfect Protocol!

Electronic Research Administration

The Ins and Outs of Handling Noncompliance Workshop

For additional information and to register on-line please visit www.scaw.com

Mark your calendars now for SCAW's Winter Conference

*Institutional Challenges in a Changing World:
How Will IACUC's and Scientists Meet the Challenge?*

December 5-6, San Antonio, TX
register and pay on-line at www.scaw.com

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Mission

The Scientists Center for Animal Welfare (SCAW) is a non-profit educational association of individuals and institutions whose mission is to promote the best practices of humane care, use, and management of animals involved in research, testing or education in laboratory, agricultural, wildlife or other settings.

Newsletter

Editor in Chief:

Lee Krulisch

Layout and Design:

A. M. Chestnut

Editorial Board:

**Dale Schwindaman, Chair,
Ralph Dell, Greg Reinhard, Wally
Hayes, Jerry Collins, Joe Bielitzki**

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Submissions to the newsletter are most welcome and need to be in electronic format. Please send to info@scaw.com

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A Workshop

The Animal Welfare Information Center (AWIC) of the U.S. Department of Agriculture, National Agricultural Library (NAL) has developed a one and a half day workshop for individuals who are responsible for providing information to meet the requirements of the Animal Welfare Act.

The regulations of the act require that investigators provide Institutional Animal Care and Use Committees (IACUC) with documentation demonstrating that alternatives to procedures that may cause more than momentary pain or distress to the animals have been considered and that activities do not unnecessarily duplicate previous experiments. A thorough literature search regarding alternatives meets this Federal mandate. An alternative is any procedure which results in the reduction in the numbers of animals used, refinement of techniques, or replacement of animals.

The objectives of the workshop are to provide:

- an overview of the Animal Welfare Act and the information requirements of the act.

- a review of the alternatives concept.

- a comprehensive introduction to NAL, AWIC and other organizations.

- instruction on the use of existing information databases/networks.

- on-line database searching experience.

This workshop is targeted for principal investigators, members of IACUCs, information providers, administrators of animal use programs, and veterinarians. All participants will receive a resource manual. Workshops will be held at the National Agricultural Library on October 26-27, 2005. Each workshop is limited to 20 persons. Please note: You must receive confirmation of your registration request. If you do not receive a confirmation notice within 2 weeks, please contact the Center.

To register contact AWIC at Telephone (301) 504-6212, Fax (301) 504-7125, email: awic@nal.usda.gov

New Law on Economic Damage

RDS Email New Service

A new offence of causing economic damage to organisations carrying out, or connected with, animal research will be introduced as part of the Serious Organised Crime and Police Bill. This will give police more powers to stamp out organised campaigns of intimidation and violence. The maximum sentence for the offence will be five years in prison.

“Technician Fellowship Award”

AAALAC International, the Association for Assessment and Accreditation of Laboratory Animal Care International, has launched a new awards program, the “AAALAC International Technician Fellowship.” The program is made possible through a grant by Priority One Services, Inc. (POS) and in cooperation with the American Association for Laboratory Animal Science (AALAS), the Institute of Animal Technology (IAT), the Medical Research Council (MRC), and the National Institutes of Health (NIH).

The Fellowship recognizes two outstanding technicians—one IAT Registered (RAnTech) technician and one AALAS certified (ALAT, LAT, LATG, or CMAR) technician—who have made (or have the potential to make) significant contributions to the field of laboratory animal care and use.

As part of the Fellowship, the IAT Registered recipient will participate in a week-long educational internship at an animal care and use program within a U.S. institution, then attend the National AALAS meeting in St. Louis, MO. The AALAS certified recipient will participate in a week-long educational internship at an animal care and use program within an institution in the United Kingdom or the Republic of Ireland, then attend the IAT meeting. Both recipients will write an article about their experiences for AAALAC International *Connection* publication.

Timeline for the AALAS certified Technician nomination process:

- Call for nominations: June, July, and August 2005
- Nomination package deadline: October 1, 2005
- Selection Committee reviews nomination packages: October-November 2005
- Award recipients notified: December 1, 2005

Nomination packages must include:

1. One nomination letter
2. The nominee’s curriculum vitae or resume
3. Three letters of support

The Nomination Package should be sent to:

AAALAC International
C/o The International Technician Fellowship Selection Committee
11300 Rockville Pike, Suite 1211
Rockville, MD 20852-3035

If you have any questions about this award contact John G. Miller at AAALAC International +301.231.5353 or accredit@aaalac.org.

June 2005

ILAR Journal Volume 46(3), “Immunization Procedures and Adjuvant Products,” presents an overview of new developments and insights in the study of immunization procedures and adjuvant products. Substantial progress has been made in understanding the immune response, which has led to new technologies. The information in this issue is presented in an effort to help investigators and animal care and use committees maximize animal welfare without compromising the scientific research. Below are some of the article titles:

- o Introduction: Laboratory Animals and Immunization Procedures: Challenges and Opportunities
- o Basic Concepts of Immune Response and Defense Development
- o Applications and Optimization of Immunization Procedures
- o Monoclonal Versus Polyclonal Antibodies: Distinguishing Characteristics, Applications, and Information Resources

To order this issue online, go to <http://nationalacademies.org/ilarjo>, or call 202-334-2590, or e-mail ILAR@nas.edu. Publication of this issue of the *ILAR Journal* is partially supported by a grant from the NIH (5 P-40-RR-11611).

Animal Care Stakeholder Update

Dear Stakeholder:

Since 1966, the U.S. Department of Agriculture's Animal Care (AC) program has administered and enforced the Animal Welfare Act (AWA) to ensure that animals covered by the Act receive proper care and treatment. This latest Stakeholder Update is the start of a targeted effort to reach out to commercial animal dealers and breeders who are not currently licensed with AC and bring them into compliance.

Beginning June 1, 2005, AC is initiating a 90-day drive to license all commercial breeders and dealers. We are working closely with industry to connect with unlicensed breeders and dealers that in the past may have been afraid to step forward and become licensed for fear they would be penalized by AC. Thus this 90-day drive will benefit commercial breeders and dealers, the animals in their care and help AC expedite the process of identifying new licensees.

When AC learns of an unlicensed breeding kennel conducting sales covered by the AWA, our initial step is to notify the kennel owner of the need to become licensed and provide application materials. Typically, if a kennel owner applies for a license in a timely manner or immediately ceases all covered sales, we have not pursued enforcement action for previous sales. However, if a kennel continues to make unlicensed sales after AC has notified them of the licensing requirements, the Agency will pursue enforcement action. It is important to note that a facility will not be held culpable for unlicensed sales if they have applied for a license but program workloads cause a delay in their pre-licensing inspection.

We encourage anyone who needs to become licensed or has questions about whether their activities fall within the regulatory scope of the AWA to contact AC's Regional Offices. While we cannot overlook continued operation without a license, we will take into account breeders and dealers' efforts to remedy the situation when determining what actions to pursue. This is the first time AC has initiated a license drive, and we are committed to working with all commercial breeders and dealers that contact us.

For more information, contact AC's Eastern Regional office at 919-855-7100 (aceeast@aphis.usda.gov) or the Western Regional office at 970-494-7478 (acewest@aphis.usda.gov).

Sincerely,
Chester Gipson, DVM
AC Deputy Administrator

FTAA Symposium

Participate in the balanced discussions at the Future Trends in Animal Agriculture (FTAA) Symposium to learn more.

Date: September 21, 2005;

Time: 8:30 a.m. to 4:00 p.m.

Location: Jefferson Auditorium, South Agriculture Building, 14th Street and Independence Avenue, SW, Washington, DC;

Audience: Agency Decision Makers; USDA Personnel; Congressional Staffers; Open to the Public

Purpose: To briefly present perspectives of non-government, professional and industry organizations, and farmer and university representatives on numerous issues related to certification and education programs related to animal welfare. Presentations will help ensure USDA personnel and policy makers, animal advocates, staffers and the public have a clearer understanding of the current status and implications of certification programs and educational initiatives.

For additional information please send your name, affiliation, postal address, and preferred e-mail address to: David Brubaker, 145 South Spruce Street, Lititz, PA 17543; or send the information via e-mail to PennsylvaniaB@aol.com.

Animal Personhood—A Threat to Research?

Steve Michael Vice President and General Counsel Policy Directions, Inc.

In a focused and determined effort to grant additional legal rights and protections for animals, including animals involved in research, lawyers within the animal rights movement have begun to lay the groundwork for testing new legal theories. Even though many lawyers involved in this new movement are sincere in their concern about the treatment of animals, many are also flatly opposed to the use of animals in research.

This long-term, step-by-step strategy includes a multi-front campaign to: toughen state animal cruelty laws; authorize non-economic damage awards (i.e., pain and distress, loss of companionship, etc.) for cases in which animals are killed or harmed; establish new legal torts through judge-made case law; replace the term “owner” with “guardian” in local and state statutes; enact laws that allow trusts to be set up for family pets; make it easier to file lawsuits by eliminating standing requirements and permitting a private right of action under the Animal Welfare Act (AWA); and eventually establish a form of legal personhood for some species of animals. While many of these strategies do not appear, at first glance, to affect laboratory animals, the “sum of their parts” has the potential to have a significant impact on life-saving medical and scientific research.

This movement is being driven by an increasingly

sophisticated group of highly skilled lawyers. However, leaders in the new field of animal law acknowledge they do not know which legal theories will best advance their objectives. This point is illustrated by a quote from Joyce Tischler, executive

“Under what circumstances would it be permissible to use chimpanzees in medical research?...”

director of the Animal Legal Defense Fund. Tischler wrote in the epilogue of the animal law casebook used at most law schools:

“When and how legal rights for animals will be established is as yet unknown. We are only beginning to explore the legal theories that may be argued. Perhaps a student reading this casebook today will be part of the effort to achieve that breakthrough.”⁽¹⁾

The campaign to provide new legal rights for animals has received increasing attention in the press over the last few years. Much of the press attention has been centered on Steven Wise’s second book, *Drawing the Line: Science and the Case for Animal Rights*. Wise is a practicing attorney and the first person to teach animal law at Harvard Law School. He taught animal law

at several other law schools around the country and is one of the leading advocates for establishing legal “personhood” for some animals.

Wise is not alone. A growing number of animal rights lawyers are writing about this issue, lobbying for changes in state and federal laws, and filing suit in state and federal courts.

Many of the most outspoken advocates of new legal rights for animals candidly acknowledge they oppose all animal research. Two years ago, I attended a symposium at Harvard Law School featuring legal scholars and lawyers who discussed the possibility of obtaining legal rights for chimpanzees and other great apes. I asked the following question at the end of one of the panel discussions: “Under what circumstances would it be permissible to use chimpanzees in medical research? Is it always wrong? Morally wrong? If there were significant and clear benefits for finding cures to serious illnesses, would it then be permissible to use chimpanzees in research?” Each of the panelists responded to this question. Below are selected excerpts from each response. Steven Wise: “Well, at least legally, and probably morally, the only time I believe one should be able to use a chimpanzee in research is a situation where one would also use a four-year-old human child. Not many.”

Roger Fouts (Roger S. Fouts is a Professor of Psychology and Co-Director of the Chimpanzee-Human Communication Institute): “Why are we afraid of death, when it is such a natural thing? Why do we have to take an endangered species [chimpanzees] to help an overpopulated species [humans] to become more overpopulated?”

David Favre (David S. Favre is Senior Associate Dean/ Professor of Law at Detroit College of Law, Michigan State University): As part of his response to my question, Steven Wise asked David Favre to explain how Favre’s concept of a new legal tort (i.e., legal wrong for which a court would award damages) would apply when a biomedical experiment on a chimpanzee might advance human health. Favre called this new tort, “intentional interference with the primary interests of a chimpanzee.” Favre’s response to the question was, “Well, I think that is a false premise. I don’t know the fact pattern where you could say doing x to x chimpanzee is going to produce a saved human life. The reality of how science works just does not allow that fact pattern to come up. But yes, you are suggesting an absolute right. I am suggesting the relative right of a balancing of interests. But I feel comfortable that in ninety-nine percent of the cases, we end up saving the chimpanzee.”

To address this clear threat to

animal research, several scientific organizations including APS, FASEB, ASPET, AAA, AAMC, the Society for Neuroscience, the American College of Neuropsychopharmacology (ACNP), and the American Academy of Neurology (AAN), initiated a project coordinated through the National Association for Biomedical Research (NABR) aimed at developing a coherent legal strategy to address these new “animal law” and “legal personhood” initiatives. This is a five-year effort, starting first with a foundation of legal research, followed by a legal and political strategy that would also include coalition building and outreach. The ultimate goal of the project is to be fully prepared when and if a significant “personhood” or other “animal law” case is brought before a federal or state court.

What is Personhood?
The term “personhood” for animals is widely used among animal rights lawyers and advocates, their opponents, and the popular media. There is no single meaning to this term, nor are the implications clear if “personhood” is granted to animals. What does it mean to grant personhood to animals? Should all animals be granted personhood or only some? If some, how do we decide which ones? Should it be those that exceed a certain threshold of cognitive abilities, or those we especially love as pets?

There are no answers to these

questions. Those of us concerned about the implications to research if this movement gains steam don’t fully understand this term, but neither does the other side.

Wise, who has done the most to popularize the notion of personhood for animals, has a narrow view of what this means. He believes certain animals should be granted basic legal rights because they have mental abilities sufficiently similar to humans. For Wise, the basic right to be conferred is the right to bodily integrity, which means no captivity and no invasive medical research.

Wise argues basic rights should be granted to certain animals on two separate legal grounds, 1) liberty and 2) equality. For both, the essence of his argument is that likes should be treated alike. Certain animals are so much like humans, based upon their mental abilities, they should enjoy at a minimum, the basic legal rights afforded to the least capable humans.

Not all animal lawyers or animal rights advocates agree with this notion. In fact, most do not. The most prominent legal scholars who have spoken on animal rights issues have not endorsed the “personhood” argument as presented by Wise.

Many legal scholars believe personhood should be bestowed upon animals in a legal sense, but not for the purposes of establishing

“rights.” What is the difference? The law often allows legal issues to be decided in a manner that might otherwise be precluded, referring to these as “legal fictions.” For example, the law confers “personhood” on many inanimate objects. Corporations and partnerships are legal persons under the law. So are certain churches, families, labor unions, municipalities and states. Specific ships and oil rigs can be considered “persons” under the law. They all can sue and be sued. The argument is why animals should be excluded from this legal fiction. Two very prominent legal scholars, Laurence Tribe and Cass Sunstein, subscribe to this view of personhood. (Tribe is the Ralph S. Tyler, Jr. Professor of Constitutional Law, and Carl M. Loeb University Professor at Harvard Law School. Tribe is arguably the most prominent constitutional law scholar in the country. His constitutional law treatise was the most widely cited legal document of the 20th century. Cass R. Sunstein is the Karl Llewellyn Distinguished Service Professor at the University of Chicago and has written extensively on animal law issues.) They agree legal personhood should be granted to permit animals’ representatives to file a lawsuit to enforce existing rights, not necessarily to establish new rights. This still represents a significant threat to the research community, but it’s not the same personhood argument being made by Wise.

Many other animal lawyers and animal rights groups seem to view the personhood issue in the context of the current treatment of animals as property under state laws. For many, the significance of eliminating the property status of animals allows much higher damage awards in lawsuits involving pets and other animals.

So how do we get to personhood? Obviously the answer to this question depends upon your definition. Those with views similar to Tribe and Sunstein are seeking statutory changes to the Animal Welfare Act, as well as changes to state animal protection laws.

Those who want to eliminate the property status of animals are seeking changes to state statutes, as well as local and municipal ordinances. In addition, lawsuits aimed at changing state common law are being brought by animal lawyers across the country. Many of these lawsuits are asking state judges to use their common law powers to change the law. Lawsuits have been filed seeking damages for intentional or negligent infliction of emotional distress in cases in which a pet has been killed or harmed. Loss of companionship cases and veterinary malpractice cases are increasingly being filed. All of these activities, if successful, will have the effect of breaking down the traditional view of animals as property under the law.

Those with more radical views about personhood, like Wise, understand that their view of animals will best be accepted by using a step-by-step approach. They seek small gains wherever they can be achieved. Each success will be followed by new, modest, and attainable goals. They are taking a long-term view. Wise likes to quote economist Robert Samuelson who said: “Progress occurs funeral by funeral.” (2) Wise uses this quote in the context of court decisions. He believes as older judges who are wedded to certain precedents die off, new, younger judges who once may have been animal rights lawyers will be in a position to establish law more favorable to the animal rights community. Wise understands establishing his view of personhood for animals must be preceded by significant social and legal change. Even if the day comes when he believes some judges in some courts are ready to establish new legal precedents, Wise would continue with his step-at-a-time approach. He would first ask that legal personhood be granted to several of the great apes. As we increase our knowledge of other animals, personhood could be expanded to other species as courts and legislatures become more willing to establish new legal rights.

Many other animal rights lawyers are also content to implement a long-term, step-by-step strategy. This strategy, though not necessarily coordinated, involves a multi-

front campaign to slowly but consistently change the attitudes of the public who will then influence public policy and future court decisions. They will continue to push for new laws to increase the regulatory burden on researchers and institutions, and many will advocate for an outright ban on animal research.

Animal rights lawyers and advocates have had some success. For example:

- several jurisdictions have enacted “pet guardian” laws—twelve municipalities and the State of Rhode Island.
 - in 1995, nine states had felony anti-cruelty laws. Today, 41 states and the District of Columbia have felony statutes, and every year new felonies and tougher penalties are enacted by state legislatures.
 - animal law is or has been taught at approximately 39 of the nation’s 180 law schools.
 - 47 law schools have student animal legal defense groups, and 14 more are forming.
 - state, regional, and local bar associations are adding new animal law committees and sections to advocate for new animal rights and protections.
 - the Animal Legal Defense Fund (ALDF) boasts it has hundreds of dedicated attorneys working in the “emerging field of animal law.”
- There aren’t any clear answers to the question of how the research community should respond to this growing threat.

This is an evolving field of law and in that sense, efforts to address new legal challenges is akin to shooting at a moving target. We do not know when or how these challenges will be presented, but we do know a large number of talented and committed animal law advocates are seeking to limit severely or prohibit any animal research. The research community can, and must, rise to this challenge.

References

1. Tischler, Joyce. Epilogue to Sonia S. Waisman et al., *Animal Law, Cases and Materials* at 747 (2nd ed. 2002).
2. Wise, Steven M. Address at the 5th Annual Conference on Animals and the Law, hosted by the Committee on Legal Issues Pertaining to Animals of the Association of the Bar of the City of New York (September 25, 1999).

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(questions from IACUC-Talk is an occasional SCAW newsletter feature that highlights IACUC-Talk located on our website, www.scaw.com)

Name: David M Mosser
Email: dmmosser@hotmail.com
Institution: University of Maryland

Comments:

I am trying to get a feel for how much per diem charges other investigators are paying for mouse housing. If anyone has any information about their own institution that they are willing to share, or a listing of other institutions, that would be most appreciated. I am interested in finding per diem costs for mice in both conventional and barrier facilities.

Thank you

Response:

It seems that the NCRR Publications on calculating per diem/rate schedules would be of help

Response:

Many attending veterinarians maintain a file with this information because they compare with each other on a regular basis. It is all over the map - there is no clear cut answer w/o knowing whether you're comparing apples and oranges.

Response:

This is a tricky question. Per diem rates are based upon how much it actually costs to care for a mouse at a specific facility. It is very difficult to compare these rates between institutions because of the number of variables involved. For example:

- 1) Is the facilities operation subsidized by the Institution (i.e., veterinarians salaries, utility costs, waste disposal costs, health care costs, maintenance, etc.)
- 2) Is the facility centralized? The proximity of animal rooms to central supply and support areas affects costs.
- 3) What type of caging system is used? Conventional caging requires more cage changing activities than ventilated caging systems?
- 4) What type of watering systems are used? Bottle watering is more labor intensive than automatic watering.
- 5) Geographical location of the facility. Labor rates vary significantly across the country.
- 6) Numbers of mice housed per cage.
- 7) Types of protective clothing required for animal care and research personnel.
- 8) Cost of fringe benefits.

IACUC-Advanced Workshop

___ General Registration Fee 275.00

___ SCAW Institutional Member Fee 225.00

There will be NO refund of registration fees.

(register on-line at www.scaw.com)

Name:

Title:

Company Name:

Street Address, City, State, Zip:

Telephone and Fax:

E-mail:

I will pay for my registration with:

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Make checks payable to SCAW. Payment must be in U.S. funds and payable on a U.S. bank.

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Name of cardholder and e-mail of cardholder (please print):

Authorized signature:

Please return registration fee along with this form to the address below. Confirmation of registration will be sent via e-mail or fax. *Attendance at this workshop is limited to experienced IACUC members and administrators, principal investigators, attending veterinarians, regulatory personnel and laboratory animal care staff.*

Scientists Center for Animal Welfare, 7833 Walker Drive, Suite 410, Greenbelt, MD 20770
301-345-3500, fax 301-345-3503, info@scaw.com, www.scaw.com

Yes! Please register me for the one-day IACUC-Advanced workshop.

Remember you can register and pay on-line too!

please visit our website for accommodation and program information.

Dates/Locations

2005

September 19

Research Triangle Park, NC

October 14

Chicago, IL

2006 *tentative*

Ithaca, NY

Davis, CA

CONGRATULATIONS!!!

To our 20 year members

SCAW's Individual Membership is sustained by members that have been with the organization for 20 years or more. We applaud these members for their dedication to SCAW's mission and we look forward to many more years of association with them.

American Society for Pharmacology and Experimental Therapeutics

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Scientists Center for Animal Welfare
7833 Walker Drive, Suite 410
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301-345-3500
www.scaw.com

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