



MEMORANDUM

DATE	12/29/2023
TO	Multidisciplinary Advisory Committee (MDC)
FROM	<u>Medical Records Subcommittee</u> (Subcommittee) Richard Sullivan, DVM Marie Ussey, RVT
SUBJECT	Agenda Item 4. Update, Discussion, and Potential Recommendations Regarding Medical Records

During discussion at the October 2023 MDC and Board meetings of the Subcommittee’s recommendations to amend California Code of Regulations (CCR), title 16, section 2032.3 regarding medical records, it was determined that legislation would be necessary prior to amending the regulation. This memorandum discusses the legislative proposal and additional regulatory amendments.

a. Proposed Legislation to Amend Business and Professions Code (BPC) Sections 4826.6 and 4855

As discussed in more detail [here](#), the Subcommittee proposed multiple amendments to CCR, title 16, section [2032.3](#). Of those amendments, the Subcommittee recommended requiring the veterinarian to provide a copy of the medical records upon the client’s request. However, it was noted that BPC section [4855](#) only requires a summary of the medical records be provided to the client. As such, the Subcommittee recommends the Board pursue a legislative proposal to require a copy of the medical records be provided to the client. A corresponding amendment would also need to be made to BPC section [4826.6](#).

During the October 2023 MDC and Board meeting, concerns were raised regarding when a copy and a summary would be required to be provided and whether a requirement for the veterinarian “immediately” provide a copy or summary of the medical records would be too onerous for veterinarians seeing multiple patients throughout the day. The importance of providing a copy or a summary of accurate medical records to the client when the animal patient is in critical condition was also discussed.

As such, the Subcommittee recommends requiring a copy of the medical records be provided to the client, or the client’s authorized agent, within five days of the client’s/authorized agent’s request. If the animal is in critical condition, the Subcommittee recommends requiring either a copy or a summary be provided at the time the request is made. This allows the veterinarian to choose whatever option may be easier to provide the client at the time of the request for critical animal patients.

Action Requested

If the MDC agrees with the Subcommittee's recommendation, the MDC is asked to entertain a motion to recommend to the Board submission of a legislative proposal to amend BPC sections 4826.6 and 4855 regarding medical records (Attachment 1).

b. Initiate a Rulemaking to Amend California Code of Regulations (CCR), Title 16, Section 2032.3

Once the legislative proposal is successful, the Subcommittee recommends proceeding with the rulemaking package proposed during the October 2023 MDC/Board meetings, and discussed in more detail [here](#).

To resolve concerns raised during the October 2023 MDC/Board meetings, the Subcommittee made amendments to the proposal to address when a copy or a summary would be required to be provided to the client. In addition, "authorized agent" was added throughout the proposal to allow for the client or their authorized agent to receive a copy or summary of the medical records when requested.

Action Requested

The Subcommittee requests the MDC review the attached rulemaking proposal and entertain a motion to recommend the Board take the following actions:

1. Approve the proposed regulatory text to amend California Code of Regulations, title 16, section 2032.3.
2. If legislative amendments to Business and Professions Code sections 4826.6 and 4855 are enacted to remove the summary requirement, direct staff to submit the regulatory text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested.
3. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations as noticed for California Code of Regulations, title 16, section 2032.3.

Attachments

1. Legislative Proposal to Amend BPC Sections 4826.6 and 4855 Regarding Medical Records
2. Proposed Regulatory Text to Amend California Code of Regulations, Title 16, Section 2032.3 Regarding Record Keeping; Records; Contents; Transfer

VETERINARY MEDICAL BOARD

**Legislative Proposal to Amend
Business and Professions Code (BPC)**

Division 2. Healing Arts

Chapter 11. Veterinary Medicine

Article 3. Issuance of Licenses

Sections 4826.6, 4855, and 4856 Regarding Medical Records

Proposed amendments to the statutory language are shown in single underline for added text and ~~single strikethrough~~ for deleted text.

4826.6. (a) A veterinarian shall not prescribe, dispense, or administer a drug, medicine, application, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals unless a veterinarian-client-patient relationship exists or as otherwise permitted by law, except when the animal patient is a wild animal or the owner of the animal patient is unknown. A veterinarian-client-patient relationship exists if all of the following conditions are met:

(1) The client has authorized the veterinarian to assume responsibility for medical judgments regarding the health of the animal patient.

(2) The veterinarian possesses sufficient knowledge of the animal patient to initiate at least a general or preliminary diagnosis of the animal patient's medical condition.

(3) The veterinarian has assumed responsibility for making medical judgments regarding the health of the animal patient and has communicated with the client a medical, treatment, diagnostic, or therapeutic plan appropriate to the circumstances.

(b) A veterinarian possesses sufficient knowledge of the animal patient for purposes of paragraph (2) of subdivision (a) if the veterinarian has recently seen, or is personally acquainted with, the care of the animal patient by doing any of the following:

(1) Examining the animal patient in person.

(2) Examining the animal patient by use of synchronous audio-video communication.

(3) Making medically appropriate and timely visits to the premises on which the animal patient is kept.

(c) For purposes of paragraphs (1) and (3) of subdivision (a), the client may authorize an agent to act on the client's behalf.

(d) Synchronous audio-video communication is not required for the delivery of veterinary medicine via telehealth after a veterinarian-client-patient relationship has been established unless the veterinarian determines that it is necessary in order to provide care consistent with prevailing veterinary medical practice.

(e) A veterinarian-client-patient relationship shall not be established solely by audio-only communication or by means of a questionnaire.

(f) Only a person who holds a current license to practice veterinary medicine in this state is authorized to practice veterinary medicine via telehealth on an animal patient located in this state.

(g) Before delivering veterinary medicine via telehealth, the veterinarian shall inform the client about the use and potential limitations of telehealth and obtain consent from the client to use telehealth, including acknowledgment of all of the following:

(1) The same standards of care apply to veterinary medicine services via telehealth and in-person veterinary medical services.

(2) The client has the option to choose an in-person visit from a veterinarian at any time.

(3) The client has been advised how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate resulting from technological or equipment failure.

(h) A veterinarian who practices veterinary medicine via telehealth shall do all of the following:

(1) Ensure that the technology, method, and equipment used to provide veterinary medicine services via telehealth comply with all current privacy protection laws.

(2) Have historical knowledge of the animal patient by obtaining and reviewing the animal patient's relevant medical history, and, if available, medical records. If medical records exist from a previous in-person visit and are available to the client, the client may transmit those records, including any diagnostic data contained therein, to the veterinarian electronically.

(3) Employ sound professional judgment to determine whether using telehealth is an appropriate method for delivering medical advice or treatment to the animal patient and providing quality of care consistent with prevailing veterinary medical practice.

(4) Be familiar with available medical resources, including emergency resources near the animal patient's location, be able to provide the client with a list of nearby veterinarians who may be able to see the animal patient in person upon the request of the client, and keep, maintain, and make available a copy or summary of the animal patient record, as specified in Section 4855.

(5) Provide the client with the veterinarian's name, contact information, and license number.

(6) Secure an alternative means of contacting the client if the electronic means is interrupted.

(i) (1) A veterinarian shall not prescribe a drug for a duration of time that is inconsistent with the medical condition of the animal patient or the type of drug prescribed.

(2) A veterinarian who established the required veterinarian-client-patient relationship by examining the animal patient in person or by making medically appropriate and timely visits to the premises on which the animal patient is kept shall not prescribe a drug for a duration of time that is longer than one year from the date that the veterinarian examined the animal patient in person or visited the premises and prescribed the drug.

(3) Except as provided in paragraphs (4) to (8), inclusive, a veterinarian who practices veterinary medicine via telehealth may order, prescribe, or make available drugs, as defined in Section 11014 of the Health and Safety Code, in accordance with all relevant state and federal regulations.

(4) A veterinarian who established the required veterinarian-client-patient relationship using synchronous audio-video communication shall not prescribe a drug to the animal patient for use for a period longer than six months from the date upon which the veterinarian examined the animal patient or prescribed the drug. The veterinarian shall not issue another prescription to the animal patient for the same drug unless they have conducted another examination of the animal patient, either in person or using telehealth.

(5) A veterinarian who established the required veterinarian-client-patient relationship using synchronous audio-video communication shall not prescribe an antimicrobial drug to the animal patient for a period longer than 14 days of treatment. The veterinarian shall not issue any further antimicrobial drug prescription, including a refill, to treat the condition of the animal patient unless the veterinarian has conducted an in-person examination of the animal patient.

(6) The veterinarian shall not order, prescribe, or make available a controlled substance, as defined in Section 4021, or xylazine, unless the veterinarian has performed an in-person physical examination of the animal patient or made medically appropriate and timely visits to the premises where the animal patient is kept.

(7) The veterinarian shall notify the client that some prescription drugs or medications may be available at a pharmacy and, if requested, the veterinarian shall submit a prescription to a pharmacy that the client chooses.

(8) A veterinarian shall not prescribe via telehealth any drug or medication for use on a horse engaged in racing or training at a facility under the jurisdiction of the California Horse Racing Board pursuant to Chapter 4 (commencing with Section 19400) of Division 8.

(j) As used in this section, "drug" means any controlled substance, as defined in Section 4021, or any dangerous drug, as defined in Section 4022.

(k) A veterinarian is permitted to use telehealth without establishing a veterinarian-client-patient relationship in order to provide advice in an emergency, as defined in Section 4840.5.

4855. A veterinarian subject to the provisions of this chapter shall, as required by regulation of the board, keep a written record of all animals receiving veterinary services, and provide a summary copy of that record to the ~~owner of animals receiving veterinary services, when~~ client or their authorized agent within five (5) days of receiving the client's or their authorized agent's request. ~~If the animal is in critical condition, either a copy of the medical record or a summary shall be provided to the client or their authorized agent at the time of their request.~~ The minimum amount of information which~~that~~ shall be included in written records and summaries shall be established by the board. The minimum duration of time for which a ~~licensed~~ registered veterinary premises shall retain the written record or a complete copy of the written record shall be determined by the board.

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 20. VETERINARY MEDICAL BOARD

PROPOSED REGULATORY LANGUAGE

Medical Records

Proposed amendments to the regulatory language are shown in single underline for added text and ~~single strikethrough~~ for deleted text. Where the Board proposes to re-number existing text to a new location with no changes, the Board has emphasized that change by using [no changes to text] as a guide for the reader.

Amend section 2032.3 of article 4 of division 20 of title 16 of the California Code of Regulations to read as follows:

ARTICLE 4

§ 2032.3. Record Keeping; Records; Contents; Transfer.

(a) Every veterinarian performing any act requiring a license pursuant to the provisions of Chapter 11, Division 2, of the code, upon any animal or group of animals shall prepare a legible, written or computer generated record concerning the animal or animals ("medical record") which shall contain, at a minimum, the ~~following~~ information: contained in paragraphs (1) or (2) of subsection (b), as applicable.

(b) Except as provided in subsection (g), Mmedical records shall be prepared in accordance with the requirements of this section as applicable and according to whether veterinary services are being provided to a single animal patient or a group of animal patients as authorized orally or in writing by the client responsible for the animal patient receiving services or their authorized agent.

(1) Single Patient Medical Record: When veterinary services are being provided to a single patient, a medical record for a single animal patient shall consist of the following:

(5A) Dates (beginning and ending) of custody of the animal, if applicable. [no changes to text]

(B) Name(s) of the individual(s) providing ~~patient care~~ veterinary services to the animal patient.

(2C) Name, address and phone number of the client and, if applicable, the client's authorized agent.

(3) ~~Name or identity of the animal, herd or flock.~~

(4D) Except for herds or flocks, Patient identifying information including name, approximate age, sex, breed, species, and color, and, if applicable, identification number of the animal.

(6E) The reason the patient is presenting for veterinary services and A history or pertinent information as it pertains to each animal, herd, or flock's medical status relative to the reason for the visit.

(7F) Data Physical examination findings, including that obtained by instrumentation, laboratory testing, diagnostic imaging, and necropsy from the physical examination.

(G) Interpretation of examination findings and any information obtained by instrumentation, laboratory testing, diagnostic imaging, and necropsy.

(40H) A presumptive diagnosis or Ddiagnosis, or assessment prior to performing a treatment or procedure if made.

(8I) Treatment and intended treatment plan, including any of the following:

(i) Treatments, including application of therapies or devices administered and prescribed.

(ii) mMedications administered, including strength(s), dosage(s), route(s) of administration, and frequency of use.

(42iii) All mMedications and treatments prescribed and dispensed, including strength(s), dosage(s), route(s) of administration, quantity, and frequency of use.

(44J) If relevant, aAny prognosis of the animal's condition, if made.

(43K) If animals are housed or retained for treatment, the beginning and ending dates of custody of the animal patient and a Ddaily progress, if relevant, and disposition of the caseupdate on the animal patient's medical condition relative to the treatment plan.

(9L) Records fFor surgical procedures, shall include a description of the procedure, the name of the surgeon, the type of sedative/pre-anesthetic and anesthetic agents used, dosage(s), their route(s) of administration, and their strength(s) (if available in more than one strength).

(M) Any veterinary services or recommendations declined by the client or their authorized agent.

(4N) Name or initials of the person responsible for entries. [no changes to text; moved and renumbered from existing (a)(1).]

(2) Group Medical Record: When a group of animals of the same species are treated at the same time, for the same purpose, and at the same location, a group medical record shall consist of the following:

(A) Dates (beginning and ending) of custody of the animal patient(s), if applicable.

(B) Name(s) of the individual(s) providing animal patient care veterinary services to the animal patient.

(C) Name, address, and phone number of the client, and, if applicable, the client's authorized agent.

(D) Name or identity of the group, including group location and species.

(E) The reason the group is presenting for veterinary services and history relative to the reason for the visit.

(F) The following information shall be included in the medical record if applicable to the reason for the appointment:

(i) Group examination findings, and data, including that obtained by instrumentation, laboratory testing, diagnostic imaging, and necropsy.

(ii) Interpretation of examination findings and any information obtained by instrumentation, laboratory testing, diagnostic imaging, and necropsy.

(G) A presumptive diagnosis or diagnosis, if made.

(H) Treatment plan, including any of the following:

(i) Treatments, including application of therapies or devices administered and prescribed.

(ii) Medications administered, including, strength(s), dosage(s), and route(s) of administration.

(iii) Medications prescribed and dispensed, including strength(s), dosage(s), route(s) of administration, quantity, and frequency of use.

(iv) Meat, milk, or egg withdrawal times.

(I) Any veterinary services or recommendations declined by the client or their authorized agent.

(J) Name or initials of the person responsible for entries.

(bc) Single and Group medical Records shall be maintained for a minimum of three (3) years after the animal's last visit from the date of the last entry into the medical record.

A summary copy of an the animal's medical records shall be made available to the client or the client's authorized agent within five (5) days or sooner, depending if the animal is in critical condition, upon his or her the client's or their authorized agent's request. If the animal is in critical condition, either a copy of the medical record or a summary shall be provided to the client or their authorized agent at the time of their request. The summary for single and group medical records shall include:

- (1) Name, and address, and phone number of the client and animal, and, if applicable, the client's authorized agent.
- (2) Patient identifying information including name, approximate Age, sex, breed, species, and color, and, if applicable, identification number of the animal.
- (3) The reason the patient is presenting for veterinary services and Aa history or pertinent information as it pertains to each animal's, herd's, or flock's medical status relative to the reason for the visit.
- (4) Data Physical examination findings, including that obtained by instrumentation, laboratory testing, diagnostic imaging, and necropsy from the physical examination.
- (5) Treatment and intended treatment plan, including medications, their dosage and frequency of use. any of the following:
 - (A) Treatments, including application of therapies or devices administered and prescribed.
 - (B) Medications administered, including strength(s), dosages, route(s) of administration, and frequency of use.
 - (6C) All medications and treatments prescribed and dispensed, including strength(s), dosage(s), route(s) of administration, quantity, and frequency of use.
 - (76) If animals are housed or retained for treatment, the beginning and ending dates of custody of the animal patient and a Ddaily progress, if relevant, and disposition of the caseupdate on the animal patient's medical condition relative to the treatment plan.

(e)(1d) Radiographs and digital images are the property of the veterinary facility premises that originally ordered them to be prepared. Radiographs or digital images shall be released to another veterinarian upon the request of another veterinarian who has the authorization of the client. Radiographs shall be returned to the veterinary facility premises whichthat originally ordered them to be prepared within a reasonable time upon request. Radiographs originating at an emergency hospital shall become the property of the next attending veterinary facility upon receipt of said radiograph(s). Transfer of radiographs shall be documented in the medical record.

(2e) Radiographs and digital images, except for intraoral radiographs, shall have a permanent identification legibly exposed in the radiograph or attached to the digital file, which shall include the following: [no changes to text; renumbered from existing(c)(2)]

(A~~1~~) ~~The hospital or clinic veterinary premises' name and/or the veterinarian's name.~~

(B~~2~~) Client identification. [no changes to text]

(C~~3~~) Patient identification. ~~and~~ [no changes to text]

(D~~4~~) The date the radiograph was taken. [no changes to text]

(3f) Non-digital intraoral radiographs shall be inserted into sleeve containers and include information in ~~subdivision subsection (c)(1)-(4)(A)-(D)~~. Digital images shall have identification criteria listed in ~~subdivision subsection (c)(1)-(4)(A)-(D)~~ attached to the digital file. [no changes to text; renumbered from existing (c)(3)]

~~(d) Laboratory data is the property of the veterinary facility which originally ordered it to be prepared, and a copy shall be released upon the request of the client.~~

~~(e) The client shall be provided with a legible copy of the medical record when the patient is released following emergency clinic service. The minimum information included in the medical record shall consist of the following:~~

~~(1) Physical examination findings~~

~~(2) Dosages and time of administration of medications~~

~~(3) Copies of diagnostic data or procedures~~

~~(4) All radiographs and digital images, for which the facility shall obtain a signed release when transferred~~

~~(5) Surgical summary~~

~~(6) Tentative diagnosis and prognosis, if known~~

~~(7) Any follow-up instructions.~~

(g) The medical records requirements of this section shall not apply when a registered veterinary technician acts as an agent of the veterinarian for the purpose of establishing the veterinarian-client-patient relationship to administer preventive or prophylactic vaccines or medications for the control or eradication of apparent or anticipated internal or external parasites. In those cases, medical records shall be prepared in accordance with the requirements of Section 4826.7 of the code.

NOTE: Authority cited: Section 4808, Business and Professions Code. Reference: Sections 4855 and 4856, Business and Professions Code.