



# MEMORANDUM

<b>DATE</b>	June 25, 2024
<b>TO</b>	Veterinary Medical Board
<b>FROM</b>	Multidisciplinary Advisory Committee (MDC) Richard Sullivan, DVM, Chair
<b>SUBJECT</b>	<b>Agenda Item 7B. Recommendations Regarding Records</b>

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

Since May 2023, the MDC has worked with industry stakeholders such as the California Veterinary Medical Association (CVMA), the California Horse Racing Board (CHRB), and the University of California, Davis, School of Veterinary Medicine to address concerns raised regarding record keeping requirements. After multiple in-person and virtual meetings with stakeholders throughout the year, the Subcommittee provided legislative and regulatory proposals to CVMA and CHRB in December 2023. Those proposal recommendations were subsequently approved by the MDC at its January 16, 2024 meeting, with a minor amendment. For reference, those proposals can be found [here](#).

After approving the recommendations in the legislative proposal, the MDC made additional amendments to the regulatory proposal (as discussed in more detail on page four). Some of the amendments to the regulatory proposal were intended to mirror the legislative proposal, but those edits were not reflected in the MDC’s final motion on the legislative proposal.

To rectify the inconsistency, the Subcommittee amended the legislative proposal to include the requirements for when a copy of written records must be provided to the client or client’s authorized agent during an emergency or recommendation for direct transfer to another veterinary premises to ensure subsequent veterinarians have sufficient information regarding the animal patient’s condition from the originating veterinarian. As this provision was proposed to be added to the statute, the previously approved regulatory proposal no longer includes this text.

Since the Board was unable to meet in January, the Board was unable to discuss the legislative proposal until its April meeting.

During the April Board meeting, CVMA cautioned the Board against the legislative proposal stating, in part, that once changes are placed in statute, the Board loses control. It was recommended that if the Board were to make a statutory change, the Board could make the change with less wording and leave a lot of it back in regulation. In addition, CVMA raised

concerns about the requirement to provide copies of the medical records at the time of the request when there is an emergency.

The Board's Executive Officer and Board Counsel clarified that the legislative amendment was necessary because the current statute only required a summary, and not a copy of the medical record, be provided to the client. Without a statutory amendment, the Board would not have authority to require a copy be provided.

Due to the substantive concerns raised related to the legislative and regulatory proposals, the Board referred the proposals back to the MDC.

On May 13, 2024, the Subcommittee met with CVMA and CHRB to work through concerns related to the legislative proposal. Specifically, CVMA raised concerns that veterinarians in the field, such as equine practitioners practicing in a barn or on a farm, likely do not have access to computers to create written records and do not have time to handwrite records upon request. In practice, when a large animal patient is being referred to another veterinarian, the treating veterinarian calls the receiving veterinarian and communicates necessary information to facilitate the continuity of care.

However, there may be instances when a client chooses not to take the animal patient to a second veterinarian immediately upon leaving the first veterinarian's care and the receiving veterinarian may be unknown at the time the animal patient is picked up from the first veterinarian.

After that meeting, the Subcommittee developed the following amendments to address the concerns:

**4855.** (a) 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 verbal or written requested.

(b) If requested verbally or in writing by the client or their authorized agent because the animal is in critical condition or direct transfer to another veterinary premises for medical care is recommended, the veterinarian, upon release of the animal patient from the veterinarian's care, shall either:

(1) Provide a copy or a summary of the written record to the client or their authorized agent; or

(2) If a written record is not available upon release of the animal patient, communicate information to facilitate continuity of care of the animal patient either to:

(A) The receiving veterinarian or veterinary premises; or

(B) The client or their authorized agent if the receiving veterinary premises is

unknown.

(c) The minimum amount of information ~~which that~~ shall be included in written records and summaries shall be established by the board.

(d) 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.

On May 20, the Subcommittee met with CVMA and CHRB to review the above proposal, and no additional concerns were raised.

### **Action Requested**

If the Board agrees with the MDC's recommendation, please entertain a motion to submit to the California State Legislature the attached legislative proposal to amend BPC sections 4826.6 and 4855 regarding records (Attachment 1).

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

During its January 16, 2024 meeting, the MDC reviewed and approved the regulatory proposal with the following amendments:

- After the word "single," add the word "patient" to mirror the language under proposed subsection (b)(1), and lowercase "group" for consistency.
- Modifying the first sentence to state "...from the date of the last **medical** entry into the medical record." This change was intended to clarify that only medically related tasks, and not administrative notations, were required to be recorded in the medical record.
- Modifying the second sentence to state "...five (5) days **from the date of receiving** the client's or their authorized agent's **verbal or written** request." The additions of "from the date of receiving" and "verbal or written" were considered to incorporate the proposed language from the first sentence in BPC section 4855.
- Modifying the third sentence to state "If the animal is in critical condition, **or direct transfer to another veterinary premises for medical care is recommended...**" This change was intended to clarify the urgent circumstances in which the client or their authorized agent can receive either a copy or summary of the medical record at the time of the request. In determining this language, variations of the initial language were considered, including "immediately transferred," "directly transferred," and "referred." However, "direct transfer" was preferred as it covered all suggested recommendations. In addition, the terminology "is recommended" was added to the end of the language to clarify the recommendations made by the veterinarian and cover situations where the client may or may not accept those recommendations. Upon review of the legislative proposal, it was determined that the statute would need to establish the conditions for requiring provision of a copy of the written record to the client, so these provisions were removed from the regulatory text and inserted into the legislative proposal.

- The MDC also considered revising “treatments” under new proposed subsection (c)(5)(A) to state “Treatments, including **surgical procedures**, application of therapies, or devices administered and prescribed.” This change was proposed to ensure that surgical procedures performed on the animal patient are included in the summary provided to the client or their authorized agent.

Following the MDC meeting, additional discussions occurred during a Board consultant meeting, a California Veterinary Medical Association (CVMA) Board of Governors meeting, and an American Association of Veterinary State Boards (AAVSB) regarding whether financial records, including invoices and client payments, were considered part of the medical record.

The Subcommittee believes that a client has a right to a full copy of the record, including invoices submitted to a client and payments made for veterinary services and treatments. This information often is necessary to submit to pet insurance companies after services were provided. In addition, the Board has authority to inspect all records pursuant to BPC section 4856 during an inspection or investigation, which would include financial records related to the services provided. Copies of invoices and client payments may be used in investigations and later used for ordering restitution to the client. For example, if an investigation revealed a client paid for services that were never provided, the Board can order restitution to make the client whole.

While financial records may be considered different than the medical record, both types are considered part of the written record. To alleviate confusion, the Subcommittee recommended at the April 2024 meeting that the Board revert back to current law in BPC section 4855 and CCR, title 16, section 2032.3, which do not specify medical vs. financial. Instead, the Subcommittee recommended adding “Any invoice and client payment related to services and treatment provided.” to the list of items that must be contained within the written record.

However, due to significant stakeholder concerns raised during public comment, the Board referred the regulatory proposal back to the MDC. An excerpt from the Board’s April 2024 Draft Board Meeting Minutes is attached for reference (Attachment 2).

During the May 20, 2024 meeting with CVMA and CHRB, the Subcommittee proposed adding “provided to the client or their authorized agent” to the regulatory proposal as follows:

(O) Any estimates or invoices *provided to the client or their authorized agent* and all client payments related to services and treatment provided.

This was to address the concern that there is no current requirement that veterinarians provide estimates or invoices, and it was not the Subcommittee’s intent to create the requirement. Rather, *if* estimates or invoices were provided to the client, and the client asked for a copy of those later, the Subcommittee believed the client had a right to those documents.

However, CVMA’s concerns with including any financial records requirements in the record

keeping requirement remained. Some of the concerns included claims that the newly proposed requirement was overly burdensome, would be a unique requirement not required by all other states and other California healing arts professions, would be inconsistent with veterinary practices where veterinarians have no involvement with billing, and inconsistent with the purpose of the medical record. CVMA understood there was a consumer protection need for clients to receive that information but noted that some veterinarians do not keep records of any client payments.

After considering the totality of the concerns, the Subcommittee no longer recommends adding the client payment records to the record keeping requirement. However, the Subcommittee believes consumers should still receive a copy of all payments within a reasonable amount of time when requested. As such, the Subcommittee proposes adding BPC section 4855.1 (discussed in more detail below).

With that section being removed, the Subcommittee believes the attached rulemaking proposal can continue through the process (Attachment 3).

### **Action Requested**

The MDC requests the Board review the attached rulemaking proposal and entertain a motion to 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.

### **3. Proposed Legislation to Add BPC Section 4855.1**

As previously stated, the Subcommittee believes consumers should still receive a copy of all payments made for veterinary services. The Subcommittee recognizes the potential burden and confusion that could be caused if it was specifically listed as a record keeping requirement in the regulation. The Subcommittee also understands that many veterinarians within veterinary practices may not have any involvement in billing. In addition, the Subcommittee believes a longer timeframe than five days to provide copies of payments would help lessen the burden without sacrificing consumer protection, since the payments are not related to the specific treatment/care provided and are not necessary for continuity of care. Based on the above, the Subcommittee proposes adding a new BPC section, as follows:

4855.1. Within thirty (30) days of receiving a written or verbal request by the client or their authorized agent, the veterinary premises shall provide a record of client payments made to the veterinary premises related to services and treatment provided.

**Action Requested**

If the Board agrees with the MDC's recommendation, the Board is asked to entertain a motion submit to the California State Legislature a legislative proposal to add BPC section 4855.1 regarding client payment records.

**Attachments**

1. Legislative Proposal to Amend BPC sections 4826.6 and 4855 regarding records
2. Excerpt from the April 2024 Draft Board Meeting Minutes
3. 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 and 4855 Regarding Written 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) 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 verbal or written requested.

(b) If requested verbally or in writing by the client or their authorized agent because the animal is in critical condition or direct transfer to another veterinary premises for medical care is recommended, the veterinarian, upon release of the animal patient from the veterinarian's care, shall either:

(1) Provide a copy or a summary of the written record to the client or their authorized agent; or

(2) If a written record is not available upon release of the animal patient, communicate information to facilitate continuity of care of the animal patient either to:

(A) The receiving veterinarian or veterinary premises; or

(B) The client or their authorized agent if the receiving veterinary premises is unknown.

(c) The minimum amount of information which that shall be included in written records and summaries shall be established by the board.

(d) 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.

## Excerpt from the April 2024 Draft Board Meeting Minutes

### D. Recommendations Regarding Medical Records

1. Proposed Legislation to Amend Business and Professions Code (BPC) Sections 4826.6 and 4855
2. **Initiate a Rulemaking to Amend CCR, Title 16, Section 2032.3**

Dr. Sullivan provided the Board with background information from the meeting materials and read the memorandum from the meeting materials for both agenda items into the record.

**Discussion:** The Board discussed the importance for the integrity of the medical records, including payment information, to protect the animal patients and clients. They wanted to ensure that only specific individuals may request or receive the medical records. The Board also discussed the challenges of veterinarians/consumers to receive summaries or medical records between different veterinary practices or other veterinarians. In reviewing the timeframe of five calendar days for the client to receive a copy or summary of the records, the Board determined that the timeframe was sufficient to have ready for the client. The Board discussed consumer protection by examining the different challenges for enforcement between written and verbal records requests.

**Public Comment:** Dr. Bradbury requested public comment on the item. The following public comment was made on this item:

- Bonnie Lutz, Esq., provided the following public comment:

#### **Summary vs. Copy of the Medical Records**

Ms. Lutz stated that as far as the summary or copy of the medical records, it was her understanding that if it is an emergency situation, either a summary can be provided, or a copy of the medical record needs to be provided within five days. She said the problem is that there used to be a definition and now there is no definition of what is in the summary. She believed the definition was still in the regulations. She said she has done a lot of the summaries, and it is pretty detailed stuff. She said if the reason for allowing veterinarians to provide a summary under emergent conditions is to be able to get a quick, double down to the issues, so the veterinarian can transfer [the records] over to another facility and then to have to put all those details that are listed in what has to be in a summary, essentially the summary parroted what had to be in the record. She thought that the Board might want to change the regulation regarding what has to be in the summary if the intent is to provide fast information, so the client can get it over to another facility.

### **Invoices and Client Information**

As far as invoice and client information, Ms. Lutz said her understanding that the [Frequently Asked Questions] FAQs on the Board's website will need to be updated since there is an FAQ that states the Board does not have any authority over financial matters. She said if the invoices and client payment information are going to be given to the client, she assumes that when the Board asks for her veterinarian clients' records, the veterinarians are going to assume they are going to have to provide the invoices and payment information; she had a problem with that requirement, including client confidentiality and redaction requirements of a client's [Social Security Number] SSN and credit card information. She stated even with computerized records, it is not a simple thing of doing a task, billing it, invoicing it, and getting paid. She said it is not how it works in veterinary hospitals. She stated there is an estimate, the practice tries to get payment upfront, provide the surgery, different issues are discovered during the surgery, the treatment changes, changes get made to the invoices, clients do not have the money, and the veterinarian states that they can come back later and pay. The client comes back, pays in cash, the cash transition does not get transferred to the client's record right away, and it becomes a mess, even in computerized records. She did not believe the Board has the authority to look at that kind of private information.

### **Information Transmitted to Other Veterinarians/Corporations**

Ms. Lutz raised concern with having invoices or client information in the hands of other veterinarians because veterinarians, now with corporate takeovers, are very competitive. She was unsure whether one veterinarian would want another veterinarian in competition knowing how much the veterinary office is charging for services.

### **Closing Remarks**

Ms. Lutz emphasized her concerns about invoices and client payment information being included in the medical record. She has received requests from the Board's enforcement staff to have her clients in individual cases provide invoices, which they have happily provided. She expressed that requiring this information to be part of the medical record, that then gets sent all over the place, is a real problem.

- [Grant Miller](#), DVM, CVMA, provided the following public comment:

### **Cautioned on Placing Requirements into Statute**

In reference to the statutory amendments to [BPC section] 4855, Dr. Miller cautioned the Board that whenever items are taken out of regulation and placed in statute, the Board effectively loses it, because to change statutes, it requires a legislator, the Legislature to pass it, and the Governor. When

the Board does regulations, it is just the Board. He stated the Board should be careful about what it was putting into statute because once it is there, it is gone. He thought if the Board were to make a statutory change, the Board could make the change with less wording and leave a lot of it back in regulation. He thought the proposed language was excessive in the way it was currently written. He stated he assisted with the language as part of the [MDC Equine Practice Subcommittee (Subcommittee)]. However, he was not aware of some of the changes.

### **Requirements for Equine Practitioners**

Dr. Miller repeated a discussion he had with the Subcommittee about the requirement when there is an emergency, and the client needs the records. He stated providing the records at the time of request can be very onerous for equine practitioners. He stated that when he is out in the field, he may only have cell [phone] service 50% of the time, even with multiple calls. He said he knows what his choice is going to be when the challenge comes between choosing to write out the medical record for a patient verse taking care of a horse that is in an emergency. He noted that he may get penalized for that decision. He said on the equine side, if he is referring a case to a hospital, he is calling the hospital and telling them he is sending the horse. He then provides the veterinary hospital with information on the veterinary services he provided, including medication (e.g., Banamine, sedation, etc.), and then he sends the animal patient off. He said to sit down and write the summary, it is implausible, and all the equine people know that. He claimed part of the upset with the equine community with the Board, is that it only thinks about small animal clinics. He noted that equine practitioners do not have the same setups as a small animal clinic that has a computer system, veterinary assistant(s), and RVT(s) to provide assistance; the equine practitioners are on their own.

### **Invoices and Client Payments and CVMA's Position**

In reference to newly inserted CCR, title 16, section 2032.3(b)(2)(K), Dr. Miller claimed 100% of veterinarians in California are deficient in their medical records—none of them are done correctly and none are ever sufficient. He stated the additional requirement will be too much for practitioners to handle. He provided an example of where he provides charity to clients where the client does not receive an invoice and pays what they can afford. He stated that in instances where he does provide an invoice, it is handwritten on a tablet. He noted that the medical records are on a computer, so the new requirement will mean he will have to take time to synthesize the payment information of each appointment into the record. He stated the purpose of the medical record for both clients and doctors is to understand what happened to the animal; it is not about money. He stated it represents a far greater requirement for veterinarians on a record-by-record

basis to have to synthesize this information, and CVMA is not interested in supporting it.

- [Judie Mancuso](#), SCIL, provided the following public comment:

#### **Transfer of Medical Records Between Veterinarian Offices**

Ms. Mancuso stated that two weeks prior to the meeting, her cat was seen by the first veterinarian who then referred her to a dermatologist veterinarian. The dermatologist veterinarian could not see her cat for a couple of weeks. She needed to resolve her cat's issue that seemed important and needed to be taken care of, so she went to another veterinarian. She stated the second veterinarian inquired about certain veterinary services and medications provided to the cat. Ms. Mancuso responded she did not know if certain veterinary services were provided for her cat, so she called and requested the medical records from the first veterinarian be sent to the second veterinarian. She claimed the receptionist at the first veterinarian's office responded that the records would be sent later, and that the receptionist was not aware if it was okay to send the records. Ms. Mancuso responded that she was taken back by the receptionist's response. She waited for the medical records, but had to call a second time, where the receptionist stated the first veterinarian said it was okay to send the medical records, in order for the medical records to the second veterinarian. The second veterinarian received the records, made recommendations, and administered medications to the cat patient. She said the process was flawless after she got the record. She would have liked to have received the medical records immediately.

#### **Her Experience and Position on the Proposed Language**

Ms. Mancuso said as a consumer, she has issues when a veterinarian office is not complying with the requirement in a timely manner. She said in her experience, it is veterinarian offices that have "shoddy records" who do not want to step up and send the medical records. She supports the proposed language.

- [Jeni Goedken](#), DVM, provided the following public comment:

#### **Her Experience as Part of the Board's Enforcement Program**

Dr. Goedken commented as a consultant to the Board and veterinarian who has access to consumer complaints that are pending investigation, some as far back as 2019. She agreed with Dr. Miller that the Board has to consider the non-small animal veterinary premises. She said she had seen quite a few complaints that are in that category, so it is important to see it from all sides. She stated that the Board does receive complaints about individuals not receiving records in a timely fashion. She noted that it is not the crux of many consumer complaints she is reviewing now. She said without the

request being in writing, it becomes a “he said”, “she said” situation. She stated by the time she gets to the case; it might be a few years old, and that part of the issue is not really discoverable.

### **The Board’s Subject Matter Experts (SMEs)**

Dr. Goedken stated one of the Board’s goals is recruiting and maintaining a pool of quality and consistent SMEs to review consumer complaint cases as the Board receives them. She said the current feedback is that the records the Board receives are superfluous. She claimed that many times, the SMEs are looking at a date or narrow range of dates and some clinics will provide several dozen pages, which the SMEs must go through to find one date.

### **Financial Information and Medical Records**

Dr. Goedken agreed with the points made against having the financial requirements added to all the other medical records requirements. She stated the financials do not seem to be the issue, but rather the medicine or veterinary services that were used. She stated adding in more paperwork for SMEs to review and compare, when the crux of the complaint is not necessarily financially related, would be more onerous to the review process. She agreed with Dr. Miller’s cautionary advice on placing requirements into statute verses having the requirements in regulation. She advised that it might bind the Board’s cases, where it might want to handle the requirement on a case-by-case basis dependent on the complaint.

**Response to Public Comment:** The Board noted that the addition of the financial requirements is based on consumer requests and needs for consumers to have the information for insurance claims and not intended to go to other veterinarians. The Board expressed their willingness to work with the various practices, including equines and large animal practitioners, to build statutes inclusive to their needs.

In response to the issue of whether a medical record needed to be requested either verbally or in writing, Board Counsel advised that for human records, [Health and Safety Code \(HSC\) section 123110\(a\)](#), only requires that a request be made; it does not specify it has to be a written or verbal request.

The Board discussed the concerns expressed by Dr. Miller about the remoteness of large animal practitioners and the limited access to computers to document or provide that information. The Board noted that in large animal practice, often the first equine veterinarian will call another veterinary premises, talk to the receptionist, and try to get the horse down to the surgery room.

Ms. Siefertman noted that in regard to the financial requirements proposed, the information would only be required to be provided to the defined client and the Board; it would not be required to be sent to other veterinary premises. She

further noted the Board does not get involved in financial disputes between a veterinarian and client, but the Board has the ability to award restitution to clients in disciplinary decisions.

Board Counsel advised that a receipt for services rendered is available to clients today. She advised that since it is the Board's goal to [provide the ability of the client to] send the receipt to the insurer so funds may be reimbursed or provided as restitution to the consumer, that the requirement could be limited to a detailed receipt of client payment related to services and treatment provided. She stated that modifying the language is less onerous and provides information that the client is entitled to as a paying customer. Board Counsel advised that if the Board sends this item back to the MDC, the Board should clarify if it is requesting the MDC to find exemptions for equine practice, limit the proposal to certain records, or revise the whole text.

The Board responded that if there is a request for invoices, it should be by a separate request. They also noted that it is the client's responsibility to keep track of their own paperwork.

The Board inquired as to why the requirements were moved from regulation to statute. Ms. Sieferman stated it was her understanding that the Board lacked authority to require the items, which is why it was added to the statutory proposal.

Board Counsel also noted that amendments to the statute started because it only required a summary and not a copy of the medical record. Due to special circumstances when a copy or summary is required in a shorter period than five days, it was her recommendation that the statute be changed.

The Board discussed the issues of receiving records between veterinarians with referrals and the exact requirements of verbal requests of veterinarians asking for medical records.

**Referred back to the MDC:** The Board referred agenda items 7.D.1. and 7.D.2. back to the MDC for re-review on the financial and verbal request provisions and work with large animal practitioners to resolve their concerns and make sure the proposals accomplish what was intended.

**Public Comment:** Dr. Bradbury requested public comment on the item. The following public comment was made on this item:

- **Bonnie Lutz**, Esq., emphasized the financial information that the Board is asking to be placed on all the medical records is going to be deferred to the consumer. She stated there is no way veterinarians can keep those types of records to be sent on a real time basis. As far as client information and all the invoices, she suggested the Board review that wording. From her standpoint on restitution, she is happy to provide the invoices; it is not that the invoices could not be provided. Based on Dr. Goedken's comments,



Ms. Lutz claimed it could increase the Board's SME costs. She added that when she gets records that have all the financial information, it takes her some time to go through the records.

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

Proposed Regulatory Text to Amend California Code of Regulations, Title 16, Section 2032.3 Regarding **RECORD KEEPING; RECORDS; CONTENTS; TRANSFER**

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 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), 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 verbally or in writing by the client or their authorized agent.

(1) Single Patient Record: When veterinary services are being provided to a single patient, a 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.

(10H) A presumptive diagnosis or ~~D~~diagnosis 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) ~~m~~Medications administered, including strength(s), dosage(s), route(s) of administration, and frequency of use.

(12iii) All ~~m~~Medications and treatments prescribed and dispensed, including strength(s), dosage(s), route(s) of administration, quantity, and frequency of use.

(11J) If relevant, a ~~A~~ny prognosis of the animal's condition, if made.

(13K) If animals are housed or retained for treatment, the beginning and ending dates of custody of the animal patient and a ~~D~~aily progress, if relevant, and ~~disposition of the case~~ update on the animal patient's medical condition relative to the treatment plan.

(9L) ~~Records f~~For 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 service or treatment 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 Record: When a group of animals of the same species receives veterinary services at the same time, for the same purpose, and at the same location, a group 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 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 service or treatment declined by the client or their authorized agent.

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

(bc) Single patient and group rRecords shall be maintained for a minimum of three (3) years after the animal's last visit from the date of the last medical entry into the record. A summary of an animal's medical records shall be made available to the client within five (5) days or sooner, depending if the animal is in critical condition, upon his or her request. The summary for single patient and group 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) DataPhysical 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 surgical procedures, 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 case update 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 which that 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)]

(A1) The hospital or clinic veterinary premises' name and/or the veterinarian's name,

(B2) Client identification, [no changes to text]

~~(C3)~~ Patient identification, and [no changes to text]

~~(D4)~~ 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 (e)(1)-(42)(A)-(D)~~. Digital images shall have identification criteria listed in ~~subdivision subsection (e)(1)-(42)(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 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, 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.