



Record Keeping —But There's More!

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Title 16, California Code of Regulations, Section 2032.3 sets forth the *minimum* recordkeeping requirements that are enforced by the Veterinary Medical Board (VMB). Comprehensive medical records that go beyond the minimum standards are a key component of protecting practitioners from civil liability. Further, detailed documentation may be an effective liability shield for the practitioner. In the last issue of *California Veterinarian*, we discussed recordkeeping standards relative to questions of ownership, phone logs, and counter notes. In this edition, we will address record keeping regarding informed consent, treatment options, and denial of treatment.

Informed Consent

In simple term, *informed consent* means that information is made available to an owner to permit them to make the best decision within the limitations of the animal's health and economic realities. Informed consent is dictated by the standard of care and is a fundamental element of the contract between the veterinarian and the owner to provide and pay for veterinary services.

Interestingly, 16 CCR Section 2032.3 requires that medical records reflect assessments, diagnoses, and treatment plans, but does not specifically address informed consent. Nonetheless, a veterinarian is required to provide services in accordance with the standard of care, which does include informed consent. Given the importance of informed consent, the information-gathering process and the consent should be well-documented.

Practice areas of particular concern are anesthesia and euthanasia, in part because of the risks and finality of the procedures, but also due to emotional responses of owners. Each veterinarian should consider the risks of the procedures and treatment, and assess whether the risks are being adequately explained. This assessment should include pharmaceutical products, as in many instances the veterinarian is assuming the role of both prescriber and pharmacist.

Again, informed consent should be documented. For repetitive procedures and prescriptions, a consent form setting forth benefits and risks may be efficient and well-indicated. These forms should be executed by the owner and incorporated into the medical records.

Exhaustive warnings and disclosures are part of the human medical system. Although many consumers may not fully read these advisements, they generally understand that they

will be governed by the information contained therein, even the "fine print," and that these disclosures are part of the contract. Veterinarians should adopt the same approach.

Treatment Options

Overlapping "informed consent," which focuses on risk, is the documentation of treatment options and the cost of the respective options. Part of the agreement to provide services should include the cost of the service, as cost is a fundamental aspect of a caregiver's contract with the owner.

The standard of care requires that the owner be provided the treatment options available. Cost may be a critical factor in the decision-making process, and failure to empower the owner with all reasonably available options may leave the provider vulnerable to liability claims. When a fixed cost cannot be provided, a range can be relied upon. Ideally, the owner will provide written approval (initials are better than nothing). In the real world, a verbal agreement may be the best that can be achieved but the medical records should contain a contemporaneous entry memorializing the authorization, the time and date it was given, and who provided it.

Denials of Treatment

Not all animal owners are willing or able to authorize treatment due to cost. Obviously, a total denial of care should be documented in the records. Frequently, however, denials come in the form of a refusal to authorize a lab test or to leave the animal for observation to assist in the development of a treatment plan. These refusals can leave the veterinarian open to claims that (1) they did not properly diagnose the issue; or (2) they charged for improper treatment. All too often, veterinarians are second-guessed for a bad result when they were not permitted to take appropriate steps to treat the animal.

When an owner chooses a more limited treatment plan or option, the medical records should accurately reflect that the owner understood the necessity for a more extensive treatment plan, the risk of not authorizing it, and that they assumed responsibility for that risk.

Conclusion

The minimum standards of record keeping established by Section 2032.3 focus on the care provided to the animal. Compliance with these standards protects the practitioner from VMB scrutiny. To additionally protect the veterinarian from liability, the medical records should document the relationship with the consumer. Was the care properly authorized? Were treatment care options and costs provided? Was informed consent obtained? After an owner tells their story of blame and makes accusations of liability, the veterinarian should be able to point to the medical records and assert—*but there's more!* ■

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