



BOARD NOTES

Fall 2012 Issue
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A Publication of the Texas State Board of Veterinary Medical Examiners
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FROM THE EXECUTIVE DIRECTOR

Creation of Veterinarian-Client-Patient Relationships at Shelters

There has been much discussion of this topic at many of the veterinary meetings I have attended recently. The creation of a valid veterinarian-client-patient relationship is at the heart of the veterinary profession. So much so, it is set out clearly in the Veterinary Licensing Act, Chapter 801 of the Occupations Code, Section 801.351:

- (a) A person may not practice veterinary medicine unless a veterinarian-client-patient relationship exists. A veterinarian-client-patient relationship exists if the veterinarian:
 - (1) assumes responsibility for medical judgments regarding the health of an animal and a client, who is the owner or other caretaker of the animal, agrees to follow the veterinarian's instructions;
 - (2) **possesses sufficient knowledge of the animal** to initiate at least a general or preliminary diagnosis of the animal's medical condition; and
 - (3) is readily available to provide, or has provided, follow-up medical care in the event of an adverse reaction to, or failure of, the regimen of therapy provided by the veterinarian.
- (b) **A veterinarian possesses sufficient knowledge of the animal for purposes of Subsection (a) (2) if the veterinarian has recently seen, or is personally acquainted with, the keeping and care of the animal by:**
 - (1) **Examining the animal; or**
 - (2) **Making medically appropriate and timely visits to the premises on which the animal is kept.**
- (c) A veterinarian-client-patient relationship may not be established by telephone or electronic means.

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The Board has always stated that an examination is required to establish a veterinarian-client-patient relationship. Section (b)(2) was placed within the statute for herd livestock management. The example contemplated by that language was a livestock feedlot where the veterinarian makes medically appropriate and timely visits to the premises on which the animal is kept. This subsection does not apply to shelters in the initial presentation of the animal at the shelter as the veterinarian had not previously made medically appropriate and timely visits to the premises on which the animal was kept prior to arriving at the shelter. In fact, the shelter veterinarian does not know where the premises was where the animal was kept. After the time period for holding the animal has elapsed, usually three days and set by local ordinance, then the shelter may claim the animal is abandoned and the shelter is the owner. Under Texas law, an animal's owner or a caretaker designated by the owner can perform acts of veterinary medicine on the animal without involving a veterinarian and without concern for establishing a veterinarian-client-patient relationship, because the owners and caretakers are exempt from the Veterinary Licensing Act. Until that point, in order to perform any veterinary services on that animal, including rabies vaccinations, a veterinarian must conduct an examination on that animal to establish a veterinarian-client-patient relationship.

The Board does not define an examination, but the Board's rule on maintaining the standard of care, Section 573.22, and the Board's rule on recordkeeping, Section 573.52, Title 22, Part 24 of the Texas Administrative Code, still apply. The examination must be sufficient to satisfy an average member of the local veterinary medical community that the animal is healthy enough for the prescribed treatment. A record of the examination and the information required under the recordkeeping rule to substantiate the examination is necessary no matter whether the animal is vaccinated at a shelter, a low-cost vaccination clinic or a private clinic.

The purpose of the examination, especially in the vaccination scenario, is to ensure the animal is not sick. If a vaccination is given to a sick animal, the vaccination may not be effective. This is extremely important with the rabies vaccination, in the control of zoonotic diseases.

Under Section 826.047 of the Health and Safety Code, a veterinarian performing duties under this chapter (Rabies) is not liable to the owner of an animal for the death of or injury to the animal except in the case of willful misconduct or gross negligence. This would apply in a civil suit for damages if the animal died when the veterinarian was performing duties as part of rabies vaccinations, registration, restraint and impoundment of animals. This does not address the problem of a veterinarian failing to uphold the Veterinary Licensing act and the Board's Rules of Professional Conduct by failing to establish a veterinarian-client-patient relationship prior to performing veterinary services on the animal, including vaccinating for rabies, by failing to uphold the standard of care by not examining an animal prior to treatment, or by failing to record details that substantiate the examination.

There has been no change to either the statute, any rules regarding this matter or the Board's interpretation of the Act or rules.