



Oregon Veterinary Medical Board Summer 2017 Newsletter

Cite & Fine Update

After many years of collaborative effort between the Board and OVMA, the Board was granted authority in the 2015-17 legislative session to issue a citation and fine in-lieu-of discipline for minor clerical or administrative violations of the Veterinary Practice Act. Rulemaking ensued; however, legal analysis revealed that a key component—confidentiality—was lacking.

Consequently, the Board introduced a concept for the 17-19 legislative session to correct the language in the statute. Unfortunately, before a hearing could be scheduled, a media report characterized the bill as being contradictory to the Governor's commitment to transparency in state government. The Board withdrew the bill.

The current rule authorizes issuance of non-disciplinary citations and fines. While the citation document must be provided to the public on request, the matter is not reportable to the National Disciplinary Database and would not be flagged as discipline on the Board's website.

The Board will continue to work with stakeholders to restore original intent.



LET'S MAKE RULES!

Interested in serving on a Rule Advisory Committee in the future? The Board needs volunteers to help draft rules for issues such as CVT scope of practice, facility standards, and telemedicine. Contact us!

Because ... Records

Summer brings warm grass and sky,

Fragrant lilies, lulling peppies.

Through the seasons still we cry:

Yes, you must give record copies!



So Let Us Review:

- Veterinary medical records *are not* confidential. Client consent to release is not required.
- You *may not* withhold patient records pending client consent or for payment of bills.
- You *are allowed to charge* a 'reasonable' copying fee, e.g., comparable to local commercial rates, but you may not hold records hostage for payment.
- Records you provide *must* include imaging, consultation info and test results. Tip: Treatment and referrals declined by the client and provision of follow-up care instructions, should be in the record.
- You *are required* to provide copies of patient records, if asked, to:
 - The client, or another veterinarian
 - The Board
 - Law enforcement
- You *may choose* to provide copies of patient records to anyone!
- Patient record copies should be provided within 72 hours, or immediately in emergency situations.

Complaint Refresher

The Board is required by statute (ORS 676) to investigate complaints against veterinarians, CVTs and euthanasia technicians. If you are the subject of a complaint, here's what you should know:

While every complaint received must be investigated, staff has delegated authority to assess and close cases that are not within the Board's jurisdiction, such as fee disputes, communication, or business practices. You will generally not be notified of nor asked to respond to nonjurisdictional complaints. They are not made part of your public record and therefore not disclosed to the public.

If the complaint is jurisdictional, you will receive a letter asking for a copy of the patient record, a typed transcript of the record, and a summary of the patient's treatment. Do please err on the side of more rather than less information! If the Board cannot come to a decision based on what you provide, you may be called in for an investigative interview.

ORS 676.176 prohibits the Board from identifying a complainant or disclosing details of complaints, so you will not be told who has filed the complaint. (It isn't necessarily a client—the Board can initiate its own investigation, and persons other than the client often file complaints.) The law also protects your identity if the complaint is unfounded.

After the Board has voted on the case, you will be notified of the decision, including options if discipline is proposed. Any person may request a summary of how a decision was reached. If the Board provides a summary, information that would lead to complainant information will be removed. A person who receives a summary is not prohibited from publicizing it. The Board's policy generally is not to provide summaries of complaint decisions.

When the Board declines to disclose confidential information, a person may appeal the decision to the Attorney General. The appeal must show

'clear and convincing evidence' that the public interest is better served by disclosure. When the Attorney General receives a public request order, the Board must notify the licensee of the request and inform them of their right to contest release of the information.

The statute allows sharing of confidential information with state and federal law enforcement and other states' regulatory boards. In a contested case hearing, some contents of the case file may be subject to disclosure through administrative discovery.

Lastly, here are some tips for getting through the process. Generally, less than 10 per cent of complaints received result in discipline. Don't automatically assume the worst.

- ▶ Respond truthfully and thoroughly. Don't alter records after an investigation has begun.

- ▶ Approach the matter with courtesy and respect for the work your colleagues volunteer to do in the public interest.

- ▶ Come to your interview with a positive attitude and willingness to help the Board understand the situation.

- ▶ Your best defense is a patient record that meets the minimum standards in OAR 875-015-0030.

Board Members

- Dr. Emilio DeBess, Portland (Chair)
- Dr. Colleen Robertson, John Day (Co-Chair)
- Dr. Dannell Davis, Astoria
- Ms. Lynn Larsen, Public Member, Lake Oswego
- Dr. Marla McGeorge, Tualatin
- Dr. Patricia Mayfield, Sun River
- Ms. Tiah Schwartz, CVT, Oregon City
- Ms. Peggidy Yates, Public Member, Portland

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- Lori Makinen, Director
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Discipline Update	Rulemaking
<p>In 2016, the Board found violations in 13 cases. Some 2016 cases remain under investigation along with about 25 new cases in 2017. Following is a sampling of cases in which the Board voted to find violations of the Veterinary Practice Act.</p> <p>A dog died after treatment with a contraindicated medication. The Board found the veterinarian in violation of OAR 875-011-0010(7) for failure to use standard methods of treatment and assessed a \$250 civil penalty.</p> <p>A CVT failed to report an arrest within 10 days as required under ORS 676.150(3). The Board imposed a \$250 civil penalty.</p> <p>A veterinarian failed to offer standard diagnostics in violation of OAR 875-011-0010(7) and made inadequate patient records in violation of OAR 875-015-0030. The Board imposed a \$500 civil penalty.</p> <p>A veterinarian failed to disclose an arrest when he renewed his license. The Board imposed a \$250 civil penalty.</p> <p>A veterinarian entered into a stipulated agreement with the Board, under which he agreed not to perform surgeries until certain conditions were met. The veterinarian continued to perform surgeries without meeting conditions. The Board revoked the veterinarian's license.</p> <p>The veterinary license was used to order a prescription drug for a family member. The Board imposed a \$250 civil penalty for violation of OAR 875-011-0010(18).</p> <p>A veterinarian was given a \$3,000 civil penalty for records, follow-up care, and analgesia violations. The amount of the penalty reflected the licensee's history of similar violations.</p>	<p>The Board has <u>adopted</u> these rule amendments and the following changes are now in effect.</p> <ul style="list-style-type: none"> ▶ Only veterinarians or CVTs under immediate supervision may administer rabies vaccine, i.e., neither unlicensed persons nor vet/CVT students may administer rabies vaccines. (OAR 875-010-0045) ▶ Approval of radiation safety programs is moved from Oregon Health Authority to the Board. (OAR 875-030-0050) ▶ Years of experience for out-of-state CVT applicants reduced to four (OAR 875-030-0010). ▶ Starting with the 2019 license renewal, veterinarians must obtain one hour of CE in both appropriate methods of analgesia and judicious use of antibiotics. (OAR 875-010-0090) ▶ Facility Managing Veterinarians are no longer limited to four facilities within any geographic region. (OAR 875-010-0031) <p>The following <u>proposed</u> amendments will be filed soon and posted on the Board's website, along with information on the public comment process. They are not in effect at this time.</p> <ul style="list-style-type: none"> ▶ Facilities will be required to post signage indicating availability of prescriptions on request. ▶ State exams for veterinary applicants will be conducted by the American Association of Veterinary State Boards. ▶ Interns and supervisors must report any change in supervision within 10 days. ▶ Medical record and VCPR/exam requirements will be clarified. ▶ A 'year' will be defined as at least 2,000 hours in a 52-week period.

**Concerns about whether a practice or policy
is compliant with minimum standards?
Contact us! It's free and confidential!
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www.oregon.gov/ovmeh**