



MEMORANDUM

DATE	September 18, 2020
TO	Veterinarians
FROM	Jessica Sieferman Executive Officer Veterinary Medical Board
SUBJECT	Updated Guidance on Department of Consumer Affairs' Waivers Regarding Veterinarian-Client-Patient-Relationship

On June 4, 2020, the Director of the Department of Consumer Affairs (Department) issued two waivers, found [here](#), regarding the veterinarian-client-patient relationship (VCPR) regulation, California Code of Regulations (CCR), title 16, section 2032.1. The June 4, 2020 waivers were [extended](#) on July 31, 2020, and [extended again](#) on September 17, 2020, so that the waivers are in effect through December 31, 2020.

To provide clear direction regarding the veterinary medical services the waivers allow and to better inform consumers and veterinary medical practitioners, the Veterinary Medical Board (Board), in consultation with the Department's Director, issues this Guidance.

What the Department Director's Waivers Do

Telemedicine for New or Different Medical Conditions: As long as the other VCPR [requirements](#) have been met to establish the VCPR, including an initial in-person examination of the animal patient, the veterinarian can use telemedicine to diagnose and treat the animal patient for a new or different medical condition. However, an in-person examination is still required to establish the VCPR. Telemedicine cannot be used to establish a VCPR. The ability to treat new or different conditions by telemedicine under an existing VCPR expires on December 31, 2020, unless further extended.

Prescription Refills: A prescription issued following an in-person examination last performed between June 1, 2019, and December 31, 2019, can be refilled by the veterinarian, without another in-person examination, for up to 18 months from the date of the last examination and issuance of prescription.

Background

Due to potential exposure to and spread of COVID-19, consumers are concerned about taking their animals to a veterinarian for examination, diagnosis, and treatment.

Veterinary professionals have expressed concern that animals are not receiving veterinary medical care due to consumer fear of COVID-19 and the limitations on a veterinarian's ability to provide telemedicine veterinary services.

As of January 1, 2020, veterinary telemedicine may be used to maintain treatment of a medical condition for which the veterinarian has personally examined the animal. However, telemedicine may be conducted by a veterinarian only within an existing VCPR and can be used only for specific medical conditions for which the animal patient has been previously examined and diagnosed by the veterinarian. (Cal. Code Regs., tit. 16, § 2032.1, subs. (b)(2), (3), (f).) Telemedicine cannot be used to establish a VCPR. (Cal. Code Regs., tit. 16, § 2032, subs. (e).) Thus, under existing law, a veterinarian cannot diagnose and treat by telemedicine a new medical condition or medical condition that differs from what the veterinarian previously diagnosed, so consumers are required to transport their animals for in-person physical examination and establish a VCPR for each new medical condition. Further, a prescription cannot be refilled for a duration longer than 12 months from the date of the last physical examination and prescription for the medical condition. (Cal. Code Regs., tit. 16, § 2032.1, subs. (c).)

At the Board's May 14, 2020 meeting, the Board heard public comment, deliberated, and approved two motions to request waivers of the condition-specific component to establish a VCPR, and to authorize prescription refills for an additional six months after the one-year expiration.

To better enable consumers access to telemedicine veterinary medical services for treatment of new or different medical conditions occurring within an already established VCPR, and to provide a six-month extension of the 12-month limit on veterinary prescription refills, the Department Director issued one order with two waivers pertaining to the VCPR, described below. Although the Director's June 4, 2020 waivers differ from the original text of the Board's motions to request waivers, the intent and operation of these waivers remain the same.

Condition-Specific VCPR Waiver

Pursuant to Business and Professions Code section 4830 and CCR, title 16, section 2032.1, a veterinarian must maintain a valid VCPR in order to administer, prescribe, dispense, or furnish a drug, medicine, appliance, or treatment of whatever nature. The VCPR must be established for each medical condition for which the animal is being treated by the veterinarian, because the regulation requires the veterinarian to, among other things: (1) perform an in-person examination of the animal patient to initiate a diagnosis of the medical condition; and (2) communicate with the client a course of treatment appropriate to the circumstance (i.e., the specific condition). (Cal. Code Regs., tit. 16, § 2032.1, subs. (b)(2), (3).) CCR, title 16, section 2032.1 authorizes the use of telemedicine to maintain a medical condition only within an existing VCPR and for the specific medical conditions for which the animal patient has been previously

examined and diagnosed by the veterinarian. (Cal. Code Regs., tit. 16, § 2032.1, subs. (b)(2), (3), (f).)

While the Board believes the VCPR is essential for consumer and animal protection, the danger posed by the current pandemic increases the risk for unnecessary exposure to or transmission of COVID-19 and threatens the health and safety of California consumers and veterinary professionals. Accordingly, to enable California consumers and their animals temporary access to telemedicine veterinary services under an established VCPR for medical conditions not previously diagnosed or treated, and to protect the health, safety, and welfare of consumers, animals, and veterinary staff by avoiding unnecessary exposure to or transmission of COVID-19 for medical treatment of an animal for a condition that can be properly diagnosed and treated through the use of telemedicine under the discretion of the California licensed veterinarian, the Board requested waiver of CCR, title 16, section 2032.1, subsection (b)(3), to the extent it requires a veterinarian to have communicated with the client a course of treatment appropriate to the circumstance in order to establish a VCPR. The Board requested this waiver be effective until the end of the current State of Emergency or until January 1, 2021, whichever date is earlier.

On June 4, 2020, the Department Director issued the final waiver order, modified for clarity purposes. The order waives CCR, title 16, section 2032.1, subsections (b)(2) and (3), to the extent they require veterinarians to perform an in-person examination of the animal in order to diagnose a new or different medical condition, and communicate with the client a course of treatment appropriate to the circumstance. The waiver is conditioned upon the use of telemedicine to diagnose and treat animals in cases where a VCPR already has been established. This means that as long as the other VCPR [requirements](#) have been met to establish the VCPR, including an initial in-person examination of the animal patient, the veterinarian can use telemedicine temporarily to diagnose and treat the animal patient for a new or different medical condition. This does not mean that an in-person examination is not required to establish the VCPR; telemedicine cannot be used to establish a VCPR.

Also, because the waiver applies only in the context of telemedicine, all of the requirements for establishing a VCPR remain in place for veterinarians that continue to see patients in person, rather than by telemedicine. The waiver terminates on December 31, 2020, unless further extended.

Prescription Refills Waiver

Pursuant to CCR, title 16, section 2032.1, subsection (c), a veterinarian shall not prescribe a drug for a duration longer than one year from the date the veterinarian examined the animal and prescribed the drug. For prescriptions expiring during the current COVID-19 pandemic, consumers would have to transport their animals to the veterinary clinic for a new physical examination and reissuance of the prescription.

While the Board believes it is important to reexamine an animal patient after one year from issuance of a prescribed drug, the danger posed by the current pandemic increases the risk for unnecessary exposure to or transmission of COVID-19 and threatens the health and safety of California consumers and veterinary professionals.

Accordingly, to enable California consumers and their animals to temporarily refill drug prescriptions for a duration longer than one year from the date of the last examination and medication prescription, the Board requested temporary waiver of CCR, title 16, section 2032.1, subsection (c), so that prescriptions nearing the one-year limit can be refilled for a maximum period of 18 months after the original examination of the animal and drug prescription. In other words, the Board's requested waiver would extend the time to reexamine the animal patient by six months during this pandemic.

Consistent with the Board's requested waiver, the final waiver issued by the Department Director waives CCR, title 16, section 2032.1, subsection (c), to the extent it prohibits a veterinarian from prescribing a drug for a duration longer than one year from the date the veterinarian examined the animal and prescribed the drug, subject to the condition that any such prescription may be refilled for a total period not to exceed 18 months from the date the veterinarian last examined the animal(s) and prescribed the drug.

The Director's waiver applies to prescriptions that may not be refilled between June 1, 2020, and December 31, 2020, due to the one-year time limitation on prescription refills. This means that a prescription issued following an in-person examination last performed between June 1, 2019, and December 31, 2019, can be refilled by the veterinarian, without another in-person examination, for up to 18 months from the date of the last examination and issuance of prescription.