

“I’ve Had Enough!!!” (Or, When and How to Fire a Client), Part One

By Daniel Baxter, Esq.

In any service profession, terminating a relationship with an existing client is one of the most uncomfortable tasks a practitioner has to undertake. “Firing a client” is not only personally unpleasant, but it is often at cross-purposes with the economic interests of the practitioner. Whether the profession at issue is veterinary medicine, the practice of law, or mowing lawns, it is hard to “fire” someone who is paying you money. And, even when the client’s dereliction involves a persistent *failure* to pay, the interpersonal dynamics attendant to firing a client can be nettlesome. Adding to the difficulty is the fact that, for California veterinarians, there is no clear legal roadmap governing how a client relationship should be terminated.

Our treatment of client termination will be split into two articles. In this edition of *California Veterinarian*, we touch on general principles attending to the creation and termination of the veterinarian-client-patient relationship (“VCPR”), and discuss *when* you should fire a client. In the September/October edition of the magazine, we will provide recommendations for how you should fire a client.

Formation of the VCPR

Most California veterinarians are familiar, at least generally, with the way in which a VCPR is created. Indeed, the formation of a VCPR is not only the subject of general clinical understanding but a specific California regulation. Title 16, California Code of Regulations, Section 2032.1(b) provides that a VCPR “shall be established by the following”:

1. The client has authorized the veterinarian to assume responsibility for making medical judgments regarding the health of the animal, including the need for medical treatment.
2. The veterinarian has sufficient knowledge of the animal(s) to initiate a general or preliminary diagnosis of the medical condition

of the animal(s). This means that the veterinarian is personally acquainted with the care of the animal(s) by virtue of an examination of the animal or by medically appropriate and timely visits to the premises where the animals are kept, and

3. The veterinarian has assumed responsibility for making medical judgments regarding the health of the animal and has communicated with the client a course of treatment to the circumstance.

Notwithstanding the rather high-flown language of Section 2032.1(b), the standards set forth therein are intuitive. Has the client authorized diagnosis/treatment? Is the veterinarian in a position to diagnose/treat? Has the veterinarian assumed clinical responsibility, and communicated to the client regarding diagnosis/treatment? If the answer to all three questions is “yes,” a VCPR exists for that specific condition.

Termination of the VCPR

But what about terminating the VCPR or, more broadly, firing a client altogether for such items as payment-related problems, bad behavior, persistent non-adherence to clinical recommendations, or even simply



a lack of "connection" between veterinarian and client? Unfortunately, California law is silent as to how this is to occur. While the AVMA's Principles of Veterinary Medical Ethics contain a brief statement regarding VCPR termination, that statement does not serve as a binding standard, and the California Veterinary Medical Board rarely references the AVMA's ethical code when dealing with complaints and other issues.

The good news is that there is general consensus in California that a veterinarian may terminate a VCPR relative to a particular animal, or fire a client altogether, for just about any non-discriminatory reason. Such termination should be memorialized in writing, although in acute situations, such as when a client becomes highly abusive, the termination can and should occur "in the moment," subject to a confirming letter transmitted thereafter.

However, a mere nuts-and-bolts understanding of the ability to fire a client, and how it should be done, leaves the important questions unanswered. When should you fire a client, and how should you really do it?

When Should You Fire a Client?

Sometimes, client termination is not an open question. For example, if you have a client who is verbally or physically abusive to staff, or who makes harassing comments (e.g., race or gender-based statements, sexually-charged dialogue, etc.), then not only *should* you fire the client in order to better your workplace, but a failure to do so may, in severe cases, expose you to employment-related liability. In less emergent/clear-cut circumstances, the decision of whether to fire a client should balance such considerations as, among others, the economic impact of the termination, against your

tolerance for the client's (or, as the case may be, the animal's) undesirable characteristics.

Perhaps the easiest way to distill the relevant considerations is as follows: "When the client initially walked in the door, if I knew then what I know now, would I have accepted his/her business in the first place?" Formulating the question in this manner takes into account the differing circumstances attending to differing clinicians. For example, if you are a just-starting-out practice owner for whom each account is economically critical, then your threshold for dealing with problem clients will likely need to be higher than the owner of a well-established practice with hundreds of accounts and constant appointment backlog.

No matter who you are, however, if your answer to the above question is "no," then this author respectfully suggests the analysis is complete. While terminating a client is a momentarily-unpleasant task, it is preferable to indefinitely continuing a relationship that, on balance, produces more angst than benefit. Moreover, if the client has repeatedly engaged in the same bad conduct (be it a failure to timely pay, undesirable in-office behavior, a failure to follow post-treatment directives, or anything else), it is folly to hope for any significant improvement going forward. Severing the relationship in such instances is the cleanest and best way for you to seize control of the situation.

With these concepts in mind, the next question is *how* to go about firing a client; more specifically, what is the best way to cut the cord, balancing the need to discontinue a suboptimal relationship with diplomacy, tact, and consideration? We will address this subject in the next edition of *California Veterinarian*. ■

Daniel Baxter, Esq.



Mr. Baxter joined Wilke Fleury, Hoffelt, Gould & Birney, LLP in 1999 and has been a partner since 2007. His practice focuses on business litigation and trial work, as well as civil writs and appeals. He also provides general counsel to clients ranging from non-profit organizations and small business to publicly-traded corporations. Mr. Baxter has represented the CVMA in various matters over the years, and has assisted in the CVMA's efforts to prevent municipal interference with the practice of veterinary medicine. Mr. Baxter is part of the CVMA's Legal Services Program, a program designed to assist CVMA members with workplace safety, legal issues, and laws and regulations that affect the veterinary profession.