

Now You ‘C’ It, Now You Don’t: Defining the Client in the VCPR

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The Veterinarian-Client-Patient Relationship, or “VCPR,” is the Holy Grail of the practice of veterinary medicine. Business and Professions Code section 4826.6(a) definitively states that a “veterinarian shall not prescribe, dispense, or administer a drug, medicine, application, or treatment of whatever nature for the prevention, cure or relief of a wound, fracture, bodily injury, or disease of animals unless a veterinarian-client-patient relationship exists.” Simply put, with limited exceptions, a veterinarian cannot practice veterinary medicine without a VCPR. Although the “P” and the “V” of this relationship are clear, the “C” was not previously defined by statute or regulation. Effective January 1, 2024, Section 4826(a) provides some clarity as it defines the “Owner” as the “Client,” but it also creates ambiguous situations.

Prior to the passage of AB 1399 in 2024, California Code of Regulations Title 16, section 2032.1 was California’s VCPR law. It enumerated the requirements to establish a VCPR and provided that the client was the person (a) who authorized the veterinarian to make medical judgments regarding the care of the animal, and (b) with whom the veterinarian communicated about the condition being diagnosed and treated. Since the regulation did not mention ownership of the animal as a factor in determining “Client” status, it was implied that the individual who presented the animal for care and asserted that they had the responsibility for the animal was, in fact, the “Client.” This loosely defined process provided the practitioner flexibility to exercise judgment. Unless the veterinarian had reason to question the ostensible authority of the person presenting the animal for care, they could be relatively comfortable that the “C” component was satisfied.

Assume a breeder, who is not a dog’s owner, rushes the dog to the breeder’s veterinarian, who recommends and performs an emergency cesarian section. The dog’s owner calls the veterinarian for a status report and is advised by the veterinarian’s office that they will not speak to her despite her accurate claim of ownership of the animal. The breeder had asserted herself as the person in charge of the dog’s health and, prior to January 1, 2024, was the “Client.” Arguably, the disclosure of information to the owner would have been a violation of the privacy rules of Business and Professions Code section 4857, which provides that the veterinarian shall not disclose any information concerning the animal patient without the

written or witnessed consent of the “Client,” who in this case is the breeder. Effective January 1, 2024, Business and Professions Code section 4825.1 defines the “Client” as the “individual or individuals who represent that they are the **owner or owners** of the animal patient at the time that the services are provided” (emphasis added). This places an affirmative burden on the treating veterinarian to determine that the “Client” is the “Owner” of the animal.

How far does the veterinarian have to go to confirm ownership? Animal ownership is rarely documented. In many instances, ownership of an animal is not transferred by a bill of sale, an ownership certificate, or a title document. Even an American Kennel Club registration, although indicative of ownership, is not proof of ownership. Unless there are facts that raise suspicion, a veterinarian should be able to accept an affirmative representation of ownership. If the veterinarian has information to the contrary, however, the veterinarian has a duty to perform a reasonable follow-up to better determine who the client actually is. It is most important that the medical records supporting the establishment of the VCPR also support the basis for determining the identity of the Client.

As of January 1, 2024, there is the additional question of agency. Business and Professions Code section 4826.6 expressly provides that the “Client,” who by definition is the “Owner,” may authorize an agent to act on their behalf for purposes of authorizing the veterinarian to assume responsibility for medical judgments and communicate with the veterinarian to establish a VCPR and approve a medical plan. While not expressly required by law, it is best that this agency appointment be in writing. An agency relationship, however, may be established orally or may be implied in fact. Thus, the establishment of the “C” in the VCPR may return to the reasonable judgment of the veterinarian regarding the nature of the agency relationship. Again, it is of paramount importance that the basis for this determination be included in the medical records.

The owner does not have to be physically present to establish a VCPR, authorize care, or appoint an agent. These acts can be taken telephonically or electronically and should be documented in the records.

Defining the owner and the “C” creates some practical issues. Consider:

- **Neighbor/pet sitter** – A neighbor or pet sitter presents the animal for care for a new condition that you have not treated before in this patient. You have a long-time relationship with the owner and are confident that you know what action the owner would instruct you to take. The owner is out of the country and cannot be reached. Can you treat the animal? Following the letter of the law, no. The VCPR cannot be established. If the neighbor or pet sitter claims they were provided authority to care for the pet, that may be enough to imply that they were appointed as the owner’s agent. It is not clear and becomes a judgment call.
- **Unknown owner** – The person presenting the pet claims that they do not know the identity of the owner of the animal, and you have never treated this animal. Business and Professions Code section 4826.6(a) excepts the “C” from the VCPR if the owner is unknown and you may treat the animal. The irony is that you can treat the animal if the owner is unknown, yet you may not be able to treat the animal if you know the owner and have previously treated the animal, but have not established contact with the owner or an agency relationship for purposes of the VCPR for the new condition being treated.
- **Breeder/owner** – In the breeder/owner scenario referenced on the prior page, the roles are now switched. The breeder could not authorize the cesarian section without an appointment as the owner’s agent. What if the owner could not be reached?
- **Minor** – The 17-year-old daughter of the owner presents the animal for care. You know the family well. Nevertheless, as she is a minor and does not have the power to contract, she cannot be an agent and cannot authorize treatment even with a note from her parents.

It should be noted that the establishment of a “Client” is not necessary to establish a VCPR for a wild animal. Further, a veterinarian is not required to treat an animal, whether wild or a stray pet, and may send these animals to municipal animal service authorities. And of course, emergency treatment can also be rendered in absence of a “Client.”

The new definition of a “Client” limits but does not eliminate the due diligence of the veterinarian or the exercise of reasonable judgment. The focus should now be on establishing a reasonable understanding of the ownership of the animal and any appointment of an agent to act on the owner’s behalf. Steps to consider implementing include:

- Incorporating affirmative representations of ownership on intake and authorization forms;
- Encouraging the owner to appoint agents to act on their behalf in advance by providing spaces to do so on intake or information forms;
- Offering an agency appointment and authorization form to owners;

- Including in authorization forms that agents may both authorize treatment and commit the owner to pay the charges associated with that treatment;
- Contacting the owner whenever an animal is presented for care by someone other than the owner;
- When not reasonably assured that the individual presenting the animal is the owner or an authorized agent, declining to treat the animal; and
- Routinely documenting in the medical record the establishment of the “C” in the VCPR by specifying the name of the person who presents the animal for care, and retaining additional documentation if the person is a client (owner) agent.

In summary, defining the “Client” to be the “Owner or Owners” of the animal focuses the scope of the inquiry to determine if the individual requesting medical services has standing to establish a VCPR. The veterinarian must continue to use reasonable diligence in determining this status. Further, and perhaps most importantly, the veterinarian must continue to document the medical files to support that the VCPR was reasonably established. ■

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Steve Marmaduke will be presenting on Laws and Regulations in the Workplace at the Pacific Veterinary Conference on Sunday, July 14.

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