

# Five Common Regulatory Misconceptions

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**A**s the CVMA's Director of Regulatory Affairs, I speak daily with veterinarians and staff about compliance with the various state and federal laws pertaining to California veterinary practice. The following are some of the most common misconceptions encountered during those consultations.

**1. "We have seen the animal within the last year, so our Veterinarian-Client-Patient Relationship (VCPR) is current."**

California Code of Regulations, Title 16, section 2032.1 defines the requirements of a valid VCPR. The California Veterinary Medical Board (VMB) has clearly stated that a VCPR must be established by the veterinarian for each particular condition that they treat (often referred to as the "condition-specific" requirement). For instance, if an animal patient has an appointment for vaccines in January, the veterinarian performs an appropriate examination and communicates with the client at that time in order to give the vaccines. Thus, a VCPR is established for this treatment. But if the same animal patient is limping in March, the veterinarian cannot advise, prescribe, or provide treatment for that condition

until a VCPR has been established by virtue of a personal examination of the animal and communication with the client. The fact that the animal was seen a couple of months prior is irrelevant, since the VCPR established at that time was for vaccinations and not lameness. Thus, a veterinarian may have several VCPRs for one patient. The only time that a fixed, "one year" time period is relevant to a VCPR is in relation to prescribing medications. Section (c) of the aforementioned regulation states that a drug shall not be provided for a duration inconsistent with the medical condition and type of drug, and never for a period longer than one year from the date that the veterinarian examined the animal and prescribed the drug.

**2. "I don't have a hospital, so I do not need a premises permit."**

California Business and Professions Code (B&P Code) section 4853 states, "all premises where veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof is being practiced shall be registered with the board." The statute then states, "'Premises' for the purposes of this chapter shall include

a building, kennel, mobile unit, or vehicle.” Accordingly, premises permits must be maintained for all of the aforementioned facilities, whether fixed or mobile.

**3. “It is permissible for our practice to designate RVTs as ‘veterinary nurses’ and unregistered assistants as ‘veterinary technicians’.”**

The law only recognizes “registered veterinary technicians/veterinary technicians/R.V.T.” and “veterinary assistants” as titles for staff in veterinary practices. While the CVMA supports the Veterinary Nurse Initiative, which seeks to retitle RVTs as veterinary nurses, B&P Code section 680(a) currently limits the term “nurse” to the human healthcare field. Also, B&P Code section 4839.5 reserves the titles “registered veterinary technician,” “veterinary technician,” and “R.V.T.” for those who are actually permitted and registered with the VMB as such. All references to non-RVT staff in the practice act refer to the term “veterinary assistant.”

**4. “Another practice called for a patient’s record, so we can send it over.”**

The B&P Code defines the terms of client/patient confidentiality by which a veterinarian must abide. With few exceptions (such as a subpoena, court order, or mandated reporting law), a veterinarian is obligated by law to obtain a client’s permission to release any information to a third party before doing so. Therefore, if a practice calls to request a record, it is the legal obligation of the veterinarian in possession of the record to verify with the client that the record may be released. The law identifies the ways that a veterinarian may obtain authorization from the client.

**5. “We can have one DEA number for our hospital that all the doctors can share.”**

According to Title 21 of Code of Federal Regulations, Section 1301.22(b), the use of one DEA number by all practice veterinarians is permitted for administering and dispensing controlled substances, but not for prescribing them.

In veterinary practices, drugs (including controlled substances) are administered when used “in house”

from the hospital stock for procedures and treatments performed on a patient. Drugs are dispensed when a veterinarian sends a client home with a supply to use from the hospital stock. Drugs are prescribed when a veterinarian gives a written authorization to a client to be filled at a pharmacy, or when a veterinarian provides verbal instructions to a pharmacy on a patient’s behalf. It is unlawful for one veterinarian to use another veterinarian’s DEA number or controlled substance prescription pad when prescribing.

According to California law, clients have the right to a written prescription in lieu of dispensed medication. Specifically, California Business and Professions Code section 4170(a)(6)-(7) states: “No prescriber shall dispense drugs or dangerous devices to patients in their office or place of practice unless the prescriber, prior to dispensing, offers to give a written prescription to the patient that the patient may elect to have filled by the prescriber or by any pharmacy and the prescriber provides the patient with written disclosure that the patient has a choice between obtaining the prescription from the dispensing prescriber, or obtaining the prescription at a pharmacy of the patient’s choice.”

California Code of Regulations, Title 16, Section 2032.1 - Veterinarian-Client-Patient Relationship (VCPR) states that it shall constitute unprofessional conduct for a veterinarian to, among other things, prescribe a drug to a patient without first examining the patient and communicating to the client a course of treatment appropriate to the circumstance. In applying this law to veterinary practices where only one doctor has a DEA registration number, the DEA registrant cannot write prescriptions for patients without a VCPR. If the VCPR is established by another doctor, it is incumbent upon that doctor to be able to provide a prescription, and hence have their own DEA registration number.

The CVMA offers member benefits to help veterinary professionals with regulatory and legal matters including regulatory consultations—available by calling or emailing the CVMA—and 30 minutes of free legal consultation each month to member veterinarians. The legal consultation includes license defense/Veterinary Medical Board issues, employment law, and general business law. The member benefit may be accessed on [cvma.net](http://cvma.net) or by calling the CVMA. ■

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