

Prescriptions



by Peter Mundschenk, DVM, CVMA Director of Regulatory Affairs



I would like to thank all the readers for the questions and comments over the last few years on my articles. I will be leaving CVMA to pursue other opportunities and so wish everyone well in their practices while remembering to be diligent with compliance and vigilant against unlicensed activity.



There have been many questions lately about prescriptions, and the ability to charge for a written prescription given to the client.

What are prescription drugs?

Prescription drugs are defined under the Business and Professions (B&P) Code in California as “Dangerous Drugs,” which means any drug unsafe for self-use in humans or animals. They include the following:

- Any drug that bears the legend: “Caution: federal law prohibits dispensing without prescription”, “Rx only”, or words of similar import.
- Any other drug that by federal or state law can be lawfully dispensed only with a prescription.

Stipulations

Veterinarians are the only health care professionals who are legally allowed to prescribe, dispense or furnish dangerous drugs to animals, after meeting certain requirements.

1. Establish a VCPR

Except where the patient is a wild animal or its owner is unknown, it shall constitute unprofessional conduct for a veterinarian to administer or prescribe a drug, medicine, appliance, or application or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture or bodily injury or disease of an animal without having first established a veterinarian-client-patient (VCPR) relationship with the animal patient or patients and the client. It shall also constitute unprofessional conduct for a veterinarian to prescribe, dispense, or furnish a veterinary drug, without having first established a veterinarian-client-patient relationship with the animal patient or patients and the client. [Section 2032.1 of the California Code of Regulations]

A veterinarian-client-patient relationship shall exist when all of the following occur:

(1) The veterinarian has assumed responsibility for making medical judgments regarding the health of the animal(s) and the need

for medical treatment, has discussed with the client a course of treatment and if applicable has instructed the client as to the appropriate directions for administering the drugs or treatments.

(2) The veterinarian has sufficient knowledge of the animal(s) to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s). This means that the veterinarian has recently seen and 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) A dangerous drug or a veterinary drug shall not be prescribed for a duration which is inconsistent with the animal patient’s medical condition or type of drug prescribed which in no event shall exceed more than one year from the date that the veterinarian has examined the animal patient and prescribed such drug, unless the veterinarian has conducted a subsequent

examination of the patient to determine the patient's continued need for the prescribed drug.

2. Conditions to Meet for Dispensing Drugs

Section 4170 of the B&P code states: *no prescriber shall dispense drugs or dangerous devices to patients in his or her office or place of practice unless all of the following conditions are met:*

(1) *The dangerous drugs are dispensed to the prescriber's own patient.*

(2) *The dangerous drugs or dangerous devices are necessary in the treatment of the condition for which the prescriber is attending the patient.*

(3) *The prescriber does not keep a pharmacy, open shop, or drugstore, advertised or otherwise, for the retailing of dangerous drugs, dangerous devices, or poisons.*

(4) *The prescriber fulfills all of the labeling requirements imposed upon pharmacists by Section 4076, all of the recordkeeping requirements of this chapter, and all of the packaging requirements of good pharmaceutical practice, including the use of childproof containers.*

(5) *The prescriber does not use a dispensing device unless he or she personally owns the device and the contents of the device, and personally dispenses the dangerous drugs or dangerous devices to the patient packaged, labeled, and recorded in accordance with paragraph (4).*

(6) *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.

(7) *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.*

Finally, according to B&P Sections 4170 (6) and (7) it is the client's right to get the prescription filled at the pharmacy of their choosing whether that be from the veterinarian or from the local pharmacy or an Internet pharmacy.

While the law is specific in the fact that you must have a valid VCPR to dispense or write a prescription for dangerous drugs to a client for the animal patient, it is less clear on the subject of charging for a prescription. Under subsection (a)(6) of 4170, it states that the prescriber must offer to give a written prescription that the client can have filled by the prescriber or by any pharmacy. The pharmacy board inspectors have stated that the wording "to give" implies that it is a "gift" and the client cannot be charged for the prescription. The Veterinary Medical Board has determined that a sign in the public area notifying the client of their right to request a written prescription is sufficient to fulfill the written disclosure requirement under subsection (a) (7) of 4170. The CVMA sells a plaque regarding "Prescription Drug Dispensing" that fulfills the subsection 7 requirement – go to www.cvma.net / Products.