Regulatory Issues with Selling, Closing or Consolidating a Practice

By Peter Mundschenk, DVM, Director, Regulatory Affairs, CVMA

Many issues could affect your veterinary license in California during the sale, consolidation or closing of a practice. The biggest issues are what to do with the drugs in the hospital, and how to deal with the client records to comply with state regulations (section 2032.3 of the California Code of Regulations [CCR]).

Controlled Drugs
The U.S. Department of Justice’s Drug Enforcement Agency (DEA) regulates controlled substances. During the sale or consolidation of a practice, the DEA registrant should dispose of all outdated scheduled controlled drugs through a reverse distributor. All the schedule II drugs should be transferred to the new owner using a DEA Schedule 222 form. All schedule III-V drugs can be transferred by an invoice showing the numbers of the DEA registrants selling and obtaining the drugs. Both parties need to keep these selling documents, with the controlled inventory log, for three years to comply with the California Department of Justice (note: the selling veterinarian must keep their controlled inventory log for three years).

If the practice closes, voluntarily or by financial foreclosure, the registrant needs to change their registration address with the DEA. They then can transfer the drugs either to the new address, or dispose of them through a reverse distributor. All documentation should be kept for three years.

Per the Controlled Substance Act, drugs can be transferred only between registrants. If a financial firm considers drugs part of the collateral and takes possession of them during a foreclosure, it would be considered diversion by the DEA and the registrant could lose their registration and ability to practice. An attorney should be involved in any financial foreclosure, and be consulted if the financial institution takes possession of the drugs.

Medical Records
What about medical records during the sale or closure of a veterinary practice? In a sale, the medical records stay with the practice. Per CCR section 2032.3, records need to be available for three years after the animal’s last visit. According to section 4856 of the Business and Professions Code: “A copy of all those records shall be provided to the board [VMB] immediately upon request.”

There should be an agreement between the buyer and seller that if the seller needs a copy of the records, they would be able to obtain them to send to the VMB or to a client who requests a copy of their pet’s record. If the practitioner transfers the records to another hospital, it would be wise to have an agreement with this hospital to keep the records confidential to the buyer and seller, with the seller having access to the records if needed, and that either a copy of the records, or a summary of the findings, would be available to the client during the three-year period after the sale.

When a practice closes, records need to be available to pet owners, or to the hospitals where the owners will be taking their pets. The veterinarian can inform owners of the closure and provide them with a copy of the records or contact information to the hospital where the records have been transferred.

Financial institutions will consider medical records collateral, yet veterinarians need to keep some control over the disposition of the records. Work with an attorney to make sure that the financial institution has signed an agreement stipulating that they and all assignees will make a copy of the records available to the client and the VMB upon request, and provide a copy to the original veterinarian, if needed.

When selling, closing or consolidating a practice, there are also issues concerning employee records and taxes that you should discuss with your lawyer and accountant.