

Joint Policy Statement on Pet Shops

December 9, 2004

Issued in Cooperation between the Board of Registration in Veterinary Medicine and the Department of Agricultural Resources

This joint policy statement is issued in a cooperative effort between the Department of Agricultural Resources (Department) and the Board of Registration in Veterinary Medicine (Board). It is in response to information received by these agencies in the course of their operations. It has become increasingly apparent that there is a misunderstanding with regard to the standard of care that is required to be given to animals and their consumer owners in the pet shop industry. This joint statement is intended to clarify the standards of professional practice and services that are expected of all professionals and businesses and to which they will be held accountable by their respective licensing authorities.

GENERAL STANDARD OF PRACTICE FOR VETERINARIANS

All veterinary professionals are expected to meet the criteria and ethics mandated by law in the conduct of the veterinary services rendered. This includes maintaining a current license in good standing. See 256 CMR 7.01. While much of the information is codified at Chapter 256 of the Massachusetts Code of Regulations, there may well be additional relevant local, state and federal laws, rules and regulations for which the veterinary professional will also be accountable. See 256 CMR 7.01(2)(c). No veterinary professional will be excused from compliance with all requirements.

Licensing and Operation of Pet Shops 330 CMR 12.00 regulate pet shops.

RELATIONSHIP WITH PET SHOPS

Veterinary Professionals are not relieved from their professional responsibility to conform to the currently accepted standards of practice in the profession, by virtue of their employment by a Pet Shop or any other employer or corporation. It is the responsibility of the veterinary professional to maintain a clean and sanitary service area, equipment and attire. See 256 CMR 7.01(2)(i). Likewise, it is a violation, for which the veterinary professional will be held accountable, to aid or abet the unlawful, substandard practice of veterinary medicine.

The use of acceptable diagnostic testing and appropriate treatments, surgeries and follow-up care in the pet shop shall be recommended as it would in any other veterinary situation.

THE VETERINARIAN-CLIENT-PATIENT RELATIONSHIP

Many of the responsibilities of a veterinary professional are invoked when a relationship is established between the veterinarian and his or her patient and client. It is crucial therefore, to understand that the elements of a veterinarian relationship include:

1. When a veterinarian has assumed the responsibility for making medical judgments regarding the health of (an) animal(s) and the need for medical treatment, and the client, who is the owner of the animal(s) or animal's caretaker has agreed to follow the instructions of the veterinarian;
2. When there is sufficient knowledge of the animal(s) by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s); and,
3. When the practicing veterinarian is readily available for follow-up in case of adverse reactions or failure of therapy.

Such a relationship can only exist when the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal(s) by virtue of examination of the animal(s), and/or by medically appropriate and timely visits to the premises where the animal(s) are kept. The Board will scrutinize the medical records of the animal(s) and the routines of the veterinarian to determine whether such a relationship exists. Failures on the part of its licensees to fulfill their professional responsibilities regarding proper veterinarian-client-patient relationships will be disciplined.

In the pet shop setting, the three-pronged analysis needs to be applied when ownership of the animal is transferred. The relationship with the new owner needs to be established.

EXAMINATIONS AND RECORDS

256 CMR 7.01(2)(g) requires that the veterinarian have personal knowledge of the animal(s) through an actual examination before he or she can issue a certificate of health. Examinations must be thoughtful and complete and the requisite time should be allotted to ensure that all examinations are conducted in a thorough manner. The results must be documented and maintained in accordance with law and regulation.

At the very least a typical examination involves: 1) An inspection of, or "looking" at, the animal; 2) Palpation, or a "feeling" with the hands, to examine the size, consistency, texture, location, and tenderness of the organs or body parts; 3) Auscultation, "listening" through a stethoscope, to the patient's lungs, heart and intestines, to evaluate the frequency, intensity, duration, number, and quality of sounds, and, 4) Vital signs, such as heartbeat, breathing rate, and temperature, should all be observed, measured and recorded.

A veterinarian is responsible for maintaining a separate record of each examination conducted on each animal examined. See 256 CMR 5.02. The only exception to this rule that the Board will recognize is the medical records that are required to be kept for groups of animals that are treated as a group. The Board will not recognize the examination of animals at pet shops or for the purposes of transportation to pet shops as a group.

Veterinarians must assure that records are properly maintained. Currently, veterinarians are required to keep records for a period of 4 years and Pet shop regulations require that records be kept for a period of 12 months after the date of purchase, sale or give away of the dog, cat or psittacine bird. Please see 330 CMR 12.09(1) (d) and (e).

MEDICATIONS

In the case of dispensing and/or prescribing medications, the Board will always make an initial determination of whether there is a valid veterinarian-client-patient relationship. This will serve as the basis for the valid dispensing and/or prescription of controlled substances for the benefit of the animal. See 256 CMR 7.01(2)(e).

The Board also expects that all veterinarians will familiarize themselves and remain in compliance with all local, state and federal requirements, relative to the handling, dispensing and labeling of drugs and medications. See 256 CMR 5.02. Drugs and medications dispensed for specific animals shall be for specific veterinary medical problems. For groups of animals, dispensing shall be done judiciously and with an appropriate medical basis.

In the pet shop setting the veterinarian is required to make a diagnosis and prescribe medication for a specific animal. For example, the label information should include the identity of an animal through the use of an appropriate identification system (i.e., microchip number or other corresponding information).

Veterinarians caring for animals in a pet shop shall not declare an animal fit for sale while it is receiving a prescribed course of medication. For example, if the veterinarian has prescribed medication for a period of 7 days, the veterinarian must examine the animal after the completion of the 7-day course of medication and determine if it is healthy and fit for sale.

MGL c. 94C, Sec. 7 requires a Massachusetts Controlled Substances Registration in order to prescribe, dispense, administer or possess a controlled substance. A U.S. Drug Enforcement Administration Registration is required for controlled substances in Schedules II-V. Massachusetts' law also recognizes as controlled substances those prescription drugs that are not federally scheduled (Schedule VI).

Most practitioners need to register only their primary place of business. However, storing controlled substances at additional locations, such as pet shops, requires additional registrations. Medication must be dispensed for the individual animal.

Access to all controlled substances is limited to licensed, authorized persons. All controlled substances in Schedules II-V must be in a double-locked, permanently affixed cabinet or medication cart with a perpetual inventory. Controlled substances in Schedule VI must be in a locked medication room or closet.

At no time may a pet shop, pet shop employee or other non-veterinarian prescribe or dispense medication to a pet shop customer.

CONFLICT OF INTEREST

Veterinary professionals must be cognizant of the prohibitions against conflicts of interest when treating pets after their transfer (barter, exchange, adopt out, give away or otherwise transmit ownership of an animal to someone other than the pet shop)

The Board will hold veterinary professionals accountable for conflict of interest breaches. Veterinarians who have pet shops as clients need to identify the client and pet shop animals versus personally owned animals. The client may be the pet shop as a corporation or a d/b/a (individuals doing business as).

The veterinarian must identify his/her client and assure that the veterinary-client-patient relationship is not compromised by a conflict of interest. When a veterinarian has a pet shop as a client, the veterinarian must understand that all the pet shop animals are patients of the veterinarian. Upon the transfer of a pet shop animal the acquirer of the animal becomes the owner and the pet shop no longer is an owner. Upon the transfer of the pet shop animal the veterinarian may not maintain a veterinary-client-patient relationship during any warranty period.

Animals not owned by the pet shop and requiring monitoring, must be housed and treated at a veterinarian facility. If a pet shop is owned by a corporation, the corporation is the owner of the animal. The Veterinarian may direct treatment of animals owned by the pet shop, at the pet shop.

Veterinarians must assure that they do not foster the unlicensed practice of medicine by not identifying the true owner of the animal.

PET SHOPS

Pet Shops are required to be licensed under the laws of the Commonwealth. In order to maintain a license in good standing, pet shops will be required to work with their veterinary medical staff to ensure compliance with all local, state and federal requirements, as well as conformance with generally accepted, current practice standards within the field of veterinary medicine. The Department will not relieve Pet Shops from these requisite business and medical practices solely for economic reasons. When the health, safety or welfare of animals or the public is found to be compromised, then Pet Shops will be subject to appropriate disciplinary actions, which may include administrative penalties, suspension or revocation of licensure.

Pet shops employing veterinarians to examine animals within the pet shop facility must provide veterinary medical staff with the adequate resources to comply with the law, including, but not limited to clean and sanitary conditions, access to animals for proper and regular examination, sufficient time to conduct proper examinations, allow for proper dispensing of prescription medicines and controlled substances, resources for maintenance of medical records and for the examination, diagnosis and treatment of animals within the custody and control of the pet shop.

It is expected that veterinarians working for pet shops will establish valid client/veterinarian relationships and be active participants in the establishment of medical protocol and bio-security practices to protect both human and animal health. The protection of human and animal health will be achieved through the veterinarian's awareness and involvement with the pet shop.

The Department will inspect and review business practices for complicity with veterinary professionals in violations of controlling laws, rules and regulations. Such complicity that compromises the health, safety and welfare of animal health or the public or renders an animal sick or diseased will lead to appropriate disciplinary action, including administrative penalties, suspension or revocation of licensure. See 330 CMR 12.00.