The Importance of Medical Records and Informed Consent

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Importance of Medical Records

In face of these litigious times, veterinarians are seeking methods to limit their liability and transfer the responsibility of medical decision-making to their clients. The one method that has been ignored for far too long is the proper and complete documentation of patients’ medical information and client communications. We know this to be true, because the large majority of sanctions imposed by veterinary state boards, are a result of medical record keeping violations. For example, of 51 disciplinary actions taken by the Florida board of Veterinary Medicine between Oct. 2001 and Oct. 2003, 53% involved a failure to maintain proper records.

The medical record is an evidentiary document generated for the main purpose of communicating to others what was done, why it was done and if not done, why it was not done. The information within medical records must explain and substantiate a veterinarian’s actions or omissions. By way of example, the Pennsylvania Practice Act under section 31.22 states this clearly,

“Veterinary medical records serve as a basis for planning animal care and as a means of communication among members of the veterinary practice. The records furnish documentary evidence of the animal’s illness, hospital care and treatment and serve as a basis for review, study and evaluation of the care and treatment rendered by the veterinarian . . .”

The shortcomings of most medical records is that they neither contain sufficient information to access the veterinarian’s actions or inactions nor is the information presented in such a way that the reader can follow the cognitive reasoning of the veterinarian. Additionally, rarely do veterinarians record clients’ refusals to follow their recommendations or clients’ non-compliance with important treatments and follow-ups. And even if some of this information is documented, far too frequently, it is rendered meaningless because it is illegible.

MEDICAL RECORD INFORMATION

Medical records typically encompass the patient records of individual pets, but also include the business and legal documents of the hospital, such as, estimates, invoices, hospital handouts, financial

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records, and all logs. The amount and type of information recorded, should be consistent with the level and complexity of the services rendered. The first place to look as to what is required is in your state’s practice act, which will stipulate what is required. Another good comprehensive resource is the American Animal Hospital Association (AAHA) guidelines for an accredited hospitals on the AAHA website.

State Practice Acts vary, but as a general rule, they require:
1. Separate record for each patient
2. Accuracy – the vet is responsible for this, even if use dictation
3. Complete – normals, abnormals, AND not examined
4. Legible – can dictate, doesn’t have to be your handwriting
5. Unalterable – set lock-up time and don’t alter original after
6. Easily accessible/retrievable
7. Retained for 3-5 years

Generally, The most common information veterinarians fail to include in the medical record is communications with clients, staff and colleagues regarding the care of the patient. This is likely because when the communication occurs, the medical record is nowhere to be found and most practices are just not sufficiently well organized to make locating the record any easier than finding a needle in a haystack. Fortunately, advances in computer and intercom technology are helping reduce this administrative nightmare. As to information that should not be recorded, under no circumstances should medical records include derogatory statements about clients, patients or colleagues, as such comments invariably come back and crush the credibility of the author.

**PATIENT MEDICAL RECORD INFORMATION**

1. Client admission forms – client (name, address, contact info) & patient ID (name, species, age, sex) – emergency contact person & contact info

2. Medical History & Treatment chart
   (1) Date & Time of hospital visit
   (2) Vaccination & Medical History, Chief Complaint
   (3) Physical Exam – abnormal & normal, not examined - weight
   (4) Diagnosis – master problem list w/diagnosis, w/ prognosis if applicable
   (5) Treatment – Medical & surgical, medications (dosages in mg, not ml) – include all options, let clients make treatment decisions and have sign off on them
   (6) Final assessment of patient
   (7) Home care instructions to clients

3. Client consents – include recommendations, requests contrary to recommendations, refusals/acceptance of recommendations
4. Reports/Communications
   (1) Radiographs, lab data, surgical and dental reports
   (2) Client education materials – preventative healthcare list/professional advice rendered
   (3) Client communications/correspondence
   (4) Colleague communications

5. Large Animal Specific
   (1) Conversation Logs, date & time & summary of discussion
   (2) Dates & dosages of all medications administered to animals, including route of
       administration & concentration of dosages, withdrawal periods
   (3) Instructions left with clients
   (4) Feed additives prescribed with dosages and withdrawal periods
   (5) Documentation that the client understands the requisite withdrawal periods
   (6) Procedures used to prevent transfer of zoonotic disease from one farm to another
   (7) ID of all treated animals – encourage producers to permanently ID
   (8) Recommendations to clients of potential contamination risks – observations &
       conversations

CONFIDENTIALITY AND RELEASE OF MEDICAL INFORMATION:

Protecting personal information of clients is an ethical duty for all veterinarians, and a legal
duty in about 22 states. For example, Illinois Practice Act, 225 ILLCS 115/25/17, stipulates: “No
veterinarian shall be required to disclose any information concerning the veterinarian’s care of any
animal except on written authorization or other waiver by the veterinarian’s client or an appropriate
court order or subpoena….When communicable disease laws, cruelty to animals laws, or laws
providing for public health or safety are involved, this privilege is waived.”

The 2002 revision of the AVMA Principles of Veterinary Medical Ethics under Principle II (L)
states, “Veterinarians and their associates should protect the personal privacy of patients and clients.
Veterinarians should not reveal confidences unless required to by law or unless it becomes necessary
to protect the health and welfare of other individuals or animals.” Even in those states which do not
have explicit prohibitions on divulging client confidential information, veterinarians should still
exercise caution before revealing client information to a third party. Always attempt to obtain the
client consent and in cases of emergency such as when the health of a person or pet is at risk, be sure
there is a paper trail, which justifies the disclosure of the confidential information.

To maintain confidentiality of medical records, veterinarians must establish specific procedures
for the release of information and adhere to them. Generally, it is preferable to send copies of medical
records directly to follow-up veterinarians. The use of a release form simplifies this process.
REQUEST FOR RELEASE OF MEDICAL RECORDS

To: [Insert practice name and address of sender]

I, the owner of or agent for the animal(s) named [insert pet(s) name(s)], hereby request that copies or summaries of the medical records of these animals be released to [Insert recipient practice name, doctor name, address, telephone and fax]

Owner's signature: ___________________ Date: ______________

Payment of $ ______ is provided/enclosed for you to photocopy and mail this information as directed.

CONCLUSION

Relative to other professionals, veterinarians as a whole have had few state board complaints and negligence lawsuits filed against them. This has led to an industry wide problem of complacency with respect to medical record keeping practices. Unfortunately, with the rising interest in animal law related issues, veterinary professions will need to adopt practices that ensure their medical records are complete, accurate and easily accessible.

Additional References:
JAVMA Vol 198; #1; 1/1/91; pg 67
JAVMA Vol 197; #1; 7/1/90; pg 48
JAVMA Vol 178; #3; 2/1/81; pg 202
JAVMA Vol 172; #2; 1/15/78; pg 176

Importance of Informed Consents

In face of these litigious times, veterinarians and other professionals are seeking methods to limit their liability and transfer the responsibility of decision-making to their clients. One such method is for veterinarians to require clients to sign consent forms before providing professional services.

Consent forms are evidentiary documents that serve to prove that clients agreed to professional services after having been informed of the medical procedure, its risks and probable outcomes. Veterinarians use these forms to defend themselves against actions in negligence brought by dissatisfied clients and to collect unpaid fees from clients who claim that the services were not authorized. Consent forms help ensure that clients understand the contemplated medical procedure and agree to have it performed on their animals.
There are several types of provisions which address this area and practitioners should be aware that “Informed Consents” may not be the same as Authorizations” or “Releases.” Authorizations are similar to informed consents in that the clients have authorized the contemplated procedure but differ in that such consents have been obtained without an explanation or understanding of the risks involved.

As a general rule, releases exempt veterinarians from liability for injury due to their actions whether negligent, willful or fraudulent. These forms are commonly signed by those who engage in “risky” recreational activities, such as skiing, horseback riding and scuba diving. Some states, such as California, do not enforce such provisions on the grounds that they are against public policy. Veterinarians should check with their local attorneys on the enforceability of such clauses before using them in their practices.

The Consent Must Be “Informed”

Veterinarians and their staff must do more than just present consent forms to their clients to sign. It is not enough for clients to agree to have their animals undergo a medical or surgical procedure; they must also understand the consent they are giving. “Informed” means the clients acknowledge that they have been apprised of feasible alternatives and the possible adverse affects which might arise from the procedure. Veterinarians may be responsible for damages in cases where clients convince judges that they have signed consent forms without understanding their ramifications.

While it is not necessary for veterinarians to provide their clients with mini-courses in veterinary medicine, they are required to provide enough information about the risks that would materially affect a “reasonable person's decision” to have his or her pet undergo the contemplated procedure. Furthermore, veterinarians need not disclose risks that are already known to clients or risks which are unknown to the veterinary community. In deciding whether they have provided their clients with enough information about the proposed procedure, practitioners should ask themselves, “have we discussed this to the point that a reasonable client would be able to make an informed decision?”

In deciding what to tell clients, veterinarians should explain at least the following:

2Id. at 55.

3This standard is extrapolated from that which is required of physicians in New Jersey, see Largey v. Rothman, 110 N.J. 204 (1988). Readers should note that states differ on what standard is used to determine whether physicians provided their patients with enough information about the risks associated with the contemplated procedure.

The contemplated procedure in **non-technical language**.

- The medical and surgical **alternatives** to the proposed procedure, regardless of whether you think your clients can afford the alternatives.
- The availability of **specialists** and second opinions.
- The **expected results** of the proposed procedure, including whether clients' pets will be cured or predictions of increased longevity and comfort.
- The foreseeable minor and major **complications**.
- The type, extent, and cost of **follow-up care** and who will be responsible for it.
- An **estimate** of the cost of the veterinary services.

**When Are Consent Forms Unenforceable?**

Even though veterinarians have explained everything a reasonable client may have needed to know before agreeing to a procedure and have been successful in getting a signed informed consent, there are certain circumstances when the consent is likely to be unenforceable. Such is the case when clients have based their consents on false, misleading or incomplete information. Courts also are reluctant to enforce consents signed by clients who are mentally incompetent, under duress, under the influence of drugs or alcohol, or under age. This is often seen in emergency settings, where clinicians are faced with clients who have returned from an evening out and are not capable of making informed decisions.

Finally, consent forms that are drafted too broadly, allowing veterinarians to undertake any and all medical and surgical procedures or giving permission for any and all treatments in the future, are usually unenforceable. In the interest of practicality, clients are asked to sign such consents when they first bring their pets to their veterinarians with the intent that they will serve as consents for subsequent visits. Although such consents are valid for the performance of routine procedures and for a reasonable time, veterinarians must realize that, generally, consents are ineffective unless they specifically pertain to procedures they plan to perform.

**Drafting The “Ideal” Consent Form**

The following are elements that should be present in all consent forms to ensure their enforceability.5

- Identification of the hospital, veterinarians performing the procedures, the pet/animal owners or agents and the pets/animals receiving the treatments.
- A brief description of the recommended procedures and their associated complications.
- Clients' acknowledgment that the procedures have been explained and they understand the procedures, as well as their risks and benefits.

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- Clients' acknowledgment that they have had an opportunity to ask questions and have received satisfactory responses.
- Recorded lists of specific recommended procedures that clients refuse.
- Blocks for client signatures and dates.

Problems With Obtaining Informed Consents

There are several reasons why many veterinarians are reluctant to use consent forms in their practices. Obtaining informed consents is time consuming for staff members and veterinarians because it may require lengthy explanations and generates additional “paper work” and paper storage. Additionally, veterinarians fear that if the procedure is “too clearly” explained, their clients will be overwhelmed by the information refusing to provide a signature or overreact, leaving their pets untreated.

While these are all valid concerns, they must be weighed against the financial, emotional and clerical burdens of collecting unpaid fees and defending lawsuits. Veterinarians should recognize that signing consent forms is normal in the human health care industry and clients have accepted this as essential to their receipt of medical care. Implementing consent forms as part of the practice's policies may seem daunting initially but, over time, will become quite routine, and undoubtedly, will facilitate the delivery of professional services.

A sample basic consent form from the authors' Legal Consent Forms For Veterinary Practices publication follows. It is one of a packet of 26 such forms available on hard copy and in word processing software on diskette for $60 from AAHA by calling 1-800-252-AAHA or from the Idexx veterinary supply department, 1-800-637-9312.
CONSENT FOR TREATMENT AND/OR ADMISSION
(HOSPITAL OR CLINIC NAME)

Pet's Name ___________ Approx. Age ______ Color ______ Breed

I, the undersigned owner, owner's agent or Good Samaritan responsible for seeking veterinary care for the pet identified above, certify that I am/I am not (circle one) over eighteen years of age, and hereby consent to the examination of this pet by staff veterinarians at (XYZ Veterinary Hospital) . I also agree that after consultation with me, the hospital's doctors may prescribe medication for, treat, hospitalize, sedate, anesthetize and/or perform surgery on this animal. I understand that some risks always exist with anesthesia and/or surgery and that I am encouraged to discuss any concerns I have about those risks with the attending veterinarian before the procedure is initiated. Should some unexpected life-saving emergency care be required and the attending veterinarian be unable to reach me, the hospital's staff has my permission to provide such treatment and I agree to pay for such care.

I understand that an estimate of the costs for veterinary services will be provided to me and that I am encouraged to discuss all fees attendant to such care before services are rendered and during this pet's ongoing medical treatment. If this animal is hospitalized, I agree to pay a deposit of ____% of the estimated fees and assume financial responsibility for the balance of all services rendered on a cash, credit card or check basis at the time the pet is discharged from the hospital. In the event the pet is hospitalized for more than 48 hours and the attending doctor is unable to reach me, I understand it is my responsibility to call the hospital at least every 48 hours to inquire as to the medical status of this animal and the fees incurred for medical services up to that day. In the event of an open balance, I agree to pay a monthly billing and financing fee equal to 1.5% of the unpaid balance.

I understand that veterinary care during nighttime hours and/or week ends is provided at the discretion of the attending veterinarian. Continuous presence of personnel may not be provided during these hours.

I agree that either I, or an authorized agent of mine, will pick up this pet and pay for all accrued charges within 5 days after receiving written or oral notification that this animal is ready to be released from the hospital. Such notice will be given at the address maintained on the hospital's patient/client record or the address listed in my record. I agree that if I fail to comply with this policy, the XYZ Veterinary Hospital may handle this abandonment in the best interests of the animal and the hospital.

HAVE YOU TALKED WITH YOUR DOCTOR ABOUT THE FOLLOWING?

1. The medical and/or surgical treatment alternatives for your pet?
2. Sufficient details of the procedures for you to understand what will be performed?
3. How fully your pet might respond or recover and how long it could take?
4. The most common complications and how serious they might be?
5. The length and type of follow-up restraint and care required?
6. How much this treatment is expected to cost and how payments will be handled?

Owner or Agent's Signature         Date