



State of Vermont
Office of the Secretary of State

Office of Professional Regulation
89 Main Street, 3rd Floor
Montpelier, VT 05620-3402
sos.vermont.gov

James C. Condos, Secretary of State
Christopher D. Winters, Deputy Secretary
S. Lauren Hibbert, Director

To: Vermont Veterinarians; The Vermont Veterinary Medical Association
From: G. Gilman, General Counsel
Office of Professional Regulation
Date: April 2, 2020
Re: Veterinary Practice in the Declared State of Emergency

The COVID-19 pandemic and related containment measures will have significant impacts on veterinary practice. This guidance is intended: (1) to assist Vermont veterinarians in understanding the application of relevant Executive Orders, and (2) to explain how the Office of Professional Regulation (OPR) interprets 26 V.S.A. § 2433, governing the veterinarian-client-patient relationship, in light of those Orders and recent FDA publications.

Executive Orders

On March 13, Governor Scott issued [EO 01-20](#), declaring a state of emergency. Among other things, the Executive Order provided that relevant rules governing nursing and medical services “shall be suspended to the extent necessary to permit such personnel to provide paramedicine, transportation to destinations including hospitals and places other than hospitals or health care facilities, telemedicine to facilitate treatment of patients in place, and such other services as may be approved” by the Commissioner of Health or the Secretary of State in consultation with the Commissioner.

On March 20, the Governor issued [Addendum 3](#) to EO 01-20, ordering “all clinicians in Vermont to expedite postponement of all non-essential adult elective surgery and medical and surgical procedures, including all dental procedures in the safest but most expedient way possible.” Although risk of provider-patient transmission is among the reasons for the procedure restriction, another is to “preserve critical personal protective equipment (PPE), which is in critical demand around the country.”

On March 24, the Governor issued [Addendum 6](#) to EO 01-20, directing “Vermonters ... to stay at home or in their place of residence, leaving only for essential reasons,” and further directing “all businesses and not-for-profit entities in the state [to] suspend in-person business operations,” except those “deemed critical to public health and safety, as well as economic and national security.” Among essential entities are “agriculture and farms, animal shelters ... and veterinarians.”

To effectuate the protective purposes of the Executive Order, OPR and the Vermont Board of Veterinary Medicine consider that provisions of the Executive Order and related addenda pertaining to medical practice and procedures are applicable to veterinary medical practice and procedures, in all contexts except those where reason clearly augurs for a contrary conclusion.

Although animals seen by Vermont veterinarians are not susceptible to infection by COVID-19, two challenges present themselves: (1) veterinary providers come into contact with clients, employees, agricultural staff, and other providers in the ordinary course of practice, creating contagion risk, and (2) some veterinary procedures consume scarce personal protective equipment that should be conserved for hospital use.

Executive Orders: Interpretive Guidance for Veterinarians

In the context of veterinary practice, the above directives mean that, for the duration of the declared state of emergency:

1. Veterinarians should suspend non-essential veterinary procedures and maximize the use of televisual modalities whenever possible to avoid travel and in-person contact among persons. Administrative rules requiring physical examination are suspended. OPR will use interpretive and enforcement discretion to decline to enforce statutory rules implicitly or expressly requiring physical examination. Veterinarians are authorized to substitute remote examination and consultation for in-person services whenever prudent in the clinical judgment of the veterinarian.
2. Veterinary practices should terminate in-person office operations, except as necessary to provide essential services that cannot be provided remotely, such as treatment of a veterinary emergencies, procedures necessary to avoid unjustifiable suffering, procedures necessary to secure the public health or avoid animal contagion, and acts necessary to ensure continuity of agricultural operations.
3. Necessary veterinary practices should be conducted in the absence of clients whenever possible, except when physical exclusion of the client would be cruel, such as when euthanizing a companion animal.
4. Veterinarians should conserve personal protective equipment.
5. Veterinarians, being trained in the biological and medical sciences, will be seen by neighbors, associates, and clients as public health leaders, responsible not only for protecting and promoting animal health, agricultural productivity, and food safety, but also for the promoting public understanding of sound science and good health practices.

VCPR Requirements

The U.S. Food & Drug Administration (FDA) administers federal laws governing extralabel drug use and veterinary feed directive drugs. FDA has published an [Enforcement Policy Regarding Federal VCPR Requirements to Facilitate Veterinary Telemedicine During the COVID-19 Outbreak](#), which provides in relevant part:

Given that the Federal VCPR definition requires animal examination and/or medically appropriate and timely visits to the premises where the animal(s) are kept, the Federal VCPR definition cannot be met solely through telemedicine. To further facilitate veterinarians' ability to utilize telemedicine to address animal health needs during the COVID-19 outbreak, FDA intends to temporarily suspend enforcement of a portion of the Federal VCPR requirements. Specifically, FDA generally intends not to enforce the animal examination and premises visit VCPR requirements relevant to FDA regulations governing Extralabel Drug Use in Animals (21 CFR part 530) and Veterinary Feed Directive Drugs (21 CFR 558.6). Given the temporary nature of this policy, we plan to reassess it periodically and provide revision or withdrawal of this guidance as necessary.

FDA's enforcement policy is intended to facilitate state flexibility in respect to telemedicine. It does not change or supersede the substantive law of Vermont, where the VCPR is defined by State statute, at [26 V.S.A. § 2433](#). Section 2433 establishes a three-pronged test for a valid VCPR. The second prong, at § 2433(a)(2), addresses examination, requiring that:

The veterinarian has sufficient knowledge of those animals to initiate at least a general or preliminary diagnosis of the medical condition of the animals. This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animals by virtue of an examination of the animals or by medically appropriate and timely visits to the premises where the animals are kept.

VCPR Requirements: Interpretive Guidance for Veterinarians

Vermont law governing the veterinarian-client-patient relationship, 26 V.S.A. § 2433, remains in full force and effect. However, in order to maximize options for veterinary telemedicine in lieu of travel and in-person consultation, OPR and the Board of Veterinary Medicine shall interpret the *examination* requirement, found at *id.* § 2433(a)(2) such that:

1. “sufficient knowledge” may be established via telemedicine;
2. a patient may be “recently seen” via telemedicine;
3. “examination” sufficient to acquaint a veterinarian with the “keeping and care of [] animals” may be accomplished via telemedicine, and
4. “medically appropriate and timely visits to the premises where [] animals are kept” may be accomplished via televisual means.

For the duration of the COVID-19 related state of emergency, when determining whether a valid VCPR has been established, OPR and the Board of Veterinary Medicine will inquire into the sufficiency, reliability, and validity of the veterinarian’s knowledge, not the means or modality by which that knowledge was obtained. Veterinarians are authorized to use their reasoned clinical judgment to determine when and how telemedicine modalities may be used.

When the declared state of emergency concludes and COVID-19 transmission risk abates, OPR and the Board of Veterinary Medicine will return to the conventional expectation that a VCPR requires physical examination.