



January 30, 2018

James T. Penrod, CAE, FASLA
Executive Director
American Association of Veterinary State Boards
380 West 22nd Street, Suite 101
Kansas City, MO 64108

Dear Jim,

The American Veterinary Medical Association (AVMA) appreciates the opportunity to submit comments to the American Association of Veterinary State Boards (AAVSB) on the draft *Model Policy for the Appropriate Use of Telehealth Technologies in the Practice of Veterinary Medicine*. The AVMA recently conducted a similar process resulting in the adoption of a [policy on telemedicine](#) in July 2017. We wish to thank the AAVSB for its feedback, which was of significant benefit in the development of the AVMA policy.

The AVMA, founded in 1863, is one of the oldest and largest veterinary medical organizations in the world, with more than 91,000 member veterinarians worldwide engaged in a wide variety of professional activities and dedicated to the art and science of veterinary medicine.

We offer our feedback on the draft policy by utilizing underlining and strikethrough for suggested edits, as well as comments on the right hand side of the page.

For questions regarding the AVMA's comments, please contact Adrian Hochstadt at 847-285-6603 or ahochstadt@avma.org.

Thank you for your consideration,

Janet D. Donlin, DVM, CAE
Executive Vice President and CEO

MODEL POLICY FOR THE APPROPRIATE USE OF TELEHEALTH TECHNOLOGIES IN THE PRACTICE OF VETERINARY MEDICINE

Draft of AAVSB Regulatory Policy Task Force (RPTF)

AVMA Comments

Introduction

When telehealth is used within the confines of state and provincial regulations, it provides valuable tools to augment the delivery and availability of high quality veterinary care. According to the Center for Connected Health Policy, “Telehealth encompasses a broad variety of technologies and tactics to deliver virtual medical, health, and education services. Telehealth is not a specific service, but a collection of means to enhance care and education delivery.”¹ Advancements in communication and information technology provide opportunities for new approaches to the delivery of veterinary medicine.

Definitions

- **Animal** means any member of the Animal kingdom other than humans, whether living or dead.
- **Client** means an entity, Person, group or corporation that has entered into an agreement with a Veterinarian for the purposes of obtaining veterinary medical services.
- **Consultation** means when a Veterinarian receives advice or assistance in ~~person~~, telephonically, electronically, or by any other method of communication, from a veterinarian or other ~~person~~ whose expertise, in the opinion of the Veterinarian, would benefit an Animal. Under any circumstance, the responsibility for the welfare of the Animal remains with the Veterinarian receiving Consultation.
- **Owner ~~Informed~~ Consent** means the Veterinarian has informed the Client or the Client’s authorized representative, in a manner understood by the Client or ~~Client’s~~ authorized representative, of the diagnostic and treatment options, risk assessment, and prognosis, and that the Client has consented to the recommended treatment.
- **Non-medical Advice** means any advice given by a Veterinarian via any medium ~~outside an established VCPR~~ that is given in general terms, not specific to an individual animal, group of animals, diagnosis, or treatment.
- **Patient** means any Animal or group of Animals receiving veterinary care from a Veterinarian or Veterinary Technician.

Comment [A1]: Suggest using term “owner consent” as AVMA does in its policies. “Informed consent” implies a level of knowledge and understanding on the part of the client that may not be realistic. In addition, veterinarians would be uncertain about what additional obligations, if any, are imposed to ensure that owners are indeed “informed.”

Comment [A2]: Non-medical advice could be given when VCPR is also established. The emphasis should be on the general terms, not specific to an animal vs the VCPR reference. As an alternative to the suggested deletion, the text could read: “within or outside of an established VCPR.”

- **Telehealth** is the overarching term that encompasses all uses of technology geared to remotely deliver health information or education.
- **Telemedicine** is the use of medical information exchanged from one site to another via electronic communications regarding a Patient’s clinical health status.
- **Teletriage** means emergency Animal care, including Animal poison control services, for immediate, potential~~ly~~ life-threatening animal health situations (e.g., poison exposure mitigation, animal CPR instructions, ~~and~~ other critical lifesaving advice).
- **Veterinarian** means an individual who is duly licensed to practice veterinary medicine under the provisions of Act ____.
- **Veterinarian-Client-Patient Relationship (VCPR)** exists when both the Veterinarian and Client agree for the Veterinarian to assume responsibility for making medical judgements regarding the health of the Patient ____.
- **Veterinary Technician** means an individual who is duly licensed to practice veterinary technology under the provisions of Act ____.

Comment [A3]: This definition leaves out several essential elements defined in the AVMA definition of VCPR, including sufficient knowledge of the patient, availability for follow up, oversight, and medical recordkeeping. It also does not address the client’s end of the agreement; namely, that the client has agreed to follow the veterinarian’s instructions.

Comment [A4]: The draft only refers to licensed veterinarians and veterinary technicians. However, some unlicensed personnel are likely involved in the provision of telehealth services, for example in states that do not require licensure of veterinary technicians. Should this policy also reach the activities of unlicensed individuals providing services in the jurisdiction?

Guidelines for the Appropriate Use of Telehealth Technologies in Veterinary Medical Practice

The [Name of Board] has adopted the following guidelines for Veterinarians and Veterinary Technicians utilizing Telehealth in the delivery of Animal care and medical advice within the constraints of a Veterinarian-Client-Patient Relationship (VCPR).

Licensure

A Veterinarian or Veterinary Technician must be licensed ~~by~~, or under the jurisdiction, of the Board of Veterinary Medicine in the state/province where the Patient is located. ~~The practice of veterinary medicine occurs where the Patient(s) or Client is located at the time Telehealth is used.~~ Veterinarians who treat through online service sites are practicing veterinary medicine and must possess appropriate licensure in all jurisdictions where Patients receive care. Should a Veterinary Technician be utilized in the delivery of ~~Patient/Animal~~ care, the Veterinarian and Veterinary Technician must possess ~~the~~ appropriate licensure in the jurisdiction where the Patient(s) is receiving care.

Comment [A5]: Again, this language seems to exclude non-licensed veterinarians and other personnel.

Comment [A6]: What if the client and patient are in different locations, which occurs occasionally especially with equine patients? The veterinarian is in state A, the patient in state B and the client in state C. A literal reading of this language would require that the veterinarian much also be licensed in state C.

Evaluation and Treatment of the Patient(s)

The Veterinarian must employ sound professional judgement to determine whether using Telehealth is appropriate in particular circumstances each and every time ~~Patient/Animal~~ care is provided, and ~~must~~ only provide medical advice or treatment via Telehealth to the extent that it is ~~possible~~ without a physical examination. A Veterinarian using Telehealth must take appropriate steps to obtain ~~Owner Informed~~ Consent, establish the VCPR and conduct all appropriate evaluations and history of the ~~P~~patient consistent with ~~traditional~~

Comment [A7]: Should this state “medically appropriate” rather than “possible” as more consistent with the criteria used by state disciplinary boards?

Comment [A8]: We believe that “traditional standards of care” require a physical examination of a companion animal patient, or familiarity with the animals and site in case of herd health situations, in order to establish the VCPR. Other provisions in the draft, however, would allow establishing the VCPR through electronic means, a potential inconsistency.

standards of care for the particular ~~P~~patient presentation. As such, some situations and patient presentations are appropriate for the utilization of Telehealth as a component of, or in lieu of, hands on medical care, while others are not.

The Veterinarian must ensure that he or she safeguards a Client's privacy when practicing via ~~Telehealth~~ by taking appropriate precautions and confirming that the technology and physical setting being used by the Veterinarian and Client have adequate security protocols in place to ensure compliance with the Veterinarian's legal and professional obligations to protect Clients' privacy and confidentiality.

Comment [A9]: Is there intent to create a distinction in privacy and confidentiality expectations when delivering telehealth versus delivering telemedicine?

Evidence documenting appropriate consent for the use of Telehealth must be obtained and maintained. The Veterinarian must ensure that the Client is aware of the Veterinarian's identity,⁵ location,⁵ licensure state, number and status,⁵ and the privacy and security issues involved in accessing veterinary care via Telehealth.

Continuity of Care

Veterinarians should ensure that Clients can seek, with relative ease, follow-up care or information from the Veterinarian (or Veterinarian's designee) who conducts an ~~encounter~~ using Telehealth. Veterinarians solely providing services using Telehealth with no existing VCPR prior to the encounter must maintain appropriate medical records that contain sufficient information for another veterinarian to continue care if necessary, make documentation of the Telehealth encounter easily available to the Client immediately after the encounter, and subject to the Client's consent, including the identity of all care providers of the Patient(s).

Comment [A10]: We suggest using the phrase "who engages in telehealth" rather than the word "encounter" for the sake of clarity.

Comment [A11]: This language should be clarified to refer to professionals engaged with the client (i.e., veterinarian, veterinary technician).

Emergency Services

Teletriage may be performed by a Veterinarian or Veterinary Technician without establishing a VCPR to provide emergency, potentially life-saving Telehealth consultations with the public until that Patient can be seen by a veterinarian.

Medical Records

Appropriate medical records must be maintained in a secure and confidential manner. The medical record should include, but not be limited to, if applicable, copies of all ~~patient-~~related electronic communications, including prescriptions, laboratory and test ~~results,~~ imaging, evaluations and consultations, and instructions obtained or produced in connection with the utilization of Telehealth. ~~Owner~~~~Informed~~ Consents obtained in connection with an encounter involving Telehealth should also be filed in the medical record.

Comment [A12]: Suggest referring to "other" test results in addition to those specifically listed (laboratory, imaging).

Prescribing Medications

~~In order to~~To prescribe medication when practicing via Telehealth, the Veterinarian must have sufficient knowledge of the ~~Patient animal or group of animals~~ by virtue of a history

Comment [A13]: Suggest adding language addressing VFDs in this section.

and ~~inquiry~~ and either physical examination or medically appropriate and timely visits to the premises where the ~~Patient~~~~animal or group of animals~~ is kept. Prescribing medications, in-person or via Telehealth, is at the professional discretion of the veterinarian, ~~subject to federal law restrictions applicable to extra-label drug use~~. The indication, appropriateness, and safety considerations for each ~~prescription issued in association with a~~ Telehealth visit ~~prescription~~ must be evaluated by the veterinarian in accordance with current ~~state and federal~~ laws and standards of care. ~~Such prescriptions and consequently~~ carry the same professional accountability as prescriptions delivered during an encounter in ~~person~~.

Comment [A14]: Suggest clarifying the term “inquiry” in this context.

Disclosures and Functionality on Online Services Making Available Telehealth Technologies

Online services must clearly identify the licensure state, ~~license~~ number, and ~~license~~ status of all Veterinarians or Veterinary Technicians providing veterinary medical services using Telehealth, and should provide Clients a clear mechanism to:

1. Access, supplement, and amend Client-~~provided~~ contact information and health information about the ~~Patient~~~~Animal~~;
2. Provide feedback regarding the site and the quality of information and services; and
3. Register complaints. ~~In that regard, including~~ information ~~should be provided about how foregoing filing~~ a complaint with the applicable Board of Veterinary Medicine.

Non-medical Advice may be provided without establishing a VCPR; however, it must meet the disclosure and functionality requirements of this section.

Online services must ~~provide~~~~have~~ accurate and transparent information about the website owner/operator, location, and contact information, including domain name that accurately reflects the identity.

Comment [A15]: Our perspective is that the prescriptions carry the same professional accountability primarily due to applicable laws, regulations and standards of care.

~~Advertising~~ or promotion of goods or products from which the Veterinarian receives direct remuneration, benefits, or incentives (other than fees for the medical care services) is prohibited. Notwithstanding, online services may provide links to general health information sites to enhance Client education; however, the Veterinarian should not benefit financially from providing such links or from the services or products marketed by such links. When providing links to other sites, Veterinarians should be aware of the implied endorsement of the information, services, or products offered from such sites. The maintenance of preferred relationships with any pharmacy is prohibited. Veterinarians shall not transmit prescriptions to a specific pharmacy, or recommend a pharmacy, in exchange for any type of consideration or benefit from that pharmacy.

Comment [A16]: Suggest this edit as clarifying that the information is to be shared, not merely possessed.

Comment [A17]: We question whether a state can adopt the restrictions on commercial speech offered in this section if the content of the communication is truthful and not misleading.

¹ The Center for Connected Health Policy (www.cchpca.org)