

Significant Legislative Rule Analysis
WAC 246-933-200
Veterinarian-client-patient relationship defined
October 15, 2015

Describe the proposed rule, including a brief history of the issue, and explain why the proposed rule is needed.

The Veterinary Board of Governors (board) is proposing a new section WAC 246-933-200 to require a Veterinarian-Client-Patient-Relationship (VCPR). The proposed VCPR is closely aligned with the nationally recognized standard, which provides the basis for interaction between veterinarians and their clients and animal patients. The Veterinarian-Client-Patient Relationship (VCPR) is a nationally recognized standard providing the basis for interaction between veterinarians and their clients and animal patients. The Food and Drug Administration (FDA) has defined basic elements of a VCPR in 21 C.F.R 530.3, and has recently implemented a veterinary feed directive (VFD) law (21 C.F.R 558.6) that requires a veterinarian to issue a VFD to food animals only under the context of a VCPR. The FDA has encouraged states to adopt VCPR rules that include language that requires a VCPR in order to issue a VFD.

The Veterinary Board of Governors (board) is concerned about the health and safety of the animal patient if the veterinarian does not have sufficient knowledge of the animal to initiate at least a preliminary diagnosis of the animal's medical condition. For herd animals raised for food consumption, the board wants to ensure adequate veterinarian oversight in the prescription and use of drugs. Adequate veterinarian oversight will protect and ensure the health and safety of the animals and the food they produce. The board believes it is important to define a VCPR through rulemaking, which would ensure compliance.

Requiring a VCPR and defining its elements will ensure that the veterinarian and their clients are aware of the requirements for ongoing care of the animal patient related to examination, the use or prescription of veterinary drugs and maintenance of medical records.

The VCPR assumes that:

- The veterinarian is responsible for the health of the patient, has current knowledge of the patient's condition, and is available for follow up evaluation or has arranged for emergency coverage. For companion animals, the veterinarian must have seen the animal patient(s) within the last year or sooner if medically appropriate to provide care or in treating a chronic condition. For groups of animals at farms, laboratories, or in shelters, the veterinarian must be personally acquainted with the keeping and care of the animals through examination or medically appropriate visits to the premises where the animals reside.
- The client has agreed to follow the instructions of the veterinarian.
- Veterinary prescription drugs, including VFDs, are only used within the context of a VCPR.

The board used language from the federal definition of the VCPR and coordinated with the Food and Drug Administration's Center for Veterinary Medicine to incorporate the new federal law that requires a veterinarian to issue a VFD only within the confines of a VCPR.

Is a Significant Analysis required for this rule?

Yes, as defined in RCW 34.05.328 the agency must prepare a significant analysis on the proposed rule.

Clearly state in detail the general goals and specific objectives of the statute that the rule implements.

The board has authority to adopt rules necessary to carry out the purposes of chapter 18.92 RCW related to the practice of veterinary medicine and surgery including the prescription and use of drugs. The statute defines veterinary practice to include the diagnosis and treatment of animals, and the prescribing of drugs, medications and other methods to treat or cure animal diseases or conditions. Implied in this diagnosis/treatment is interaction with the human client as part of a veterinarian-client-patient relationship.

The proposed rule provides clear and concise direction to veterinarians and animal owners on what constitutes a VCPR and their clients are aware of the requirements for ongoing care of the animal patient related to examination, the use or prescription of veterinary drugs and maintenance of medical records.

Explain how the department determined that the rule is needed to achieve these general goals and specific objectives. Analyze alternatives to rulemaking and the consequences of not adopting the rule.

The conditions in the VCPR are already adopted by several national organizations including the American Veterinarian Medical Association (AVMA) and the Washington State Veterinarian Medical Association (WSVMA) and are considered "best practices" by many practicing veterinarians. The board has had a VCPR interpretive statement since 2003. Recent encouragement from the FDA for states to adopt VCPR rules that include veterinary feed directive language reinforced the need for rulemaking. Thirty-one states currently have rules requiring and defining a VCPR. Adopting a VCPR requirement into Washington Administrative Code (WAC) will make the requirements enforceable. Therefore, there is no effective alternative to rule making.

An alternative to the proposed rule would be to do nothing. The board chose to move forward with rulemaking due to concerns about patient safety and the board's ability to ensure compliance through rule enforcement.

Explain how the department determined that the probable benefits of the rule are greater than the probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.

WAC 246-933-200 - Veterinarian client patient relationship required.

Description of the proposed rule:

The proposed VCPR will give veterinarians and their clients a mutual understanding of the requirements for ongoing care of the animal patient related to examination, the use or prescription of veterinary drugs, and maintenance of medical records.

Cost/Benefit Analysis:

The proposed rule largely consists of best practices and most of these practices do not have a compliance cost to the regulated community. The one item where there will be a compliance cost of the rule is the clause that directs veterinarians to refer patients to another veterinarian if they wish to terminate the VCPR and the patient has an ongoing medical condition. This will require veterinarians to make arrangements with one or more other veterinarians to assume the care for cases where they would like to terminate the client-patient relationship.

Collectively, although the proposed rule will pose nominal costs to veterinarians, the benefit of the rule is that the public will have a clear understanding and increased knowledge of the requirements for ongoing care of the animal patient related to examination, the use or prescription of veterinary drugs and maintenance of medical records. Therefore, the total probable benefits of the rule exceed the total probable costs.

Identify alternative versions of the rule that were considered, and explain how the department determined that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives state previously.

An alternative to the proposed rule did not address how a VCPR applies in non-companion animal scenarios, such as herd/food animals, labs, and shelters. The board received input from veterinarians and the FDA that the state should include alternate requirements for these scenarios.

Least burdensome determination

The proposed rule is the least burdensome, as it aligns with existing federal laws and is supported by stakeholders. The board has had a VCPR policy since 2003, and this rulemaking formalizes and updates that policy.

Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law.

The rule does not require those to whom it applies to take an action that violates requirements of federal or state law.

Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law.

The rule does not impose more stringent performance requirements on private entities than on public entities.

Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by an explicit state statute or by substantial evidence that the difference is necessary.

The rule is consistent with FDA VCPR regulations.

Demonstrate that the rule has been coordinated, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

Yes, the rule is coordinated to the maximum extent practicable with other applicable laws. The board used language from the federal definition of the VCPR and coordinated with the Food and Drug Administration's Center for Veterinary Medicine to incorporate the new federal law that requires a veterinarian to issue a veterinary feed directive only within the confines of a VCPR.