

BOARDS AND COMMISSIONS

Board of Veterinary Examiners

(Amended After Comments)

201 KAR 16:701. Standards for medical records.

RELATES TO: KRS 257.080, 258.043, 258.065, 321.175, 321.181, 321.185, 321.187, 321.188, 321.200

STATUTORY AUTHORITY: KRS 321.175~~+~~, 321.187, 321.235(2)(b)3.c.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.175 states the purpose of the Kentucky Veterinary Medicine Practice Act is to promote, preserve, and protect ~~the~~ public health, safety, and welfare. KRS 321.235 allows the Kentucky Board of Veterinary Examiners to promulgate administrative regulations to establish standards in medical records. This administrative regulation establishes standards for medical records created for animal patients by board credential holders.

Section 1. Definitions.

- (1) "Clinical encounter" means an interaction between a patient, client, and a healthcare provider for the purpose of providing healthcare services or assessing the health status of a patient; it is the point at which decisions about diagnosis and treatment are made, and during which caring takes place.
- (2) "Complete medical record" means the record contains sufficient information to:
 - (a) Identify the patient and the client;
 - (b) Support the diagnosis or condition;
 - (c) Justify the care, treatment, and services;
 - (d) Provide options for spectrum of care, where appropriate;
 - (e) Document the course and results of care, treatment, and services; and
 - (f) Promote continuity of care among providers. A medical record shall be completed no more than forty-eight (48) hours following the clinical encounter.

Section 2. Veterinary medical records shall be:

- (1) Safeguarded against loss, tampering, or use by unauthorized persons;
- (2) Be readily available to the veterinarian, other veterinarians at the same practice, employees of the veterinarian, and other authorized persons; and
- (3) Contain sufficient information to permit any veterinarian to proceed with the care and treatment of the patient by reading the medical record.

Section 3. ~~Section 2.~~ Maintenance of Records.

- (1) The practice where the records were prepared shall be the official records custodian.
- (2) Original patient records shall be retained by the practice, veterinarian, or allied animal health professional (AAHP)~~AAHP~~ who prepared them and be readily retrievable for a period of five (5) years following the last patient encounter.Cessation from practice, either temporarily or permanently, does not relieve the practitioner from compliance with this section.
- (3)
 - ~~{(a)} Records shall not be stored by a third party without a record of signed, informed consent by the client.~~
 - ~~{(b)}~~ Records stored by a third party shall not relieve the veterinarian or AAHP from the responsibility of supplying records to the client upon request.
- (4)
 - (a) The veterinarian or AAHP permittee may require that a request for medical records be in writing and may charge a reasonable fee for copying or the staff time in preparing the requested medical records.

(b) In the event of a board investigation, no charges shall be authorized.

(c) Copies of the medical records shall be provided to the client, designated veterinarian, AAHP permittee, or authorized representative within seven (7) calendar days after receipt of a proper request or sooner in accordance with the patient's medical condition.

(d) Failure to provide the medical records in a timely fashion upon proper request shall be considered unprofessional conduct.

(5) Pursuant to KRS 321.187(2), records shall be retained and accessible to the client for five (5) years past the date of the last clinical encounter with the patient.

Section 4. {Section 3.} Veterinary medical records shall include the following information at a minimum:

(1) Patient or herd identification;

(2) Client identification;

(3) A record of every **clinical** encounter and consultation regarding the patient;

(4) Written or digital records and notes of each **clinical** encounter, including:

(a) Diagnosis **or differential diagnosis**;

(b) Treatments recommended, including spectrum of care options;

(c) Treatment plan agreed upon with client;

(d) If a prescription is issued, prescription details consistent with the requirements of 201 KAR 16:600;

(e) Recommendations;

(f) If a medical determination is made via telemedicine, a written statement about the digital information used to make the decision;

(g) If surgery is performed, details of surgery, including:

1. Amounts and duration of any drugs, sedatives, or other substances administered;

2. Documentation of appropriate, species-specific anesthetic monitoring, which may include temperature, pulse, and respiration; and

3. Documentation of recovery;

4. Materials used ~~{and the amounts so used}~~, including at a minimum:

a. Suture materials;

b. Mesh materials; and

c. Other materials used; and

(h) Any other pertinent details.

(5) Laboratory. {Radiographs, sonographic images, video recordings, photographs, or other imaging and laboratory} reports;

(6) Any information received as the result of a consultation, including the date, name, and contact information of the consultant;

(7) A reference notation of the existence of radiographs, sonographic images, video recordings, photographs, or other diagnostic imaging, with ready access to or copies of those images available;

(8) Any authorizations, details of conversations, releases, waivers, patient discharge instructions, records of informed consent, or other related documents;

(9) {(8)} The first and last name of the veterinarian, licensed veterinary technician, or veterinary assistant, or AAHP{allied animal health professional (AAHP)} permit holder practicing on the patient during the visit, whether in-person or via telehealth, or an identifying code that corresponds to the first and last name of the practitioner or person making the entry pursuant to subsection (12);{and}

(10) {(9)} The first and last name of the person making each entry in the medical record, or an identifying code for each person pursuant to subsection (12);

(11) The name of the veterinary facility or premises where the clinical encounter took place; and

(12) When an identifying code is used to denote the first and last name of the person making an entry into the medical record, a list of identifying codes and corresponding first and last names shall be made readily available with the medical records to the client or the board upon request.

Section 5. ~~Section 4.~~

- (1) A person shall not:
 - (a) Intentionally create a false record;
 - (b) Make a false statement; or
 - (c) Alter or modify any medical record, document, or report concerning treatment of a patient.
- (2) When correcting a **completed** medical record **for a clinical encounter**, the original content shall be readable, and the alteration shall be clearly identified with the:
 - (a) Correction,
 - (b) Reason for the correction,
 - (c) Date of correction, and
 - (d) First and last name of the person making the correction, **or an identifying code pursuant to Section 4(12).**

Section 6. ~~Section 5.~~ Rabies clinics.

- (1) During each rabies clinic held pursuant to KRS 258.043, copies of medical records shall be retained for each patient **clinical encounter beyond the rabies vaccination.**
- (2) **For rabies vaccinations only, a copy of the rabies certificate satisfies the requirement of this section.**

Section 7. ~~Section 6.~~

- (1) Pursuant to KRS 321.187, an animal patient's medical record and medical condition is confidential and may not be furnished to or discussed with any person other than the client or other veterinarians, veterinary technicians, veterinary assistants, veterinary practice staff **(including veterinary students, veterinary technician students, and special permittees)**, AAHP permittees, or consultants involved in the care or treatment of the patient, except upon written authorization of the client or under the following circumstances:
 - (a) In response to a court order, or subpoena with notice given to the client or the client's legal representative;
 - (b) For statistical and scientific research, if the information is abstracted in a way as to protect the identity of the patient and the client;
 - (c) As part of an inspection or investigation conducted by the board or an agent of the board;
 - (d) To verify the rabies vaccination status of an animal to law enforcement or local health department officials;
 - (e) In the course of a consultation as defined in KRS 321.181(24) or provided for in KRS 321.200(1)(f);
 - (f) In cases of animal abuse, pursuant to KRS 321.188;
 - (g) Pursuant to KRS 321.185(4)(b)3., in cases of reportable diseases as they relate to public or animal health pursuant to KRS 257.080 and 258.065 and the administrative regulations promulgated under the authority of those chapters;
 - (h) Access to the records is specifically required by other state or federal law; and
 - (i) Upon request by the board.
- (2)
 - (a) For purposes of written authorization from the client, nothing in this section shall require a veterinarian whose records are being authorized to be released to the client only to provide medical records, reports, and opinions to a client that may be used by a

third party who does not have a veterinarian-client-patient relationship with the veterinarian for the purpose of, or in consideration of, the buying or selling of the animal.

(b) A veterinarian taking radiographs of a patient~~for an animal~~ shall only be liable to the client~~owner of the animal~~ for the content of the record, and not liable to third parties for the purpose of buying or selling of the animal.

*MICHELLE M. SHANE, Executive Director
For JOHN C. PARK, DVM, Board Chair*

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Michelle Shane

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes standards regarding the contents of medical records for animal patients.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to establish the standard protocols and procedures for credential holders of the board to create, maintain, and share medical records.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 321.235, 321.351, 321.360, 321.990 specifically direct the board enforce the provisions of KRS Chapter 321 and impose penalties, where appropriate. KRS 321.235 authorizes the board promulgate administrative regulations to carry out the provisions of the chapter.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation shall assist in effective administration by clearly detailing the expectations for the contents of a patient's medical records.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation:

This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes:

This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes:

This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

2,690 veterinarians, 590 licensed veterinary technicians, 50 animal control agencies, and 232 animal euthanasia specialists, an unknown number of allied animal health professionals (AAHP), and future applicants.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

All persons identified in question (3) are required to keep and maintain animal patient medical records for a period of five (5) years. This new administrative regulation establishes the requirements for the contents of the records, ensuring transparency of board expectations and standardizing medical records in order to

assist in patient care and welfare. Identified persons will need to ensure they capture all necessary information in the records.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

There shall be no additional costs imposed as a result of this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Administrative ease of clear communications of the approved requirements.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

No costs are anticipated.

(b) On a continuing basis:

No costs are anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

This administrative regulation does not establish fees. Funding for the KBVE comes from licensure and certification fees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

There is no anticipation of an increase in fees or needed funding to implement this administrative regulation, as the regulation establishes standards for medical records created and maintained by credential holders of the board.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

No fees are established or increased by this administrative regulation.

(9) TIERING: Is tiering applied?

No. All regulated entities have the same requirements.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Kentucky Board of Veterinary Examiners.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 321.175, 321.235(2)(b)3.c., 321.187

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

No revenue will be generated from this filing.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

No revenue will be generated from this filing.

(c) How much will it cost to administer this program for the first year?

This is not a new program. There will not be any costs to administration because the medical records are created and maintained by the credential holder, not the board.

(d) How much will it cost to administer this program for subsequent years?

Costs may decrease as both practitioners and clients understand the expectations for medical records; the board hopes to see a reduction in grievance cases.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):None.

Expenditures (+/-):None or negligible.

Other Explanation:

n/a

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

There will be no cost savings; this amendment simply codifies the requirements, making them easily accessible for regulated entities.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

There will be no cost savings.

(c) How much will it cost the regulated entities for the first year?

There will be no additional costs involved.

(d) How much will it cost the regulated entities for subsequent years?

There will be no additional costs involved.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):None.

Expenditures (+/-):None or negligible.

Other Explanation:

n/a

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This amendment shall not have a "major economic impact", as defined in KRS 13A.010(13).