



GUIDELINES

Informed Owner Consent

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| Legislative References: | O. Reg. 1093, Sec. 22(1) 3, 9.1; 22(2) 4, 9; 22(3); 22(4) 3, 7; 33 (1)(a). See Appendix 1. |
| Reference Materials: | AVMA policy, "Owner Consent in Veterinary Medicine" (November 2007). |
| College Contact: | Registrar |

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Purpose

These guidelines are intended to provide members of the College of Veterinarians of Ontario with basic principles of informed owner consent, to explain their professional obligations pertaining to informed owner consent, and to recommend items for inclusion on consent forms that may be developed for use in practice. It expands upon and replaces the policy, “Companion Animal Practices Obtain Signed, Informed Consent Forms” (June 1992), and “Consent to Perform Diagnostics, Medical Treatment, Surgery, or Ancillary Services” (published in the Guideline on Medical Records for Companion Animals, March 2007).

The College’s authority is limited to regulatory matters and its mandate does not include providing members with legal advice about private law matters or advising its members about civil liability. Members should obtain their own legal advice about those aspects of the use of any specific consent form.

Scope

This document applies to all veterinarians in Ontario who provide professional services to animals owned by individuals. It covers informed owner consent regarding medical assessment, treatment, procedure, and cost. These guidelines apply whether the veterinarian maintains hard copy or electronic records.

Background

Under Ontario Regulation 1093, members are required to obtain consent, written if possible, from clients for any surgical procedure planned for their companion animals. Members treating food-producing animals, horses, and poultry are required to retain medical records denoting any assessments and advice given. (See Appendix 1).

Veterinary medicine has evolved such that generally accepted professional standards for obtaining written owner consent now extend across the species and to treatments in addition to surgeries. The decision of when to implement written consent forms in practice is determined by the individual veterinarian based on assessment of risk vs. benefit to the animal(s) and assessment of the owner’s understanding of the information discussed regarding treatment options.

The American Veterinary Medical Association (AVMA) has recently modified its language with regards to “informed consent,” changing the phrase to “owner consent” in order to convey that animal owners must be supplied with sufficient information to make appropriate decisions regarding care for their animal(s).¹ This shift of emphasis also reminds practitioners of the importance of establishing an accurate understanding of the legal owner-animal relationship when obtaining consent for treatment. The CVO prefers the use of the term “informed owner consent” to capture both aspects of the consent process.

¹ See www.avma.org/issues/policy/owner_consent.asp for the AVMA’s current policy document.

In human medicine in Ontario, the *Health Care Consent Act, 1996 (HCCA)* defines informed consent, specifies required elements of consent, explains documentation of consent, and reviews issues such as capacity to give consent and implied consent. The CVO Guideline covers these and other related topics in the context of veterinary medicine in Ontario.

Guideline

General

It is in the best interests of the public that veterinarians provide sufficient information to their patients' owners and communicate with them clearly, such that owners² are able to make appropriate treatment decisions for their animals. Obtaining informed owner consent also recognizes that it is the client that has ultimate responsibility for the animal and for decisions about its welfare. Veterinarians should view the acquisition of informed owner consent as a process of communicating with clients and of documenting that communication as appropriate. Establishing a valid veterinarian-client-patient³ relationship based on trust and openness is the first step in the process.

Definition

Informed consent is an approval process whereby a person gives his/her permission for an action taken by others based upon an appreciation and understanding of the need, risks, benefits, and consequences of that action.

Informed owner consent is informed consent given to a veterinarian or his/her auxiliary by an animal's owner for the medical and/or surgical assessment and treatment of said animal(s).

Elements of Valid Informed Owner Consent

The generally accepted standard of care for obtaining informed owner consent is that the veterinarian needs to provide what a reasonable person, in the owner's position, would want to know to make an appropriate decision about the care of his/her animal(s). In addition, any specific concerns of the individual owner should be addressed.

To be valid, consent must:

1. relate to the proposed intervention,
2. be informed,
3. be voluntary, and
4. not be obtained through misrepresentation or fraud.

For owner consent to be informed, the following information must be disclosed by the veterinarian:

1. presumed diagnosis or differential diagnoses if any;
2. general nature of proposed assessment/treatment/procedure;
3. expected benefits;

² In many cases "owner" and "client" will describe the same person, but not always. In this document, "client" means "owner or owner's authorized agent," and "owner's authorized agent" is implied whenever the word "owner" is used.

³ It is understood that in the veterinarian-client-patient relationship (VCPR), "patient" may mean either "animal" in the singular or "herd" or "flock" in the plural.

4. reasonable risks or dangers and common side effects of treatment/procedure;
5. reasonable alternative courses of action available, and risks/benefits of each;
6. consequences (prognosis of risk) if proposed assessment or treatment is refused;

Additionally, the following information must be disclosed either by the veterinarian or auxiliary:

7. that auxiliaries or other veterinarians may be providing some of the treatment and care of the animal(s); and
8. estimated cost of the treatment.

The owner/agent must indicate that:

- a) the information has been explained by the veterinarian or auxiliary and is understood;
- b) questions have been answered to the owner's satisfaction; and
- c) voluntary consent to the recommended treatment(s) has been granted.

How to Document Informed Owner Consent

Retaining a signed form or citing a standard protocol in the medical record—declaring that the elements outlined above have been discussed—indicates that a process to obtain *consent* has been followed (see Appendix 2). However, without further documentation in the medical record confirming that discussion with the owner took place, the form alone may not always be sufficient to demonstrate current *informed consent*.

Veterinarians should take a broad-based approach to ensuring the client is fully informed including handouts, formal discussions, a written consent form (for more significant decisions), and ongoing dialogue with clients throughout the process. The fact that handouts were given and issues were discussed should be noted in the medical record. True consent involves a meeting of the minds; simply obtaining a signed consent form without true dialogue is not sufficient. However, confirming informed consent in writing in certain situations may be useful, both to reinforce in the mind of the client the seriousness of the decision and to provide evidence to the member of the consent process, should there be a question later.

Members should therefore use their judgment and document in the medical record any significant questions or concerns expressed by the owner in the course of discussion, and how they were addressed. Such individualized documentation, particularly for more risky procedures, is recommended since it provides additional evidence of clear communication between the veterinarian and owner.

When to Implement Written Consent Forms

Current legislation for companion animal records requires veterinarians to obtain written consent for any surgical treatment or procedure; if consent is oral, the medical record must note this fact, the reason for lack of written consent and who gave the consent.

The generally accepted standard of practice is that written informed owner consent should be obtained when a procedure or treatment will go beyond a simple examination or procedure and where risks, in the professional judgment of the veterinarian, are significant. Complex cases and risky procedures warrant greater detail in documenting the process of obtaining informed owner consent. In this context, “written” includes signed consent obtained in hard copy or electronically.

In circumstances where only oral consent is practical (by telephone, for example), members should have a third party write in the medical record that they have confirmed directly with the owner that informed consent was given.

Emergencies

Companion animal veterinarians are required to obtain a name, address, and telephone number of a person to be contacted in case of an emergency when the client is absent and a patient is in their facility. Food producing animal veterinarians must record the name and telephone number of a person to be contacted in the absence of the client. Such contacts should be used to obtain consent if the owner is not reachable when emergencies arise. The medical record should indicate the level of authority granted by the owner to the contact (for procedures and costs) in the owner’s absence. In all cases, both the client’s and alternative’s contacts that were attempted should be documented.

For emergency situations where no veterinarian-client-patient-relationship (VCPR) exists, or when veterinarians are unable to make contact with the client or the authorized alternative contact person, then veterinarians are not required to obtain consent for procedures or treatments carried out wherein the animal(s) would suffer or risk significant harm without the performance of the procedure or treatment. However, as soon as the emergency is addressed, attempts should be made to explain what occurred to the owner and to obtain consent for all future care.

Implied vs. Express Consent

Express consent may be written or oral, whereas implied consent is ascertained by the actions of the owner/client. For example a client who fills a prescription for a medication has indicated consent to treatment by so doing, as long as discussion with the client covered all information required for this decision (see above). Appropriate documentation in the medical record of discussion with the owner is important in all cases, whether consent is implied or express.

Declined Treatments/Refusal to Consent

Just as informed owner consent is important to document, so is informed owner refusals for recommended assessment, treatments or procedures. This may be accomplished either by making notations in the medical record or by asking the owner to sign a form stating the recommended treatment was declined.

Who can Sign? Authority to Provide Informed Owner Consent

Knowing who has the authority to provide informed owner consent is usually determined through the ongoing VCPR. However, veterinarians' relationships with clients often extend to working relationships with other members of the clients' families (who become involved in the care of clients' animal[s]) or with agents of clients, and clarity about ownership and authority to act can become lost.

Client registration information on file with the veterinarian's facility must identify the designated owner or owners of the animal, clearly stipulating who has the authority to make decisions about and direct the veterinarian to treat the animal, and who has the responsibility to pay for the services provided. Owners can designate representatives or agents to act on their behalf so long as they understand and appreciate the implications of this choice.

Veterinarians are urged to obtain clear direction from clients at the start of and throughout the VCPR regarding who has the status of "owner" of the animal, and who has authority to grant consent to the veterinarian for any recommended services, treatments, or procedures. Maintaining up to date medical records is important to ensure that the current ownership dynamic is understood for the purpose of verifying authority to approve treatment. This might be accomplished through the implementation of a protocol, whereby the file is checked for accuracy each time an animal is seen.

While children under the age of 18 may be considered within their families to be "owners" of pets, they do not have the legal capacity to consent to assessment or treatment for their animals or to the financial arrangements related to those services. The veterinarian should obtain consent from the appropriate parent or guardian of the child.

The same principle applies to adults who are not capable of providing informed consent. If the owner does not understand and appreciate the nature and consequences of his/her decision, then a substitute decision maker, where available, should be ascertained. Typically this would be the person who has authority to manage the property of the owner.

APPENDIX 1

Relevant Legislation

The *Veterinarians Act, 1989*, is the profession-specific *Act* that governs the practice of veterinarians in Ontario. O. Reg. 1093 is the Regulation under that *Act*. The *Minimum Standards for Veterinary Facilities* are established by the Council of the CVO under the authority of the Regulation.

Ontario Regulation 1093, Section 22.(1)9.1:

22. (1) The records required in respect of each companion animal shall contain the following information:

3. If the client is likely to be absent from his or her address while the animal is confined with the member, the name, address and telephone number of a person to be contacted in case of emergency.

9.1 One of the following with respect to each surgical treatment:

- i) The written consent to the surgical treatment signed by or on behalf of the owner of the animal.
- ii) A note that the owner of the animal or a person on the owner's behalf consented orally to the surgical treatment, and the reason why the consent was not in writing.
- iii) A note that neither the owner of the animal nor anyone on the owner's behalf was available to consent to the surgical treatment, and the reason why, in the member's opinion, it was medically advisable to conduct the surgical treatment.

22. (2) The records required in respect of each food-producing animal or herd shall contain the following information:

4. The name and telephone number of a person to be contacted in the absence of the client.

9. A note of any professional advice regarding the individual or herd and an indication of to whom the advice was given if other than to the client.

22. (3) The records required in respect of a horse are the same as those required in respect of a food-producing animal.

22. (4) The records required in respect of poultry, for each bird or flock, shall contain the following information:

3. The name and telephone number of a person to be contacted in the absence of the client.

7. A note of any professional advice regarding the bird or flock and an indication of to whom the advice was given if other than to the client.

33. (1) No member shall administer, dispense or prescribe a drug unless,

- (a) the member has assumed the responsibility for making medical judgements regarding the animal or group of animals and the need for medical treatment and the custodian of the animal or group of animals has indicated a willingness to accept the advice of the member.

APPENDIX 2

SAMPLE TEMPLATE for an INFORMED OWNER CONSENT

Owner / Owner's Agent: _____
Contact Telephone Number(s): _____ or _____
Alternate Contact Person: _____ Alternate's Phone #: _____
Animal/Herd/Flock ID: _____ Animal Name: _____
Species: _____ Sex: M F
Breed: _____ Colour: _____

I, the undersigned, being 18 years of age or older, am the owner or agent of the owner of the animal(s) described above and am authorized to make decisions regarding its case.

I hereby acknowledge that my veterinarian, Dr. _____, or his/her representative, _____, has advised me of and explained the following (check off as each one is discussed):

- The presenting complaint(s) / tentative or final diagnosis of my animal(s).
- The general nature of the following proposed treatment/procedure(s):

- The expected benefits of the above.
- The reasonable risks or dangers and side effects of the above.
- Reasonable alternative courses of action available, and risks/benefits of each.
- Consequences if the treatment/procedure is not performed.
- That auxiliaries or other veterinarians may be providing some of the treatment and care of the animal(s).
- Cost of the treatment/procedure.

Further, in the event that I am unavailable, I give permission to discuss financial and medical aspects of this case with:

(Name: _____ Number(s): _____)

I understand that there can be no guarantee as to the animal's condition or reaction to or the outcome of any procedure/treatment undertaken. My questions have been answered, I have read or had explained to me and fully understand the information on this form, and declare that I understand and voluntarily consent to the recommended treatment/procedures.

Signed: _____ Date: _____

Signature of Owner/ Owner's Agent

_____ Date: _____

Signature of Veterinarian/ Representative