



# **Veterinary Legal Trends and Updates - 2020 and Beyond -**

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# Table of Contents

- COVID-19/Internal Exposure
- 2021 Audit/Compliance
- Mandatory Employee Shots
- Telemedicine – It is Here to Stay
- OSHA – COVID-19 Enforcement
- Employers Mitigate Risk of COVID-19
- How to Handle Difficult Owners

# COVID-19/Internal Exposure

- Veterinary practices were not prepared
  - Exposed internal problems
  - No policies in place
  - No employee management procedures
  - No internal communication procedures
- No compliance infrastructure
  - Problems implementing COVID-19 protocols
    - Employee/patient positive results
    - Employee recall/furlough letters

# 2021 Audit/Compliance

- COVID-19 changed HR
- Compliance/Internal procedures
  - No longer optional
    - Federal/state law concerns
- Must have items for 2021
  - Updated Employee Manual
  - Review employee classifications
    - Independent contractor vs. employee
  - Update job descriptions
  - Labor law posters
  - Audit employee files
  - Review hiring practices
  - Handling complaints
    - OSHA/Whistleblower

# 2021 Audit/Compliance, cont.

- Health & safety
  - OSHA
- New employee checklist
- Risk management checklist
- HR update series 2021 / Oberman Law Firm
  - HR Practice Management Checklist
  - 2021 HR Compliance Checklist
  - 2021 Post-COVID-19 Employer Checklist

# Mandatory Employee Shots

- Require flu and COVID-19 shots
  - EEOC
  - American Disabilities Act

# Telemedicine

- Telemedicine in the United States is expected to explode
  - Telemedicine provides faster care
  - State regulations are complex
  - Concerns
    - Compliance
    - Licensing
    - Technology
    - Malpractice Exposure
- Telemedicine is here to stay

# Modalities

- Live video (synchronous):
  - Live, two-way interaction
  - A provider using audiovisual technology
- Store-and-forward (asynchronous):
  - Transmission of recorded health information (X-Rays, photographs, and video)
  - Digital impressions – through a secure electronic communications system
  - Evaluate a patient’s condition outside of a real-time or live interaction
- Remote patient monitoring (RPM)
  - Health and medical data collection from a patient in one location via electronic communication
  - Transmitted to a veterinarian in a different location
- Mobile Health (mHealth): Mobile communication by cell phones, tablets, and other forms of electronic devices



# General Overview

- General Considerations:
  - Telemedicine must be properly documented
  - Owners should receive a summary of services
  - Veterinarians must establish compliance protocols
- Quality of Care:
  - The veterinarian is responsible for the health, safety and welfare of the patient
- Technical Considerations:
  - Digital Imaging and Communications in Medicine (DICOM) standards
  - X12 and HC7 requirements for the exchange of information
  - 2019/2020 ICD-10 Standards

# Screening Owners via Telemedicine

- Examples of Questions to ask:
  - Do you have a fever, cough or shortness of breath?
  - Have you been tested for COVID-19?
    - Has any family member been tested?
    - Have they been exposed to anyone with symptoms of COVID-19?
  - Have you recently traveled to another country?
  - Are you a health care worker or work in a high-risk job
    - Law enforcement
    - Trucking
    - Grocery store
  - Telemedicine can be used to prescribe antibiotics and pain medicine
    - Depending on state law

# COVID-19 OSHA Complaint

- Practice owner receives an OSHA Complaint
  - Location
  - Hazard reported
  - 5 days to respond
- Report to OSHA – Problem corrected
  - Supporting documents
  - Photographs/Video
  - Corrective action

# COVID-19 OSHA Complaint, cont.

- Failure to respond – Inspection occurs
  - Review/Inspect
    - Injury and illness records
    - Hazard communication
    - Personal Protective Equipment (PPE)
    - Emergency action or response procedures
    - Bloodborne pathogens

# Mitigate The Risk – COVID-19 Lawsuits

- Employee manual and policies are up to date
  - Non-Harassment
  - Anti-Discrimination
  - Anti-Retaliation (OSHA – Whistleblower)
  - The FMLA
  - The Emergency Paid Sick Leave Act
  - The Emergency Family
  - Medical Leave Expansion Act under the FFCRA (if fewer than 500 employees)
- Educate managers
- Preparing a COVID-19 workplace safety plan
  - Communicating the plan to all employees
  - Ensuring compliance with the plan
  - Investigating and addressing any reported concerns
  - Documenting the investigation process and outcome

# Mitigate The Risk – COVID-19 Lawsuits, Cont.

- Establish COVID-19 protocols
  - Employee tests positive
- Prepare employee recall or furlough letters

# Complaints

- Owners are stressed
- Employees are stressed
- Dramatic rise in patient / owner complaints
- Receive letter from the Board
- Owner has complained about:
  - You
  - Your work
  - Conduct
  - Business
  - Staff
- Shocked, angry, eventually worried
- Difficulty concentrating, trouble sleeping
- Your professional reputation has been challenged

# Preventative Strategies

- An owner who you do not know is more likely to file a complaint
  - Owner feels slighted
  - Rushed
  - Has not received satisfactory explanations
  - His/her bill
- Owner is unable to pay their bills
- File complaint online or in writing with Board



# Preventative Strategies, cont.

- Before an owner leaves your practice:
  - Ask if they understand your directions
  - Do they understand your explanations
- Impossible to predict what owner is thinking or feeling
- Make an additional appointment to discuss concerns
- Have your assistant present
- Give owner some extra time

# Preventative Strategies, cont.

- Develop/maintain an unhurried approach with each owner
- Take interest in your owners
- Take extra time to reassure owners if needed
- Use knowledgeable staff to assist with extra time
- Coach staff how to be accommodating to an owner

# Preparation

- Best defenses to a Board Complaint:
  - Document instructions you give the owner
  - Document any concerns or complaints
  - Keep all correspondence
  - Note all owner problems – attitude

# Most Common Complaints

- Veterinarians do not listen
  - What is bothering the owner
- Interrupting owners
- Veterinarian is argumentative
- Veterinarians are not encouraging
- Veterinarians are impatient/lose cool/temper

# Most Common Complaints, cont.

- Little steps to solve problem owners
- Put patients/owners first
- Keep in contact
  - Phone calls
  - Follow ups
- Do not make promises you can not keep
- Communication



# Thank you!

If you have any further questions, please call our office at [770-554-1400](tel:770-554-1400). To join our newsletters, text **OBERMAN** to **22828** or email Elli Truett at [elli@obermanlaw.com](mailto:elli@obermanlaw.com).

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