



To disclose or not disclose?

Can a veterinarian refuse to release an animal's records to their owner? VCNZ's Seton Butler says it all depends...

Veterinarians and veterinary staff often ask us about the 'rules' relating to the use and sharing of animal records.

In brief, clients are almost always entitled to copies of personal information held by veterinarians, and this information includes their animals' clinical records. They're also entitled to make reasonable requests for urgency, such as when their animals' wellbeing is at risk.

Note that at all times veterinarians and veterinary staff must be mindful of their duty and responsibility to their clients to keep personal information confidential.

Disclosure with consent

The Privacy Act 2020 states that an organisation may only disclose personal information in limited circumstances. The exception that's most apt in this situation is that the person concerned authorises the disclosure. They can do this via their existing clinic or, if they've changed providers, via their new veterinarian (who would make the request on their behalf).

A request or consent to access may be given verbally or in writing. Verbal consent should be noted in the clinical records of the veterinarian releasing them or the new veterinarian, or both.

If the veterinarian being asked to release the clinical records has any doubts, they're entitled to ask for evidence that client consent has been given. They may reliably depend on a formal written request from any new veterinarian.

Any conditions on the release of the information should be recorded. They may include instructions in relation to information that the client doesn't want shared, such as "Please do not share any of my financial information".

Exceptions

Information may be disclosed without consent on legal grounds – for example, when it's needed for an emergency or to uphold or enforce the law – and, for example, where an animal's ownership has changed, the new owner has taken them to their own veterinarian, and the previous veterinarian is unable to contact the former owner for their consent to release copies of relevant records.

In this case the former veterinarian should be able to provide the treating veterinarian with information that's important to the animal's future health management, given that the personal information was collected for the purpose of allowing animal treatment. They should add a note to the clinical record on why consent couldn't be obtained, and remove the former owner's personal information from the clinical record so they provide only information that pertains to the treatment of the condition.

Conditions

Unless there are legal grounds for withholding information (ie, exceptions to the Privacy Act), veterinarians must release copies of relevant information on request. For example, it wouldn't be appropriate to withhold records until clients have paid any outstanding debts. This is a separate issue that can be addressed through the Disputes Tribunal or referred to a debt collection agency.

What about requests from SPCA or the Ministry for Primary Industries' (MPI) animal-welfare inspectors?

The Privacy Act permits disclosure without consent in some special circumstances, including when it's reasonably believed that the disclosure is necessary to enable a public-sector agency to obey the law, including through preventing, detecting and investigating offences and prosecuting or punishing those responsible. If SPCA or MPI advises a veterinarian that it's investigating a potential offence under the Animal Welfare Act 1999, an exception will normally apply.

In these cases it's a good idea for veterinarians and veterinary staff to get written evidence of the investigations, such as by asking for:

- ➔ a written request, or
- ➔ a judicially authorised production order. This creates a legal duty for them to hand over the information, and some may consider it a better option. However, it's a more formal and time-consuming process than a written request.

So, to the question of 'To disclose or not disclose?', the answer is 'Yes and no'. That's no doubt why we get so many people contacting us on the subject!

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