Best Practices For Veterinarians Under The New Pet Facilities Law

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We as veterinarians are by now undoubtedly aware, Wisconsin Act 90, commonly known as the "Pet Facilities Law", takes effect on June 1, 2011. The goal of the law is to prevent the mistreatment of dogs by establishing minimum standards of care for dogs sold or transferred in larger scale operations, including both breeders and shelters. This month's Legal Brief provides an overview of the Pet Facilities Law, including best practices for veterinarians asked to provide a Certified Veterinary Inspection under the law.

The Pet Facilities Law – The Basics

The Pet Facilities Law sets a licensing and inspection scheme that requires anyone operating a covered facility to be licensed by the Wisconsin Department of Agriculture, Trade and Consumer Protection ("DATCP"). Prior to being issued a license, the facility must pass an initial DATCP inspection and, thereafter, must be inspected at least once every two years.

The law also sets forth minimum standards of care for covered facilities. These standards require adequate food, water, veterinary care, shelter and exercise for dogs. Pens and kennels for dogs must be large enough for the particular dog, structurally sound, clean, and meet restrictions on the use of wire flooring. Under the law, dogs must be checked every day and care must be provided as needed. The specific regulatory standards were created by a 12 person advisory committee that included veterinarian input. The specific regulations are now set forth in a final rule, ATCP 16.

The law also sets forth standards for the sale or transfer of dogs. For example, puppies must be at least 7 weeks old prior to transfer. Additionally, dogs sold in Wisconsin must be examined by a veterinarian, and they must receive a vaccination record and veterinarian statement that the dog does not have any infectious and contagious disease.

Finally, the law provides for significant penalties for a failure to comply. A failure to obtain a license can result in a penalty of $10,000, and/or nine months in jail. Violations of other provisions of the law can result in penalties of $1,000 for the first offense, and penalties of $200 - $2,000 for other offenses within five years.

Do Veterinarians Or Veterinary Clinics Have To Be Licensed Under The Law?

The Pet Facilities Law applies to the following:

- Dog breeders that sell to other distributors or to consumers at least 25 dogs per year from at least three litters
- Pet stores and other retailers that sell at least 25 dogs per year
- Dog auctions that offer at least 50 dogs for sale a year
- Non-profit animal shelters that shelter at least 25 dogs a year
- Animal control facilities that contract with a city, village, town or county
- Flea markets and other temporary markets where dogs are sold

Veterinarians who only keep dogs for the purpose of providing care or treatment in the normal course of veterinary practice, within the scope of the veterinarian's license under Chapter 453 of the Wisconsin Statutes, are specifically exempt from the licensing requirement in the Pet Facilities Law. There is also no licensing requirement for boarding facilities. Therefore, if a veterinary clinic boards animals, the veterinary clinic would still be exempt from the licensing requirements in the Pet Facilities Law. However, if a veterinary clinic holds animals under a contract with a city, village, town or county, the veterinary clinic will have a duty to obtain a license under the law.

What Is A "Certified Veterinary Inspection"?

As noted above, when a licensee sells or adopts a dog for a fee, the dog must be accompanied with a Certificate of Veterinary Inspection ("CVI"). If the dog is sold or adopted for a fee in Wisconsin, the CVI must be completed and signed by a Wisconsin certified veterinarian on a form approved by DATCP. If the CVI is issued for a dog entering Wisconsin, the CVI must be completed and signed by a veterinarian accredited by the USDA and the state of origin on a form approved by USDA or the state of origin.

The CVI should contain the following information:

- Seller's name and address
- Dog's breed, sex and age
- Whether dog is spayed, neutered or intact
- Vaccination records, including name of manufacturer, serial and lot numbers, date of vaccination, and person who administered them
- For imported dogs, any required information under current import rules, including rabies vaccination information, (These may change based on disease outbreaks and other factors, so before importing, DATCP suggests that veterinarians check import requirements online or call 608-224-4872.)
- For intact dogs sold at public auction, documentation of a negative brucellosis test within 30 days before sale.

The CVI should contain the following statement, or a substantially similar statement, that is based on at least a brief personal examination by the veterinarian making the statement:

> "I certify, as a veterinarian, that I have inspected the dogs identified on this certificate and that the dogs are not showing any sign of infectious, contagious or

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communicable disease, except as otherwise noted on this certificate. Vaccinations and test results are as indicated on this certificate. This certificate is not a warranty."

The CVI must contain the veterinarian's signature and date of signature, and it must be signed by the veterinarian within 10 days of the veterinarian's inspection of the dog(s).

Best Practices For Veterinarians Providing A Certified Veterinary Inspection

The Pet Facilities Law will call upon veterinarians with small animal practices to provide CVI's compliant with the law. We, therefore, recommend the following "best practices" to veterinarians who are asked to provide a CVI:

- Before providing a CVI, make sure that you meet the certification requirements (i.e., a veterinarian who is not certified in Wisconsin should not sign a CVI for a dog sold or adopted for a fee in Wisconsin; likewise, a veterinarian who is not certified by USDA and the state of origin should not sign a CVI for a dog entering Wisconsin).
- Do not provide a CVI without performing a personal examination of the dog. By signing the CVI, you are certifying that you personally inspected the dog(s) identified on the certification. Making a representation that you inspected a dog when you did not, in fact, do so, is a misrepresentation.
- Do not provide a CVI on anything other than an approved form. For dogs sold or adopted for a fee in Wisconsin, the form must be obtained through DATCP. For dogs entering Wisconsin, the form must be obtained through USDA or the state of origin.
- Do not sign a CVI if it has been more than 10 days since you personally examined the dog. If more than 10 days have passed since the personal examination, personally examine the dog again before signing a CVI (again, within 10 days).
- Do not make verbal statements inconsistent with the information provided on the CVI. Such verbal statements could be misconstrued as a representation or warranty as to the health of the inspected dog.
- Do not ever provide a "guarantee" or "warranty" of the health of the inspected dog(s). As veterinarians are well aware, it is virtually impossible to "guarantee" or "warrant" the health of any animal. Veterinarians are not being asked to "guarantee" or "warrant" the health of the dog when they are providing a CVI. Therefore, the CVI should always contain a statement that the CVI "is not a warranty." The standard DATCP form contains this language.

Conclusion

The Wisconsin Veterinary Medical Association ("WVMA") supports the Pet Facilities Law because it believes that the law will make a measureable and much needed improvement in the welfare of dogs in Wisconsin. As shown above, veterinarians serve an important role in ensuring the success of the Pet Facilities Law. It is also important, however, for veterinarians to employ "best practices" to serve that important role while also protecting themselves from liability risks.

For more information about the Pet Facilities Law, please visit the WVMA's website where information about the law is located on the homepage at **www.wvma.org** , or, visit DATCP at **http://datcp.wi.gov/Animals/Dog_Seller_and_Shelters/index.aspx.**