Virginia Board of Veterinary Medicine

Controlled Substances (Schedule II-VI) in Veterinary Practice

Veterinarians are allowed to prescribe, administer, and dispense controlled substances in keeping with the requirements of the Virginia Drug Control Act, specifically § 54.1-3409 of the Code of Virginia, and the statutes and regulations governing the practice of veterinary medicine. A bona fide practitioner-patient relationship (in the case of a veterinarian, a practitioner-*client*-patient relationship), as set forth in § 54.1-3303 of the Code of Virginia, must first exist before drugs can be prescribed by a veterinarian and dispensed by a veterinary establishment to its own patients.

Veterinary prescriptions

The Board of Veterinary Medicine often receives questions regarding what is required of a veterinarian in prescribing or dispensing a prescription for controlled substances. **In Virginia, the term "controlled substances" is defined as any prescription drug including Schedule VI drugs**. The most frequently asked questions are the following:

1. What authority does a veterinarian have to prescribe?
2. Does a veterinarian have a right to refuse to provide a prescription?
3. May a veterinarian charge a fee for writing the prescription?
4. What information is required on a prescription and in what format?
5. Are there any prescription requirements specific to a Schedule II drug?
6. Does a veterinarian have to honor a prescription request by a pharmacy sent via telephone or fax?
7. What is required of a pharmacist in filling a prescription?
8. May one veterinary establishment "fill a prescription" for a patient seen by a veterinarian at another establishment?
9. May a veterinarian purchase controlled substances for the purpose of reselling?
10. May a veterinarian or veterinary establishment donate an expired or unexpired controlled substance (Schedule II – VI)?
11. May an owner return or donate an unused Schedule II – V drug to a veterinarian that was dispensed to an animal or a human?
12. May an owner return or donate an unused Schedule VI drug to a veterinarian that was dispensed to an animal or a human?
13. May a veterinarian provide a general stock of controlled drugs (Schedule II – VI) for administrating or dispensing by a pet store establishment or boarding kennel?

1. What authority does a veterinarian have to prescribe?

Veterinarians are authorized to prescribe Schedule II through VI drugs by federal and state law. Specifically, the Virginia Drug Control Act provides:

§ 54.1-3409. Professional use by veterinarians.

A veterinarian may not prescribe controlled substances for human use and shall only prescribe, dispense or administer a controlled substance in good faith for use by animals within the course of his professional practice. He may prescribe, on a written prescription or on oral prescription as authorized by § 54.1-3410. . . Such a prescription shall be dated and signed by the person prescribing on the day when issued, and shall bear the full name and address of the owner of the

animal, and the species of the animal for which the drug is prescribed and the full name, address and registry number, under the federal laws of the person prescribing, if he is required by those laws to be so registered.

However, the following portions of §§54.1-3408 and 54.1-3303 also apply, and they detail what is required to render a **valid** prescription.

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of … veterinary medicine… shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter…

§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.

A. A prescription for a controlled substance may be issued only by a practitioner of . . . veterinary medicine who is authorized to prescribe controlled substances…The prescription shall be issued for a medicinal or therapeutic purpose and may be issued only to… animals with whom the practitioner has a bona fide practitioner-patient relationship.

Section 54.1-3303(A) pertains to all authorized prescribers, not just veterinarians. For veterinarians, it should be taken to mean a bona fide practitioner-*client*-patient relationship. Section A continues,

…a bona fide practitioner-patient relationship means that the practitioner shall (i) ensure that a medical or drug history is obtained; (ii) provide information to the patient [client] about the benefits and risks of the drug being prescribed; (iii) perform or have performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient shall have been performed by the practitioner himself, within the group in which he practices, or by a consulting practitioner prior to issuing a prescription; and (iv) initiate additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects…Any practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than medicinally or for therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

It should be noted that the pharmacist who fills the prescription must determine if the prescription is valid, and part of this determination involves establishing that a bona fide practitioner-patient-client-pharmacist relationship exists as provided in § 54.1-3303.

A. For purposes of this section, a bona fide practitioner-patient-pharmacist relationship is one in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his patient for a medicinal or therapeutic purpose within the course of his professional practice…

B. In order to determine whether a prescription which appears questionable to the pharmacist results from a bona fide practitioner-patient relationship, the pharmacist shall contact the prescribing practitioner or his agent and verify the identity of the patient and name and quantity of the drug prescribed…. No prescription shall be filled [by a pharmacy] unless there is a bona fide

practitioner-patient-pharmacist relationship. A prescription not issued in the usual course of treatment or for authorized research is not a valid prescription.

2. Does the veterinarian have the right to refuse to provide a prescription?

The *Regulations Governing the Practice of Veterinary Medicine,* 18VAC140(6) and (12), provide that it is unprofessional conduct to violate any state law, federal law, or board regulation pertaining to the practice of veterinary medicine and to refuse to release a copy of a valid prescription upon request from a client. **The Board has held consistently that it is unprofessional conduct for a veterinarian to refuse to provide a prescription to a client if he would have dispensed the medication for the patient from his own animal facility.** This does not mean that the veterinarian is compelled to release a prescription when requested if there are medical reasons for not releasing it and he would not dispense the medication from his own practice.

Prior to issuance of a refill authorization of a prescription, the decision to require an examination of the animal is at the discretion of the professional judgment of the treating veterinarian.

3. May a veterinarian charge a fee for writing the prescription?

There is nothing in statute or regulation to prohibit a practitioner from charging a reasonable fee for writing the prescription if he so chooses.

4. What information is required on a prescription and in what format?

§ 54.1-3408.01. Requirements for prescriptions.

A. The written prescription referred to in § 54.1-3408 shall be written with ink or individually typed or printed. The prescription shall contain the name, address, and telephone number of the prescriber. A prescription for a controlled substance other than one controlled in Schedule VI shall also contain the federal controlled substances registration number assigned to the prescriber. The prescriber's information shall be either preprinted upon the prescription blank, electronically printed, typewritten, rubber stamped, or printed by hand.

The written prescription shall contain the first and last name of the patient for whom the drug is prescribed. The address of the patient shall either be placed upon the written prescription by the prescriber or his agent, or by the dispenser of the prescription. If not otherwise prohibited by law, the dispenser may record the address of the patient in an electronic prescription dispensing record for that patient in lieu of recording it on the prescription. Each written prescription shall be dated as of, and signed by the prescriber on, the day when issued. The prescription may be prepared by an agent for the prescriber's signature.

This section shall not prohibit a prescriber from using preprinted prescriptions for drugs classified in Schedule VI if all requirements concerning dates, signatures, and other information specified above are otherwise fulfilled.

No written prescription order form shall include more than one prescription. . .

C. The oral prescription referred to in §54.1-3408 shall be transmitted to the pharmacy of the patient's choice by the prescriber or his authorized agent. For the purposes of this section, an authorized agent of the prescriber shall be an employee of the prescriber who is under his immediate and personal supervision, or if not an employee, an individual who

holds a valid license allowing the administration or dispensing of drugs and who is specifically directed by the prescriber.

§ 54.1-3409. Professional use by veterinarians.

He may prescribe, on a written prescription or on oral prescription as authorized by § 54.1-3410...Such a prescription shall be dated and signed by the person prescribing on the day when issued, and shall bear the full name and address of the owner of the animal, and the species of the animal for which the drug is prescribed and the full name, address and registry number, under the federal laws of the person prescribing, if he is required by those laws to be so registered.

5. Are there any prescription requirements specific to a Schedule II drug?

In addition to the prescription requirements found in the response to Question 4 above, the following information is provided for writing prescriptions for Schedule II drugs:

§ 54.1-3411. When prescriptions may be refilled.

Prescriptions may be refilled as follows:

1. A prescription for a drug in Schedule II may not be refilled.

In addition, answers to the following questions related to multiple prescriptions may be found on the DEA's website located at http://www.deadiversion.usdoj.gov/faq/mult_rx_faq.htm :

DEA Questions & Answers - Issuance of Multiple Prescriptions for Schedule II Controlled Substances

What does this rule allow a practitioner to do?

What are the requirements for the issuance of multiple prescriptions for schedule II controlled substances?

Does this rule require or mandate a practitioner to issue multiple prescriptions for schedule II controlled substances?

What is the effective date of the rule change?

Is there a limit on the number of schedule II dosage units a practitioner can prescribe to a patient?

Is there a limit on the number of separate prescriptions per schedule II substance that may be issued during the 90-day time period?

How is the issuance of multiple schedule II prescriptions different than issuing a refill of a schedule II prescription?

Is post-dating of multiple prescriptions allowed?

What is expected of the pharmacist?

6. Does a veterinarian have to honor a prescription request by a pharmacy sent via telephone or fax?

A veterinarian may honor such a request if a valid practitioner-client-patient relationship exists as described previously and the veterinarian is sure that the client has requested it. However, the veterinarian is not compelled to do so. Section §54.1-3408.02 allows the transmission of faxed prescriptions.

§ 54.1-3408.02. Transmission of prescriptions.

Consistent with federal law and in accordance with regulations promulgated by the Board [of Pharmacy], prescriptions may be transmitted to a pharmacy by electronic transmission or by facsimile machine and shall be treated as valid original prescriptions.

7. What is required of a pharmacist in filling a prescriptions?

§ 54.1-3410. When pharmacist may sell and dispense drugs.

A. A pharmacist, acting in good faith, may sell and dispense drugs and devices to any person pursuant to a prescription of a prescriber as follows:

1. A drug listed in Schedule II shall be dispensed only upon receipt of a written prescription that is properly executed, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal laws of the person prescribing, if he is required by those laws to be so registered. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed;

2. In emergency situations, Schedule II drugs may be dispensed pursuant to an oral prescription in accordance with the Board's[of Pharmacy]regulations;

3. Whenever a pharmacist dispenses any drug listed within Schedule II on a prescription issued by a prescriber, he shall affix to the container in which such drug is dispensed, a label showing the prescription serial number or name of the drug; the date of initial filling; his name and address, or the name and address of the pharmacy; the name of the patient or, if the patient is an animal, the name of the owner of the animal and the species of the animal; the name of the prescriber by whom the prescription was written;...and such directions as may be stated on the prescription.

B. A drug controlled by Schedules III through VI or a device controlled by Schedule VI shall be dispensed upon receipt of a written or oral prescription as follows:

1. If the prescription is written, it shall be properly executed, dated and signed by the person prescribing on the day when issued and bear the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name and address of the person prescribing. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed.

2. If the prescription is oral, the prescriber shall furnish the pharmacist with the same information as is required by law in the case of a written prescription for drugs and devices, except for the signature of the prescriber.

A pharmacist who dispenses a Schedule III through VI drug or device shall label the drug or device as required in subdivision A 3 of this section.

C. A drug controlled by Schedule VI may be refilled without authorization from the prescriber if, after reasonable effort has been made to contact him, the pharmacist ascertains that he is not available and the patient's health would be in imminent danger without the benefits of the drug. The refill shall be made in compliance with the provisions of § 54.1-3411.

If the written or oral prescription is for a Schedule VI drug or device and does not contain the address or registry number of the prescriber, or the address of the patient, the pharmacist need not reduce such information to writing if such information is readily retrievable within the pharmacy.

D. Pursuant to authorization of the prescriber, an agent of the prescriber on his behalf may orally transmit a prescription for a drug classified in Schedules III through VI if, in such cases, the written record of the prescription required by this subsection specifies the full name of the agent of the prescriber transmitting the prescription.

8. May one veterinary establishment "fill a prescription" for a patient seen by a veterinarian at another establishment?

No. There is no provision in Virginia law that allows for veterinary establishments or any other establishment not duly licensed by the Board of Pharmacy to dispense controlled substances to fill a prescription.

9. May a veterinarian purchase controlled substances (including Schedule VI drugs and devices) for the purpose of reselling?

No. A veterinarian does not have statutory authority to purchase controlled drugs for the purpose of wholesaling to a pharmacy, another practitioner, a veterinary establishment or commercial entity.

10. May a veterinarian or veterinary establishment donate an expired or unexpired controlled substance (Schedule II – VI)?

The meaning of "donation" in this context refers to the transferring of controlled substances without a prescription. A veterinarian may opt to not charge for a properly dispensed controlled substance.
Expired Schedule II – VI Controlled Substances. There is no authority to donate expired substances because they may be considered adulterated and must be destroyed in accordance with federal and state laws and regulations.

Unexpired Schedule II-VI Controlled Substances
The Drug Enforcement Agency (DEA) only permits the transfer of a Schedule II-V drug from one DEA registrant to another DEA registrant regardless of payment method.

11. May an owner return or donate an unused Schedule II – V drug to a veterinarian that was dispensed to a pet or human?

The Drug Enforcement Agency (DEA) only permits the transfer of Schedule II-V drug from one DEA registrant to another DEA registrant. Because the patient/client is not a DEA registrant, he may not transfer a Schedule II-V drug to anyone except during a drug take-back event wherein law enforcement receives the drug from the patient/client for destruction purposes only. Violations of this requirement can result in DEA imposing on the veterinarian a $10,000 fine per incident.

§ 54.1-3411.1. Prohibition on returns, exchanges, or re-dispensing of drugs; exceptions.

A. Drugs dispensed to persons pursuant to a prescription shall not be accepted for return or exchange for the purpose of re-dispensing by any pharmacist or pharmacy after such drugs have been removed from the pharmacy premises from which they were dispensed except:

1. In a hospital with an on-site hospital pharmacy wherein drugs may be returned to the pharmacy in accordance with practice standards;

2. In such cases where official compendium storage requirements are assured and the drugs are in manufacturers' original sealed containers or in sealed individual dose or unit dose packaging that meets official compendium class A or B container requirements, or better, and such return or exchange is consistent with federal law; or

3. When a dispensed drug has not been out of the possession of a delivery agent of the pharmacy.

B. The Board of Pharmacy shall promulgate regulations to establish a Prescription Drug Donation Program for accepting unused previously dispensed prescription drugs that meet the criteria set forth in subdivision A 2, for the purpose of re-dispensing such drugs to indigent patients, either through hospitals, or through clinics organized in whole or in part for the delivery of health care services to the indigent. Such program shall not authorize the donation of Schedule II-V controlled substances if so prohibited by federal law. No drugs shall be re-dispensed unless the integrity of the drug can be assured.

C. Unused prescription drugs dispensed for use by persons eligible for coverage under Title XIX or Title XXI of the Social Security Act, as amended, may be donated pursuant to this section unless such donation is prohibited.

D. A pharmaceutical manufacturer shall not be liable for any claim or injury arising from the storage, donation, acceptance, transfer, or dispensing of any drug provided to a patient, or any other activity undertaken in accordance with a drug distribution program established pursuant to this section.

E. Nothing in this section shall be construed to create any new or additional liability, or to abrogate any liability that may exist, applicable to a pharmaceutical manufacturer for its products separately from the storage, donation, acceptance, transfer, or dispensing of any drug provided to a patient in accordance with a drug distribution program established pursuant to this section.

12. May an owner return or donate an unused Schedule VI drug to a veterinarian that was dispensed to a pet or a human?

While state law does not prohibit a veterinarian from receiving back an already dispensed Scheduled VI drug for destruction purposes, there is no provision in law for a veterinarian to re-dispense this returned drug.

13. May a veterinarian provide a general stock of controlled drugs (Schedule II – VI) for administrating or dispensing by a pet store establishment or boarding kennel?

There is no allowance in law for a veterinarian to provide a pet store establishment or boarding kennel with a general stock of controlled substances to be given to animals, either by donation or for a fee. **In Virginia, the term "controlled substances" is defined as any prescription drug including Schedule VI drugs**. The meaning of "donation" in this context refers to the transferring of controlled substances without a prescription. However, a veterinarian may opt to not charge for a properly dispensed controlled substance.

A veterinarian is allowed to prescribe, administer, and dispense controlled substances in keeping with the requirements of the Virginia Drug Control Act, specifically § 54.1-3409 of the *Code of Virginia*, and the statutes and regulations governing the practice of veterinary medicine. A veterinarian

may prescribe, label and dispense a drug for the treatment of a specific animal after establishing a bona fide practitioner-patient relationship.