

## CORONAVIRUS/COVID-19 LIABILITY WAIVERS: ANOTHER TOOL

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Dear Legal Briefs,

I am a veterinarian with my own practice in Wisconsin. We have made many changes in how we practice veterinary medicine and interact with our clients and patients because of the Coronavirus pandemic. We are making these changes to keep our clients, patients, employees, and others safe and healthy and to reduce our business risks. In the past two weeks, I had to sign Coronavirus/COVID-19 acknowledgment/waiver forms to obtain services from my hair salon and dentist. Should I start using a similar Coronavirus/COVID-19 acknowledgment/waiver for my vet practice?

Sincerely, A Skittish Veterinarian

Dear Skittish Vet,

I suspect that you have been spending countless hours determining how to best practice high-quality, efficient veterinary medicine during the Coronavirus pandemic, while keeping yourself and your employees, client, and patients healthy. The pandemic has impacted all professions and businesses, in some way. It is important that you follow CDC, State, and local guidelines and veterinary industry best practices as communicated by the Wisconsin Veterinary Medical Association and other professional associations. In addition to these important practice changes, you may want to consider having your clients sign a Coronavirus/COVID-19 acknowledgment/waiver as a risk mitigation strategy.

A comprehensive Coronavirus/COVID-19 acknowledgment/waiver should:

- Acknowledge that the pandemic is on-going, address the risks associated with contracting COVID-19, and summarize how seeking veterinary care may increase the risk of contracting COVID-19.
- Notify your clients of your practice's policies with respect to COVID-19, including warning clients that they should stay home when they are sick, practice social distancing and wash their hands thoroughly, and take other recommended protective actions and summarize your practices special cleaning, appointment, and modified service practices.
- Include a waiver of liability for clients and patients contracting COVID-19 while at your vet practice.

Although there are obvious benefits to obtaining a waiver of liability, including deterring clients from filing lawsuits, you also should consider whether requiring the acknowledgment/waiver would negatively impact your relationship with your clients.

Wisconsin courts are skeptical about the enforceability of general waivers of liability. Under Wisconsin law, a liability waiver must be specifically tailored to your veterinary services or the other services you may provide and it may not be overly broad or relieve you and your practice from all injury to your clients

and patients (for example, the waiver may not waive liability for your or your employee's own reckless or intentional conduct). In addition, to be enforceable, Wisconsin law also requires that you provide your client with an opportunity to negotiate over the terms of the waiver. In attempting to satisfy this requirement, some provide in the waiver that the client was specifically offered the opportunity to bargain and could avoid the waiver requirement if the client paid a specific dollar amount to the party requiring the waiver.

Veterinarians should seriously consider obtaining a Coronavirus/COVID-19 acknowledgment/waiver from their clients. However, this is a developing area of the law and no waiver may guarantee that you or your vet practice will not be sued by a disgruntled client who contracted COVID-19. No form or other method of limiting your liability can replace the need to maintain a safe veterinary practice that utilizes current industry best practices.