

**VETERINARY EXAMINING BOARD****CR 106 Board Room, 2811 Agriculture Drive, Madison, Wisconsin****Contact: Matt Tompach (608) 224-5024****October 25, 2017**

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Board.

AGENDA**9:00 A.M. OPEN SESSION – CALL TO ORDER – ROLL CALL**

- A. Introductions**
- B. Approval of the Agenda**
- C. [Approval of Board Meeting Minutes of July 26, 2017](#)**

APPEARANCE – Department of Agriculture, Trade, and Consumer Protection (DATCP) Office of the Secretary: Liz Kennebeck and Cheryl Daniels, DATCP Attorneys; Robert Van Lanen, Regulatory Specialist – Senior; Matt Tompach, Administrative Policy Advisor; Sally Ballweg, License/Permit Program Associate; Kelly Markor, Executive Staff Assistant; Introductions and Discussion.

D. Public Comments - Each speaker is limited to five minutes or less, depending on the number of speakers. Each speaker must fill out and submit an appearance card to the Board clerk.

- 1. [Chrystal Seeley-Schreck, Education Director, Agriculture, Natural Resources, & STEM, Wisconsin Technical College System](#)**

E. Administrative Items

- 1. 2017 Renewal Cycle - Update**
- 2. [Late Processing of Renewals/Expired Licenses](#)**
- 3. [Request Expungement of Order – Mark Hein, DVM](#)**
- 4. [Request Waiver of 2016-17 CE Requirement - Dr. Dean Peterson](#)**

F. Scope of Practice Inquiries

- 1. [For-fee Class Presentations by CVT](#)**
- 2. [CVT Submitting Lab Work Requests](#)**

G. Legislative/Administrative Rule Matters

- 1. [Discussion of Wis. Stat. s. 89.075, Access to Health Care Records](#)**
- 2. [VE 1 and 7 - Final Draft to amend Wis. Admin. Code § VE 1.02 \(9\), relating to the definition of veterinary medical surgery, and § VE 7.02\(4\), relating to delegation of veterinary medical acts](#)**
- 3. [LRB-4123 and LRB-4291: Proposals Updating Veterinary Statutes - Informational](#)**
- 4. [VE 1 and 7 – Approval of Draft for Hearing, via Complementary, Alternative and Integrative Therapies Rules Advisory Committee Meeting of July 12, 2017](#)**
- 5. [VE 11 – Emergency and Permanent Scope Statements to create Wis. Admin. Code § VE 11,](#)**

Agriculture generates \$88 billion for Wisconsin

H. American Association of Veterinary State Boards (AAVSB) Annual Meeting, September 14-16, 2017, San Antonio, TX – Review

I. Board Member Reports

J. Future Meeting Dates

1. Board Meetings for 2017
2. Screening Committee Meeting Dates for 2017
3. Board Meeting Dates for 2018

K. Future Agenda Items

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (§ 19.85 (1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.).

L. Deliberation on Proposed Stipulations, Final Decisions and Orders

1. 16 VET 042 J.T., D.V.M.

M. Review of Veterinary Examining Board Pending Cases Status Report as of Oct. 16, 2017

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

N. Open Session Items Noticed Above not Completed in the Initial Open Session

O. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

P. Ratification of Licenses and Certificates

ADJOURNMENT

The Board may break for lunch sometime during the meeting and reconvene shortly thereafter.

Approval of Board Meeting Minutes of July 26, 2017



VETERINARY EXAMINING BOARD

MEETING MINUTES

Wednesday, July 26, 2017

PRESENT: Bruce Berth, Robert Forbes, D.V.M., Philip Johnson, D.V.M., Kevin Kreier, D.V.M., Dana Reimer C.V.T., Sheldon Schall, Lisa Weisensel Nesson, D.V.M., Diane Dommer Martin, D.V.M.

STAFF: Department of Agriculture, Trade, and Consumer Protection (DATCP): Lauren Van Buren and Cheryl Daniels, DATCP Attorneys; Matt Tompach, Administrative Policy Advisory; Sally Ballweg, License/Permit Program Associate; Kelly Markor, Executive Staff Assistant. Bureau of Information Technology Services (BITS): Karen Arriola, Scott Gordon, Amy Knoploh.

CALL TO ORDER

Philip Johnson, Chair, called the meeting to order at 9:00 AM. A quorum of eight (8) members was confirmed.

APPROVAL OF THE AGENDA

MOTION: Sheldon Schall moved, seconded by Kevin Kreier, to approve the Agenda. Motion carried unanimously.

APPROVAL OF THE BOARD MEETING MINUTES OF THE APRIL 26, 2017 MEETING

MOTION: Sheldon Schall moved, seconded by Diane Dommer to approve the Minutes from the, Wednesday, April 26, 2017 Meeting. Diane Requested clarification of the scope of practice question from the minutes. Motion carried unanimously.

PUBLIC COMMENTS

There were no public comments.

MyDATCP ONLINE LICENSING PORTAL DEMONSTRATION

Amy Knoploh and Scott Gordon, DATCP-BITS, demonstrated the new licensing portal for Veterinarians and Veterinarian Technicians, as well as the licensing process.

SCOPE OF PRACTICE

Operation of Mobile Pet Imaging Services

The Board discussed issues relating to mobile pet imaging services and the practice of veterinary medicine in Wisconsin, based on an inquiry from company based in Florida looking to possibly operate in Wisconsin.

MOTION: Robert Forbes moved, seconded by Lisa Nesson, to send a letter stating that it would not be a violation of Wisconsin veterinary statutes for the operation of mobile pet

imaging services, provided that the person or persons providing direct patient care are licensed in the State of Wisconsin. Motion carried unanimously.

Semen Collection/Testing of Beef Bulls By a Non-licensed Individual

The Board discussed semen collection/testing of the beef bulls and recommended further investigation of possible unlicensed practice of veterinary medicine and if any licensed veterinarians may be implicated in abetting the practice.

Prescribing of Hemp to Small Animal Patients

The Board discussed an inquiry received by VEB staff requesting clarification of regulations regarding the prescribing of hemp to small animal patients. Hemp is not currently regulated by the VEB.

MOTION: Diane Dommer moved, seconded by Bruce Berth, that the Board takes no position on hemp products' efficacy or side effects; however, the veterinarian dispensing or endorsing hemp is nevertheless taking all responsibility under their VCPR in the recommendation, dispensing, or use of hemp. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

VE 1 and 7 - Final Draft to amend Wis. Admin. Code § VE 1.02 (9), relating to the definition of veterinary medical surgery, and § VE 7.02(4), relating to delegation of veterinary medical acts.

At the April 26, 2017 full Board meeting, members agreed to allow oral arguments at the July meeting concerning the Board's decision to deny an exemption for bovine embryo transfer under the definition of "surgery" in Wis. Admin. Code s. VE 1.02(9). The Board proceeded, pursuant to Wis. Stat. s. 227.18(3), whereby arguments may be made to the Board, as a quorum of the Board was not present at the Nov. 30, 2016 public hearing on the rule when an objection was made. Because Dr. Greg BeVier and Sexing Technologies made an objection to the rule at the hearing and in writing, the Board invited Dr. BeVier, or another representative of Sexing Technologies, to present its argument before the entire Board, as well as experts identified by Wisconsin Veterinary Medical Association (WVMA), a proponent of the rule, to speak on this issue.

In response, Dr. BeVier and Michelle Kussow, representing Sexing Technologies, appeared before the Board in favor of the bovine embryo transfer exemption; Dr. Jon Schmidt of Trans-Ova Genetics and Jordan Lamb of WVMA appeared in opposition to the exemption.

The Board directed Board Counsel Cheryl Daniels to draft rule language for possible consideration at the October meeting stating that the piercing of reproductive tissues for the performance of reproductive technologies is an activity considered the practice of veterinary medicine, which may be delegated to certified veterinary technicians under the supervision of a licensed veterinarian.

Rules Advisory Committee on VE 1 and VE 7

Board Counsel Cheryl Daniels and Bruce Berth briefed VEB members on the Rules Advisory Committee (RAC) meeting of July 12, 2017. Counsel hopes to have a draft of the proposed rule relating to VE 7 for hearing ready for Board consideration in October.

AMERICAN ASSOCIATION OF VETERINARY STATE BOARDS (AAVSB) MATTERS Annual Meeting, September 14-16, 2017, San Antonio, TX – Update

Philip Johnson, Robert Forbes, and Matt Tompach will attend the AAVSB Annual Meeting, with Dr. Forbes designated as the voting delegate, and Dr. Johnson designated the alternate delegate.

Members also reviewed proposed bylaws and resolutions to be considered at the meeting

BOARD MEMBER REPORTS

There were no reports from members.

FUTURE MEETING DATES AND TIMES

The next VEB meeting is scheduled for October 25, 2017 at 9:00 a.m.

The next Screening Panel meetings are scheduled for August 30, September 27, and following the October 25 VEB Meeting.

FUTURE AGENDA ITEMS

Philip Johnson and Robert Forbes will report on the AAVSB Annual Meeting

Lisa Weisensel Nesson requested a discussion of Wis. Stat. s. 89.075, Access to Health Care Records.

CLOSED SESSION MOTION

MOTION: Robert Forbes moved seconded by Lisa Weisensel Nesson, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.). Philip Johnson read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Kevin Kreier -yes; Bruce Berth -yes; Diane Dommer -yes; Philip Johnson -yes; Robert Forbes -yes; Lisa Weisensel Nesson -yes; Sheldon Schall -yes; Dana Reimer -yes; Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Sheldon Schall moved, seconded by Bruce Berth, to reconvene into open session. Motion carried unanimously. The Board reconvened at 12:05 pm.

MOTION: Robert Forbes moved, seconded by Diane Dommer Martin, to close 17 VET 011 against C.M., D.V.M. Motion carried unanimously.

MOTION: Lisa Weisensel Nesson moved, seconded by Dana Reimer, to accept the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Eric Bohl, 17 VET 002. Motion carried unanimously.

MOTION: Diane Dommer Martin moved, seconded by Kevin Kreier, to issue an Administrative Warning in the matter of 16 VET 034. Motion carried.

MOTION: Robert Forbes moved, seconded by Kevin Kreier, to remove the limitation on the license of Mark Hein, 16 VET 036, once all requirements are met. Motion carried unanimously.

MOTION: Lisa Weisensel Nesson moved, seconded by Diane Dommer Martin, to delegate ratification of examination results to DATCP staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: Robert Forbes moved, seconded by Dana Reimer, to adjourn. Motion carried unanimously.

The meeting adjourned at 12:07 pm.

DRAFT

**1. Chrystal Seeley-Schreck, Education Director,
Agriculture, Natural Resources, & STEM, Wisconsin
Technical College System**

**State of Wisconsin
Department of Agriculture, Trade and Consumer Protection**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Matt Tompach		2) Date When Request Submitted: October 11, 2017 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date.</small>	
3) Name of Board, Committee, Council, Sections: VEB			
4) Meeting Date: Oct. 25, 2017	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? A. Public Comments 1. Chrystal Seeley-Schreck, Education Director, Agriculture, Natural Resources, & STEM, Wisconsin Technical College System (WTCS)	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input checked="" type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Chrystal requested a few minutes to introduce herself to the Board and to give a brief overview of the WTCS vet tech programs. WTCS is interested in current trends in vet tech credentialing and how the system may best respond to those trends.			
11) Authorization			
Matt Tompach		Oct. 11, 2017	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Late Processing of Renewals/Expired Licenses

**State of Wisconsin
Department of Agriculture, Trade and Consumer Protection**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Matt Tompach		2) Date When Request Submitted: October 11, 2017 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date.</small>	
3) Name of Board, Committee, Council, Sections: VEB			
4) Meeting Date: Oct. 25, 2017	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Items 1. Late Processing of Renewals/Expired Licenses	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: The VEB will consider the following motion: In case of potential delays in processing veterinary credential renewals during this first renewal cycle under DATCP, the Board will exercise its discretion under VE 7.07 Wisconsin Administrative Code to take no disciplinary action <i>for failure to renew</i> against those veterinarians and veterinary technicians whose credentials expire on Dec. 31, 2017 and complete the renewal process with reasonable expediency.			
11) Authorization			
Matt Tompach		Oct. 11, 2017	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Request Expungement of Order – Mark Hein, DVM

**State of Wisconsin
Department of Agriculture, Trade and Consumer Protection**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Robert Van Lanen, Regulatory Specialist – Senior		2) Date When Request Submitted: October 18, 2017 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date.</small>	
3) Name of Board, Committee, Council, Sections: VEB			
4) Meeting Date: Oct. 25, 2017	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? E. Administrative Items 3. Request Expungement of Order – Mark Hein, DVM	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: At the April 26, 2017 Board meeting, members approved an order against Dr. Mark A. Hein (16 VET 036) for falsely certifying completion of 30 CE hours over the 14-15 licensing period; he had provided certificates for just 29 hours. Dr. Hein has since found missing certificates that more than meet the 30-hour requirement. He is requesting that the Board expunge his record of the April 26 order.			
11) Authorization			
Robert Van Lanen		Oct. 18, 2017	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
BEFORE THE VETERINARY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
MARK A. HEIN, D.V.M., :
RESPONDENT. :
: ORDER: 0005016
:

Department of Agriculture, Trade and Consumer Protection Case No. 16 VET 036

The parties in this matter agree to the terms and conditions of the Stipulation, incorporated herein, as the final disposition of this matter.

Accordingly, the Wisconsin Veterinary Examining Board (the Board) adopts the Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

PARTIES

1. The Board is created and attached to the Wisconsin Department of Agriculture, Trade and Consumer Protection (the Department) pursuant to Wis. Stat. § 15.135(5).

2. Dr. Mark A. Hein, D.V.M. (Respondent), is licensed in the State of Wisconsin to practice veterinary medicine, having license number 404522 (previously 2975-50), first issued on July 8, 1987, and current through December 31, 2017.

3. The Respondent's most recent address on file with the Department is W7683 Old Highway 93, Holmen, Wisconsin 54636.

FINDINGS OF FACT

4. Respondent has no previous disciplinary history.

5. At all times relevant to this proceeding, Respondent was working as a veterinarian at Van Loon Animal Hospital, W7683 Old Highway 93, Holmen, Wisconsin 54636.

6. Pursuant to Wis. Admin. Code § VE 10.02(8), the Board requested Respondent provide documentation of completion of continuing education requirements for the 2014-2015 biennial renewal period.



7. Respondent provided certificates of attendance/completion for 29 hours of courses provided by an approved course provider.

CONCLUSIONS OF LAW

8. The Board has jurisdiction in this matter pursuant to Wis. Stat. § 89.07(2).

9. The Board is authorized to enter into the Stipulation pursuant to Wis. Stat. § 227.44(5).

10. The Board has authority to assess costs of the proceeding pursuant to Wis. Stat. § 89.0715(2).

11. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § VE 7.06 (22)(a) by falsely certifying to the Board that the veterinarian Has completed the 30 hours of continuing education required under Wis. Admin. Code § VE 10.02(1).

12. The Board has authority to reprimand the Respondent or deny, suspend, limit, or revoke the Respondent's veterinary license pursuant to Wis. Admin. Code § VE 7.07.

ORDER

13. The Stipulation is accepted.

14. Respondent is reprimanded.

15. Respondent's license to practice veterinary medicine is limited as follows:

16. Within three (3) months of the date of this Order, Respondent shall, at his own expense, take and successfully complete one (1) hour of continuing education on the topic of Veterinary - Client Relationship to fulfill the 30 hours of CE for the 2014-2015 biennial renewal period.

a. For future consideration of CE to be approved, weekly staff meetings of training should have a meeting syllabus pursuant to Wis. Admin. Code § VE 10.02(8)(e).

b. None of the education completed pursuant to this requirement may be used to satisfy any continuing education

A handwritten signature in black ink, appearing to be 'MB', is located in the bottom right corner of the page.

requirements that have been or may be instituted by the Board or Department

17. Within fourteen (14) days of the effective date of this Order, Respondent shall pay costs of this matter in the amount of \$ 136.86 by check or money order payable to the Wisconsin Department of Agriculture, Trade and Consumer Protection.

18. Payment of costs and proof of successful course completion shall be sent to:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Office of Legal Counsel
2811 Agriculture Drive
P.O. Box 8911
Madison, WI 53708-8911

19. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license without further notice or hearing, until Respondent has complied with the relevant portion of this Order. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order.

20. This Order is effective on the date of its signing.

FOR WISCONSIN VETERINARY EXAMINING BOARD:

by: P. C. Johnson DVM 4/26/17
Date
Print name: P C Johnson DVM
A Member of the Board

Mark Heid Lic #2975 3/15/2017



STATE OF WISCONSIN
BEFORE THE VETERINARY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 : STIPULATION
MARK A. HEIN, D.V.M., :
RESPONDENT. : ORDER: 0005016

Department of Agriculture, Trade and Consumer Protection Case No. 16 VET 036

Dr. Mark A. Hein, D.V.M. (Respondent) and the Wisconsin Veterinary Examining Board (the Board) stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Board. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- The right to a hearing on the allegations against Respondent, at which time the Board has the burden of proving those allegations by a preponderance of the evidence;
- The right to confront and cross-examine the witnesses against Respondent;
- The right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- The right to testify on Respondent's own behalf;
- The right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- The right to petition for rehearing; and
- All other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is not represented by an Attorney.



4. Respondent agrees to the adoption of the Final Decision and Order, incorporated herein, by the Board. The parties to the Stipulation consent to the entry of the Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the proposed form.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Board for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other employee of the Wisconsin Department of Agriculture, Trade and Consumer Protection and any member of the Board assigned as the case advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, the case advisor may, as a member of the Board, vote on whether the Board should accept this Stipulation and issue the Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be available to the public.

Mark Hein
Dr. Mark A. Hein, D.V.M.
W7683 Old Highway 93
Holmen, WI 54636
License no. 404522

3/15/2017
Date

FOR WISCONSIN VETERINARY EXAMINING BOARD:

by: P.C. Johnson DVM
Print name: PC Johnson DVM
A Member of the Board

4/26/17
Date



Tompach, Matthew C - DATCP

From: Tompach, Matthew C - DATCP
Sent: Wednesday, October 18, 2017 3:17 PM
To: Tompach, Matthew C - DATCP
Subject: FW: 16 VET 036 RE: Oncura Certificates - Requesting expungement of Order

Please complete this [brief survey](#) to help us improve our customer service. Thank you for your feedback!

From: Mark Hein [<mailto:kneesurgery99@gmail.com>]
Sent: Friday, October 13, 2017 11:48 AM
To: Van Lanen, Robert J - DATCP <Robert.VanLanen@wisconsin.gov>
Subject: Re: 16 VET 036 RE: Oncura Certificates - Requesting expungement of Order

Mark Hein , DVM
Van Loon Animal Hospital , SC
W7683 old Hwy 93
Holmen, WI 54636

phone 608-792-8184

Date : 10/13/2017

re: additional CE credits found for audit of CE [2014, 2015]

Dear Personel of the Wisconsin Veterinary Examining Board:

I have provided certificates of CE to Robert Van Lanen totaling an additional 13 hr of study in both cardiac and abdominal Ultrasound for the audit period 2014, 2015. Robert has called to verify and confirm this training with Oncura Partners which I found more valuable than any University courses in Ultrasound that I've ever taken. We continue to learn Ultrasound on every study through telemedicine consults with this company; I recommend this training highly.

The certificates of training for this course work either was never sent to me or was expelled as "spam" in my e-mail, hence, was not provided to you during the course of my audit.

I ask the board to consider [expunging the original Order 0005016, Dated 4/26/17](#) from my record. If fees apply for your additional labor and or legal costs associated with this action, I will gladly comply.

Mark Hein, DVM

On Thu, Oct 12, 2017 at 2:10 PM, Van Lanen, Robert J - DATCP <Robert.VanLanen@wisconsin.gov> wrote:

Dr. Hein,

Since this is the first time the attorney or myself have had this situation come up, the attorney would like you to write up something so I can present it to the Vet Board for consideration to expunge the Order.

Just explain as much as you can and that you would like the Board to consider expunging the original Order 0005016, Dated 4/26/17 (attached). I would include the reason why you did not originally have the additional CE from Oncura.

I also included you Full Licensure.

If you get this to me by Tuesday, 17 Oct, I will be able to present it on Oct 25 at the VEB meeting.

Please let me know if you have any questions.

I am off tomorrow, Friday 13 Oct.

Thank you,

Robert J. Van Lanen

Regulatory Specialist – Senior – Veterinary Examining Board

Wisconsin Department of Agriculture, Trade and Consumer Protection

Phone: [608.224-5028](tel:608.224.5028)

Cell: [608-381-0595](tel:608-381-0595)

Fax: [608.224.5034](tel:608.224.5034)

robert.vanlanen@wisconsin.gov

Please complete this [brief survey](#) to help us improve our customer service. Thank you for your feedback!

From: Mark Hein [mailto:kneesurgery99@gmail.com]

Sent: Monday, September 25, 2017 1:17 PM

To: Van Lanen, Robert J - DATCP <Robert.VanLanen@wisconsin.gov>

Subject: Re: 16 VET 036 RE: Oncura Certificates

Thank you for your time Robert

Dr.Hein

On Sep 25, 2017 1:08 PM, "Van Lanen, Robert J - DATCP" <Robert.VanLanen@wisconsin.gov> wrote:

Dr. Hein,

Sorry for the delay.

I have the 2 certificates you have submitted for the 2014-2015 CE. I did call Oncura since the certificates did not list credit hours. The abdominal Ultrasound Training was 7 hours, and the Echocardiography Training was 6 hours according to Erica at Oncura.

As for clearing your name, I have talked to the attorney for the VEB and we will bring up this additional information to the Veterinarian Examining Board (VEB). Since your Final Decision and Order was a VEB Order, the VEB will be the ones to decide if we can clear your name/expunge the Order. I have this added to the quarterly VEB meeting on October 25.

I will let you know what the VEB decides.

If you have any questions, please let me know.

Thank you,

Robert J. Van Lanen

Regulatory Specialist – Senior – Veterinary Examining Board

Wisconsin Department of Agriculture, Trade and Consumer Protection

Phone: [608.224-5028](tel:608.224.5028)

Cell: [608-381-0595](tel:608-381-0595)

Fax: [608.224.5034](tel:608.224.5034)

robert.vanlanen@wisconsin.gov

Please complete this [brief survey](#) to help us improve our customer service. Thank you for your feedback!

From: Mark Hein [mailto:kneesurgery99@gmail.com]

Sent: Wednesday, August 09, 2017 5:56 PM

To: Van Lanen, Robert J - DATCP <Robert.VanLanen@wisconsin.gov>

Subject: Fwd: Oncura Certificates

----- Forwarded message -----

From: **Leslie, Chiaet** <cleslie@oncurapartners.com>

Date: Wed, Aug 9, 2017 at 11:07 AM

Subject: Oncura Certificates

To: "KNEESURGERY99@GMAIL.COM" <KNEESURGERY99@gmail.com>

attached are certificates for training performed in 2015 during my audit period that I had forgot about or lost in flood of our basement . If this could clear may name I appreciate it, though understand if not possible .

Mark Hein, DVM

Van Loon Animal Hospital , SC; President



Chiaet Leslie

Senior Customer Service Team Member

Oncura Partners | [3709 Promontory Point, Suite #214, Austin, TX 78744](https://www.oncurapartners.com/locations/3709-Promontory-Point-Suite-214-Austin-TX-78744)

T: [+1-866-233-9100](tel:+18662339100)

cleslie@oncurapartners.com | www.oncurapartners.com

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Certificate of Completion

This is to certify that

Dr. Mark Hein, DVM

Has successfully completed the
Oncura Partners Abdominal Ultrasound Training Program
and is qualified to perform Abdominal Ultrasounds
as of this 28th day of January in the year of 2014.

Oncura Partners Sonographer

Benj. Anle DVM, ABVP

Oncura Partners Management

24/231



Certificate of Completion

This is to certify that

Mark Hein, DVM

Has successfully completed the

Oncura Partners Echocardiography Training Program

And is qualified to perform cardiac ultrasounds

As of this 1st day of May in the year of 2014.

Oncura Partners Sonographer

Benj. Anle DVM, ABVP

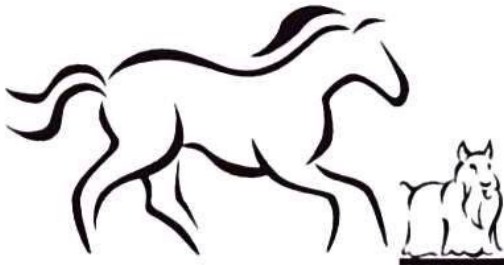


Request Waiver of 2016-17 CE Requirement - Dr. Dean Peterson

**State of Wisconsin
Department of Agriculture, Trade and Consumer Protection**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Matt Tompach		2) Date When Request Submitted: October 18, 2017 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date.</small>	
3) Name of Board, Committee, Council, Sections: VEB			
4) Meeting Date: Oct. 25, 2017	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? E. Administrative Items 4. Request Waiver of 2016-17 CE Requirement – Dr. Dean Peterson	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Dr. Dean Peterson is requesting a waiver of the continuing education requirement for the 2016-17 licensing period due to a long term illness.			
11) Authorization			
Matt Tompach		Oct. 18, 2017	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			



Janesville Animal Medical Center

5021 Wright Court Milton, Wisconsin 53563

Phone: 608-868-1761

Toll Free: 800-694-2251

Fax: 608-868-1764

E-mail: jamc@janesvillevet.com

October 17, 2017

Dear Mr. Tompach,

I am writing to request a waiver of the continuing education requirement as outlined in VE 10.02, paragraph 4. Since 2016, I have been dealing with numerous health issues. I spent the early part of 2016 in and out of doctor's offices. In September, I decided that I was not physically well enough to continue to practice. In December, I was hospitalized for several weeks at Mayo Clinic in Minnesota where doctors finally determined that I have a fungal infection in my bone marrow among other ongoing health issues. I started treatment with antifungal medications and continue treatment at this time. In early 2017, I went through 8 weeks of hyperbaric chamber treatment at Mayo Clinic to repair my bladder. After that I spent several weeks in a rehab facility to regain my strength. Since then I have been back and forth to Mayo Clinic and UW Madison for follow up care.

For the past year I have been solely focused on working with my doctors to get healthy and regain my strength. Because of that, I have not had time to participate in continuing education opportunities. I am the veterinarian-owner of Janesville Animal Medical Center and have been a veterinarian for the past 46 years. I would like to continue to retain my veterinary license and am asking for a waiver of the continuing education requirement.

Please do not hesitate to contact me with any questions at 608-931-5757.

Sincerely,

A handwritten signature in black ink that reads "Dean Peterson, DVM". The signature is written in a cursive, flowing style.

Dean Peterson, DVM

For-fee Class Presentations by CVT

**State of Wisconsin
Department of Agriculture, Trade and Consumer Protection**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Matt Tompach		2) Date When Request Submitted: October 11, 2017 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date.</small>	
3) Name of Board, Committee, Council, Sections: VEB			
4) Meeting Date: Oct. 25, 2017	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? G. Scope of Practice Inquiries 1. For-fee Class Presentations by CVT	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Staff forwarded to Dr. Johnson an inquiry from a CVT interested in putting on classes for the public at the veterinary clinic. Because there would be a \$25 charge for the course, there is a question of whether the course may constitute the practice of veterinary medicine and perhaps a licensed veterinarian should be present at the course. To “practice veterinary medicine” means to examine into the fact or cause of animal health, disease or physical condition, or to treat, operate, prescribe or advise for the same, or to undertake, offer, advertise, announce, or hold out in any manner to do any of said acts, <u>for compensation, direct or indirect</u> , or in the expectation thereof. Dr. Johnson requested this inquiry be put on the October meeting agenda for members’ consideration.			
11) Authorization			
Matt Tompach		Oct. 11, 2017	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Tompach, Matthew C - DATCP

From: Molly and Phil Johnson <pjohnson6@charter.net>
Sent: Wednesday, August 09, 2017 1:34 PM
To: Tompach, Matthew C - DATCP
Subject: Re: Looking for approval for CPR/First Aid Class

Matt,

I have had some time to look at this and it raises some interesting questions that I think ultimately should be talked about by the whole Board. I agree with Cheryl's instinct of being uneasy about charging for this talk and how it could be interpreted as practice. Some of the information being conveyed to the public could be seen as owner "triage" before they got their emergency to a veterinarian and as long as there was not medication recommendations involved, it would probably be general information that could be found from many different sources.

Going forward I would get some more details about what information is being given in these talks, along with any other pertinent information that may be helpful and have the Board discuss this at our next meeting.

Phil Johnson, DVM

From: Tompach, Matthew C - DATCP
Sent: Tuesday, August 8, 2017 3:48 PM
To: pjohnson6@charter.net
Subject: FW: Looking for approval for CPR/First Aid Class

Dr. Johnson, please see below; Cheryl Daniels suggested I bring these issues to you.

A CVT has asked if she could put on classes for the public at the veterinary clinic. Cheryl pointed to the definition of veterinary medicine in the statutes:

To "practice veterinary medicine" means to examine into the fact or cause of animal health, disease or physical condition, or to treat, operate, prescribe or advise for the same, or to undertake, offer, advertise, announce, or hold out in any manner to do any of said acts, for compensation, direct or indirect, or in the expectation thereof.

Because there would be a \$25 charge for the course, Cheryl thought the course may constitute the practice of veterinary medicine and perhaps a licensed veterinarian should be present at the course. She thought I should run the scenario by you for your review.

Also, the CVT was invited to do a presentation at a city event on bite prevention, first aid/CPR etc. that would be free to the general public; she is also looking for approval to do that event, and we thought I should get your views on that as well.

Thank you for taking the time to review these matters.

Matthew Tompach
(608)224-5024
Matthew.Tompach@Wisconsin.gov

Please complete this [brief survey](#) to help us improve our customer service. Thank you for your feedback!

From: Candy G [mailto:candycvt@gmail.com]
Sent: Tuesday, August 08, 2017 3:35 PM
To: Tompach, Matthew C - DATCP <Matthew.Tompach@wisconsin.gov>
Subject: RE: Looking for approval for CPR/First Aid Class

For the class held at the veterinary clinic, yes. Looking to charge \$25/person.

There is an event that my city holds every year for public safety (EMT's, Fire fighters, Public Service, Diggers Hotline etc are invited to speak) and the coordinator invited me to do something of my choosing regarding animals. I'm looking to do dog bite prevention, but since we're on the topic, I might want to do first aid/CPR next year. This would be a no charge event.

So, to answer your question, both:)

Candy G

CVT - All Creatures Veterinary Clinic, Minocqua, WI

On Aug 8, 2017 3:13 PM, "Tompach, Matthew C - DATCP" <Matthew.Tompach@wisconsin.gov> wrote:

Candace, would you charge the public a fee for these types of courses?

Matthew Tompach

Executive Director

Wisconsin Veterinry Examining Board

[\(608\)224-5024](tel:6082245024)

Matthew.Tompach@Wisconsin.gov

Please complete this [brief survey](#) to help us improve our customer service. Thank you for your feedback!

From: Candy G [mailto:candycvt@gmail.com]
Sent: Tuesday, August 08, 2017 11:20 AM
To: DATCP VEB <datcpveb@wisconsin.gov>
Subject: Looking for approval for CPR/First Aid Class

Good afternoon,

My name is Candace M Grambow - CVT (license # 9903063 - 51) & I am currently employed at All Creatures Veterinary Clinic, in Minocqua, WI. Our clinic holds several events & I am looking to add a Pet CPR/First Aid class for our clients & community, sometime this fall or winter. However, I would like to make sure that I am authorized to do so, without any conflict with my license. The class will be informal & no certification will be offered & will be held after hours at my veterinary clinic (DVM will not be on premises at that time unless required for class authorization). Here are the following things I'd be teaching owners how to handle...

RESPONSES

-		
CPR	80.00%	4
-		
Lacerations/Wound Care		
-		
Difficulty Breathing		
-		
Choking		
-		
Drowning		
-		
Wildlife Altercation		
-		
Poison Ingestion		
-		
Trauma (hit by car, bite wounds, leg traps etc)		
-		
Blue/Green Algae		

-
Rabies Exposure

-
Bee Stings

-
Medications/Tools to use & keep for first aid

-
Fractures

-
Hypoglycemia (Low Blood Sugar)

-
Heat Stroke

If you'd prefer, I can email you an attachment in the near future of what exactly I'll be teaching & how I'll be teaching it. This will also be family orientated event, with specific instructions for children under 18 in the event they see any of the above problems.

Thanks for your time,

Candace Grambow

CVT All Creatures Veterinary Clinic, Minocqua, WI

[715-358-4300](tel:715-358-4300)

CPR/First Aid Class

There are 2 different classes that I would like to do. One would be clinic based, offered to our clinic clients & others from our community which would last about 1 hour. The second would be more of a fast paced "how to" at a community event ("Public Safety" which would be held in our area town park).

Both classes would be informal & no certification would be offered.

I'm still evaluating if our clients would even be interested in doing something like this & if we do not get much of a response, the clinic setting class would not happen. However, I would still be interested in doing this at our community event (next year).

The below topics are what I'd like to consider. The class would in no way teach everything listed here. I'm hoping to teach only the top 10 topics people are interested in. As far as the community event, this would be limited to maybe 5 topics.

I understand there may be a conflict regarding teaching CPR itself – First Aid is my main priority.

CPR – Demonstration of breathing for an animal via nose & performing chest compressions, w/ stuffed dog & cat. During the demonstration I would explain how & when CPR would be used (ie, animal not breathing but has a pulse = breathing for animal but skipping heart compressions).

Lacerations/Wound Care – Demonstration of cleaning & bandaging wound on live dog.

Difficulty Breathing – Demonstration of checking airway, positioning of animal for optimal airway passage.

Choking - Demonstration of checking airway, confirming obstruction & performing heimlich in both the standing & laying positions.

Drowning – This would tie in w/ CPR

Wildlife Altercation – Discussion of rabies & how the virus spreads, the importance of Rabies vaccinations, skunk spray treatment etc

Poison Ingestion – Discussion of emetics, the risks of different poisons & risks of using emetics.

Trauma (hit by car, bite wounds, leg traps etc) – Discussion of shock, shock symptoms, pain aggression, utilizing a muzzle, tourniquet, how to release different leg traps etc

Blue/Green Algae – Discussion of the dangers this poses to a pet, symptoms of the toxicity, common environmental elements that the algae thrives in & what to do if owner suspects toxicity.

Rabies Exposure – Discussion of wildlife that hold the highest risk for spreading rabies, how the virus is spread & the importance of protecting their pet & their family.

Bee Stings – Symptoms of minor reaction vs an anaphylactic reaction, having benedryl on hand (advising owners to speak to their veterinarian prior to dosing/administering), safety regarding using ice packs & antiinflammatories (again, speaking w/ their veterinarian before dosing/administering anything).

First Aid Kit Supplies – Giving owners a list of items to keep in their pet first aid kit (see second attachment).

Fractures – Advising owners to seek medical attention before doing anything.

Hypoglycemia – Discussion of recognizing symptoms & responding accordingly (foods/substances to give a dog if necessary).

Heat Stroke – Discussion on what to do & what NOT to do (using cool water vs ice water) wetting the dog & placing a fan/airconditioning, then getting to their veterinarian asap. Not to place a cool wet blanket over the dog (greenhouse effect).

Thank you for taking the time to review this,

Candy Grambow – CVT (WI License #9903063 - 51)

CVT Submitting Lab Work Requests

**State of Wisconsin
Department of Agriculture, Trade and Consumer Protection**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Matt Tompach		2) Date When Request Submitted: October 11, 2017 Items will be considered late if submitted after 12:00 p.m. on the deadline date.	
3) Name of Board, Committee, Council, Sections: VEB			
4) Meeting Date: Oct. 25, 2017	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? G. Scope of Practice Inquiries 2. CVT Submitting Lab Work Requests	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Staff forwarded to Dr. Johnson an inquiry relating to lab work orders going out under the name of a CVT. Dr. Johnson requested this inquiry be put on the October meeting agenda for members' consideration.			
11) Authorization			
Matt Tompach		Oct. 11, 2017	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Tompach, Matthew C - DATCP

From: Molly and Phil Johnson <pjohnson6@charter.net>
Sent: Thursday, September 28, 2017 9:38 AM
To: Tompach, Matthew C - DATCP
Subject: Re: Question regarding lab work orders under CVT's

Matt,

This question was interesting and I have taken a little time to think about it. The big picture is that this all comes down to record keeping. The clinic in the inquiry has a "system" that creates lab results that opens questions about non-veterinarians practicing veterinary medicine that need to be verified by written records that this is not the case. I have not seen such a system, but I would think changes should be made. As long as the medical records are kept up, this particular clinic should not have any problems.

This was an interesting question to review and I think we should have the whole Board hear about this at our next meeting, if for no other reason than its novelty and to see if any other Board members would have different thoughts about this.

I hope that helps for now.

Phil Johnson DVM

-----Original Message-----

From: Tompach, Matthew C - DATCP
Sent: Tuesday, September 26, 2017 1:55 PM
To: 'Molly and Phil Johnson'
Subject: Question regarding lab work orders under CVT's

Dr. Johnson,

We received an inquiry today from a CVT relating to whether it is OK for a lab work order to go out under the name of a CVT.

If a DVM in the practice orders lab work and the order is written in a medical note, the practice has a CVT obtain and process the lab samples (including going to an outside reference lab).

The question is that it may appear that the CVT is ordering diagnostics, rather than the DMV. If they already have written orders in the medical record, then technically would that suffice for clarification as to who ordered diagnostics? Is it then permissible for the CVT's name to go on the requisition form? This applies to routine labs such as CBC/Chems, liver panels, hwt and fecals.

The practices' lab work order forms are generated based on who the appointment was seen by automatically (which could be a doctor or a CVT).

So the initial "order" occurs in the medical note, then follow-up can occur with a CVT.

There is also the drop-off of fecals by client that are made under the practice staff. Should all forms be generated under a DVM name despite a written order in the medical record and the doctor not actually seeing the patient that day? We cannot find anything that specifically addresses this question in the state statues to see if the practice is being compliant with current laws and rules.

Matthew Tompach
(608)224-5024
Matthew.Tompach@Wisconsin.gov

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Thank you for your feedback!

Discussion of Wis. Stat. s. 89.075, Access to Health Care Records

**State of Wisconsin
Department of Agriculture, Trade and Consumer Protection**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Matt Tompach		2) Date When Request Submitted: October 11, 2017 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date.</small>	
3) Name of Board, Committee, Council, Sections: VEB			
4) Meeting Date: Oct. 25, 2017	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? H. Legislative/Administrative Rule Matters 1. Discussion of Wis. Stat. s. 89.075, Access to Health Care Records	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: At the July VEB meeting, Dr Nesson requested that a discussion of Wis. Stat. s. 89.075, Access to Health Care Records, be included on the October meeting agenda.			
11) Authorization			
Matt Tompach		Oct. 11, 2017	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
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Tompach, Matthew C - DATCP

Subject: FW: FW: Ownership of equine medical records question

From: Lisa Nesson [mailto:lnesson@irongateequine.com]
Sent: Wednesday, October 04, 2017 2:05 PM
To: Tompach, Matthew C - DATCP <Matthew.Tompach@wisconsin.gov>
Subject: Re: FW: Ownership of equine medical records question

Yes this is fine. Thanks for asking.

Lisa

On Oct 4, 2017 1:47 PM, "Tompach, Matthew C - DATCP" <Matthew.Tompach@wisconsin.gov> wrote:

Dr. Nesson,

At the July VEB meeting you asked that medical records be placed on the October agenda. Is it OK if I reproduce the email string below for placement in the open session Board packet?

Matthew Tompach

[\(608\)224-5024](tel:(608)224-5024)

Matthew.Tompach@Wisconsin.gov

Please complete this [brief survey](#) to help us improve our customer service. Thank you for your feedback!

From: Lisa Nesson [mailto:lnesson@irongateequine.com]
Sent: Thursday, February 23, 2017 10:11 AM
To: Daniels, Cheryl F - DATCP <Cheryl.Daniels@wisconsin.gov>
Cc: Tompach, Matthew C - DATCP <Matthew.Tompach@wisconsin.gov>
Subject: Re: Ownership of equine medical records question

Thanks Cheryl and Matt for your quick response. Unfortunately this still presents significant interpretation issues in my mind and from a stand point of how this has been interpreted by our profession for my entire career.

My take away from your additional comment is that in the case I sited, our practice is on firm footing regarding not releasing the records due to no proof of current ownership or permission from Diane. But if she had proof of ownership and no permission then we are obligated to give her the records created while the previous owner owned the horse. This is not how our profession has interpreted this statute. Our interpretation has been that we need permission from the previous owner to release any records created prior to the current owner taking ownership of the animal. Lacking that permission and regardless of proof of current ownership, the records cannot be made available to the current owner.

The initial response numbered 1 does not differentiate between current and previous owner which creates issues with interpretation...

Help! Depending on your response, I think we may have another rule to rewrite or an entire population of horse owners and veterinarians to reeducate...

Thanks again for your input,

Lisa

Lisa M. Nesson, DVM

Irongate Equine Clinic

[1848 Waldorf Blvd.](#)

[Madison, WI 53719](#)

[Ph: 608-845-6006](#)

[Fax: 608-845-6046](#)

www.irongateequine.com

On Thu, Feb 23, 2017 at 8:46 AM, Daniels, Cheryl F - DATCP <Cheryl.Daniels@wisconsin.gov> wrote:

This was what was written back in September.

“1. [Wis. Stat. s. 89.075](#) does state that the owner of any animal patient of a veterinarian, or any other person who submits to the veterinarian a statement of written informed consent signed by the owner, may, upon request to the veterinarian, receive a copy of the animal patient’s health care records or have the animal’s x-rays referred to another veterinarian of the owner’s choice, upon payment of reasonable costs. Given that the statute specifically contemplates getting the owner’s consent when it is NOT the owner requesting the records, the statute should be read that proof of current ownership is all that is needed for the former veterinarian to be required to release the records to the current owner.

2. That said, [Wis. Admin. Code s. VE 7.03\(1\)](#) only requires a veterinarian to keep individual client records on any equine, food, or fiber patient for 3 years after the date of the last entry.”

Later that day I also made an additional observation:

“Unfortunately, if the person doesn’t have proof of current ownership, if a person can’t get ahold of the previous owner, or the previous owner is being difficult or just not responding, then the current owner is stuck not having complete records. That’s why proof of ownership by itself, plus paying reasonable costs, means the current owner shall receive the records and shields the vet clinic from any liability from the previous owner, under the statute. In addition, there is no state statute that these records are private property owned by the person who paid for the services at that time. They are actually the property of the veterinarian/clinic, must be maintained by the veterinarian or clinic for at least 3 years, and shall be copied and released to the owner (or designee with the owner’s written consent) upon payment of a reasonable cost.”

Lisa, does this give you all the information you need for your clinic’s policy? Cheryl

Cheryl Furstace Daniels

Assistant Legal Counsel – Office of the Secretary

Board Counsel – Wisconsin Veterinary Examining Board

Board Counsel – Wisconsin Livestock Facility Siting Review Board

Wisconsin Department of Agriculture, Trade and Consumer Protection

[608-224-5026](tel:608-224-5026)

cheryl.daniels@wisconsin.gov



Please complete this [brief survey](#) to help us improve our customer service. Thank you for your feedback!

From: Lisa Nesson [<mailto:lnesson@irongateequine.com>]
Sent: Wednesday, February 22, 2017 6:23 PM
To: Tompach, Matthew C - DATCP <Matthew.Tompach@wisconsin.gov>
Subject: Ownership of equine medical records question

Hi Matt,

My practice has a client who sent you a question last September regarding ownership of veterinary medical records. The client's name is Gretchen Zechzer.

I am writing to you for guidance because I want to be sure that our practice has a good understanding of the state statute and that our policy on this topic are correct. What she sent us as your response has raised a bit of concern in our partnership group so I just want to be sure I understand our position.

The situation we have is this: Diane owned a horse and used our clinic for it's veterinary care. At some point, according to Gretchen, the horse was sold/given to Gretchen. Gretchen has no proof of ownership from Diane. Diane has been unreachable with the contact information that either Gretchen or we have for her. Gretchen would like the horse's medical records created when Diane owned the horse and that Diane paid for. We never got permission at the time of the sale to release Diane's records to Gretchen nor can Gretchen produce anything to prove she is the current owner other than her say so (no bill of sale, signed statement or registration paper). What do we do in this situation?

Lisa M. Nesson, DVM

Irongate Equine Clinic

[1848 Waldorf Blvd.](#)

[Madison, WI 53719](#)

[Ph: 608-845-6006](tel:608-845-6006)

Fax: [608-845-6046](tel:608-845-6046)

www.irongateequine.com

CHAPTER 89

VETERINARY EXAMINING BOARD

89.02	Definitions.	89.07	Discipline.
89.03	Rules.	89.071	Administrative warnings.
89.04	Violations.	89.0715	Assessment of costs.
89.05	Practice; penalties.	89.072	Licensees of other jurisdictions.
89.06	Licensure.	89.073	Temporary reciprocal credentials for the spouses of service members.
89.062	Renewal; continuing education.	89.075	Access to health care records.
89.063	Fees.	89.078	Background investigations.
89.065	Examinations.	89.079	Unauthorized practice.
89.068	Drugs for animal use.	89.08	Injunctive relief.

Cross-reference: See also [VE](#), Wis. adm. code.

89.02 Definitions. As used in this chapter, unless the context requires otherwise:

(1g) “Administer,” when used in reference to administering a drug to an animal, means directly applying the drug, whether by injection, ingestion, or any other means, to the body of the animal.

(1m) “Animal” means any animal except a human being.

(3) “Client” means the person who owns or who has primary responsibility for the care of a patient.

(3d) “Department” means the department of agriculture, trade and consumer protection.

(3g) “Dispense” means the act of delivering a drug to a person who may lawfully possess the drug, including the compounding, packaging or labeling necessary to prepare the drug for delivery.

(3r) “Drug” has the meaning given in s. 450.01 (10).

(4) “Examining board” means the veterinary examining board.

(4e) “Extra-label use” means use of a drug in a manner that is not in accordance with the directions for use that are contained on the label affixed to the container in which the drug is dispensed.

(4m) “Food-producing animal” means an animal that is raised to produce food for human consumption.

(4s) “Patient” means an animal that is examined or treated by a veterinarian.

(5) “Pesticide” has the meaning specified in s. 94.67 (25).

(5m) “Pharmacist” means an individual who is licensed as a pharmacist under ch. 450.

(6) To “practice veterinary medicine” means to examine into the fact or cause of animal health, disease or physical condition, or to treat, operate, prescribe or advise for the same, or to undertake, offer, advertise, announce, or hold out in any manner to do any of said acts, for compensation, direct or indirect, or in the expectation thereof.

(6m) “Prescription” means a written, oral or electronic order from a veterinarian to a pharmacist or to another veterinarian that authorizes the pharmacist or other veterinarian to dispense a drug, or from a veterinarian to a client that authorizes the client to make extra-label use of a drug.

(7) “Veterinarian” means a practitioner of veterinary medicine who is duly licensed by the examining board.

(8) “Veterinarian–client–patient relationship” means a relationship between a veterinarian, a client and the patient in which all of the following apply:

(a) The veterinarian has assumed the responsibility for making medical judgments regarding the health of the patient and the patient’s need for medical treatment, and the client has agreed

to accept those medical judgments and to follow the related instructions of the veterinarian.

(b) The veterinarian has sufficient knowledge of the patient to initiate a general or preliminary diagnosis of the medical condition of the patient because the veterinarian has recently examined the patient or has made medically appropriate and timely visits to the premises on which the patient is kept.

(c) The veterinarian is readily available for follow-up treatment of the patient if the patient has an adverse reaction to veterinary treatment.

(9) “Veterinary drug” means any of the following:

(a) A drug that is recognized as a drug for animal use in the official U.S. pharmacopoeia or the official national formulary or any supplement to either of them.

(b) A drug that is intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in an animal.

(c) A drug that is intended to affect the structure or function of the body of an animal, including medicated feed or a growth-promoting implant, but not including feed that does not contain a drug.

(d) A substance that is intended for use as a component of a drug described in par. (a), (b) or (c).

(e) A drug that is produced and intended for human use but that is prescribed by a veterinarian for animal use.

(10) “Veterinary over-the-counter drug” means a drug that is labeled for animal use, that may be dispensed without a prescription and that is not required to bear the label statement: “CAUTION: Federal law restricts this drug to use by or on the order of a licensed veterinarian.”

(11) “Veterinary prescription drug” means a drug that may not be dispensed without the prescription of a veterinarian.

(12) “Veterinary technician” means a person duly certified by the examining board to work under the direct supervision of a licensed veterinarian.

History: 1975 c. 309; 1983 a. 189; 1987 a. 39; 1989 a. 279; 1991 a. 306; 1993 a. 213; 1995 a. 321; 1997 a. 27; 2015 a. 55 s. 2597, 4491; Stats. 2015 s. 89.02; 2015 a. 196.

The termination of the life of an animal by injection is not the practice of veterinary medicine. 65 Atty. Gen. 231.

89.03 Rules. **(1)** The examining board shall promulgate rules, within the limits of the definition under s. 89.02 (6), establishing the scope of practice permitted for veterinarians and veterinary technicians and shall review the rules at least once every 5 years to determine whether they are consistent with current practice. The examining board may promulgate rules relating to licensure qualifications, denial of a license, certification, or temporary permit, unprofessional conduct, and disciplinary proceedings.

(2) The examining board shall promulgate rules requiring training and continuing education sufficient to assure competency of veterinarians and veterinary technicians in the practice of veterinary medicine, except that the board may not require

5 Updated 15–16 Wis. Stats.

litigation in which it is alleged that the applicant is liable for damages for acts committed in the course of practice and has never been found liable for damages for acts committed in the course of practice which evidenced a lack of ability or fitness to practice.

(2) Upon application and payment of the fee established under s. 89.063, the examining board may issue a temporary consulting permit to practice veterinary medicine in this state for up to 60 days per year to any nonresident licensed to practice veterinary medicine in another state or territory of the United States or in another country.

History: 1987 a. 39; 2015 a. 55 s. 4500; Stats. 2015 s. 89.072.

89.073 Temporary reciprocal credentials for the spouses of service members. (1) In this section, “service member” means a member of the U.S. armed forces, a reserve unit of the U.S. armed forces, or the national guard of any state.

(2) The examining board shall grant a temporary license, certification, or permit specified under s. 89.06 to an individual who the examining board determines meets all of the following requirements:

(a) The individual applies for a temporary credential under this section on a form prescribed by the examining board.

(b) The individual is the spouse of a service member and the spouse and service member temporarily reside in this state as a result of the service member’s service in the U.S. armed forces, a reserve unit of the U.S. armed forces, or the national guard of any state.

(c) The individual holds a credential that was granted by a governmental authority in a jurisdiction outside this state that qualifies the individual to perform the acts authorized under the appropriate credential specified under s. 89.06.

(d) The individual pays the fee established under s. 89.063.

(e) The individual meets all other requirements established by the examining board by rule.

(3) A temporary credential granted under this section expires 180 days after the date the examining board issues it unless, upon application by the holder of the credential, the examining board extends the credential.

History: 2015 a. 179.

89.075 Access to health care records. The owner of any animal patient of a veterinarian, or any other person who submits to the veterinarian a statement of written informed consent signed by the owner, may, upon request to the veterinarian:

(1) Receive a copy of the animal patient’s health care records upon payment of reasonable costs.

(2) Have the animal patient’s X-rays referred to another veterinarian of the owner’s choice upon payment of reasonable costs.

History: 1987 a. 39; 2015 a. 55 s. 4501; Stats. 2015 s. 89.075.

89.078 Background investigations. (1) The examining board may conduct an investigation to determine whether an applicant for a license, certification, or permit issued under s.

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89.06, 89.072, or 89.073 satisfies any of the eligibility requirements specified for the license, certification, or permit, including, subject to ss. 111.321, 111.322, and 111.335, whether the applicant does not have an arrest or conviction record. In conducting an investigation under this subsection, the examining board may require an applicant to provide any information that is necessary for the investigation.

(2) A person holding a license, certification, or permit issued under s. 89.06, 89.072, or 89.073 who is convicted of a felony or misdemeanor anywhere shall send a notice of the conviction by 1st class mail to the examining board within 48 hours after the entry of the judgment of conviction. The examining board shall by rule determine what information and documentation the person holding the credential shall include with the written notice.

(3) The examining board may investigate whether an applicant for or holder of a license, certification, or permit issued under s. 89.06, 89.072, or 89.073 has been charged with or convicted of a crime.

History: 2015 a. 55, 179.

89.079 Unauthorized practice. (1) The department may conduct investigations, hold hearings, and make findings as to whether a person has engaged in a practice or used a title without a credential required under this chapter.

(2) If, after holding a public hearing, the department determines that a person has engaged in a practice or used a title without a required credential, the department may issue a special order enjoining the person from continuing the practice or use of the title.

(3) In lieu of holding a public hearing, if the department has reason to believe that a person has engaged in a practice or used a title without a required credential, the department may petition the circuit court for a temporary restraining order or an injunction as provided in ch. 813.

(4) (a) Any person who violates a special order issued under sub. (2) may be required to forfeit not more than \$10,000 for each offense. Each day of continued violation constitutes a separate offense. The attorney general or any district attorney may commence an action in the name of the state to recover a forfeiture under this paragraph.

(b) Any person who violates a temporary restraining order or an injunction issued by a court upon a petition under sub. (3) may be fined not less than \$25 nor more than \$5,000 or imprisoned for not more than one year in the county jail or both.

History: 2015 a. 55.

89.08 Injunctive relief. If it appears upon complaint to the examining board by any person, or if it is known to the examining board, that any person is practicing veterinary medicine without a license, the examining board, the attorney general or the district attorney of the proper county may investigate and may, in addition to any other remedies, bring an action in the name and on behalf of the state against the person to enjoin the person from such practice.

History: 1987 a. 39; 2015 a. 55 s. 4502; Stats. 2015 s. 89.08.

Chapter VE 7

STANDARDS OF PRACTICE AND UNPROFESSIONAL CONDUCT FOR VETERINARIANS

VE 7.01	Definitions.
VE 7.02	Delegation of veterinary medical acts.
VE 7.03	Records.
VE 7.04	Change of name and address.

VE 7.05	Display of license.
VE 7.055	Renewal of license.
VE 7.06	Unprofessional conduct.
VE 7.07	Board action.

Note: Chapter VE 7 as it existed on September 30, 1989, was repealed and a new chapter VE 7 was created effective October 1, 1989.

VE 7.01 Definitions. As used in this chapter:

(1) "Advertising" means to give notice by any means, including but not limited to any circular, card, notice, telephone book listing, magazine, newspaper or other printed material or any electronic medium.

(2) "Deception" means:

(a) Claiming to have performed an act or given a treatment which has not in fact been performed or given.

(b) Giving needless treatment.

(c) Using a different treatment than stated.

(3) "Fraud" means:

(a) The making of false claims regarding knowledge, ability, skills or facilities for use in treatment or diagnosis of a disease.

(b) The making of false claims regarding testing, inspecting, reporting or issuing of inter-state, intra-state or export health certificates.

(4) "Gross negligence" means a gross, serious or grave degree of negligence as compared to less serious or more ordinary acts of negligence.

(5) "Standard of care" means diagnostic procedures and modes of treatment considered by the veterinary profession to be within the scope of current, acceptable veterinary medical practice.

History: Cr. Register, September, 1989, No. 405, eff. 10-1-89; CR 07-051: cr. (5) Register October 2008 No. 634, eff. 11-1-08; CR 13-031: am. (1) Register April 2014 No. 700, eff. 5-1-14.

VE 7.02 Delegation of veterinary medical acts.

(1) The following acts are limited to those holding a license under s. 89.06 (1), 89.06 (2m) (a), or 89.072, Stats.; a permit under s. VE 3.05, 5.03 or 6.02; or active status as a student at a college of veterinary medicine approved by the board, and may not be delegated to or performed by veterinary technicians or other persons not holding such license or permit:

(a) Diagnosis and prognosis of animal diseases and conditions.

(b) Prescribing of drugs, medicines, treatments and appliances.

(c) Performing surgery.

(2) Except as provided under s. 95.21 (2), Stats., veterinarians may delegate to veterinary students the provision of veterinary medical services under the direct supervision of the veterinarian when the veterinarian is personally present on the premises where the services are provided.

(3) Except as provided under s. 95.21 (2), Stats., veterinarians may delegate to certified veterinary technicians the provision of the following veterinary medical services under the direct supervision of the veterinarian:

(a) Nonsurgical veterinary treatment of animal diseases and conditions, including administration of vaccines, including rabies vaccines.

(b) Observations and findings related to animal diseases and conditions to be utilized by a veterinarian in establishing a diagnosis or prognosis, including routine radiographs, nonsurgical speci-

men collection, drawing of blood for diagnostic purposes, and laboratory testing procedures.

(c) Administration of sedatives and presurgical medications.

(e) Nutritional evaluation and counseling.

(4) Veterinarians may delegate to certified veterinary technicians the provision of the following veterinary medical services under the direct supervision of the veterinarian when the veterinarian is personally present on the premises where the services are provided:

(a) Administration of local or general anesthesia, including induction and monitoring.

(b) Performing diagnostic radiographic contrast studies.

(c) Dental prophylaxis and simple extractions that require minor manipulation and minimal elevation.

(5) Veterinarians may delegate to unlicensed assistants the provision of the following veterinary medical services under the direct supervision of the veterinarian:

(a) Basic diagnostic studies, including routine radiographs, nonsurgical specimen collection, and laboratory testing procedures.

(b) Monitoring and reporting to the veterinarian changes in the condition of a hospitalized animal patient.

(c) Dispensing prescription drugs pursuant to the written order of the veterinarian.

(6) Except as provided under s. 95.21, Stats., veterinarians may delegate to unlicensed assistants the provision of the following veterinary medical services under the direct supervision of the veterinarian when the veterinarian is personally present on the premises where the services are provided:

(a) Nonsurgical veterinary treatment of animal diseases and conditions, including administration of vaccines, and administration of sedatives and presurgical medications.

(b) Observations and findings related to animal diseases and conditions to be utilized by a veterinarian in establishing a diagnosis or prognosis, including the drawing of blood for diagnostic purposes.

(c) Dental prophylaxis.

(d) Nutritional evaluation and counseling.

(7) Notwithstanding subs. (1) to (6), a veterinary student, certified veterinary technician or unlicensed assistant employed by a veterinarian may, under the direct supervision of the veterinarian and pursuant to mutually acceptable written protocols, perform evaluative and treatment procedures necessary to provide an appropriate response to life-threatening emergency situations for the purpose of stabilizing the patient pending further treatment.

(8) In delegating the provision of veterinary medical acts to veterinary students, certified veterinary technicians and others, the veterinarian shall do all of the following:

(a) Delegate only those tasks commensurate with the education, training, experience and demonstrated abilities of the person supervised.

(b) Provide the supervision required under subs. (2) to (7).

(c) Where the veterinarian is not required to be personally present on the premises where the delegated services are pro-

vided, be available at all times for consultation either in person or within 15 minutes of contact by telephone, by video conference or by electronic communication device.

(d) Observe and monitor the activities of those supervised on a daily basis.

(e) Evaluate the effectiveness of delegated acts performed under supervision on a daily basis.

(f) Establish and maintain a daily log of each delegated patient service which has been provided off the premises of the supervising veterinarian.

(g) Notify the client that some services may be provided by a veterinary student, certified veterinary technician or an unlicensed assistant.

History: Cr. Register, September, 1989, No. 405, eff. 10-1-89; r. and recr., Register, May, 1994, No. 461, eff. 6-1-94; am. (1) (intro.), (3) (intro.), (a) to (c), (4) (intro.), (a) and (b), (5) (a) and (b), (6) (a) to (c), (7) and (8), Register, December, 1998, No. 516, eff. 1-1-99; CR 13-031: am. (3) (a), r. (3) (d), am. (4) (c), (8) (c) Register April 2014 No. 700, eff. 5-1-14; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register October 2015 No. 718.

VE 7.03 Records. (1) A veterinarian shall maintain individual patient records on every patient administered to by the veterinarian other than food and fiber patients and equine patients for a period of not less than 3 years after the date of the last entry. The veterinarian shall keep individual client records for equine and food and fiber patients for 3 years after the date of the last entry. A computerized system may be used for maintaining a record, as required under this section, if the system is capable of producing a printout of records contained in such system within 48 hours of a request.

(2) The individual patient record shall contain clinical information pertaining to patients other than food and fiber patients and equine patients with sufficient information to justify the diagnosis and warrant treatment, including information regarding each of the following matters which apply:

- (a) Date.
- (b) Client name.
- (c) Patient identification.
- (d) History.
- (e) Physical examination findings.
- (f) Treatment — medical, surgical.
- (g) Drugs prescribed, dispensed or administered, including strength or concentration, route of administration, dosing schedule, number dispensed and number of refills allowed.
- (h) Provisional diagnosis.
- (i) Final diagnosis.
- (j) Consultation, if any.
- (k) Clinical laboratory reports.
- (L) Radiographic reports.
- (m) Necropsy findings.
- (n) Identification of the veterinarian providing the care.
- (o) Complaint.
- (p) Present illness.
- (q) Vaccinations administered.

(3) The client record for food and fiber patients shall contain at least the following information which apply:

- (a) Date.
- (b) Client name.
- (c) Type of call.
- (d) Treatment and drugs used including amounts of drugs administered and method of administration.
- (e) Drugs dispensed including dosing schedule and number dispensed.
- (f) Meat or milk withholdings.
- (g) Individual or herd diagnosis.

(h) Clinical laboratory reports.

(i) Identification of the veterinarian providing the care.

(4) The client record for equine patients shall contain at least the following information which applies:

- (a) Date.
- (b) Client name.
- (c) Patient identification.
- (d) History.
- (e) Physical examination findings.
- (f) Treatment—medical, surgical.
- (g) Treatment and drugs used including amount of drugs administered and method of administration.
- (h) Drugs dispensed including dosing schedule and number dispensed.
- (i) Diagnosis.
- (j) Clinical laboratory reports.
- (k) Radiographic reports.
- (L) Necropsy findings.
- (m) Identification of the veterinarian providing the care.

History: Cr. Register, September, 1989, No. 405, eff. 10-1-89; am. (1), (2) (intro.), Register, September, 1994, No. 465, eff. 10-1-94; am. (2) (a) to (o) and (3) (a) to (i); Register, December, 1998, No. 516, eff. 1-1-99; CR 13-031: am. (1), r. and recr. (2) (a) to (p), cr. (2) (q), r. and recr. (3) (a) to (i), r. (3) (j), cr. (4) Register April 2014 No. 700, eff. 5-1-14.

VE 7.04 Change of name and address. Every veterinarian shall notify the board of a change of name or address within 30 days. Failure of notification may result in the loss of license and may result in a forfeiture under s. 440.11 (3), Stats.

History: Cr. Register, September, 1989, No. 405, eff. 10-1-89.

VE 7.05 Display of license. Each veterinarian shall display a current license in a manner conspicuous to the public view, and shall at all times have evidence of licensure available for inspection when practicing at a remote location.

History: Cr. Register, September, 1989, No. 405, eff. 10-1-89.

VE 7.055 Renewal of license. A license expires if not renewed by January 1 of even-numbered years. A licensee who allows the license to expire may apply to the board for renewal of the license as follows:

(1) If the licensee applies for renewal of the license less than 5 years after its expiration, the license shall be renewed upon payment of the renewal fee and fulfillment of the 30 hours of continuing education required under ch. VE 10.

(2) If the licensee applies for renewal of the license 5 or more years after its expiration, in addition to requiring the licensee to pay the renewal fees required under s. 440.08, Stats., and to fulfill the continuing education hours required under ch. VE 10, the board shall inquire as to whether the applicant is competent to practice as a veterinarian in this state and shall impose any reasonable conditions on reinstatement of the license, including reexamination, as the board deems appropriate. An applicant under this subsection is presumed to be competent to practice as a veterinarian in this state if at the time of application for renewal the applicant holds a full unexpired license issued by a similar licensing board of another state or territory of the United States or of a foreign country or province whose standards, in the opinion of the board, are equivalent to or higher than the requirements for licensure in this state. Notwithstanding any presumption of competency under this subsection, the board shall require each applicant under this subsection to pass the examination specified under s. VE 3.02 (4).

History: Cr. Register, January, 1994, No. 457, eff. 2-1-94; CR 04-125: am. Register August 2005 No. 596, eff. 9-1-05.

VE 7.06 Unprofessional conduct. Unprofessional conduct by a veterinarian is prohibited. Unprofessional conduct includes:

(1) Conduct in the practice of veterinary medicine which evidences a lack of knowledge or ability to apply professional principles or skills.

(2) Fraud, gross negligence or deception in the practice of veterinary medicine.

(3) Being convicted of a crime the circumstances of which substantially relate to the practice of veterinary medicine.

(4) Violating or aiding and abetting the violation of any law or administrative rule or regulation substantially related to the practice of veterinary medicine.

(5) Advertising in a manner which is false, fraudulent, misleading or deceptive, or knowingly maintaining a professional association with another veterinarian or veterinary firm that advertises in a manner which is false, fraudulent, misleading or deceptive.

(6) Having a veterinary license or federal veterinary accreditation limited, suspended or revoked, or having been subject to any other discipline or restriction.

(7) Practicing or attempting to practice, while the veterinarian has a physical or mental impairment, including impairment related to drugs or alcohol which is reasonably related to the applicant's ability to adequately undertake the practice of veterinary medicine in a manner consistent with the safety of a patient or the public.

(8) The personal use, misuse, or sale, other than for medical treatment of patients, of the drugs listed in the U.S. Controlled Substances Act of 1979, as amended, or ch. 961, Stats., except personal use of drugs prescribed by a physician for individual use by the veterinarian.

(9) Prescribing, ordering, dispensing, administering, supplying, selling or giving of any amphetamine, its salts, isomers and salts of its isomers or related sympathomimetic amine drug designated as a Schedule II drug in ch. 961, Stats., except for the treatment of narcolepsy or hyperkinesia in animals who do not respond to other methods of treatment, or for clinical research of these compounds as approved by the board. A written description of the intended research project proposed shall be filed with the board prior to conducting the research.

(10) Selling veterinary prescription drugs without establishing and maintaining a veterinary-patient-client relationship.

(11) Failure to include on the label of a prescription drug the generic or brand name of the drug dispensed, the name and address of the clinic or veterinarian dispensing the drug, the directions for use and caution statements required by law. In case of companion animals, the prescription shall bear the name or identification of the patient.

(12) Prescribing, ordering, dispensing, administering, supplying, selling or giving any controlled substance solely for training or racing purposes and not for a medically sound reason.

(13) Allowing a veterinary student to treat a patient without the veterinarian giving direct supervision.

(14) Failure of the veterinarian to advise the client that the person assisting is a veterinary student or unlicensed assistant.

(15) Failure to maintain records as required by s. VE 7.03.

(16) Refusal, upon request, to cooperate in a timely manner with the board's investigation of complaints lodged against the veterinarian. Persons taking longer than 30 days to provide

requested information shall have the burden of demonstrating that they have acted in a "timely manner."

(17) Failure to keep the veterinary facility and all equipment, including mobile units, in a clean and sanitary condition while practicing as a veterinarian.

(18) Failure of a veterinarian to permit the board or its agents to enter and inspect the veterinarian's practice facilities, vehicle, equipment and records during office hours and other reasonable hours.

(19) Engaging in unsolicited communications to members of the board regarding a matter under investigation by the board other than to the investigative member of the board.

(20) Practicing under an expired license.

(21) Exceeding the scope of veterinary practice, as defined in s. 89.02 (6), Stats., by providing medical treatment to humans or distributing, prescribing or dispensing for human use prescription drugs, as defined in s. 450.01 (20), Stats., or any drug labelled for veterinary or animal use only.

(22) Falsely certifying to the board under s. VE 10.02 (6) that the veterinarian:

(a) Has completed the 30 hours of continuing education required under s. VE 10.02 (1).

(b) Is exempt under s. VE 10.02 (3) from having to complete the 30 hours of continuing education required under s. VE 10.02 (1).

(23) Failure to inform a client prior to treatment of the diagnostic and treatment options consistent with the veterinary profession's standard of care and the associated benefits and risks of those options.

(24) Failure to release a patient's medical records as required by s. 89.075, Stats.

(25) Advertising a specialty or claiming to be a specialist when not a diplomate of a veterinary specialty organization recognized by the American Veterinary Medical Association American Board of Veterinary Specialties (AVMA ABVS) or by a foreign veterinary specialty organization which, in the opinion of the board, is equivalent to an AVMA ABVS recognized veterinary specialty organization.

(26) Failure to provide copies of or information from veterinary records, with or without the client's consent, to the board or to public health, animal health, animal welfare, wildlife or agriculture authorities, employed by federal, state, or local governmental agencies who have a legal or regulatory interest in the contents of said records for the protection of animal or public health.

History: Cr. Register, September, 1989, No. 405, eff. 10-1-89; cr. (21), Register, September, 1990, No. 417, eff. 10-1-90; cr. (22), Register, February, 1992, No. 434, eff. 3-1-92; am. (6), Register, October, 1993, No. 454, eff. 11-1-93; am. (10), Register, December, 1998, No. 516, eff. 1-1-99; correction in (8) and (9) made under s. 13.93 (2m) (b) 7., Stats., Register, December, 1998, No. 516; CR 01-061: am. (14), Register November 2001 No. 551, eff. 12-1-01; CR 04-125: renum. (22) to be (22) (intro.) and am., cr. (22) (a) to (e) Register August 2005 No. 596, eff. 9-1-05; CR 07-051: cr. (23) Register October 2008 No. 634, eff. 11-1-08; CR 12-052: am. (22) (intro.), r. (22) (c) to (e) Register September 2013 No. 693, eff. 10-1-13; CR 13-031: cr. (24) to (26) Register April 2014 No. 700, eff. 5-1-14; correction in (21), (24) made under s. 13.92 (4) (b) 7., Stats., Register October 2015 No. 718.

VE 7.07 Board action. The board may reprimand the licensee or deny, suspend, limit or revoke the veterinary license of any person to practice veterinary medicine who engages in any of the acts prohibited by s. VE 7.06.

History: Cr. Register, September, 1989, No. 405, eff. 10-1-89.

**2. VE 1 and 7 - Final Draft to amend Wis. Admin. Code §
VE 1.02 (9), relating to the definition of veterinary
medical surgery, and § VE 7.02(4), relating to delegation
of veterinary medical acts**

**State of Wisconsin
Department of Agriculture, Trade and Consumer Protection**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Cheryl Daniels, VEB Counsel		2) Date When Request Submitted: September 29, 2017 Items will be considered late if submitted after 12:00 p.m. on the deadline date.	
3) Name of Board, Committee, Council, Sections: VEB			
4) Meeting Date: October 25, 2017	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? VE 1 and 7 - Final Draft to amend Wis. Admin. Code § VE 1.02 (9), relating to the definition of veterinary medical surgery, and § VE 7.02(4), relating to delegation of veterinary medical acts.	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Consideration of final language for a proposed rule to modify chs. VE 1 (Authority and Definitions) and VE 7 (Standards of Practice and Unprofessional Conduct for Veterinarians).			
11) Authorization			
Cheryl Daniels		September 29, 2017	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			



DATE: September 29, 2017

TO: Veterinary Examining Board (VEB)

FROM: Cheryl Furstace Daniels, VEB Legal Counsel ^{CFD}

SUBJECT: VE 1 and 7– Definition of veterinary medical surgery and delegation of medical acts;
Final Draft Rule

PRESENTED BY: Cheryl Furstace Daniels

REQUESTED ACTION:

At the October 25, 2017, VEB meeting, the VEB will consider final language for a proposed rule to modify chs. VE 1 (Authority and Definitions) and VE 7 (Standards of Practice and Unprofessional Conduct for Veterinarians.) The proposed rule broadens the definition of surgery by removing the limitation in s. VEB 1.02 (9), Wis. Adm. Code, to procedures that are only for therapeutic purposes, but also specifying additional procedures exempted from the definition. Those procedures deemed to be exempt from surgery, but still within the practice of veterinary medicine, are also added in Wis. Admin. Code § VE 7.02(4), as medical services that may be delegated by a veterinarian to a certified veterinary technician under the direct supervision of the veterinarian when the veterinarian is personally present on the premises where the services are provided.

During the January 25, 2017, VEB meeting, the VEB considered several suggestions for additional exempted procedures, to be placed in the rule, made during the hearing. The VEB chose the following as procedures that should be exempted from the surgery definition.

- Ear tag or tattoo placement intended to be used to identify an animal.
- Sample collection via a cystocentesis procedure.
- Placement of IV catheters.

Following the meeting, VEB staff was contacted by a faculty member of the Madison College veterinary technician program, with additional procedures that should be considered for exemption, as they are currently being taught to veterinary technician students in certification programs. These include:

- Placement of arterial catheters.
- Suturing of tubes and catheters.
- Fine needle aspirate of a mass.

At its July 26, 2017, VEB meeting, the VEB heard testimony from stakeholders concerning the practices in assisted reproductive technologies that one stakeholder argued could be performed by a certified veterinary

technician under the direct supervision of a veterinarian who is personally present while the technology is being performed. The VEB agreed that these technologies, including amniocentesis, embryo collection and transfer, follicular aspiration, and transvaginal oocyte collection and recovery, could be added to the provisions, as to not being considered surgery, but allowed to be delegated to certified veterinary technicians, within the requirements of Wis. Admin. Code § VE 7.02(4).

In addition, there was also discussion of the fact that euthanasia by injection is not clearly spelled out as not within the definition of surgery, but that the VEB, a number of years ago, determined that euthanasia by injection is not considered a practice of veterinary medicine. If so, this policy should be clearly spelled out in the rule and this final draft does include this exemption.

The VEB also decided that the exemptions to the definition should be further divided between those exemptions that are exempt from surgery, but also are not to be considered within the scope of the practice of veterinary medicine, and those exemptions that are still within the practice of veterinary medicine. This final draft does make the division into two separate paragraphs.

With that division, the rule needs to also clarify the delegation of medical acts to certified veterinary technicians in ch. VE 7, which is open under the scope statement approved for these rule revisions. This final draft creates, in s. VE 7.02(4), additional categories of veterinary medical services that a veterinarian may delegate to a certified veterinary technician when the veterinarian is personally present on the premises where services are provided.

The VEB has the authority to include any of the above provisions as an exemption to the proposed rule before final adoption. The other information that follows is a summary of the rule and procedures used in adopting the rule so far.

SUMMARY:

Background

VEB administers ch. 89, Stats., as well as the administrative rules in VE 1-10, Wis. Adm. Code, and in the administration of these statute and rules, VEB may issue administrative orders imposing discipline for unprofessional conduct related to the practice of veterinary medicine, including issuing an administrative warning to, or reprimanding, any person holding a veterinary medical license, or denying, revoking, suspending, limiting, the person's license, as specified by statute.

Currently, in s. VE 1.02 (9), Wis. Adm. Code, the definition of surgery, for veterinary medical practice, is limited to procedures that are for therapeutic purposes. This leaves uncertainty for the profession and the Board, as to whether surgeries for other purposes, including reproduction and cosmetic changes, are included. A change to the definition is important to clarify that surgical procedures are broader than for therapeutic purposes, only, but also specifying additional procedures not considered surgery. In addition, with certain additional procedures not considered surgery, but still considered within the practice of veterinary medicine, the rule clarifies that those procedures may be delegated by veterinarian to a certified veterinary technician under the direct supervision of the veterinarian when personally present on the premises. This will ensure all persons, who are subject to these rules, are on notice as to practice conduct falling within the Board's jurisdiction.

Rule Content

Currently, in s. VE 1.02 (9), Wis. Adm. Code, the definition of surgery, for veterinary medical practice, is limited to procedures that are for therapeutic purposes. This leaves uncertainty for the profession and the VEB, as to whether surgeries for other purposes, including reproduction and cosmetic changes, are included. A change to the definition is important to clarify that surgical procedures are broader than for therapeutic purposes, only, but also specifying additional procedures not considered surgery. The rule clarifies that some procedures not considered surgery also do not fall within the definition of the practice of veterinary medicine, under s. VE 1.02(6). Additionally, the rule clarifies that other procedures, not falling within the definition of surgery, remain within the practice of veterinary medicine. Finally, in s. VE 7.02(4), the rule creates additional veterinary medical acts, not considered surgery but still within the practice of veterinary medicine, that a veterinarian may delegate to a certified veterinary technicians ("CVT"), so long as the CVT is under the direct supervision of the veterinarian when the veterinarian is personally present on the premises where the services are provided.

Analysis and Supporting Documents Used to Determine Effect on Small Business

Discussions with stakeholder groups were considered as to the effect of the proposed rule on small business. Comments from attendees at hearings were also carefully considered. The Board also held an additional hearing, pursuant to s. 227.18(3), Stats., to consider objections to the rule and made changes, based upon the presentations at the hearing.

Effect on Small Business

This rule change is anticipated to have an effect on small business, as many veterinary practices that will be subject to this definition change, are small businesses. To the extent that the proposed rule will clarify what is excluded from the practice of veterinary medicine, as well as what is included in the practice but can be delegated, this may have a positive impact in giving certainty to veterinarians concerning the regulation of surgery for reproductive, cosmetic and other purposes that do not fall clearly within the notion of "therapeutic". The rule does include several additional procedures that a veterinarian may delegate to a certified veterinary technician, under the direct supervision of the veterinarian while personally present on the premises, in order to facilitate the best use of the veterinarian and his or her staff in a practice. This will also ensure all persons, who are subject to these rules, are on notice as to practice conduct falling within the VEB's jurisdiction.

Environmental Impact

This rule will have no environmental impact.

Summary of, and Comparison with Existing or Proposed Federal Statutes and Regulations

There are no federal regulations governing the practice of veterinary medical surgeries.

Comparison with Rules in Adjacent States

None of the surrounding states of Illinois, Indiana, Iowa, Michigan or Minnesota, have their own definition of surgery for the purpose of practicing veterinary medicine. Illinois does include animal reproductive services in the definition of the practice of veterinary medicine. Iowa does include cosmetic surgery in the practice of the veterinary medicine definition.

Public Hearing

On November 28, 2016, the VEB received a report from the Legislative Council Rules Clearinghouse. VEB staff has incorporated all the minor changes suggested in the report.

VEB staff held a public hearing on November 30, 2016 and held open the record for written comments until December 30, 2016. Speaking at the hearing were the following persons:

1. Dr. John Borzillo, DVM, of Central Wisconsin Ag Services, requesting certain additions to the exceptions written in the amended rule.
2. Dr. Gregg BeVier, DVM, of Buford, Georgia (does not hold a veterinary medicine license in Wisconsin), speaking in opposition of the new rule.
3. Attorney Jordan Lamb, on behalf of the Wisconsin Veterinary Medical Association, speaking in favor of the rule but also requested that the Board consider concerns of veterinarians practicing in large animal veterinary practice.

Registering for information only was Dr. Warren Wilson, DVM, of Sun Prairie, Wisconsin.

Written comments were received by the following persons:

1. Dr. Ron Biese, DVM, District 4 representative from the Northeast Wisconsin Veterinary Medical Association, speaking in favor of the new rule.
2. Dr. John Borzillo, DVM, of Central Wisconsin Ag Services, detailing concerns with the rule as amended.
3. Attorney Jordan Lamb, on behalf of the Wisconsin Veterinary Medical Association, writing in favor of the amendment.
4. Pat Klaeser, Director of Dairy Sales Region for Genex Cooperative, seeking clarification from the Board concerning as to whether certain procedures within the process of bovine embryo transfer are exempt from the definition of surgery.
5. Teri Raffel, CVT, VTS (Surgery), AVTE Director at Large, with suggestions for additional exemptions to be considered.

At its July 26, 2017, VEB meeting, the VEB held an additional hearing, pursuant to s. 227.18(3), Stats., listening to testimony from Dr. Gregg BeVier of Sexing Technologies and Dr. Jon Schmidt of Trans-Ova Genetics, concerning assisted reproductive technologies and the possibility of additional exemptions from the definition of "surgery" in the rule.

Next Steps

If the Board and the Governor approve this rule, the Board will transmit the final rule to the Legislature for review by the appropriate legislative committees. If the Legislature takes no action to stop the rule, the Board Chair will sign the final rulemaking order and transmit it for publication. This rule will not have a significant adverse economic effect on "small business" so it is not subject to the delayed "small business" effective date provided in s. 227.22(2) (e), Stats.

technician under the direct supervision of a veterinarian who is personally present while the technology is being performed. The VEB agreed that these technologies, including amniocentesis, embryo collection and transfer, follicular aspiration, and transvaginal oocyte collection and recovery, could be added to the provisions, as to not being considered surgery, but allowed to be delegated to certified veterinary technicians, within the requirements of Wis. Admin. Code § VE 7.02(4).

In addition, there was also discussion of the fact that euthanasia by injection is not clearly spelled out as not within the definition of surgery, but that the VEB, a number of years ago, determined that euthanasia by injection is not considered a practice of veterinary medicine. If so, this policy should be clearly spelled out in the rule and this final draft does include this exemption.

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SUMMARY:

Background

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Currently, in s. VE 1.02 (9), Wis. Adm. Code, the definition of surgery, for veterinary medical practice, is limited to procedures that are for therapeutic purposes. This leaves uncertainty for the profession and the Board, as to whether surgeries for other purposes, including reproduction and cosmetic changes, are included. A change to the definition is important to clarify that surgical procedures are broader than for therapeutic purposes, only, but also specifying additional procedures not considered surgery. In addition, with certain additional procedures not considered surgery, but still considered within the practice of veterinary medicine, the rule clarifies that those procedures may be delegated by veterinarian to a certified veterinary technician under the direct supervision of the veterinarian when personally present on the premises. This will ensure all persons, who are subject to these rules, are on notice as to practice conduct falling within the Board's jurisdiction.

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Analysis and Supporting Documents Used to Determine Effect on Small Business

Discussions with stakeholder groups were considered as to the effect of the proposed rule on small business. Comments from attendees at hearings were also carefully considered. The Board also held an additional hearing, pursuant to s. 227.18(3), Stats., to consider objections to the rule and made changes, based upon the presentations at the hearing.

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Environmental Impact

This rule will have no environmental impact.

Summary of, and Comparison with Existing or Proposed Federal Statutes and Regulations

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Public Hearing

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VEB staff held a public hearing on November 30, 2016 and held open the record for written comments until December 30, 2016. Speaking at the hearing were the following persons:

1. Dr. John Borzillo, DVM, of Central Wisconsin Ag Services, requesting certain additions to the exceptions written in the amended rule.
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Next Steps

If the Board and the Governor approve this rule, the Board will transmit the final rule to the Legislature for review by the appropriate legislative committees. If the Legislature takes no action to stop the rule, the Board Chair will sign the final rulemaking order and transmit it for publication. This rule will not have a significant adverse economic effect on “small business” so it is not subject to the delayed “small business” effective date provided in s. 227.22(2) (e), Stats.

**PROPOSED ORDER
OF THE WISCONSIN VETERINARY EXAMINING BOARD
ADOPTING RULES**

1 The Wisconsin veterinary examining board hereby proposes the following rule *to amend* VE 1.02 (9) and
2 *to create* VE 7.02(4); *relating to* the definition of veterinary medical surgery and the delegation of
3 veterinary medical acts, and affecting small business.

Analysis Prepared by the Veterinary Examining Board

The Wisconsin Veterinary Examining Board (VEB) proposes a rule revision in ch. VE 1, Wis. Adm. Code, to broaden the definition of surgery removing the limitation in s. VE 1.02 (9), Wis. Adm. Code, to procedures that are for therapeutic purposes, and also specifying additional procedures exempted from the definition. In addition, the VEB proposes a rule revision in s. VE 7.02(4), Wis. Adm. Code, to include those additional exemptions added to the definition, which are still within the practice of veterinary medicine, as services a veterinarian may delegate to be provided by a certified veterinary technician, so long as the CVT is under the direct supervision of the veterinarian when the veterinarian is personally present on the premises where the services are provided.

Statutes Interpreted

Statute Interpreted: ss. 89.02 (6) and 89.05 (1), Stats.

Statutory Authority

Statutory Authority: s. 89.03 (1) and 227.11, Stats.

Explanation of Statutory Authority

VEB has specific authority, under the provisions cited above, to adopt rules establishing the scope of practice permitted for veterinarians

Related Statutes and Rules

VEB administers ch. 89, Stats., as well as the administrative rules in VE 1-10, Wis. Adm. Code, and in the administration of these statute and rules, VEB may issue administrative orders imposing discipline for unprofessional conduct related to the practice of veterinary medicine, including issuing an administrative warning to, or reprimanding, any person holding a veterinary medical license, or denying, revoking, suspending, limiting, the person's license, as specified by statute.

Plain Language Analysis

Currently, in s. VE 1.02 (9), Wis. Adm. Code, the definition of surgery, for veterinary medical practice, is limited to procedures that are for therapeutic purposes. This leaves uncertainty for the profession and the VEB, as to whether surgeries for other purposes, including reproduction and cosmetic changes, are included. A change to the definition is important to clarify that surgical procedures are broader than for therapeutic purposes, only, but also specifying additional procedures not considered surgery. The rule clarifies that some procedures not considered surgery also do not fall within the definition of the practice of veterinary medicine, under s. VE 1.02(6). Additionally, the rule clarifies that other procedures, not falling within the definition of surgery, remain within the practice of veterinary medicine. Finally, in s. VE 7.02(4), the rule creates additional veterinary medical acts, not considered surgery but still within the practice of veterinary medicine, that a veterinarian may delegate to a certified veterinary technicians (“CVT”), so long as the CVT is under the direct supervision of the veterinarian when the veterinarian is personally present on the premises where the services are provided.

Summary of, and Comparison with Existing or Proposed Federal Statutes and Regulations

There are no federal regulations governing the practice of veterinary medical surgeries.

Comparison with Rules in Adjacent States

None of the surrounding states of Illinois, Indiana, Iowa, Michigan or Minnesota, have their own definition of surgery for the purpose of practicing veterinary medicine. Illinois does include animal reproductive services in the definition of the practice of veterinary medicine. Iowa does include cosmetic surgery in the practice of the veterinary medicine definition.

Summary of Factual Data and Analytical Methodologies

This rule was developed after consultation with veterinary medical groups and looking at other state rules related to veterinary surgery. After hearing, there was an objection to the rule from a stakeholder, who was concerned about the effect on their business operations. The VEB exercised its jurisdiction, pursuant to s. 227.18(3), Stats., to hear arguments before the entire VEB, at a regularly scheduled meeting. The VEB listened to the presenters and made certain changes to the rule, based upon the presentations.

Analysis and Supporting Documents Used to Determine Effect on Small Business

Discussions with stakeholder groups were considered as to the effect of the proposed rule on small business. Comments from attendees at hearings were also carefully considered. The Board also held an additional hearing, pursuant to s. 227.18(3), Stats., to consider objections to the rule and made changes, based upon the presentations at the hearing.

Effect on Small Business

This rule change is anticipated to have an effect on small business, as many veterinary practices that will be subject to this definition change, are small businesses. To the extent that the proposed rule will clarify what is excluded from the practice of veterinary medicine, as well as what is included in the practice but can be delegated, this may have a positive impact in giving certainty to veterinarians concerning the regulation of surgery for reproductive, cosmetic and other purposes that do not fall clearly within the

notion of "therapeutic". The rule does include several additional procedures that a veterinarian may delegate to a certified veterinary technician, under the direct supervision of the veterinarian while personally present on the premises, in order to facilitate the best use of the veterinarian and his or her staff in a practice. This will also ensure all persons, who are subject to these rules, are on notice as to practice conduct falling within the VEB's jurisdiction.

This rule will not have a significant adverse economic effect on "small business" so it is not subject to the delayed "small business" effective date provided in s. 227.22(2) (e), Stats.

***VEB Contact
Where and When Comments May Be Submitted***

Questions and comments related to this rule may be directed to:

Cheryl Daniels, Board Counsel
Veterinary Examining Board
c/o Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
Telephone: (608) 224-5026 E-Mail: Cheryl.Daniels@Wisconsin.gov

1 **SECTION 1.** VE 1.02(9) is amended to read:

2 **(9)** "Surgery" means any procedure in which the skin or tissue of the patient is penetrated or
3 severed ~~for therapeutic purposes, except for~~ but does not include any of the following: activities identified
4 ~~in s. 89.05 (2). Surgery does not include giving injections or simple dental extractions that require minor~~
5 ~~manipulation and minimal elevation.~~

6 (a) Activities not considered the practice of veterinary medicine, as follows.

7 1. Activities identified in s. 89.05(2) (a) and (b), Stats.

8 2. Subcutaneous insertion of a microchip intended to be used to identify an animal.

9 3. Ear tag or tattoo placement intended to be used to identify an animal.

10 4. Euthanasia by injection.

11 (b) Activities considered the practice of veterinary medicine, but may be delegated to certified
12 veterinary technicians, as specified in s. VE 7.02(4), as follows.

13 1. Simple dental extractions that require minor manipulation and minimal elevation.

1 2. Administration of injections, including local and general anesthesia.

2 3. Sample collection via a cystocentesis procedure.

3 4. Placement of intravenous and arterial catheters.

4 5. Suturing of tubes and catheters.

5 6. Fine needle aspirate of a mass.

6 7. Performing assisted reproductive technologies, including amniocentesis, embryo collection
7 and transfer, follicular aspiration, and transvaginal oocyte collection and recovery.

8 **SECTION 2.** VE 7.02(4) (d)-(g) are created to read:

9 (d) Sample collection via a cystocentesis procedure.

10 (e) Placement of intravenous and arterial catheters.

11 (f) Suturing of tubes and catheters.

12 (g) Fine needle aspirate of a mass.

13 (h) Performing assisted reproductive technologies, including amniocentesis, embryo collection
14 and transfer, follicular aspiration, and transvaginal oocyte collection and recovery.

15 **SECTION 3. EFFECTIVE DATE AND INITIAL APPLICABILITY.** This rule takes effect on the
16 first day of the month following publication in the Wisconsin administrative register, as provided under
17 s. 227.22(2)(intro.).

Dated this _____ day of _____, 2017.

VETERINARY EXAMINING BOARD

By _____
Member of the Board

Wisconsin Veterinary Examining Board

Regulatory Flexibility Analysis

Rule Subject: Authority and Definitions
Adm. Code Reference: VE 1
Rules Clearinghouse #: 16-068
DATCP Docket #: 16-VER-1

Rule Summary

The Wisconsin Veterinary Examining Board (VEB) proposes a rule revision in ch. VE 1, Wis. Adm. Code, to broaden the definition of surgery removing the limitation in s. VE 1.02 (9), Wis. Adm. Code, to procedures that are for therapeutic purposes, and also specifying additional procedures exempted from the definition. In addition, the VEB proposes a rule revision in s. VE 7.02(4), Wis. Adm. Code, to include those additional exemptions added to the definition, which are still within the practice of veterinary medicine, as services a veterinarian may delegate to be provided by a certified veterinary technician, so long as the CVT is under the direct supervision of the veterinarian when the veterinarian is personally present on the premises where the services are provided.

Currently, in s. VE 1.02 (9), Wis. Adm. Code, the definition of surgery, for veterinary medical practice, is limited to procedures that are for therapeutic purposes. This leaves uncertainty for the profession and the VEB, as to whether surgeries for other purposes, including reproduction and cosmetic changes, are included. A change to the definition is important to clarify that surgical procedures are broader than for therapeutic purposes, only, but also specifying additional procedures not considered surgery. The rule clarifies that some procedures not considered surgery also do not fall within the definition of the practice of veterinary medicine, under s. VE 1.02(6). Additionally, the rule clarifies that other procedures, not falling within the definition of surgery, remain within the practice of veterinary medicine. Finally, in s. VE 7.02(4), the rule creates additional veterinary medical acts, not considered surgery but still within the practice of veterinary medicine, that a veterinary may delegate to a certified veterinary technicians (“CVT”), so long as the CVT is under the direct supervision of the veterinarian when the veterinarian is personally present on the premises where the services are provided.

Small Businesses Affected

This rule change is anticipated to have an effect on small business, as many veterinary practices that will be subject to this definition change, are small businesses. To the extent that the proposed rule will clarify what is excluded from the practice of veterinary medicine, as well as what is included in the practice but can be delegated, this may have a positive impact in giving certainty to veterinarians concerning the regulation of surgery for reproductive, cosmetic and other purposes that do not fall clearly within the notion of

"therapeutic". This will also ensure all persons, who are subject to these rules, are on notice as to practice conduct falling within the VEB's jurisdiction.

Reporting, Bookkeeping and other Procedures

The rule would not require any additional reporting, bookkeeping, or other procedures.

Professional Skills Required

The proposed rule does not require any new professional skills.

Accommodation for Small Business

While this rule change is anticipated to have an effect on small business, as many veterinary practices are small business, it is anticipated that the effect will be positive in giving more certainty to veterinarians as to clarifying what is considered veterinary surgery. However, the rule does include several additional procedures that a veterinarian may delegate to a certified veterinary technician, under the direct supervision of the veterinarian while personally present on the premises, in order to facilitate the best use of the veterinarian and his or her staff in a practice. These, however, will be available to all veterinary practices, so no accommodations are required for small veterinary practices.

Conclusion

The provisions in this proposed rule will benefit those affected clarify that veterinary surgical procedures are broader than just for therapeutic purposes, but also specifying additional procedures not considered surgery. This will ensure all persons, who are subject to these rules, are on notice as to practice conduct falling within the VEB's jurisdiction.

This rule will not have a significant adverse effect on "small business" and is not subject to the delayed "small business" effective date provided in s. 227.22(2)(e), Stats.

Dated this _____ day of _____, 2017.

STATE OF WISCONSIN
VETERINARY EXAMINING BOARD

By _____
Cheryl Furstace Daniels
VEB Legal Counsel

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

VE 1, Authority and Definitions and VE 7, Standards of Practice and Unprofessional Conduct for Veterinarians

3. Subject

Amending definition of surgery and exemptions

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

The Veterinary Examining Board ("VEB") administers ch. 89, Stats., as well as the administrative rules in VE 1-10, Wis. Adm. Code. Currently, in s. VE 1.02 (9), Wis. Adm. Code, the definition of surgery, for veterinary medical practice, is limited to procedures that are for therapeutic purposes. This leaves uncertainty for the profession and the VEB, as to whether surgeries for other purposes, including reproduction and cosmetic changes, are included. In addition, with changes to the definition of surgery, s. VE 7.02(4), Wis. Adm. Code, requires additions to veterinary medical acts that may be delegated by a veterinarian to a certified veterinary technician

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

This proposed rule change is anticipated to affect all licensed veterinarians. This rule change is anticipated to have an effect on small business, as many veterinarian practices that will be subject to this definition change, are small businesses.

11. Identify the local governmental units that participated in the development of this EIA.

Local governmental units are not impacted by this rule and did not participate in development of this EIA.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The proposed rule makes minor changes to current rules and is expected to have no economic and fiscal impact.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

A change to the definition is important to clarify that surgical procedures are broader than for therapeutic purposes, only, but also specifying additional procedures not considered surgery and additional veterinary medical acts that may be delegated by a veterinarian to a certified veterinary technician. This will ensure all persons, who are subject to these rules, are on notice as to practice conduct falling within the VEB's jurisdiction.

14. Long Range Implications of Implementing the Rule

To the extent that the proposed rule will clarify what is included in the practice of veterinary medicine, this may have a positive

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

impact in giving certainty to veterinarians concerning the regulation of surgery for reproductive, cosmetic and other purposes that do not fall clearly within the notion of "therapeutic" and those acts that may be delegated to a certified veterinary technician.

15. Compare With Approaches Being Used by Federal Government

There are no federal regulations governing the practice of veterinary medical surgeries.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

None of the surrounding states of Illinois, Indiana, Iowa, Michigan or Minnesota, have their own definition of surgery for the purpose of practicing veterinary medicine. Illinois does include animal reproductive services in the definition of the practice of veterinary medicine. Iowa does include cosmetic surgery in the practice of the veterinary medicine definition-

17. Comments Received in Response to Web Posting and DATCP Response

No comments were received in response either to the posting on the Department external website or the statewide administrative rules website. Other comments were received at the public hearings and during the period for written comments and all were considered by the VEB. In addition, there was an objection made to the VEB, as a whole, and the matter was considered, with notice and opportunities for persons to speak to the VEB on the issue, at a regular VEB meeting, pursuant to s. 227.18(3), Stats. The information presented at the hearing led the VEB to make further changes to the rule, to accommodate the concerns of these stakeholders.

<h3>17. Contact Name</h3> <p>Cheryl Furstace Daniels, VEB Legal Counsel</p>	<h3>18. Contact Phone Number</h3> <p>(608) 224-5026</p>
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This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-

Tompach, Matthew C - DATCP

From: Tompach, Matthew C - DATCP
Sent: Wednesday, October 18, 2017 1:57 PM
To: Tompach, Matthew C - DATCP
Subject: FW: Practice Act

----- Forwarded Message -----

From: drbobvrs@chorus.net
To: pjohanson6@charter.net, rtforbes@gmail.com, dr dommer <dr.dommer@cqvvet.com>, Inesson@irongateequine.com, kkreier@badgervet.com, Cheryl Daniels <Cheryl.Daniels@wisconsin.gov>
Sent: Wed, 18 Oct 2017 14:30:28 -0400 (EDT)
Subject: Practice Act

Colleagues, I have read with frustration and anxiety the proposed edition of the Vet Practice Act. I had supposed that this new practice act would finally define all the procedures we utilize in assisted reproductive technologies (nonsurgical embryo collection, nonsurgical embryo transfer, OPU, etc) as "the practice of veterinary medicine" and you have deemed it just the opposite!! Do you not understand all the knowledge of physiology, endocrinology, anatomy and anesthesiology necessary to successfully accomplish ET? No, we do not use a scalpel in any of our procedures. It appears to me that you equate the scalpel with "Veterinary Medicine". I know that we have modeled vet med after human med, but think of the noble internal medicine doc. They don't use scalpels, and yet their work is covered under their practice act. My article on successful non surgical recovery and transfer of bovine embryos in 1976 initiated the embryo transfer industry we know today. One of the untold stories of my career involved the attempted nonsurgical recoveries from extremely valuable imported beef animals which had been subjected to surgical recovery techniques (yes, with a scalpel). We attempted recoveries from 20 donors with extreme adhesions. Most failed completely, but after 2 full days we harvested only 4 embryos!! What a colossal failure!! Lastly, I remind you that if a veterinarian commits malpractice, there is a described sequence to discipline him. If a technician commits malpractice, what are the consequences? I implore you to make these technologies the practice of veterinary medicine. Respectfully submitted, Robert F. Rowe, DVM, PhD, 7524 Fallen Oak Drive, Verona, Wisconsin 53593, phone 608-516-1940.

LRB-4123 and LRB-4291: Proposals Updating Veterinary Statutes - Informational

**State of Wisconsin
Department of Agriculture, Trade and Consumer Protection**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Matt Tompach		2) Date When Request Submitted: October 3, 2017 Items will be considered late if submitted after 12:00 p.m. on the deadline date.									
3) Name of Board, Committee, Council, Sections: VEB											
4) Meeting Date: October 25, 2017	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislative/Administrative Rule Matters LRB-4123 and LRB-4291: Proposals Updating Veterinary Statutes - Informational									
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:									
10) Describe the issue and action that should be addressed: Inform Board on legislative proposals to update Wisconsin statutes specific to veterinarians and artificial insemination. Under current law, non-veterinarians are allowed to perform artificial insemination procedures. This bill would add the updated nomenclature of "Assisted Reproductive Technologies" to that, but specify that these procedures be performed by a certified veterinary technician under the direct supervision of a veterinarian.											
11) Authorization <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; border-bottom: 1px solid black;">Matt Tompach</td> <td style="width: 40%; border-bottom: 1px solid black; text-align: right;">October 3, 2017</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Signature of person making this request</td> <td style="border-bottom: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Supervisor (if required)</td> <td style="border-bottom: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td colspan="2" style="border-bottom: 1px solid black;">Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date</td> </tr> </table>				Matt Tompach	October 3, 2017	Signature of person making this request	Date	Supervisor (if required)	Date	Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date	
Matt Tompach	October 3, 2017										
Signature of person making this request	Date										
Supervisor (if required)	Date										
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date											
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.											

Tompach, Matthew C - DATCP

From: Moll, Keeley A - DATCP
Sent: Tuesday, October 03, 2017 1:49 PM
To: Tompach, Matthew C - DATCP; Daniels, Cheryl F - DATCP; Dedinsky, Paul - DATCP
Cc: Chalmers, Sandy S - DATCP
Subject: FW: Co-sponsorship of LRB 4123, relating to: updating the veterinary statutes to reflect modern technology to allow vet techs to perform Assisted Reproductive Techniques
Attachments: 17-4123_2.pdf

You may want to bring this to the attention of the VEB Board Members

From: Rep.Kitchens
Sent: Tuesday, October 03, 2017 1:32 PM
To: *Legislative All Assembly <ALLASM@legis.wisconsin.gov>; *Legislative All Senate <ALLSEN@legis.wisconsin.gov>
Subject: Co-sponsorship of LRB 4123, relating to: updating the veterinary statutes to reflect modern technology to allow vet techs to perform Assisted Reproductive Techniques

CO-SPONSORSHIP MEMORANDUM

To: Legislative Colleagues

From: Representative Joel Kitchens and Senator Dan Feyen

Date: October 3, 2017

Re: Co-sponsorship of LRB-4123 and LRB-4291: Updating the veterinary statutes to reflect modern technology to allow vet techs to perform Assisted Reproductive Techniques

DEADLINE: Friday October 13, 2017 at 5:00pm

This bill will update Wisconsin statutes specific to veterinarians and artificial insemination. Under current law, non-veterinarians are allowed to perform artificial insemination procedures. This bill would add the updated nomenclature of "Assisted Reproductive Technologies" to that, but specify that these procedures be performed by a certified veterinary technician under the direct supervision of a veterinarian. Assisted Reproductive Technologies (ART) include procedures such as artificial insemination aimed at genetically improving herds for the benefit of agricultural production. The USDA estimates that more than 60% of dairy cows in the United States are bred through reproductive technologies.

These statutes were last updated 49 years ago and reproductive technology has come a long way since then. This change will maintain the professional standards and conduct of the industry while allowing for the advancement of technology.

As a large animal veterinarian, Rep. Kitchens believes that this update will ensure the safety of animals, recognize the expertise of veterinary technicians and not hamstring veterinarians or monopolize their time.

Codifying current practice will provide economic certainty to Wisconsin's biotechnology and agriculture industries. By ensuring vet techs can continue to perform ART techniques in the future, costs will be kept low while maintaining quality and businesses will have the confidence they need to continue to grow and thrive in Wisconsin.

Please contact **Rep. Kitchens' office at 266-5350 or Sen. Feyen's office at 266-5300 by Friday, October 13 @ 5:00 p.m.** or respond to this email to be added as a cosponsor to LRB 4123. All co-sponsors to the Assembly bill will be added as co-sponsors to the Senate companion unless directed otherwise.

Analysis by the Legislative Reference Bureau

Under this bill, no veterinary license or temporary veterinary permit is required to use assisted reproductive technology other than artificial insemination, but only if those activities are performed by a certified veterinary technician under the direct supervision of a veterinarian. Under current law, a veterinary license or temporary veterinary permit is not required for certain activities, such as artificial insemination or castrating livestock, or for certain people, such as students at an approved veterinary college or employees of an educational or research institution who are engaged in teaching or research.



2017 BILL

1 **AN ACT** *to create* 89.05 (2) (am) of the statutes; **relating to:** exempting certain
2 activities from veterinary license requirements.

Analysis by the Legislative Reference Bureau

Under this bill, no veterinary license or temporary veterinary permit is required to use assisted reproductive technology other than artificial insemination, but only if those activities are performed by a certified veterinary technician under the direct supervision of a veterinarian. Under current law, a veterinary license or temporary veterinary permit is not required for certain activities, such as artificial insemination or castrating livestock, or for certain people, such as students at an approved veterinary college or employees of an educational or research institution who are engaged in teaching or research.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 89.05 (2) (am) of the statutes is created to read:
4 89.05 (2) (am) The use of assisted reproductive technology other than artificial
5 insemination. Notwithstanding par. (c) and pars. (e) to (h), the exemption in this

BILL

SECTION 1

1 paragraph applies only to certified veterinary technicians while working under the
2 direct supervision of a veterinarian.

3 (END)

**4. VE 1 and 7 – Approval of Draft for Hearing, via
Complementary, Alternative and Integrative Therapies
Rules Advisory Committee Meeting of July 12, 2017**

**State of Wisconsin
Department of Agriculture, Trade and Consumer Protection**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Cheryl Daniels, VEB Counsel		2) Date When Request Submitted: October 11, 2017 Items will be considered late if submitted after 12:00 p.m. on the deadline date.	
3) Name of Board, Committee, Council, Sections: VEB			
4) Meeting Date: October 25, 2017	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? H. Legislative/Administrative Rule Matters 4. VE 1 and 7 – Approval of Draft for Hearing, via Complementary, Alternative and Integrative Therapies Rules Advisory Committee Meeting of July 12, 2017	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Approval of Hearing Draft, forwarded by Rules Advisory Committee, for a proposed rule to modify chs. VE 1 (Authority and Definitions) and VE 7 (Standards of Practice and Unprofessional Conduct for Veterinarians).			
11) Authorization			
Cheryl Daniels		October 11, 2017	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			



DATE: October 16, 2017

TO: Veterinary Examining Board (VEB)

FROM: Cheryl Furstace Daniels, VEB Legal Counsel CFD

SUBJECT: VE 1 and 7– Complementary, Alternative and Integrative Techniques in Veterinary Medicine;
Hearing Draft Rule

PRESENTED BY: Cheryl Furstace Daniels

REQUESTED ACTION:

At the October 25, 2017, VEB meeting, the VEB will consider a hearing draft of a proposed rule to modify ch. VE 7 (Standards of Practice and Unprofessional Conduct for Veterinarians.) The proposed rule clarifies the circumstances under which a veterinarian may make a referral of a veterinary client to another licensed professional, or supervise a certified veterinary technician, for the provision of complementary, alternative, or integrative therapies, as defined in s. VEB 1.02 (3m), Wis. Adm. Code, on the client’s animal.

SUMMARY:

Background

The VEB administers ch. 89, Stats., as well as the administrative rules in VE 1-10, Wis. Adm. Code, and in the administration of these statute and rules, the VEB may issue administrative orders imposing discipline for unprofessional conduct related to the practice of veterinary medicine, including issuing an administrative warning to, or reprimanding, any person holding a veterinary medical license, or denying, revoking, suspending, limiting, the person’s license, as specified by statute.

There is a current definition, in s. VE 1.02 (3m), Wis. Adm. Code, of veterinary complementary, alternative, and integrative therapies (“CAITs”). However, that definition does not specify how these CAITs are to be treated within the practice of veterinary medicine. There have been numerous requests made to the VEB, from veterinarians, certified veterinary technicians, and members of other licensed professions, to clarify the referral relationship that a veterinarian may have with these other professionals for the veterinarian’s clients, and the delegation to certified veterinary technicians for the provision of CAITs upon a veterinarian’s animal patients.

Rule Content

The proposed new rule, s. VE 7.025, specifies that a veterinarian may make a referral to another Wisconsin-licensed professional, so long as the other professional gives evidence to the veterinarian of his or her license in good standing with the Wisconsin Department of Safety and Professional Services, to perform the type of CAIT for which the referral is made, and his or her education, training, and experience in performing that type of CAIT on an animal. The proposed rule includes a provision that the veterinarian-client-patient relationship (“VCPR”), as defined in s. 89.02(8), Stats., does not extend to the CAIT provided by the other professional,

where the veterinarian demonstrates meeting the requirements in making the referral or the client obtains a therapy provider for the client's animal without a referral.

In addition, an additional provision amends s. VE 7.02, delegation of veterinary medical acts, for the veterinarian to delegate to a certified veterinary technician the performance of a CAIT on an animal patient, where the certified veterinary technician is not a licensed professional performing a CAIT. By including this provision in the section on delegation of veterinary medical acts, the VEB makes clear that the technician's CAIT performance is under the direct supervision of the veterinarian, who will continue to have all of the supervisory responsibilities specified in this section, and within the VCPR.

Analysis and Supporting Documents Used to Determine Effect on Small Business

This rule was developed with the assistance of a VEB-appointed rules advisory committee that included five Wisconsin-licensed veterinarians, two Wisconsin-certified veterinary technicians, two Wisconsin-licensed members of other professions who provide complimentary, alternative, or integrative therapies on animals, two public members, and a VEB member as a liaison to the Board. The committee looked at practices in other states, consulted with veterinary medical groups, and brought expertise on the use of these CAITs in assisting animals for their health and well-being.

Effect on Small Business and Comments from EIA Posting

This rule change is anticipated to have an effect on small business, as many veterinary practices that will be subject to this definition change, are small businesses. However, it is not expected to have any adverse economic impact on these veterinary small businesses.

Instead, the proposed rule is anticipated to have a positive impact for veterinarians, certified veterinary technicians, and other Wisconsin-licensed professionals, as it clarifies the steps a veterinarian shall use to make a referral to another professional for CAITs and the delegation for these CAITs to certified veterinary technicians under the veterinarian's supervision. The VEB has received many requests for just this type of guidance from veterinarians, other professions practicing these therapies, and certified veterinary technicians in Wisconsin.

There were some comments, in the initial posting for economic impact, from some persons who practice equine massage therapy, but are not licensed as massage therapists in Wisconsin. Some expressed concern that veterinarians would no longer be able to refer clients to an unlicensed massage therapist practicing equine massage therapy. However, the rule clarifies that the referral by a veterinarian is only to a licensed professional, as CAITs are already currently within the statutory definition of the practice of veterinary medicine, and the rules advisory committee, with the current statutory definition of the practice of veterinary medicine, only a referral to another licensed professional or delegating with the established VCPR comports with the statutory language. But this rule also clarifies that it does not interfere with the relationship between any animal owner and a person the owner chooses to perform a CAIT on the owner's animal.

Environmental Impact

This rule will have no environmental impact.

Summary of, and Comparison with Existing or Proposed Federal Statutes and Regulations

There are no federal regulations governing the practice of veterinary medical surgeries.

Comparison with Rules in Adjacent States

Illinois's veterinary medicine and surgery practice act defines CAITs very similarly to the current definition in s. VE 1.02(9), Wis. Adm. Code. The act specifically allows a member in good standing of another licensed or regulated profession within any state or an Illinois-approved member of an organization or group to provide hands-on active participation in the treatment and care of a patient, within a veterinarian-client-patient relationship and with informed consent from the client, so long as the member works under the supervision of the veterinarian. The veterinarian maintains the veterinarian-client-patient relationship, but is immune from civil and criminal liability for the member's assistance, except for willful and wanton conduct. The other professional may not state or imply in any way that they are licensed or engaging in the practice of veterinary medicine.

Iowa's and Michigan's veterinary statutes and rules do not address this issue.

Within Minnesota's practice of veterinary medicine act, there is a provision that specifically states that the act does not prohibit a licensed chiropractor from registering with its chiropractor board and performing animal chiropractic on animals that have been referred to the chiropractor by a veterinarian.

Next Steps

If the VEB approves this rule, the VEB staff will transmit the hearing draft rule to the Legislative Council's Rules Clearinghouse for review. In addition, the VEB staff will schedule and conduct several hearings on the proposed rule. The VEB staff anticipates that a final draft rule will be brought before the VEB for approval at the VEB's January meeting.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

VE 7, Standards of Practice and Unprofessional Conduct for Veterinarians

3. Subject

Creating referral and delegation rules for veterinary complementary, alternative, and integrative therapies

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

The Veterinary Examining Board ("VEB") administers ch. 89, Stats., as well as the administrative rules in VE 1-10, Wis. Adm. Code. There is a current definition, in s. VE 1.02 (3m), Wis. Adm. Code, of veterinary complementary, alternative, and integrative therapies ("CAITs"). However, that definition does not specify how these CAITs are to be treated within the practice of veterinary medicine. There have been numerous requests made to the VEB from veterinarians, certified veterinary technicians, and members of other licensed professions to clarify the referral relationship that a veterinarian may have with these other professionals, and the delegation to certified veterinary technicians, for the provision of CAITs upon a veterinarian's animal patients.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

This proposed rule change is anticipated to affect all licensed veterinarians, some certified veterinary technicians, and other Wisconsin-licensed professionals who have education, training, and experience in practicing complementary, alternative, and integrative therapies on animals. This rule change is anticipated to have an effect on small business, as many veterinarian practices and other licensed professionals, subject to this proposed rule change, practice within small businesses.

11. Identify the local governmental units that participated in the development of this EIA.

Local governmental units are not impacted by this rule and did not participate in development of this EIA.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The proposed rule is expected to have no substantial adverse economic and fiscal impact.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The proposed rule is anticipated to have a positive impact for veterinarians, certified veterinary technicians, and other Wisconsin-licensed professionals, as it clarifies the steps a veterinarian shall use to make a referral to another professional for CAITs and the delegation for these CAITs to certified veterinary technicians under the veterinarian's

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

supervision. The VEB has received many requests for just this type of guidance from veterinarians, other professions practicing these therapies, and certified veterinary technicians in Wisconsin. The alternative is to do nothing and have uncertainty in the professions as to the extent that a veterinarian may make a referral to another licensed professional, or delegate to a certified veterinary technician, for the provision of therapies that the veterinarian believes will potentially be of benefit to their animal patients, given that CAITs are within the statutory definition of the practice of veterinary medicine.

14. Long Range Implications of Implementing the Rule

The expectation by those advocating for the rule change is that it will result in greater use of complementary, alternative, and integrative therapies as additional tools for the benefit of animals and their owners.

15. Compare With Approaches Being Used by Federal Government

There are no federal regulations governing the practice of veterinary medical surgeries.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois's veterinary medicine and surgery practice act defines CAITs very similarly to the current definition in s. VE 1.02(9), Wis. Adm. Code. The act specifically allows a member in good standing of another licensed or regulated profession within any state or an Illinois-approved member of an organization or group to provide hands-on active participation in the treatment and care of a patient, within a veterinarian-client-patient relationship and with informed consent from the client, so long as the member works under the supervision of the veterinarian. The veterinarian maintains the veterinarian-client-patient relationship, but is immune from civil and criminal liability for the member's assistance, except for willful and wanton conduct. The other professional may not state or imply in any way that they are licensed or engaging in the practice of veterinary medicine.

Iowa's and Michigan's veterinary statutes and rules do not address this issue.

Within Minnesota's practice of veterinary medicine act, there is a provision that specifically states that the act does not prohibit a licensed chiropractor from registering with its chiropractor board and performing animal chiropractic on animals that have been referred to the chiropractor by a veterinarian.

17. Comments Received in Response to Web Posting and VEB Response

There were some comments, in the initial posting for economic impact, from some persons who practice equine massage therapy, but are not licensed as massage therapists in Wisconsin. Some expressed concern that veterinarians would no longer be able to refer clients to an unlicensed massage therapist practicing equine massage therapy. While the rule clarifies that the referral by a veterinarian is only to a licensed professional, this is because CAITs are already currently within the statutory definition of the practice of veterinary medicine and only a referral to another licensed professional or delegating within the established VCPR comports with the statutory language. However, this rule does make clear that it does not interfere with the relationship between any animal owner and a person the owner chooses to perform a CAIT on the owner's animal.

<h3>17. Contact Name</h3>	<h3>18. Contact Phone Number</h3>
<p>Cheryl Daniels, VEB Legal Counsel</p>	<p>(608) 224-5026</p>

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

The comments from the EIA posting indicate that at least some persons practicing massage therapy on animals, particularly horses, may be impacted because they would be required to become licensed massage therapists in order to establish a referral relationship with veterinarians. However, it is unclear how many of these persons will be affected. In addition, the proposed rule clarifies that it does not impact the relationship between an animal owner and the person they may select to perform a CAIT on the animal.

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

This rule was developed with the assistance of a VEB-appointed rules advisory committee that included five Wisconsin-licensed veterinarians, two Wisconsin-certified veterinary technicians, two Wisconsin-licensed members of other professions who provide complimentary, alternative, or integrative therapies on animals, two public members, and a VEB member as a liaison to the Board. The committee looked at practices in other states, consulted with veterinary medical groups, and brought expertise on the use of these CAITs in assisting animals for their health and well-being. The committee also listened to comments from stakeholders at their meetings

In addition, the comments from the website posting were considered before the proposed rule was completed.

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

While there was considering for exempting animal massage therapy from the referral requirements, the exemption was rejected due to the statutory language that does not give an exemption.

5. Describe the Rule's Enforcement Provisions

The rule will only be enforced if a well-founded complaint against a veterinarian, for not following the referral requirements or supervisory requirements, is established.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-

Wisconsin Veterinary Examining Board

Regulatory Flexibility Analysis

Rule Subject: Standards of Practice and Unprofessional Conduct for Veterinarians
Adm. Code Reference: VE 7
Rules Clearinghouse #: Not assigned
DATCP Docket #: 16-VER-7

Rule Summary

The Wisconsin Veterinary Examining Board (VEB) proposes a rule revision in ch. VEB 7, Wis. Adm. Code, to clarify the circumstances under which a veterinarian may make a referral of a veterinary client to another licensed professional, or supervise a certified veterinary technician, for the provision of complementary, alternative, or integrative therapies, as defined in s. VEB 1.02 (3m), Wis. Adm. Code, on the client's animal.

There is a current definition, in s. VE 1.02 (3m), Wis. Adm. Code, of veterinary complementary, alternative, and integrative therapies ("CAITs"). However, that definition does not specify how these CAITs are to be treated within the practice of veterinary medicine. There have been numerous requests made to the VEB from veterinarians, certified veterinary technicians, and members of other licensed professions to clarify the referral relationship that a veterinarian may have with these other professionals, and the delegation to certified veterinary technicians, for the provision of CAITs upon a veterinarian's animal patients.

The VEB proposes to create a rule, s. VE 7.025, that specifies that a veterinarian may make such a referral, so long as the veterinarian confirms the other professional is licensed in good standing with the Wisconsin Department of Safety and Professional Services, to perform the type of CAIT for which the referral is made, and the other professional gives evidence to the veterinarian of his or her education, training, and experience in performing the CAIT on an animal. The proposed rule includes a provision that the veterinarian-client-patient relationship ("VCPR"), as defined in s. 89.02(8), Stats., does not extend to the CAIT provided by the other professional, so long as the veterinarian demonstrates meeting the requirements in making the referral.

In addition, the VEB proposes to create an additional provision, within s. VE 7.02 delegation of veterinary medical acts, for the veterinarian to delegate to a certified veterinary technician, who is not a licensed professional in one of these disciplines, but who has the education, training, experience, and demonstrated abilities, the performance of a CAIT on the animal patient under the supervision of the veterinarian and within the VCPR.

Small Businesses Affected

This rule change is anticipated to have an effect on small business, as many veterinary practices that will be subject to this definition change, are small businesses. However, it is not expected to have any adverse economic impact on these veterinary small businesses.

Instead, the proposed rule is anticipated to have a positive impact for veterinarians, certified veterinary technicians, and other Wisconsin-licensed professionals, as it clarifies the steps a veterinarian shall use to make a referral to another professional for CAITs and the delegation for these CAITs to certified veterinary technicians under the veterinarian's supervision. The VEB has received many requests for just this type of guidance from veterinarians, other professions practicing these therapies, and certified veterinary technicians in Wisconsin.

There were some comments, in the initial posting for economic impact, from some persons who practice equine massage therapy, but are not licensed as massage therapists in Wisconsin. Some expressed concern that veterinarians would no longer be able to refer clients to an unlicensed massage therapist practicing equine massage therapy. However, the rule clarifies that the referral by a veterinarian is only to a licensed professional, as CAITs are already currently within the statutory definition of the practice of veterinary medicine, and only a referral to another licensed professional or delegating with the established VCPR comports with the statutory language. However, this rule does make clear that it does not interfere with the relationship between any animal owner and a person the owner chooses to perform a CAIT on the owner's animal. In addition, the rule also clarifies that this is a referral and the other licensed professional does not work under the supervision of the referring veterinarian. Only where a certified veterinary technician is delegated by the veterinarian to perform a CAIT, will the performance of the CAIT be under the direct supervision of the veterinarian and within the VCPR.

Reporting, Bookkeeping and other Procedures

The rule would not require any additional reporting, bookkeeping, or other procedures.

Professional Skills Required

The proposed rule does not require any new professional skills.

Accommodation for Small Business

While this rule change is anticipated to have an effect on small business, as many veterinary practices are small business, it is anticipated that the effect of certainty for veterinarians in making referrals to other licensed professionals will be positive for both persons. While some unlicensed massage therapists, performing equine massage therapy, requested an exemption to allow veterinary referrals, given that the current statutory definition of the practice of veterinary medicine includes CAITs for animals, this rule, as written, comports with current statutory language and the accommodation request cannot be made under current statutory language.

Conclusion

The expectation by those advocating for the rule change, including veterinarians, certified veterinary technicians, and other licensed professionals in Wisconsin, is that it will result in greater use of complementary, alternative, and integrative therapies as additional tools for the benefit of animals and their owners.

This rule is not expected to have a substantial adverse economic effect on “small business” so it is not subject to the delayed “small business” effective date provided in s. 227.22(2) (e), Stats.

Dated this _____ day of _____, 2017.

STATE OF WISCONSIN
VETERINARY EXAMINING BOARD

By _____
Cheryl Furstace Daniels
Board Counsel

**PROPOSED ORDER
OF THE WISCONSIN VETERINARY EXAMINING BOARD
ADOPTING RULES**

- 1 The Wisconsin veterinary examining board hereby proposes the following rule *to create* VE 7.02
- 2 (3) (d) and VE 7.025; *relating to* the provision of complementary, alternative, and integrative
- 3 therapies, and affecting small business.

Analysis Prepared by the Veterinary Examining Board

The Wisconsin Veterinary Examining Board (VEB) proposes a rule revision in ch. VEB 7, Wis. Adm. Code, to clarify the circumstances under which a veterinarian may make a referral of a veterinary client to another licensed professional, or supervise a certified veterinary technician, for the provision of complementary, alternative, or integrative therapies, as defined in s. VEB 1.02 (3m), Wis. Adm. Code, on the client's animal.

Statutes Interpreted

Statute Interpreted: ss. 89.01 (6) and 89.05 (1), Stats.

Statutory Authority

Statutory Authority: s. 89.03 (1), 227.10 and 227.11, Stats.

Explanation of Statutory Authority

VEB has specific authority, under the provisions cited above, to adopt rules establishing the scope of practice permitted for veterinarians.

Related Statutes and Rules

VEB administers ch. 89, Stats., as well as the administrative rules in VE 1-10, Wis. Adm. Code, and in the administration of these statute and rules, VEB may issue administrative orders imposing discipline for unprofessional conduct related to the practice of veterinary medicine, including issuing an administrative warning to, or reprimanding, any person holding a veterinary medical license, or denying, revoking, suspending, limiting, the person's license, as specified by statute.

Plain Language Analysis

There is a current definition, in s. VE 1.02 (3m), Wis. Adm. Code, of veterinary complementary, alternative, and integrative therapies (“CAITs”). However, that definition does not specify how these CAITs are to be treated within the practice of veterinary medicine. There have been numerous requests made to the VEB, from veterinarians, certified veterinary technicians, and members of other licensed professions, to clarify the referral relationship that a veterinarian may have with these other professionals for the veterinarian’s clients, and the delegation to certified veterinary technicians for the provision of CAITs upon a veterinarian’s animal patients.

The VEB proposes to create a rule, s. VE 7.025, specifying that a veterinarian may make a referral to another Wisconsin-licensed professional, so long as the other professional gives evidence to the veterinarian of his or her license in good standing with the Wisconsin Department of Safety and Professional Services, to perform the type of CAIT for which the referral is made, and his or her education, training, and experience in performing that type of CAIT on an animal. The proposed rule includes a provision that the veterinarian-client-patient relationship (“VCPR”), as defined in s. 89.02(8), Stats., does not extend to the CAIT provided by the other professional, where the veterinarian demonstrates meeting the requirements in making the referral or the client obtains a therapy provider for the client’s animal without a referral.

In addition, the VEB proposes to create an additional provision, within s. VE 7.02 delegation of veterinary medical acts, for the veterinarian to delegate to a certified veterinary technician the performance of a CAIT on an animal patient, where the certified veterinary technician is not a licensed professional performing a CAIT. By including this provision in the section on delegation of veterinary medical acts, the VEB makes clear that the technician’s CAIT performance is under the direct supervision of the veterinarian, who will continue to have all of the supervisory responsibilities specified in this section, and within the VCPR.

Summary of, and Comparison with Existing or Proposed Federal Statutes and Regulations

There are no federal regulations governing the practice of veterinary complementary, alternative, and integrative therapies.

Comparison with Rules in Adjacent States

Illinois’s veterinary medicine and surgery practice act defines CAITs very similarly to the current definition in s. VE 1.02(9), Wis. Adm. Code. The act specifically allows a member in good standing of another licensed or regulated profession within any state or an Illinois-approved member of an organization or group to provide hands-on active participation in the treatment and care of a patient, within a veterinarian-client-patient relationship and with informed consent from the client, so long as the member works under the supervision of the veterinarian. The veterinarian maintains the veterinarian-client-patient relationship, but is immune from civil and criminal liability for the member’s assistance, except for willful and wanton conduct. The other professional may not state or imply in any way that they are licensed or engaging in the practice of veterinary medicine.

Iowa’s and Michigan’s veterinary statutes and rules do not address this issue.

Within Minnesota's practice of veterinary medicine act, there is a provision that specifically states that the act does not prohibit a licensed chiropractor from registering with its chiropractor board and performing animal chiropractic on animals that have been referred to the chiropractor by a veterinarian.

Summary of Factual Data and Analytical Methodologies

This rule was developed with the assistance of a VEB-appointed rules advisory committee that included five Wisconsin-licensed veterinarians, two Wisconsin-certified veterinary technicians, two Wisconsin-licensed members of other professions who provide complimentary, alternative, or integrative therapies on animals, two public members, and a VEB member as a liaison to the Board. The committee looked at practices in other states, consulted with veterinary medical groups, and brought expertise on the use of these CAITs in assisting animals for their health and well-being.

Effect on Small Business

This rule change is anticipated to have an effect on small business, as many veterinary practices that will be subject to this definition change, are small businesses. However, it is not expected to have any adverse economic impact on these veterinary small businesses.

Instead, the proposed rule is anticipated to have a positive impact for veterinarians, certified veterinary technicians, and other Wisconsin-licensed professionals, as it clarifies the steps a veterinarian shall use to make a referral to another professional for CAITs and the delegation for these CAITs to certified veterinary technicians under the veterinarian's supervision. The VEB has received many requests for just this type of guidance from veterinarians, other professions practicing these therapies, and certified veterinary technicians in Wisconsin.

There were some comments, in the initial posting for economic impact, from some persons who practice equine massage therapy, but are not licensed as massage therapists in Wisconsin. Some expressed concern that veterinarians would no longer be able to refer clients to an unlicensed massage therapist practicing equine massage therapy. However, the rule clarifies that the referral by a veterinarian is only to a licensed professional, as CAITs are already currently within the statutory definition of the practice of veterinary medicine, and only a referral to another licensed professional or delegating with the established VCPR comports with the statutory language. However, this rule does make clear that it does not interfere with the relationship between any animal owner and a person the owner chooses to perform a CAIT on the owner's animal. In addition, the rule also clarifies that this is a referral and the other licensed professional does not work under the supervision of the referring veterinarian, but under the requirements of the other professional's license. Only where a certified veterinary technician is delegated by the veterinarian to perform a CAIT, will the performance of the CAIT be under the direct supervision of the veterinarian and within the VCPR.

This rule is not expected to have a substantial adverse economic effect on "small business" so it is not subject to the delayed "small business" effective date provided in s. 227.22(2) (e), Stats.

VEB Contact
Where and When Comments May Be Submitted

Questions and comments related to this this rule may be directed to:

Cheryl Daniels, Board Counsel
Veterinary Examining Board
c/o Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
Telephone: (608) 224-5026
E-Mail: Cheryl.Daniels@Wisconsin.gov

Rule comments will be accepted up to two weeks after the last public hearing is held on this rule. Hearing dates will be scheduled after this rule hearing draft is approved by the Veterinary Examining Board.

4 **SECTION 1.** VE 7.02(3) (d) is created to read:

5 **7.02 (3)** (d) Except to certified veterinary technicians who are also licensed professionals
6 governed by the provisions in VE 7.025, the provision of any complementary, alternative, or
7 integrative therapy, as defined in VE 1.02(3m).

8 **SECTION 2.** VE 7.025 is created to read:

9 **7.025 Veterinary referral to a license holder in another profession. (1)** A veterinarian
10 may make a referral to a client, for treatment of a patient by a license holder in another profession,
11 using complementary, alternative, or integrative therapies, as defined in s. VE 1.02(3m), if the
12 license holder, to whom the client and patient are referred, provides the following evidence to the
13 veterinarian for performing the type of therapy for which the referral is being made:

14 (a) The license holder's current licensing in good standing, with the applicable board
15 through the department of safety and professional services, and,

16 (b) The license holder's education, training, and experience in performing the therapy on
17 an animal.

18 **(2)** The veterinarian-client-patient relationship, as defined in s. 89.02(8), Stats., does not
19 extend to the provision of any complementary, alternative, or integrative therapy performed on a
20 veterinarian's patient, by a license holder in another profession, where the veterinarian
21 demonstrates meeting the requirements, in sub. (1), for making the referral to the license holder,
22 or the client obtains the services of the therapy provider without a referral by the veterinarian.

23 **SECTION 3. EFFECTIVE DATE AND INITIAL APPLICABILITY.** This rule takes effect on
24 the first day of the month following publication in the Wisconsin administrative register, as
25 provided under s. 227.22(2)(intro.).

Dated this _____ day of _____, 2017.

VETERINARY EXAMINING BOARD

By _____
Member of the Board

**VE 11 – Emergency and Permanent Scope Statements to
create Wis. Admin. Code § VE 11,**

**State of Wisconsin
Department of Agriculture, Trade and Consumer Protection**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Cheryl Daniels, VEB Counsel		2) Date When Request Submitted: October 11, 2017 Items will be considered late if submitted after 12:00 p.m. on the deadline date.									
3) Name of Board, Committee, Council, Sections: VEB											
4) Meeting Date: October 25, 2017	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? H. Legislative/Administrative Rule Matters 5. VE 11 – Emergency and Permanent Scope Statements to create Wis. Admin. Code § VE 11, relating to a Professional Assistance Procedure - Informational.									
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:									
10) Describe the issue and action that should be addressed: Information on language for emergency and permanent scope statements creating ch. VE 11 (Professional Assistance Procedure).											
11) Authorization <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; border-bottom: 1px solid black;">Cheryl Daniels</td> <td style="width: 40%; border-bottom: 1px solid black; text-align: right;">October 11, 2017</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Signature of person making this request</td> <td style="border-bottom: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Supervisor (if required)</td> <td style="border-bottom: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td colspan="2" style="border-bottom: 1px solid black;">Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date</td> </tr> </table>				Cheryl Daniels	October 11, 2017	Signature of person making this request	Date	Supervisor (if required)	Date	Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date	
Cheryl Daniels	October 11, 2017										
Signature of person making this request	Date										
Supervisor (if required)	Date										
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date											
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.											



DATE: October 18, 2017

TO: Veterinary Examining Board

FROM: Cheryl Furstace Daniels, VEB Counsel CFD

SUBJECT: Regulation of Veterinary Professional Assistance Program and affecting small business;
Rulemaking Emergency and Permanent Scope Statements – FOR INFORMATION ONLY

PRESENTED BY: Cheryl Furstace Daniels

REQUESTED ACTION:

At the October 25, 2017, Veterinary Examining Board (“VEB”) meeting, the VEB will review an “emergency scope statement” and a “permanent scope statement” (copies attached) for a proposed new rule, VE 11, related to creating rules for a professional assistance program assisting veterinary professionals with alcohol, other drug, and mental health impairments affecting their job responsibilities. In addition, the VEB will be asked to be prepared to attend several short special meetings by telephone, as described below.

2017 Wisconsin Act 59, the Budget Bill, created s. 89.03(3), Stats., a provision requiring the VEB to promulgate rules specifying procedures for addressing alcohol or other drug, or mental health impairments of veterinarians or certified veterinary technicians, both prior to and within the disciplinary process. In addition, a non-statutory provision in this Act specified the VEB may use the emergency rule procedure to create this rule, but a Finding of Emergency is not necessary for promulgating this emergency rule. The scope statements before the VEB are to promulgate both an emergency rule and a permanent rule, so that the VEB may contract with another entity to administer the procedure specified under the rules promulgated under this subsection.

A scope statement spells out the general purpose and scope of a proposed rule. The VEB may not begin drafting a proposed rule (including a proposal to amend or repeal an existing rule) until the Governor approves a scope statement for that rule as required under s. 227.135(2), Stats. These scope statements were approved by the Governor on October 17, 2017 (copies attached).

Wisconsin statutes also require the VEB to approve a scope statement before staff may begin any work to draft a proposed rule. However, after the Governor’s approval, the VEB is required to publish a draft scope statement in the Wisconsin Administrative Register, and file a copy with the Department of Administration (DOA), at least 10 days before the Board approves the scope statement. VEB staff filed the attached scope statements with the Legislative Reference Bureau for publication in the October 23, 2017 issue of the Wisconsin Administrative Register and filed a copy with DOA as required. This means that the VEB may not approve the scope statements before November 2, 2017.

There are several specific rulemaking procedural issues that impact this particular rule. This means that the VEB will be required to have additional meetings that will only deal with this rule, so will be via telephone with notice to the public and an opportunity for the public to attend the meeting at 2811 Agriculture Drive. Below is an outline of these issues and work for the VEB.

1. A VEB meeting will be needed on November 2 or 3, 2017, to approve the VE 11 emergency and permanent scope statements, which is the soonest time allowed by statute. This is due to the fact that VEB staff is prohibited from doing any work on the rule itself, prior to scope statement approval by both the Governor and the VEB.
2. In addition, however, non-statutory language in 2017 Wisconsin Act 59 requires that, if the VEB uses the emergency rule process to create this new rule, the VEB shall promulgate the rule no later than the 60th day after the effective date of the Act, which was September 22, 2017. This means that, as soon as staff is able to draft the emergency rule, a special meeting will need to be noticed, as soon as possible, so the VEB can approve the emergency rule before sending it to the Governor for final approval and publication by November 22, 2017, the latest legal publication date. Publication of the emergency rule does mean that the VEB will be able move forward to develop a bid proposal to contract for professional assistance program services under the enacted emergency rule.
3. It is anticipated that the draft permanent rule language will be the same as the emergency rule language. However, the VEB will mostly likely not be able to approve both at the same meeting. Before the VEB may approve a draft of the permanent rule for hearing, the permanent hearing draft rule shall be posted on the Department of Agriculture, Trade and Consumer Protection's website for a minimum of 14 days, in order to gauge its possible adverse economic impact, before VEB staff drafts an initial economic impact analysis and fiscal estimate that must accompany the hearing draft rule. Most likely a special meeting will need to be noticed for late November or early December, in order for the VEB to approve the permanent rule hearing draft, which will go to hearings that will also serve as after-the-enactment hearings for the emergency rule.
4. Once the permanent VE 11 hearing draft is approved, the draft shall be referred to the Legislative Council's Rules Clearinghouse ("Clearinghouse") for review. The Clearinghouse must be given 20 working days for its review before rule hearings may be conducted by the VEB. Given the legal holidays in December, rule hearings will then be able to be conducted only after January 2, 2018.
5. VEB staff hopes to complete its work so the VEB can vote on the final permanent VE 11 rule at its January board meeting. However, the hearing process is usually held open a couple of weeks after hearings have been completed to give additional time to stakeholders to submit written comments. It is very possible the VEB will need to notice a special meeting via telephone, for a vote on the VE 11 final draft permanent rule during early February, 2018. The final draft permanent rule is then transmitted to the Governor for final approval, which can take up to a month, before being transmitted to the Legislature.

The VE 11 permanent rule is on a fast track for promulgation because non-statutory language in 2017 Wisconsin Act 59 only allows the emergency rule to be in place for 210 days, which is June 19, 2018, assuming the emergency rule is published on November 22, 2017. However, the Legislature's last floor period ends on March 22, 2018, so this permanent rule, needing to be enacted in 2018, is required to be referred to the Legislature by that date. Even with this accelerated timeline, VEB staff will work hard to ensure that all stakeholders will have robust opportunities for comment at all stages of the rulemaking process.

STATEMENT OF SCOPE

Wisconsin Veterinary Examining Board (VEB)

Rule No: Ch. VE 11 Wis. Adm. Code (New)

Relating to: Professional Assistance Program for Veterinary Professionals

Rule Type: Emergency

1. Finding/nature of emergency (Emergency Rule only):

The Wisconsin Veterinary Examining Board (“VEB”) was attached, for limited purposes, to the Wisconsin Department of Agriculture, Trade and Consumer Protection (“DATCP”), pursuant to 2015 Wisconsin Act 55. However, while the VEB continued to oversee chs VE 1-10, Wis. Adm. Code, the Professional Assistance Procedure in ch. SPS 7, Wis. Adm. Code, did not transfer. That procedure is overseen by the Wisconsin Department of Safety and Professional Services (“DSPS”), the agency to which the VEB was previously attached.

2017 Wisconsin Act 59, the Budget Bill, created s. 89.03(3), Stats., a provision requiring the VEB to promulgate rules specifying procedures for addressing alcohol or other drug, or mental health impairments of veterinarians or certified veterinary technicians, both prior to and within the disciplinary process. In addition, a non-statutory provision in this Act specified the VEB may use the emergency rule procedure to create this rule, but a Finding of Emergency is not necessary for promulgating this emergency rule, as follows:

SECTION 9102. Nonstatutory provisions; Agriculture, Trade and Consumer Protection.

(2) PROFESSIONAL ASSISTANCE PROCEDURES; EMERGENCY RULES. The veterinary examining board may use the procedure under section 227.24 of the statutes to promulgate rules under section 89.03 (3) of the statutes for the period before the effective date of the permanent rule promulgated under section 89.03 (3) of the statutes but not to exceed the period authorized under section 227.24 (1) (c) of the statutes, subject to one extension of 60 days under section 227.24 (2) of the statutes. If the board uses this procedure to promulgate these rules, the board shall promulgate the rules no later than the 60th day after the effective date of this subsection. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the board is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

2. Detailed description of the objective of the proposed rule:

This emergency rule will specify a procedure for addressing allegations that a person licensed or certified by the veterinary examining board, pursuant to ch. 89, Stats., has practiced as a veterinarian or veterinary technician while impaired by alcohol or other drugs or that his or her ability to practice is impaired by alcohol or other drugs. It will also specify a procedure for assisting a person, licensed by the veterinary examining board under that chapter, who requests to participate in the procedure or who

requests assistance in obtaining mental health services or in obtaining assistance with impairment caused by alcohol or other drugs. This emergency rule shall be written to facilitate early identification of chemically dependent veterinarians or veterinary technicians and encourage their rehabilitation. The emergency rule, promulgated under this subsection, may be used in conjunction with the formal disciplinary process under this chapter. The emergency rule will also specify that the VEB may contract with another entity to administer the procedure specified under the rules promulgated under s. 89.03(3), Stats.

The VEB expects to promulgate a permanent rule in conjunction with the proposed emergency rule

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

DSPS already has a rule for a Professional Assistance Procedure to be used in conjunction with discipline imposed by professional boards attached to that agency. In this instance, the VEB shall develop the rule described above, as required in s. 89.03(3), Stats.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The VEB has specific authority to adopt these rules s. 89.03(3), Stats. Additionally, the VEB has specific authority to promulgate an emergency rule, related to a veterinary professional assistance program in Section 9102 of 2017 Wisconsin Act 59.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

This emergency rule, in conjunction with the permanent rule also being developed, will take approximately 20 hours of staff time to develop.

6. List with description of all entities that may be affected by the proposed rule:

The rule will affect any Wisconsin-licensed veterinarian or Wisconsin-certified veterinary technician, who may seek assistance or be identified as needing assistance in the disciplinary process, for alcohol or other drug or mental health impairments.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

There are no federal regulations for veterinary professional assistance programs.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The Department expects the proposed emergency rule to have no negative economic impact on Wisconsin's licensed veterinarians or certified veterinary technicians. Instead, this rule will benefit Wisconsin veterinary professionals, allowing them to seek early assistance for alcohol or other drug or mental health impairments.

Contact Person: Cheryl Daniels, Board Attorney
Wisconsin Veterinary Examining Board
2811 Agriculture Drive, P.O. Box 8911
Madison, WI 53708-8911
Telephone: (608) 224-5026
E-Mail: Cheryl.Daniels@Wisconsin.gov

Department Head or Authorized Signature

Date Submitted



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

October 17, 2017

Philip Johnson
Chairperson
Wisconsin Veterinary Examining Board
PO Box 8911
Madison, WI 53708

RE: Scope Statement for Emergency Rule creating Ch. VE 11 relating to professional assistance for veterinary professionals

Dear Chairperson Johnson,

I hereby approve the statement of scope submitted on October 13, 2017 to SBO, pursuant to Wisconsin Statutes § 227.135, in regards to an emergency rule creating Chapter VE 11 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.24(1)(e)1d.

Sincerely,

Scott Walker
Governor

STATEMENT OF SCOPE

Wisconsin Veterinary Examining Board (VEB)

Rule No: Ch. VE 11 Wis. Adm. Code (New)

Relating to: Professional Assistance Program for Veterinary Professionals

Rule Type: Permanent

1. Detailed description of the objective of the proposed rule:

This new rule will specify a procedure for addressing allegations that a person licensed or certified by the veterinary examining board, under ch. 89, Stats., has practiced as a veterinarian or veterinary technician while impaired by alcohol or other drugs or that his or her ability to practice is impaired by alcohol or other drugs. It will also specify a procedure for assisting a person, licensed by the veterinary examining board under that chapter, who requests to participate in the procedure or who requests assistance in obtaining mental health services or in obtaining assistance with impairment caused by alcohol or other drugs. This emergency rule shall be written to facilitate early identification of chemically dependent veterinarians or veterinary technicians and encourage their rehabilitation. This proposed rule, promulgated under this subsection, may be used in conjunction with the formal disciplinary process under this chapter. The new rule will also specify that the VEB may contract with another entity to administer the procedure specified under the rules, promulgated pursuant to s. 89.03(3), Stats.

2. Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives; the history, background and justification for the proposed rule.

The Wisconsin Veterinary Examining Board (“VEB”) was attached, for limited purposes, to the Wisconsin Department of Agriculture, Trade and Consumer Protection (“DATCP”), pursuant to 2015 Wisconsin Act 55. However, while the VEB continued to oversee chs VE 1-10, Wis. Adm. Code, the Professional Assistance Procedure in ch. SPS 7, Wis. Adm. Code, did not transfer. That procedure is overseen by the Wisconsin Department of Safety and Professional Services (“DPS”), the agency to which the VEB was previously attached.

2017 Wisconsin Act 59, the Budget Bill, created s. 89.03(3), Stats., a provision requiring the VEB to promulgate rules specifying procedures for addressing alcohol or other drug, or mental health impairments of veterinarians or certified veterinary technicians, both prior to and within the disciplinary process. In addition, a non-statutory provision in this Act specified the VEB may use the emergency rule procedure to create this rule, but a Finding of Emergency is not necessary for promulgating this emergency rule. The VEB also created a Scope Statement to promulgate an emergency rule, in a parallel process to the permanent rule procedure for this proposed rule.

3. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The VEB is specifically required to adopt these rules, pursuant to s. 89.03(3), Stats., as follows:

89.03 (3) The examining board shall promulgate rules specifying a procedure for addressing allegations that a person licensed or certified by the veterinary examining board under this chapter has practiced as a veterinarian or veterinary technician while impaired by alcohol or other drugs or that his or her ability to practice is impaired by alcohol or other drugs, and for assisting a person licensed by the veterinary examining board under this chapter who requests to participate in the procedure or who requests assistance in obtaining mental health services. In promulgating rules under this subsection, the examining board shall seek to facilitate early identification of chemically dependent veterinarians or veterinary technicians and encourage their rehabilitation. The rules promulgated under this subsection may be used in conjunction with the formal disciplinary process under this chapter. The examining board may contract with another entity to administer the procedure specified under the rules promulgated under this subsection.

4. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

This rule, in conjunction with the emergency rule also being developed, will take approximately 20 hours of staff time to develop.

5. List with description of all entities that may be affected by the proposed rule:

The rule will affect any Wisconsin-licensed veterinarian or Wisconsin-certified veterinary technician, who may seek assistance or be identified as needing assistance in the disciplinary process, for alcohol or other drug or mental health impairments.

6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

There are no federal regulations for veterinary professional assistance programs.

7. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The Department expects the proposed rule to have no negative economic impact on Wisconsin's licensed veterinarians or certified veterinary technicians. Instead, this rule will benefit Wisconsin veterinary professionals, allowing them to seek early assistance for alcohol or other drug or mental health impairments.

Contact Person: Cheryl Daniels, Board Attorney
Wisconsin Veterinary Examining Board
2811 Agriculture Drive, P.O. Box 8911
Madison, WI 53708-8911
Telephone: (608) 224-5026
E-Mail: Cheryl.Daniels@Wisconsin.gov

Department Head or Authorized Signature

Date Submitted



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

October 17, 2017

Philip Johnson
Chairperson
Wisconsin Veterinary Examining Board
PO Box 8911
Madison, WI 53708

**RE: Scope Statement for Ch. VE 11 relating to professional assistance for
veterinary professionals**

Dear Chairperson Johnson,

I hereby approve the statement of scope submitted on October 13, 2017 to SBO, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule creating Chapter VE 11 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.135(3).

Sincerely,

Scott Walker
Governor

**H. American Association of Veterinary State Boards
(AAVSB) Annual Meeting, September 14-16, 2017, San
Antonio, TX – Review**

**State of Wisconsin
Department of Agriculture, Trade and Consumer Protection**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Matt Tompach		2) Date When Request Submitted: October 11, 2017 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date.</small>	
3) Name of Board, Committee, Council, Sections: VEB			
4) Meeting Date: Oct. 25, 2017	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? H. American Association of Veterinary State Boards (AAVSB) Annual Meeting, September 14-16, 2017, San Antonio, TX – Review	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Review issues discussed at the 2017 AAVSB Meeting September 14-16 in San Antonio, TX.			
11) Authorization			
Matt Tompach		Oct. 11, 2017	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			



MEMORANDUM

To: AAVSB Member Board Members and Executive Directors
From: Frank Walker, DVM, President
Jim Penrod, Executive Director
Date: September 5, 2017
Subject: Resolution 2017-1

The American Association of Veterinary State Boards (AAVSB) Board of Directors (BOD) submitted the attached resolution for consideration by the delegates to the 2017 AAVSB Annual Meeting & Conference. Delegates, Member Board members, and Executive Directors are encouraged to read the resolution and this memorandum to allow for robust discussions and an informed delegate vote in San Antonio, Texas. Below are the BOD's thoughts regarding the reasons for the resolution, the reason for the immediate need for the resolution, and the general process for a resolution submitted to the Bylaws Committee.

Rationale for Resolution 2017-1

The AAVSB BOD adopted the new AAVSB Strategy Map in 2016 following a facilitated workshop and updated the Strategy Map in 2017. During the strategic workshop in 2016, the BOD also updated the Mission and Vision of the Association. The BOD considers exploring a more formal relationship with its Member Boards essential for the future of both. This plan is also consistent with the AAVSB mission which is *to support and advance the regulatory process for veterinary medicine*.

In the current regulatory climate, Member Boards are under heightened legal and political scrutiny, primarily being reviewed for their effectiveness and efficiencies. As elected leaders from the Member Boards, the AAVSB BOD feels it is responsible to collectively explore, develop, implement and maintain programs and services that enhance the Member Board **efficiencies** and **effectiveness** while respecting the rights of the states and provinces. Harmonization of services will be the catalyst to address mobility and portability of practitioners, a significant current regulatory issue being played out at a national and international level.

The purpose of Resolution 2017-1 is to recognize and authorize the AAVSB BOD to explore its relationship with the Member Boards, including all possible options for formalizing these relationships. Potential options include formal contracts, use of governance structures (bylaws and membership commitments) and other approaches that solidify the membership as a cohesive unit to best capitalize on collective member regulatory voices. As referenced above, the resolution seeks to unify the AAVSB membership through formalization of access to programs and services intended to assist Member Boards in fulfilling the regulation of the profession in the interest of public protection.

The AAVSB has been serving its Member Boards for 57 years and is uniquely qualified to address the needs of its membership comprised solely of state and provincial veterinary regulatory boards. As the AAVSB continues to engage in research and development of programs and services for use by the Member Boards, a harmonized approach through a formalized relationship between the Member

Boards and the AAVSB will be important to achieve success. To emphasize, the AAVSB programs and services assist Member Boards in fulfilling their statutory mandate of public protection through the regulation of veterinary medicine. *The AAVSB respects the rights of the states and provinces to make ultimate licensure eligibility determinations and uniform programs and services are designed to assist Member Boards in these processes.*

The AAVSB BOD also feels strongly that Member Boards, singularly, are not able to have effective input into the North American Veterinary Licensing Examination (NAVLE) process through election of four (out of thirteen) representatives to the International Council of Veterinary Assessment (ICVA) formerly known as the National Board of Veterinary Medical Examiners (NBVME) board. Part of the intended outcome of this resolution is to unify and strengthen the voice of Member Boards through their membership in the AAVSB which will allow the Association to advocate for the validity, reliability, and defensibility of the entry level competence assessment of the NAVLE by contracting with ICVA. Additionally, contract negotiations will be conducted by AAVSB on behalf of Member Boards which will streamline and improve efficiency of function. Since AAVSB is member driven and responsive to needs of its Member Boards, we feel such a unified contract approach will increase access on the part of Member Boards to generative, policy-making discussions and decisions related to the licensure and renewal processes.

Immediacy

The BOD has determined an immediate need for Resolution 2017-1 based on the political and legal climate. With the recent pressures on regulation by elected officials and the Federal Trade Commission and with the advent and expansion of private sector involvement in public sector credentials, the BOD feels the timing is now to explore formalization of the relationship with the Member Boards. Strengthening this relationship will ensure you will continue to be directly involved in the oversight of existing programs and in the development of new programs that are necessary and appropriate in creating efficiencies in the licensure process.

Resolution Process and Content

In general, there are two distinct issues to be addressed through a resolution. First, is the resolution process, involving the drafting of and introduction to, and debate and voting by the delegates. Resolutions form the basis for Member Board involvement in significant policy driven decisions. A resolution will contain several WHEREAS clauses that sets forth the factual background for the issue(s) and conclude with a THEREFORE BE IT RESOLVED clause that sets forth the action item(s) of the association, board of directors, committee, or task force. Generally, resolutions are submitted and reviewed well in advance of an annual meeting to allow for adequate time for editing and eventual notice to the membership. Under certain circumstances, resolutions can be introduced closer to the annual meeting based upon an identified need for immediate consideration. A duly introduced resolution will be read into the record at the annual meeting and thereafter discussed and voted upon by the delegates.

Second is the content of a resolution. AAVSB resolutions must conform to the mission of the organization and should not be duplicative of a past resolution. The AAVSB Bylaws and Resolution Committee will review proposed resolutions for consistency with the mission and potential duplication of past resolutions. In the event edits are suggested, the Bylaws Committee will work with the proposer of the resolution to ensure an appropriately drafted resolution. The Bylaws Committee does not change the content or intent of a resolution, but merely ensures consistent drafting and wording. Once complete, the Bylaws Committee will have the choice of presenting to the membership a “pass”, “not pass” or “no recommendation” position on each resolution.

For Resolution 2017-1, the Bylaws Committee recommends Pass.

The AAVSB BOD looks to promote the use of resolutions at each Annual Meeting & Conference to encourage Member Board participation in generative initiatives and thought processing. This Resolution 2017-1 provides a shining example of how the Member Boards can come together and utilize the strength of the collective voice. The AAVSB BOD looks forward to an engaged discussion with the delegates, members of Member Boards, and board staff.



RESOLUTION 2017-01

Submitted by: AAVSB Board of Directors

AAVSB Bylaws and Resolution Committee Suggestion: PASS

WHEREAS, the American Association of Veterinary State Boards (AAVSB) is a not-for-profit membership organization recognized as exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code due its educational and charitable activities; and

WHEREAS, the membership of AAVSB is comprised of the governmental state and provincial boards of veterinary medicine statutorily created and delegated with the authority to regulate the practice of veterinary medicine in the interest of protecting the health, safety, and welfare of the public and their animals; and

WHEREAS, through membership in AAVSB, member boards have direct input and participatory roles into the development and implementation of programs for use by and beneficial to such member boards; and

WHEREAS, such participatory roles by member boards include, but are not limited to, eligibility for and election to the AAVSB Board of Directors, delegate participation, including the right to cast votes, participation on committees, and authority to introduce and speak to resolutions and motions; and

WHEREAS, the member boards of AAVSB, among other responsibilities, assess eligibility criteria for applicants seeking licensure and renewal as veterinarians and veterinary technicians; and

WHEREAS, such eligibility criteria includes components related to demographics, education, entry-level competence examinations, continuing education and competence, and personal history and character; and

WHEREAS, the member boards of veterinary medicine acknowledge the benefits through AAVSB of the collective voice of the veterinary regulatory community and having direct input in the programs and services intended to assist the boards in regulating the profession, including making licensure eligibility and renewal determinations; and

WHEREAS, the entry-level competence examination for veterinary technicians, known as the Veterinary Technician National Examination (VTNE), and recognized by AAVSB member boards, is developed, administered, scored and maintained by the member boards through membership in AAVSB, thereby giving such boards direct input into the processes and procedures related to the VTNE program; and

WHEREAS, the entry-level competence examination for veterinarians, known as the North American Veterinary Licensure Examination (NAVLE), and recognized by AAVSB member boards is currently developed and owned by the International Council of Veterinary Assessment (ICVA); and

WHEREAS, ICVA has no members and is not directly accountable to AAVSB or the member boards of veterinary medicine thereby denying such boards direct input into the processes and procedures related to the NAVLE program; and

WHEREAS, the member boards of veterinary medicine intend to continue the evolution of centralized programs and services of AAVSB that are under the direct control of member boards and used to fulfill the shared mission of regulating the professions in the interest of the health, safety and welfare of the public and their animals; and

WHEREAS, centralized programs under the direct control of member boards through AAVSB will promote the uniformity and standardization necessary to address the evolving needs of the regulatory community, public, and professionals, particularly those needs related to mobility and license portability.

THEREFORE be it resolved, that the American Association of Veterinary State Boards (AAVSB) explore a mechanism, through contractual relationships, AAVSB governance documents, or otherwise, that provides member boards with direct input and access into the availability and provision of programs and services that address the needs of the membership, including a uniform, national examination or other assessment mechanism validated for entry-level competence determinations of applicants as veterinarians and veterinary technicians.



Telemedicine: Protecting Patients, Expanding Access

Lisa Robin, Chief Advocacy Officer, Federation of State Medical Boards

2017 AAVSB Annual Meeting & Conference

About FSMB



- FSMB offices in Euless, TX and Washington, DC
- Established in 1912
- Represents 70 state medical and osteopathic boards
- Nonprofit 501(c)6 organization with approximately 170 staff



FSMB and Telemedicine

- FSMB's role as leader in evolving regulatory policy for the regulation of telemedicine
 - *Model Act for the Practice of Medicine Across State Lines* (1998)
 - *Model Guidelines for the Use of the Internet in Medical Practice* (2002)
 - *Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine* (2014)
- Recipient of federal grants to address license portability
 - Uniform Licensure Application
 - Technical enhancements to Federation Credentials Verification Service
 - Expedited endorsement policies
 - Interstate Medical Licensure Compact



Telemedicine: Benefits and Challenges

- **Benefits:** Increased access to care and services, expanded utilization of specialty expertise, management of chronic disease, improvement of health outcomes, and reduction of costs.
- **Challenges:**
 - Maintaining the same level of patient protection afforded by the current state-based regulatory system . . . ensuring patient safety, accountability, consensus as to standard of care, and privacy
 - Conflicting state regulatory statutes, reimbursement, licensure, credentialing, privileging, broadband connectivity



Addressing Challenges and Barriers

- Policy Harmonization
 - State Medical Boards' Appropriate Regulation of Telemedicine Workgroup
 - Develop model guidelines in evaluating the appropriateness of care as related to the use of telemedicine between a physician in one location and a patient in another, with or without an intervening health care provider
 - FSMB Workgroup on Telemedicine Consultations
 - Inform state medical boards about the types of consultations and regulatory frameworks for the oversight of physicians who offer consulting services via telemedicine technologies
- License Portability
 - The Interstate Medical Licensure Compact - a feasible mechanism to facilitate multistate practice, including telemedicine across state lines.



Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine (2014)

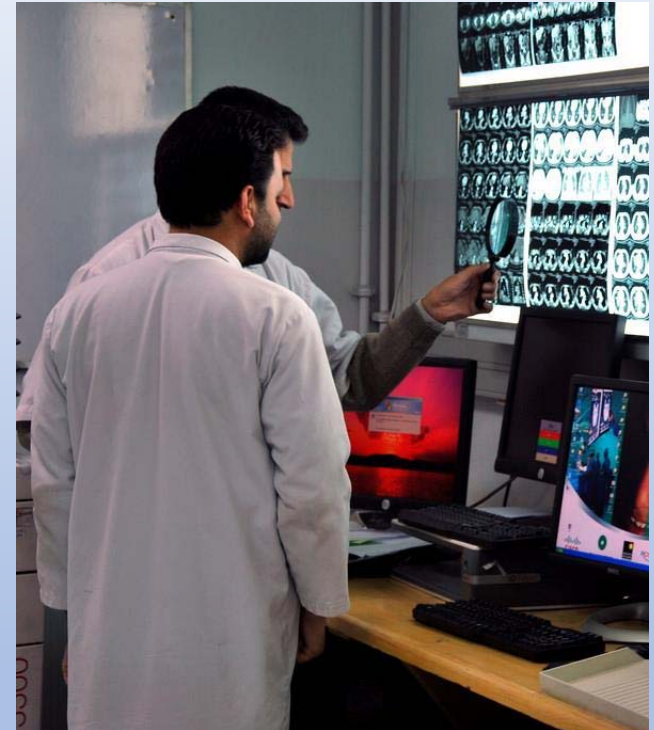


- A guidance document for state medical boards intended to remove regulatory barriers to expanding telemedicine while protecting public health and safety.
 - Regulating the use of telemedicine technologies in the practice of medicine
 - Educating licensees as to the appropriate standards of care when delivering health care services directly to patients via telemedicine
 - Although written primarily for physicians, it is in large part applicable to physician assistants or other health professionals who may be regulated by the medical board
 - Supported by regulatory, professional, and private sectors



Model Policy Guidelines

- Defining “Telemedicine”:
 - The practice of medicine using electronic communications, information technology, or other means between a licensee in one location and a patient in another location with or without an intervening health care provider.
 - Generally, telemedicine is not an audio-only telephone conversation, email/instant messaging conversation, or fax.
 - It typically involves the application of secure videoconferencing or store-and-forward technology to provide or support health care delivery by replicating the interaction of a traditional, in-person encounter between a provider and a patient.



Model Policy Guidelines

- Physicians providing care electronically or otherwise should:
 - Place patients' welfare first
 - Maintain acceptable standards of practice
 - Comply with recognized professional codes of conduct
- Patient-physician relationship established upon agreement for diagnosis and treatment:
 - Whether or not there has been an in-person encounter
 - The same standard of care applies



Model Policy Guidelines

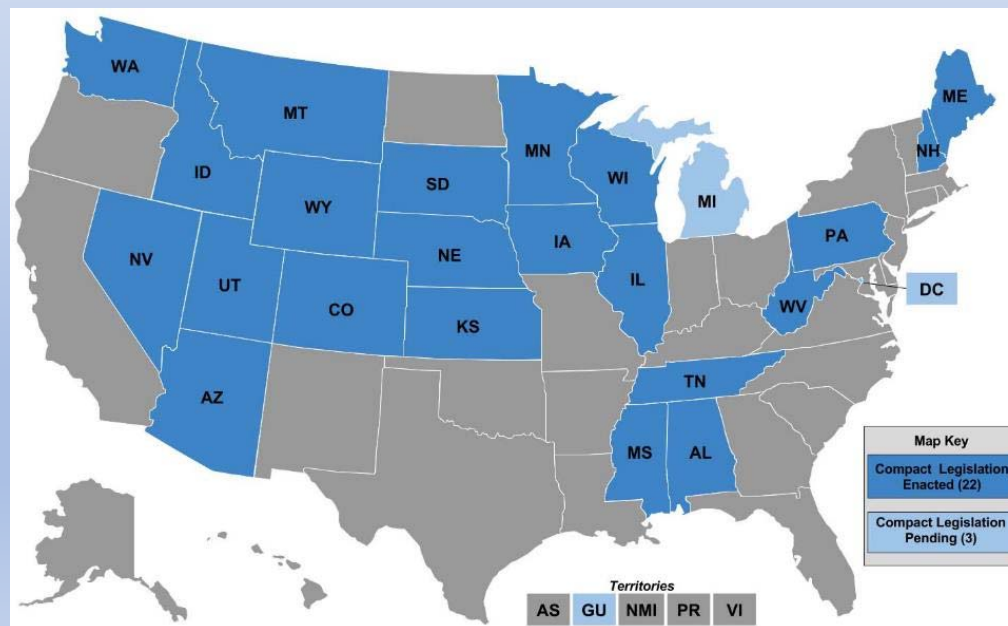
- Licensure
 - Physician is under the jurisdiction of the state where the patient is located
 - Practice of medicine occurs where the patient is located at the time telemedicine technologies are used
- Evaluation and Treatment
 - Physician must collect relevant clinical history prior to treatment
 - Treatment held to same standards of appropriate practice as in traditional (in-person) setting
- Prescribing
 - Same level of professional accountability as prescriptions delivered during an in-person encounter
 - Sole use of online questionnaire is not acceptable



Interstate Medical Licensure Compact

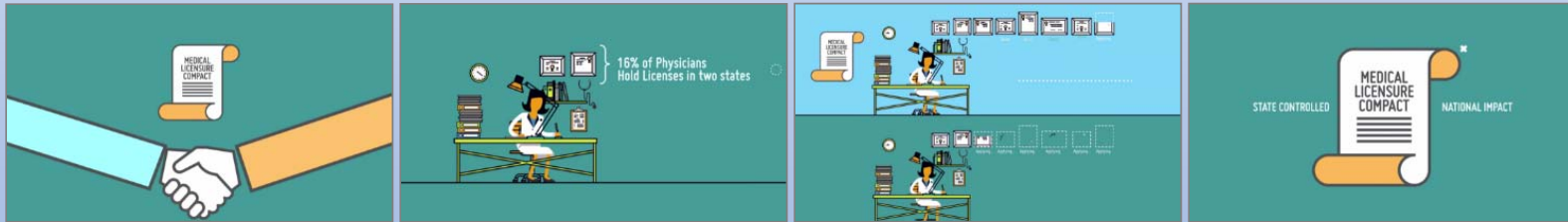
- A voluntary expedited pathway to facilitate multistate practice, increasing access to health care for patients in underserved and rural areas and allowing them to more easily connect with medical experts through the use of telemedicine technologies

www.imlcc.org



Interstate Medical Licensure Compact

- Interstate Medical Licensure Compact
 - 22 States Enacted
 - Legislation also active in Michigan, D.C., and Guam
 - IMLC Commission began accepting applications on April 6, 2017
 - Next steps: Develop rules related to renewal



State Telemedicine Policy Overview

- **Licensure**
 - 52 boards specifically state that physicians engaging in telemedicine have a full, unrestricted license in the jurisdiction where the patient is located
 - 14 boards are authorized to issue a special-purpose license, telemedicine license, or certificate
 - 4 boards require physicians to register if they choose to practice across state lines
- **Reimbursement**
 - 48 states, plus DC, have some form of reimbursement for telehealth in their Medicaid programs
 - Massachusetts does not; Rhode Island will Jan. 1, 2018
 - 30 states, plus DC, have parity laws for private insurance coverage for telemedicine



State Telemedicine Policy Overview

- Standard of Care
 - 29 boards require the same standard of care be applied to telemedicine encounters as face-to-face
- Physician-Patient Relationship
 - Zero states require in-person exam prior to telemedicine encounter
- Informed Consent
 - 29 states have some form of informed consent requirements in statutes, administrative code, and/or Medicaid policies
- Other telemedicine-specific provisions
 - Prohibit the prescribing of controlled substances
 - Specifically exclude “audio only”



State Telemedicine Legislation

- 2017: 233 bills in 2017 Legislative session, so far
 - 52 signed into law
- Wide range of issues:
 - Definition of telehealth/telemedicine
 - Establishment of standards
 - Reimbursement & Insurance Parity
 - Prescriptive authority/e-prescribing
- States that recently legislation establishing or expanding standards for the practice of telemedicine:
 - Alaska, Arkansas, Indiana, Louisiana, Michigan, Minnesota, Missouri, Oklahoma, South Carolina, Texas, and West Virginia



Questions?

- Ask questions through the mobile app

OR

- Raise your hand and wait for a microphone



Speaker Contact Information

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POLICY NEWS

Telehealth Licensing Compact Goes Live in 7 Member States

The Interstate Medical Licensure Compact eases the path for telehealth licensing in 18 member states, giving physicians the opportunity to practice telehealth across state lines.



Source: ThinkStock



By **Eric Wicklund**



April 07, 2017 - Members of the **Interstate Medical Licensure Compact** are now accepting applications from physicians interested in practicing telehealth across state lines.

The **Federation of State Medical Boards** has announced that the compact went live on Thursday, April 6, giving physicians in member states an expedited process for obtaining licenses to practice in multiple states. Under terms of the compact, each member state retains its right to regulate clinicians and take punitive action, if necessary.

The process hasn't been easy. A dispute with the FBI over access to its criminal background check system is delaying the compact in 11 states. For the time being, only physicians in Alabama, Idaho, Iowa, Kansas, West Virginia, Wisconsin and Wyoming can apply to be licensed in one of more of the 18 member states.

The other member states, to date, are Montana, South Dakota, Nevada, Utah, Colorado, Arizona, Minnesota, Illinois, Pennsylvania, Vermont and Mississippi. Eight other states – Washington, Michigan, Nebraska, Rhode Island, Washington D.C., Tennessee, Georgia and Texas – have introduced legislation to join the compact.

To apply for expedited licensure, a physician must be a resident of the member state, have at least one-quarter of a medical practice in that state or be employed by a healthcare system in that state.

READ MORE: [Telehealth Reimbursement and Its Interstate Licensure Problem](#)

The IMLC was launched in 2014 by the FSMB, a Washington D.C.-based non-profit representing more than 70 medical and osteopathic boards. The group's goal was to create a process that would make it easy for doctors to practice telehealth across state lines, thereby easing the nation's growing doctor shortage, and improve patient access to specialists.

According to the FSMB, the compact "is a binding statutory agreement among states where it has become state law."

"The purpose of the IMLC is to create a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license," the FSMB wrote in this week's notice. "The IMLC creates another pathway for licensure and does not otherwise change a state's existing Medical Practice Act. The IMLC also adopts a uniform and stringent standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter. Upon licensure via the IMLC, the physician will be under the jurisdiction of the medical board in the state where the patient is located."

"One of the most important consensus points that we continue to hear in discussions of possible models for medical licensure is that they should be state-based," Humayun J. Chaudhry, DO, president and CEO of the FSMB, said in 2013, when the compact was in development. "Most policy experts agree state authority ensures the best assurance of patient protection in physician licensing – which remains our number one priority. An interstate compact could address the need for efficiency and speed in licensing, while not compromising the inherent value of a state-based system, and most importantly, patient safety."

The compact isn't without its critics, who say it gives medical boards and healthcare providers more power to restrict competition.

READ MORE: [The Benefits and Challenges of Telehealth for Specialists](#)

"FSMB has now become part of a lucrative industry that imposes significant expense without value onto patients and practicing physicians," Paul Martin Kempen, MD, PhD, director of the 5,000-member Association of American Physicians and Surgeons (AAPS) wrote in the spring 2016 issue of the *Journal of American Physicians and Surgeons*. "While non-physicians are being given the authority to practice medicine and prescribe without the physician oversight requirements of SMBs (state medical boards), physicians are being subjected to more expensive and onerous requirements, which bring in revenue for FSMB and other tax-exempt corporations, which lobby extensively and have achieved a high degree of regulatory capture."

Proponents, meanwhile, say the compact will greatly improve access to healthcare and enable providers to create more robust telemedicine and telehealth networks.

"In the world of apps and telehealth, the interstate compact allows qualified, licensed physicians to follow this new technology across state lines," Andy Carter, president and CEO of the Hospital and Healthsystem Association of Pennsylvania, said last October, when [Pennsylvania became](#)

th

the 18 state to join the compact. “Equally important, as many rural areas of Pennsylvania face physician shortages, is the ability for doctors to move back and forth across state borders.”

A **similar compact for nurses** is also gaining momentum.

The National Council of State Boards of Nursing reported in February that 10 states have approved legislation adopting the **enhanced Nurse Licensure Compact**, which allows registered nurses (RNs) and licensed practical/vocational nurses (LPNs/VNs) to practice in multiple states under one license. Another 15 states have legislation pending on the eNLC.

READ MORE: [Examining the Rocky Road to Telehealth Parity](#)

The compact is set to take effect once a majority of states sign on, or by Dec. 31, 2018. Officials say that may happen sooner than expected.

“I don’t like absolute statements, but I do not foresee a scenario at this time where the [compact] will not go into effect by the end of 2018 at the latest,” said Elliott Vice, director of government affairs with the NCSBN.

Tagged [Interstate Medical Licensure Compact](#) [mHealth Regulations](#) [Telehealth licensing](#)

[Telemedicine Licensing](#)



Related Articles

- [Telehealth Licensing Compact Closer to Reality for Nurses](#)
- [Nebraska Joins Telehealth Interstate Medical Licensure Compact](#)
- [Telehealth-Friendly Licensing Compacts Gain Momentum for Docs, Nurses](#)

Related Resources

- [3 Ways to Enhance Workflows for Physicians With an Enterprise Healthcare Communications Platform](#)
- [Webcast: Getting Ahead With Telehealth: How to Launch and Maintain a Successful Platform](#)
- [2017 Connected Patient Report](#)

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Interstate Compacts and Occupational License Portability

Rick Masters and Daniel Logsdon,
National Center for Interstate Compacts

2017 AAVSB Annual Meeting & Conference



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What is an Interstate Compact?

- **Simple, versatile & proven means of collective governance by the states through the enactment of a “statutory contract” recognized under the U.S. Constitution**
- **Effective means of cooperatively addressing common problems which require solution through uniformity among the states**
- **Responds to national priorities with one voice**
- **Retains collective state sovereignty over issues belonging to the states**

3 Primary Uses

1. Used to resolve boundary disputes
2. Used to manage shared natural resources
3. Used to create administrative agencies which have jurisdiction over a wide variety of state concerns:

- ✓ State Transportation
- ✓ Taxation
- ✓ Environmental Matters
- ✓ Regulation
- ✓ Education
- ✓ Corrections
- ✓ Public Safety
- ✓ Licensure



Evolving Compact Landscape

- Threat of a federally mandated solution
- Advances in technology
- Increasingly mobile world
- Distrust of Washington
- Proven track record in both the law and use of compacts



Congressional Consent

Compacts between states are authorized under Article I, Section 10, Clause 3, of the U. S. Constitution:

No State shall, without the Consent of Congress ... enter into any Agreement Compact with another State ...

However, the U. S. Supreme Court holds, in effect that “any” doesn’t mean “all” and consent isn’t required unless the compact infringes federal supremacy.*

*See U. S. Steel Corp. v. Multi-State Tax Commission, 434 U. S. 452 (1978)

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Compacts Today

Approximately 215 Active Compacts

Each state has enacted an average of 2 dozen Compacts

Precedence for international participation

Port Authority of NY and NJ (1922) signaled a new era in regulatory compacts

BENEFITS

Benefits of Interstate Compacts

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Interstate Compacts – Key Benefits

1. Effectiveness; Efficiency; and Enforceability
 - *Economies of Scale*
2. Flexibility and Autonomy Compared to National Policy
 - “One Size Does Not Fit All”
3. Facilitate Adjustments & Dispute Resolution Among the States
4. State and Federal Partnership
5. Cooperative Behaviors Leading to “WIN-WIN” Situations

Interstate Compacts – Operational Benefits

National Data &
Information Sharing
Systems

Uniform Compact
Language and Rules

Proven Governance
Structures

National Interface with
External Stakeholders
/ National
Organizations

Coordination with
Other Interstate
Compacts

National Office and
Staff Availability (If
Necessary)

Interstate Compacts - Development

Advisory Group Phase <i>8 to 10 months</i>	Drafting Team Phase <i>10 to 12 months</i>	Education and Enactment <i>24 months</i>
<ul style="list-style-type: none"> ➤ Composed of state officials, stakeholders, & issue experts ➤ Examine the issues and current policy spectrum ➤ Examine best practices and alternative structures ➤ Establish recommendations as to the content of an interstate compact ➤ Examine the need for Congressional Consent 	<ul style="list-style-type: none"> ➤ Composed of 5-8 state officials, stakeholders, issue experts (typically some overlap w/Advisory Group) ➤ Craft interstate compact solution based on Advisory Group recommendations ➤ Circulate draft compact to specific states and relevant stakeholder groups for comment 	<ul style="list-style-type: none"> ➤ Drafting team considers comments and incorporates into compact ➤ Final product circulated to Advisory Group ➤ Released to states for consideration



Interstate Compact Governance

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Typical Compact Governance Structure



Typical Governance Structure

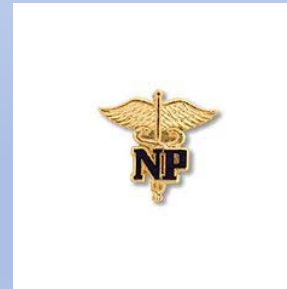
- 1) The Commission is comprised of voting representatives from each member state and is responsible for key decisions with respect to the compact.
- 2) The Commission can form committees, including an executive committee that is responsible for making day-to-day decisions.
- 3) Compact Commissions are frequently granted authority to hire staff, which is responsible for implementing the policies and procedures established by the commission.
- 4) Commissions serve as agencies of the member states and are tasked with acting on their behalf and not on the behalf of particular groups or organizations.

Compact Commission

- Forms when a 'pre-determined' threshold of jurisdictions enact substantively similar compact legislation
- Is usually a quasi-governmental entity
- May hire staff and determine physical presence



Health Care License Reciprocity



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Notable Medical and Licensing Compacts

Nurse Licensure Compact – 26 states

Enhanced Nurse Licensure Compact – 26 states

Compact on Mental Health – 45 states

Emergency Management Assistance Compact – 50 states

EMS Licensure Compact – 12 states

Medical Licensure Compact – 22 states

Physical Therapy Compact – 14 states

PsyPact – 3 States



Health Care License Reciprocity

Defining The Issue

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Health Care License Reciprocity

Why?

- Mobile Society (Patients and Practitioners)
- Technological Advancements
- Rising Population; Deficit of Health Care Professionals
- Promotes Professional Responsibility Among Current and Future Generations of Practitioners



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Health Care License Reciprocity

Similar Parameters

- Increase Public Access to Health Care Services
- Enhance the states' ability to protect the public's health and safety
- Support of spouses of relocating military members
- Promotes license regulation through shared investigatory, and disciplinary information between members states

Health Care License Reciprocity

Similar Parameters-Definitions

Compact Commission

- Administrative body whose membership consists of all states that have enacted the Compact

Home State

- The member state that is the licensee's primary state of residence and/or location of primary practice

Health Care License Reciprocity

Similar Parameters-Definitions

Remote State

- A member state other than the home state, where a licensee is seeking to practice

Member State

- A state that is participating in the compact

Health Care Licensure Compacts F.A.Q.



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Health Care Licensure Compacts F.A.Q.

Myth 1:

Interstate Compacts are a takeover of state licensing

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Health Care License Reciprocity

Fact:

Compacts **ARE NOT** a takeover of state licensing;
BUT...

Preserve state control over health care professional licensure and
minimize/preempt federal intervention

Health Care License Reciprocity

Compacts are a state-based approach to multi-state licensure that uses a vehicle for interstate collaboration that is provided for in the U.S. Constitution

- State licensure processes remain in place
- Licensees voluntarily participate in the Compact
- State practice acts are NOT IMPACTED

Health Care Licensure Compacts F.A.Q.

Myth 2:

Interstate compacts are owned or controlled by an outside organization

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Health Care License Reciprocity

Fact:

Compacts **ARE NOT** owned or controlled by any organization and are governed by a statutorily created governing 'infrastructure' as determined by the member states through the terms of the compact

Health Care License Reciprocity

Compacts **ARE** an instrument of interstate cooperation governed by appointed representatives of the adopting states

Commission members are appointed by and representatives of the member state

Health Care Licensure Compacts F.A.Q.

Myth 3:

Commission rules and bylaws thwart state sovereignty

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Health Care License Reciprocity

Fact:

Rules written by the compact commission apply only to the specific compact procedures implementing the interstate extension of member state licensure authority

Health Care License Reciprocity

- Rules do not change the state practice act
- Rules are specific to the implementation of the compact's extension of professional licensure across state lines
- Each member state has a seat at the table to craft rules, bylaws, and other administrative functions of the compact

Contact Information

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Questions?

- Ask questions through the mobile app

OR

- Raise your hand and wait for a microphone





Legislature Concerns about Regulatory Boards

Katharine Teleki, Review Director, Texas Sunset Advisory Commission

2017 AAVSB Annual Meeting & Conference

Objectives

- What's the purpose of Legislative program evaluation?
- Overview of the Sunset process in Texas
- Best (and worst) practices for regulatory agencies
 - Examples from Sunset's model standards for licensing and regulatory agencies
- Preparing for, surviving, and even thriving through Legislative review



Legislative “Program Evaluation”

- Checks on:
 - executive branch
 - mission creep
- Confidence in:
 - responsible expenditures of state funds
 - effective execution of state law
 - openness and transparency of state programs
- Awareness of problems or hotspots, and how to fix

The Texas Sunset Process



- Created in 1977 by the Texas Legislature
- A key tool for the Legislature to oversee state agencies and improve how Texas government works
- Agencies under Sunset are abolished unless continued by the Legislature
 - forces critical thinking about the need for an performance of an agency
 - not just about abolishment – creates strong incentive to pass reforms

Texas Sunset Process – Three Phases

*Public involvement throughout
2-year process*

PHASE 1: Sunset staff evaluation

PHASE 2: Sunset Commission deliberation

PHASE 3: Legislative Action

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Key Questions for All Sunset Evaluations

- How efficiently and effectively does the agency operate?
- How successful has the agency been in achieving its mission?
- Does the agency perform duties that are not statutorily authorized?
- Does the agency have sufficient authority to achieve its mission?

Key Questions for All Sunset Evaluations



- How efficiently and effectively does the agency operate?
- How successful has the agency been in achieving its mission?
- Does the agency perform duties that are not statutorily authorized?
- Does the agency have sufficient authority to achieve its mission?

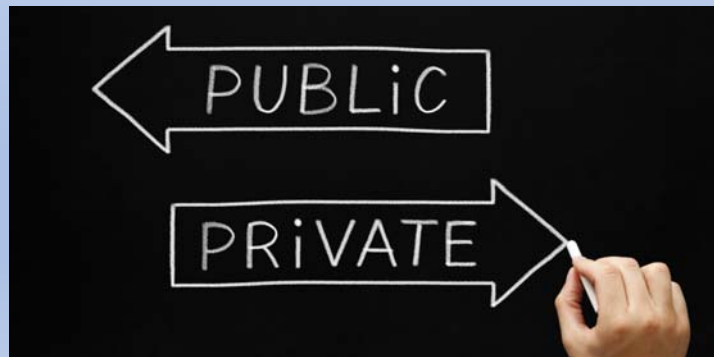
Key Questions for All Sunset Evaluations

- Could the agency be less burdensome and still protect the public?
- Do the agency's duties duplicate other agencies?
- Does the agency promptly deal with complaints?
- Does the agency encourage public participation in decision making?



Questions for Licensing Agencies

- Does the licensing program provide the least restrictive form of regulation needed to protect the public?
- Could the regulatory objective be achieved through market forces, private certification and accreditation programs, or enforcement of other law?



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Questions for Licensing Agencies

- Are the skill and training requirements for a license consistent with a public interest, or do they impede applicants, particularly low income applicants, from entering the profession?
- What is the impact of the regulation on competition, consumer choice, and the cost of services?



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Sunset's "Licensing and Regulatory Model"

- 70+ individual best practices developed over 40 years of reviews
- Updated regularly & Available online

Category	Subject	Standard	Explanation
Need for agency	Overall Need	Regulation should protect the public from a potentially serious threat to its health, safety, and welfare.	Regulation should be undertaken to protect the public from the unqualified practitioner group. An assessment must be made as to whether the threat is serious enough. The line on the need to regulate is a judgment call and is determined by a combination of practice elsewhere, and resources available to regulate.
Need for agency	Overall need	Regulation should be implemented at the minimum level necessary to protect the public.	<p>Although a need to regulate may exist, the most stringent forms of licensing are not always necessary. Only the least stringent level of regulation needed to protect the public should be implemented.</p> <p>Three categories of licensing exist. Registration is the lowest level of regulation, requiring practitioners to register with a state agency, which simply keeps a roster of practitioners. Registration requires minimal requirements that must be met before a person may be added to the list.</p> <p>Certification, the next level up, mandates that practitioners must meet certain requirements before they can practice. Practitioners who are certified are subject to agency enforcement action. Certification is set up in a "title act."</p> <p>Licensing of practice is the most stringent regulatory approach, and involves regulating the practice of an occupation and often the title as well. For instance, only a medical doctor would be considered to fall within the practice of medicine. Professions regulated in this manner require the most stringent regulatory approach.</p>

Best (and worst) regulatory practices – Examples from the Sunset Model

Overall need – full licensure vs. registrations/certifications

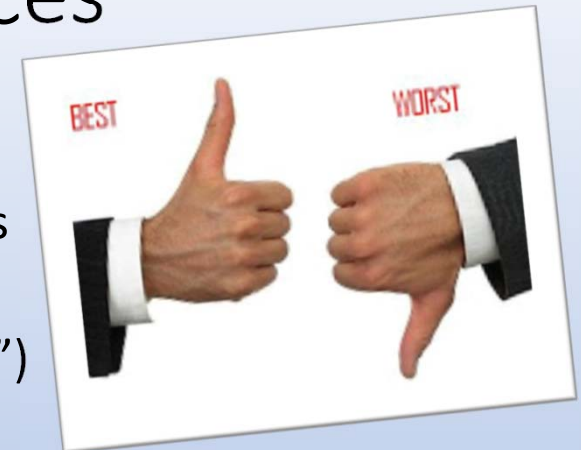
Structure – consolidation of similar programs (“umbrellas”)

Governance – structure and behavior of boards (FTC balancing act)

Administrative – process efficiency, responsiveness

Licensing – qualifications/barriers to entry

Enforcement – fairness, risk mitigation, resource allocation



Legislative Review – General Tips

- Don't just survive, thrive – strategic opportunity
- Communicate, communicate, communicate
- Clean your house (and your attitude)
- Talk to peer agencies that successfully completed the process



Legislative Review – General Tips



- Talk to (all) stakeholders
- Complete any pre-review questionnaires or reports fully
- Avoid making assumptions about motives – usually wrong
- Stay the course (implementation)

Resources

- www.sunset.texas.gov
 - Information & flow charts on the Texas Sunset process
 - Database of all previous Sunset reviews, reports, and results
 - Sunset's full licensing and regulatory model standards (How Sunset Works>Review Standards)
- Katharine Teleki, Review Director, Texas Sunset Commission
 - katharine.teleki@sunset.texas.gov
 - (512) 463-1300

Questions?

- Ask questions through the mobile app

OR

- Raise your hand and wait for a microphone



Top Legal Cases and more!



Dale J. Atkinson, Esq.
Saturday, September 16, 2017
2:45pm to 4:15pm



2017 AAVSB Annual Meeting & Conference




Dale J. Atkinson, Esq.
General Counsel, AAVSB

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Agenda

- Why
- How
- What
- Vicissitude.....dude
- Recent Cases
- In The News

Why  

•Reflect....Don't Deflect

- Perhaps the regulatory community does not spend enough time reflecting on basic concepts.....
-and too much time defending the status quo.






Why the Title?

•Reflect....Don't Deflect

•Is regulation doing what it's supposed to be doing?

- How do we know?
- Can "we" trust ourselves?

Ask....

•Is the profession self-regulated?





Is the Profession Self-Regulated?

NO

Change is Inevitable

- What are the biggest challenges facing your boards/jurisdictions?

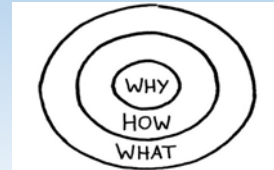


How do we address these challenges?

- Being informed
- Trained
- Knowledgeable
- Understand role of board
- Understand role of board member
- Separate trade from regulation!
- And more...and more...and more...

Why?

- Why is there government regulation?



Why?

- Why is there government regulation?

• *...to protect society where they are unable to otherwise protect themselves*

Why?

.....provides consumers with an assurance of the qualifications of licensees along with a means of enforcement for the benefit of the public.

Why.....

Criminal Civil Administrative Processes

- Criminal
- Civil
- Administrative



- Commonalities
- Differences





Why.....

Administrative Processes

-enforcement for the benefit of the public.





How?







How.....Elevator Speech

- Elements of your elevator speech....
 - Created by statute
 - Standards set forth in law (law includes statutes AND rules/regs)
 - Delegated with authority to enforce
 - Oversight
 - Authorized to promulgate rules/regulations
 - Protect the public
- WRITE YOUR ELEVATOR SPEECH IN 113 WORDS OR LESS




Elevator Speech

The _____ board is statutorily created and delegated with the authority to regulate the _____ profession in the interest of protecting the health, safety, and welfare of the public. With necessary oversight by government, the board enforces standards and criteria set forth in statute and adds specificity through the promulgation of regulations. The effectiveness and efficiencies of the board is enhanced by populating the board with a combination of consumer members as well as those with the expertise necessary to address the complexities of profession specific issues. An administrative regulatory system provides consumers with an assurance of the qualifications of licensees along with a means of enforcement for the benefit of the public.

What?

- What is government regulation?





What?

• **What is government regulation?**

- **Legislative**
 - Enacted statutes
 - Promulgated rules/regs
- **Force of law**
- **Mandated**
- **Standards and criteria**
- **Government issued & renewed credential**
- **Creates legal rights**
- **Subject to enforcement**
- **Transparency**



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What?

• **What is government regulation?**

- Regulatory framework allows for.....
 - **FEDERAL**
 - **STATE**
 - **LOCAL**

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Let's Reflect Upon the
Challenges and Opportunities

- Legal Climate
- Political Climate
- State Regulatory Board Opportunities
- AAVSB opportunities



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Legal Climate – Notable Cases

- *NC State Board of Dental Examiners v. FTC*
 - FTC found NC Board **not immune** from antitrust liability due to lack of active state supervision over board comprised of active market participants
- *Rodgers v. State of Louisiana Board of Nursing*
 - Student challenged termination of university nursing degree program; court held Nursing Board **immune** under 11th Amendment
- *NC Acupuncture Licensing Board v. NC Board of Physical Therapy Examiners*
 - Acupuncture Board filed suit seeking declaratory judgment that dry needling within scope of acupuncture and sought injunction against Physical Therapy Board
- *Henry v. NC Acupuncture Licensing Board*
 - Anticompetitive behavior in excluding physical therapists who perform dry needling; Injunction sought

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NC State Board of Dental Examiners v. FTC (2015)

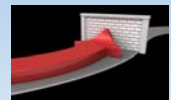
United States Supreme Court affirmed the 4th Circuit Court of Appeals and held that the NCSBDE violated the antitrust laws by interpreting the scope of practice within the practice act to include teeth whitening. The court held that a “**non-sovereign**” actor whether a state agency or private group must meet the **two prong test of clearly articulated state policy AND active oversight by the state**. Based upon the fact that the NCSBDE is comprised of **market participants**, the court held that it was a non-sovereign entity.

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Political Climate

- Need we say more?



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Public-Private Relationships

- Increased exploration of the use of public-private relationships
 - Increased opportunities for state boards
 - Increased opportunities for AAVSB
 - Increased opportunities for “others”



What is a Public-Private Partnership

- What are 'Public-Private Partnerships '
- Public-private partnerships between a government agency and private-sector company can be used to finance, build and operate projects, such as public transportation networks, parks and convention centers.
 - <http://www.investopedia.com/terms/p/public-private-partnerships.asp>



Differentiate between Private Sector Organizations

- For profit...not-for-profit
- Membership
- Tax status.... 501(c)(3) v. 501(c)(4) v. 501(c)(6)
- Governance structure
- Public disclosures
- Confidentiality/transparency
- Mission
- Vision
- Values



Membership

- State boards
- State board members
- Governance
 - Bylaws
 - Board of directors/leadership
- Elections
- Resolutions/motions/education
- Open discussions/transparency



Legal cases

- When are public entities deemed to be private?
- When are private entities deemed to be public?



Legal cases

- Recent legal opinions blur the lines as to what is public and what is private
 - **NCSBDE v. FTC** ...state board deemed to be non-sovereign based upon involvement of active market participants, thus treated as a private entity under antitrust defense arguments .



Recent Jurisprudence

- ***Rivera-Nazario v. Corporacion Del Fondo Del Seguro Del Estado***
 - -- A public corporation deemed a non-sovereign public actor
- ***Dept of Transportation v. Association of American Railroads***
 - -- A statutorily identified private corporation deemed a government entity
- ***U.S. v. Ackerman***
 - -- A private, not-for-profit organization deemed to be a government entity for purposes of the 4th Amendment search and seizure clause



Ask..... in the Regulatory Arena and Relevant to Associations/Federations of Boards

- Under what conditions will the actions of a private entity cause "legal responsibility"/"liability" on the part of the public sector/government/state board?
 - Education
 - Examination
 - Experience
 - CE provider/program
 - Primary source documents
 - Other



Ask..... in the Regulatory Arena and Relevant to Associations/Federations of Boards

- As additional association/federation programs and services are developed and deployed for the benefit of and use by state boards, these questions will become more and more relevant.



Ivy V. Commissioner Williams Texas Education Agency

- United States Court of Appeals for the 5th Circuit reversed the District Court and **dismissed the putative class action case filed by deaf individuals seeking injunctive and declaratory relief to require the Texas Education Agency (TEA) to bring private sector driver education programs into compliance with the Americans with Disabilities Act (ADA) and Rehabilitation Act.**



Ivy V. Commissioner Williams Texas Education Agency

- In order to obtain a drivers license, persons under the age of 25 must submit a **driver education certificate (DEC) to the Texas Dept. of Public Safety.** DECs are only available from private driver education programs that are licensed by the TEA. Plaintiffs contacted numerous private education programs all of whom refused to provide accommodations for hearing impairments. **Plaintiffs filed an action in District Court seeking to require the TEA to comply with the ADA.** The District Court denied the TEA motion to dismiss and certified an interlocutory appeal. **On appeal and after finding the Plaintiffs had standing, the 5th Circuit held that the plaintiffs case failed on the merits.**



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Ivy V. Commissioner Williams Texas Education Agency

- The court held, "in a close call", that driver education is **NOT a service, program or activity of a public entity under Title II of the ADA.** The court held that in the absence of a contractual or agency relationship, "courts have routinely held that a public entity is not liable for a licensed private actor's behavior."
- While troubled by the fact that a DEC is mandatory and can only be obtained through a regulated private sector education program, the court held that state regulation of the education program does not transform such program into a TEA program or service.



Ivy V. Commissioner Williams Texas Education Agency

- Appealed to the United States Supreme Court
- U.S. Supreme Court initially agreed to hear the case
- October 31, 2016, the U.S. Supreme Court vacated the decision as moot, thus rendering the 5th Circuit opinion of no precedential value.
- Issue remains important to the regulatory community and association/federations of boards



What's the point?

- Predictions.....in the licensing arena
 - Increased governmental emphasis on mobility and portability
 - Increased governmental emphasis on use of private sector....which will lead to
 - Increased movement by private sector to provide services to public sector
 - Opportunities for associations and federations (and the private sector) to develop/enhance programs for the benefit of...??



Are Associations/Federations State Actors?

- Yes....
- No.....
- Do we care?



State Actor: Do we care?

- Yes.....
 - Imposition of rights to persons alleged to have been aggrieved
 - State actors must comply with constitutional and statutory rights
 - Shift focus from contractual to due process
 - Complicate legal positions taken by associations/federations



Recent Judicial Activity

- *Mattei v. International Conference of Funeral Service Examiners*
2015 U.S. Dist. LEXIS 116009 (US Dist. Ct Western Dist. TX 2015)
- *Kurbatsky v. International Conference of Funeral Service Examiners*
County Court, New York Index No. 8821-15 (January 23, 2017) ...on appeal
- *Fox v. International Conference of Funeral Service Examiners*
2017 U.S. Dist. LEXIS 38892 (US Dist. CT NY 2017)



General Facts

- Association of boards
- Uniform exam program
- Passing exam accepted/mandated by states/member boards
- Exam breach
- Previously passing examinees, now licensees, exam scores invalidated
- Little action by state boards....
- Invalidated score recipients (Plaintiffs) challenge actions of exam owner
- Plaintiffs allege exam owner is a state actor



Legal Principles at Stake

- Section 1983
- Deprivation of federal right by entity acting under color of state law
- For a private actor to be amenable to a section 1983 action:

“there must be such a close nexus between the State and the challenged action that seemingly private behavior may be fairly treated as that of the State itself”



Additional Legal Principles

- ***“Federal courts have consistently held that private entities administering examinations relied upon by the state do not qualify under any of the aforementioned tests as state actors for purposes of section 1983 claims”***



Additional Legal Principles

- ***“...an organization with public member institutions from a multitude of states does not act under color of state law because it is independent of any one particular state.”***

• *NCAA v. Tarkanian*, 488 U.S. 179 (1988)



Back to the cases.... Not a State Actor

- ***“Because the Conference’s membership is comprised of public entities from all fifty states, the Conference does not act under color of state law of any one state, and is not a state actor for purposes of section 1983. Because the Conference is not a state actor, Plaintiff’s section 1983 claims against the Conference are properly dismissed.”***

• *Mattei*, (pages 10-11)



Recent Judicial Activity

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2017 U.S. Dist. LEXIS 38892 (US Dist. CT NY 2017)



State Actor...11th Amendment *Ryan v. N.J. State Bd. of Nursing - 2017*

- The U.S. District Court in New Jersey dismissed with prejudice a plaintiff nurse’s complaint against the New Jersey State Board of Nursing (Board) and its Executive Director alleging violations of due process and other state law claims arising out of the Board’s suspension of her nursing license.
- **After analyzing the framework of sovereign immunity and the Eleventh Amendment, the Court held that the Board was an “arm of the state,” as any judgment would come from the state treasury, the Board was a “surrogate of the state” and not an “independent agency” because the membership is appointed solely by the governor.**



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State Actor...11th Amendment *Ryan v. N.J. State Bd. of Nursing - 2017*

- The U.S. District Court in New Jersey dismissed with prejudice a plaintiff nurse's complaint against the New Jersey State Board of Nursing (Board) and its Executive Director alleging violations of due process and other state law claims arising out of the Board's suspension of her nursing license. The Board had suspended the license after commencing an investigation due to the nurse's termination from a hospital. The investigation resulted in the Board requiring the nurse to undergo a psychological examination. (The nurse separately sued the evaluating psychologist in a related case: 2016 U.S. Dist. LEXIS 83853, 2016 WL 3533997). The Board moved to dismiss the complaint due to lack of jurisdiction, sovereign immunity, and failure to state a claim. **After analyzing the framework of sovereign immunity and the Eleventh Amendment, the Court held that the Board was an "arm of the state," as any judgment would come from the state treasury, the Board was a "surrogate of the state" and not an "independent agency" because the membership is appointed solely by the governor.** The Court also held that there had been no abrogation of the state's immunity and therefore it lacked jurisdiction to adjudicate plaintiff's claims. The Court also held that the plaintiff's claims for constitutional violations also fail because only the Board and the Executive Director in his official capacity had been named and neither was a "person" amenable to suit under Section 1983. Finally, the Court held the plaintiff's state law claims failed because she failed to provide proper notice under the state tort Claims Act in a timely manner. All claims were dismissed with prejudice.



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Inst. For Justice v. Dept. of Fin. & Prof. Regulation (2017)

- The Illinois Court of Appeals reversed the lower court and held that the Department of Financial & Professional Regulation (Department) need not produce documents under the Freedom of Information Act (FOIA).
- The lower court had granted summary judgment in favor of the IFJ related to its FOIA request issued to the Department for all complaints about licensed cosmetologists and hair braiders.



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Inst. For Justice v. Dept. of Fin. & Prof. Regulation (2017)

- The Illinois Court of Appeals reversed the lower court and held that the Department of Financial & Professional Regulation (Department) need not produce documents under the Freedom of Information Act (FOIA). The lower court had granted summary judgment in favor of the IFJ related to its FOIA request issued to the Department for all complaints about licensed cosmetologists and hair braiders. The lower court also awarded the IFJ \$35K in attorneys fees as a prevailing party. While the original lawsuit was pending, a new law became effective that provides that complaints under the Barber's Act against licensees are confidential and for use only by the Department and shall not be disclosed except to law enforcement, other regulatory agencies or under a valid subpoena. The sole issue on appeal was whether the new law was to be applied retroactively, thereby providing an exemption from disclosure. The IFJ argued that retroactive application of the new law impaired its vested right to access to the documents. The court disagreed finding that the exemption from disclosure does not otherwise impair the IFJ right with respect to any completed transaction made in reliance on the prior law, thus has no impermissible retroactive effect. **Thus, the disclosure mandate and attorneys fees awards were reversed.**



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Hey.....What About Veterinary Cases



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Bureau for Health Care Services. v. Pol (MI 2016)

- Pet (Mr. Pigglesworth) operated on by vet
- Treating veterinarian had a reality TV show
- Aired Mr. Pigglesworth operation on TV show
- Kentucky veterinarian watched and filed complaint with Michigan Bd.
- Complaint alleged substandard care (incompetence)
- Hearing held and hearing officer issued Proposal for Decision (PFD)
- Disciplinary subcommittee accepted PFD and placed veterinarian on probation and ordered CE classes
- Veterinarian appealed



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Bureau for Health Care Services. v. Pol (MI 2016)

- The Curious Case of Mr. Pigglesworth
- Hearing officer allowed testimony outside the scope of the allegations
- PFD found violations of sections of the Code not included in the complaint
- Violations of due process
- Court remanded the matter to the board with instructions to dismiss the complaint



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Due Process - Bureau for Health Care Servs. v. Pol - 2016

- The Court of Appeals of Michigan remanded a case involving an administrative decision disciplining a licensed veterinarian with instructions to dismiss the complaint. The veterinarian, Dr. Pol, operated on a dog, "Mr. Pigglesworth" and saved his life. Subsequently, on his reality show, Dr. Pol showed a tape of the operation which was viewed by a veterinarian in the Commonwealth of Kentucky. The Kentucky veterinarian filed an administrative complaint against Dr. Pol with the Bureau of Health Care Services in Michigan claiming Dr. Pol failed to incorporate several standard procedures into the operation resulting in mistreatment of Mr. Pigglesworth. The complaint cites statutes which provide for "...a violation of general duty, consisting of negligence or failure to exercise due care..." and "incompetence," with incompetence defined as a "failure to conform to minimal standards of acceptable and prevailing practice for a health profession." The court stated that standards of practice may vary with the facts, the circumstances, the wishes of the pet owner and the discretion of the veterinarian and concluded that the facts did not support the finding that Dr. Pol had violated the standards of practice. The court found Dr. Pol had been denied due process since statutes supporting the disciplinary action that were considered were outside the complaint and relied upon by the hearing officer in his Proposal For Decision (PFD). The court further found there was a failure of substantial evidence to justify the discipline, and the court defined substantial evidence as "more than a mere scintilla but less than a preponderance of evidence." The court also found that the conclusion of the hearing officer that the evidence of Dr. Pol's experts was tainted by reason of their relationship with Dr. Pol was based solely on his assumption which was completely without substantiating evidence. The court was generally critical of the PFD and the hearing officer. The court also noted the failure of the complaining party to attend the hearing or testify.



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Komari v. Tufts University (USDC MA 2016)

- Foreign graduate of veterinary program
- Took the Clinical Proficiency Exam (CPE) on several occasions
- Failed each attempt
- CPE overseen by the AVMA, assisted by certain schools/programs
- Pro se plaintiff, sued numerous parties, including academic programs, AVMA & personnel, University of Missouri, Mississippi Board of Trustees, Tufts Univ
- Many defendants dismissed for lack of jurisdiction (no contacts with Mass)
- Other defendants dismissed for failure to state a claim



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Foreign Graduate - Exam

Komari v. Tufts Univ. - 2016

- A U.S. District Court in Massachusetts dismissed a pro se plaintiff's lawsuit claiming that an exam owner, exam administrator, and various universities and their board of trustees members conspired against him causing him to fail the Clinical Proficiency Exam (CPE) qualifying test for graduates of non-accredited foreign veterinary schools. The court analyzed the issue of personal jurisdiction, finding that it lacked personal jurisdiction over certain defendants as there were no allegations of activities within Massachusetts and rejecting plaintiff's argument that the out of state defendants' connections and conspiracy with the Massachusetts defendants was sufficient to establish personal jurisdiction. The court further found that the remaining claims against the Massachusetts defendants were insufficient, noting the plaintiff had a "theory" about an alleged conspiracy to cause him to fail the CPE, but there were no facts to substantiate the theory. The court dismissed the claims against the Massachusetts defendants with prejudice.



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Johnson v. North Carolina Veterinary Medical Board (App. Ct. NC 2016)

- Veterinarian spayed dog, required numerous follow up visits with other veterinarians due to "incompetence"
- Board offered reprimand, licensee rejected
- Board held hearing, found violations, suspended license, fined (5K) and imposed costs (22K)
- The lower court affirmed the Board order
- On appeal, Court upheld the procedure used, the Board authority to render discipline, rejected notions of conflict of interest, and found substantial evidence supported the findings.



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Board Authority/Conflict of Interest –

Johnson v. N.C. Veterinary Med. Bd. - 2016

- The North Carolina Court of Appeals affirmed the lower court and held that the state Veterinary Board (Board) acted within its discretion when it imposed a six-month suspension of a veterinarian (Licensee) who breached the standard of care in treating a dog, failed to keep adequate records, and made misstatements to the dog's owner and the Board. The Licensee spayed the dog who needed significant follow up care from other veterinarians, allegedly in order to correct problems caused by the Licensee's "incompetent" treatment. The Board issued a letter of reprimand, which the Licensee rejected. A panel of the Board held a contested case hearing which resulted in the suspension and the Board's imposition of a \$5,000 penalty and costs of \$21,893. On appeal to the lower court, the Licensee argued that one of the conditions of his suspension exceeded the Board's authority in that it prohibited him from supervising any relief veterinarians he may choose to hire in order to maintain his practice during his suspension. He claimed that this was an interference with his business affairs, but the court noted that the order merely clarifies how he can exercise the option to maintain the practice during the suspension. That is, nothing in the order requires him to employ relief veterinarians but the Board was offering an option to keeping his business open. The supervision prohibition is directly related to regulating his license, which the Board is empowered to do. The Licensee also argued that a member of the Board's Committee on Investigation (which recommended discipline to the full Board) is a prospective competitor and, therefore, had a conflict of interest. The court held that, because the Board member played no role in the Board's final decision, there was no due process violation.



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In the News.....



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In the News

- **Whitfield County animal shelter staff barred from euthanizing animals, veterinarian can still euthanize**
- http://www.daltondailycitizen.com/news/local_news/whitfield-county-animal-shelter-staff-barred-from-euthanizing-animals-veterinarian/article_cd3fd97b-f2a6-5c5c-8067-723ac0ce5316.html
 - The Daily Citizen - Aug. 13, 2017



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In the News

- **Mobile veterinarians provide care at home**
- http://www.courierjournal.net/online_only/article_38749916-7ef0-11e7-88a8-ffebc6979418.html?mode=print
 - Courier Journal - August 11, 2017



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In the News

- **Irish veterinarian fails English speaking test for visa**
- <http://nypost.com/2017/08/09/irish-veterinarian-fails-english-speaking-test-for-visa/>
 - New York Post – August 9, 2017



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In the News

- **Should your veterinarian be allowed to prescribe weed to your dog?**
- <http://www.sacbee.com/news/politics-government/capitol-alert/article163851003.html>
 - Sacramento Bee – July 27, 2017



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In the News

- **NJ Telemedicine Law Delayed By Concerns About Veterinarian Use**
- <https://mhealthintelligence.com/news/nj-telemedicine-law-delayed-by-concerns-about-veterinarian-use>
 - mHealth Intelligence – July 21, 2017



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In the News

- **Veterinarian suspended over 'elixir' for pets**
- http://www.heraldbulletin.com/news/state_news/veterinarian-suspended-over-elixir-for-pets/article_7da8b17e-60ef-514b-bd6c-f07a3fec7689.html
 - Herald Bulletin – July 19, 2017



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In the News

- **Board is pro-veterinarian**
- <http://www.kentucky.com/opinion/letters-to-the-editor/article162985268.html>
 - Lexington Herald Leader – letter to the editor – July 21, 2017



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In the News

- **Palmyra veterinarian, pharmacist both fined by state**
- <http://www.ldnews.com/story/news/crime/police-blotter/2017/07/14/palmyra-veterinarian-pharmacist-both-fined-state/476618001/>
 - Lebanon Daily News – July 14, 2017



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Thank You!!!

Questions?

- Ask questions through the mobile app

OR

- Raise your hand and wait for a microphone



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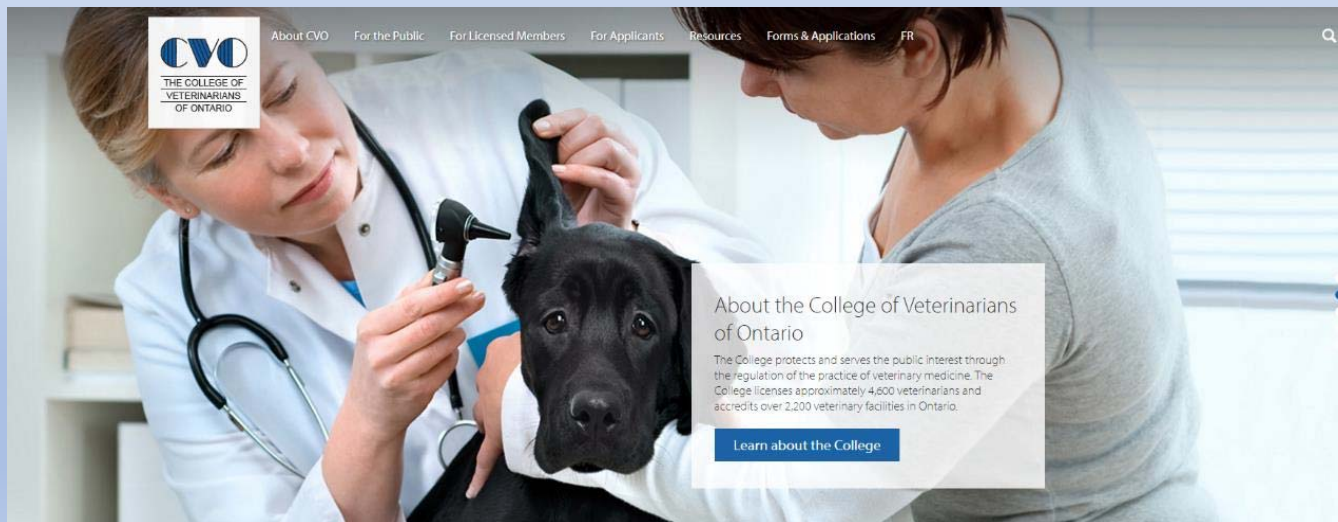
The Court of Public Opinion – Discipline Evidence Gone Viral

Jan Robinson & Kim Lambert, DVM, MSc

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Who we are & what we do

- Regulatory body for veterinarians in the province of Ontario
- 4,600 members and 2,300 accredited facilities

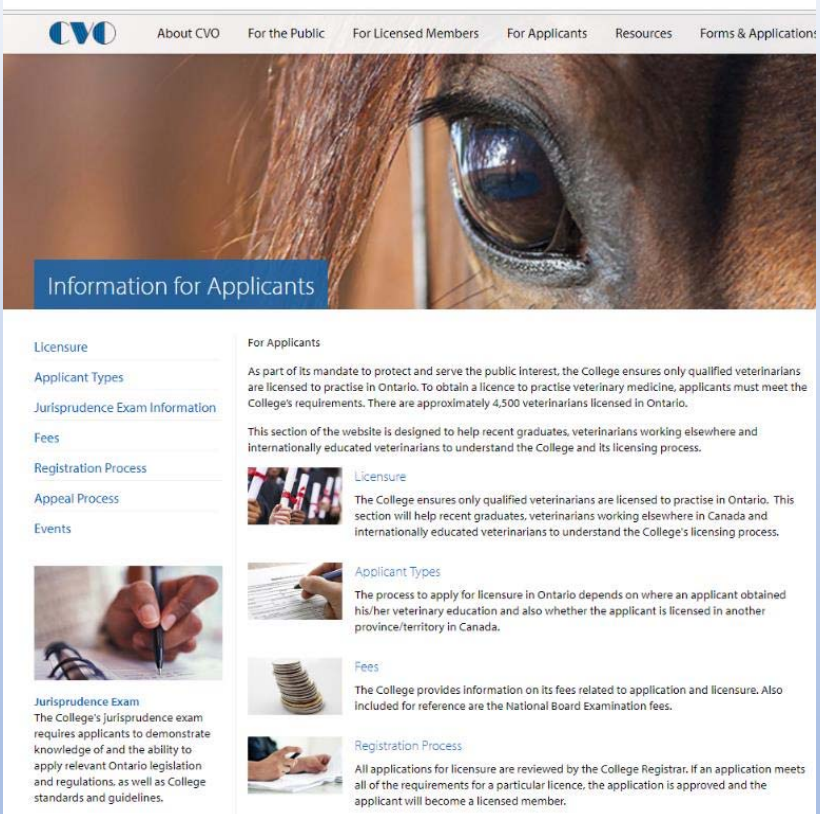


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We're just like you!

- Instilling public confidence
- Committed to doing the right thing



The screenshot shows the 'Information for Applicants' page of the College of Veterinarians of Ontario (CVO). The page features a navigation menu at the top with links for 'About CVO', 'For the Public', 'For Licensed Members', 'For Applicants', 'Resources', and 'Forms & Applications'. The main content area is titled 'Information for Applicants' and is divided into two columns. The left column contains a list of links: 'Licensure', 'Applicant Types', 'Jurisprudence Exam Information', 'Fees', 'Registration Process', 'Appeal Process', and 'Events'. Below these links is a section titled 'Jurisprudence Exam' with a small image of a hand writing on a notepad. The right column is titled 'For Applicants' and contains several sections: 'Licensure' (with a small image of a horse's eye), 'Applicant Types' (with a small image of a hand writing on a document), 'Fees' (with a small image of a stack of coins), and 'Registration Process' (with a small image of a hand writing on a document). Each section in the right column includes a brief description of the process.

July 2016



2017 AAVSB Annual Meeting & Conference



Day 1 - Wednesday

September
14, 2016

The story
breaks

What's the
plan?

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Day 2 - Thursday



Day 2 - Thursday

Employees speak out after vet handed 10-month suspension for choking, punching animals

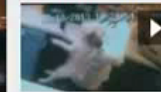


CTV Toronto: Veterinarian accused of animal abuse



WARNING: Graphic content - Former employees of a vet hospital in St. Catharines speak out, saying their former employer abused animals.

EXTENDED: St. Catharines vet chokes, hits animals



Video footage obtained by former employees of an animal hospital in St. Catharines shows a vet being aggressive to animals in his care.

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One of a Kind



Day 2 - Thursday



Day 2 - Thursday



Managing Staff



Governance

- Keeping your Council/Board in the know
- Contact your Council and panel members to remind them of the media policy



Media



- Media strategy – be transparent; accepted all requests
- Planning the messages

Government

- Keep the lines of communication open
- Align messaging



Other Organizations

- Others were impacted and caught up in the public attention, e.g. OVC and OVMA
- Communicated with them and shared messaging so that they could refer individuals to our resources



Day 3 - Friday



- More media interviews
- Continued management of calls



Website

- Provide as much information as possible to assist people in understanding the process and the outcome
- Designated a section of our website and included a public statement, updates and FAQs



Members

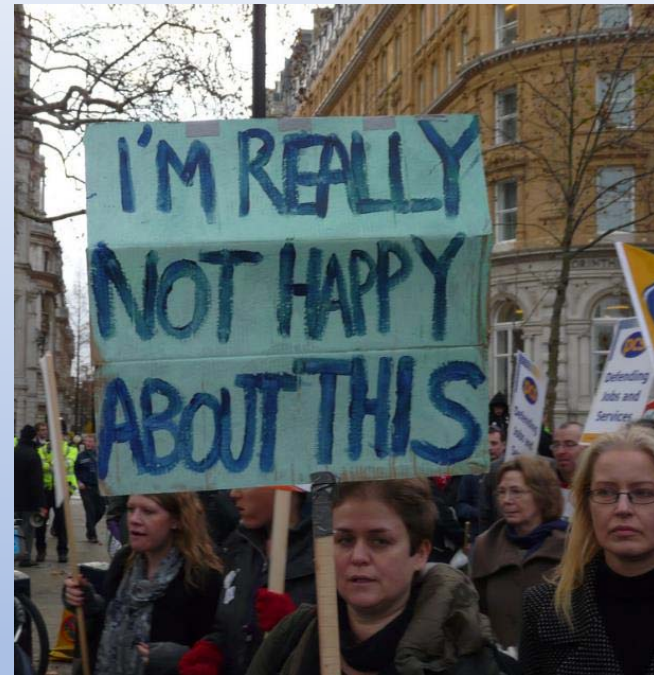
Members have
questions too

Directed
communications
to the membership
as well



Public

- Public outrage
- Demanded revocation
- 19,000 public contacts
- We decided to call back



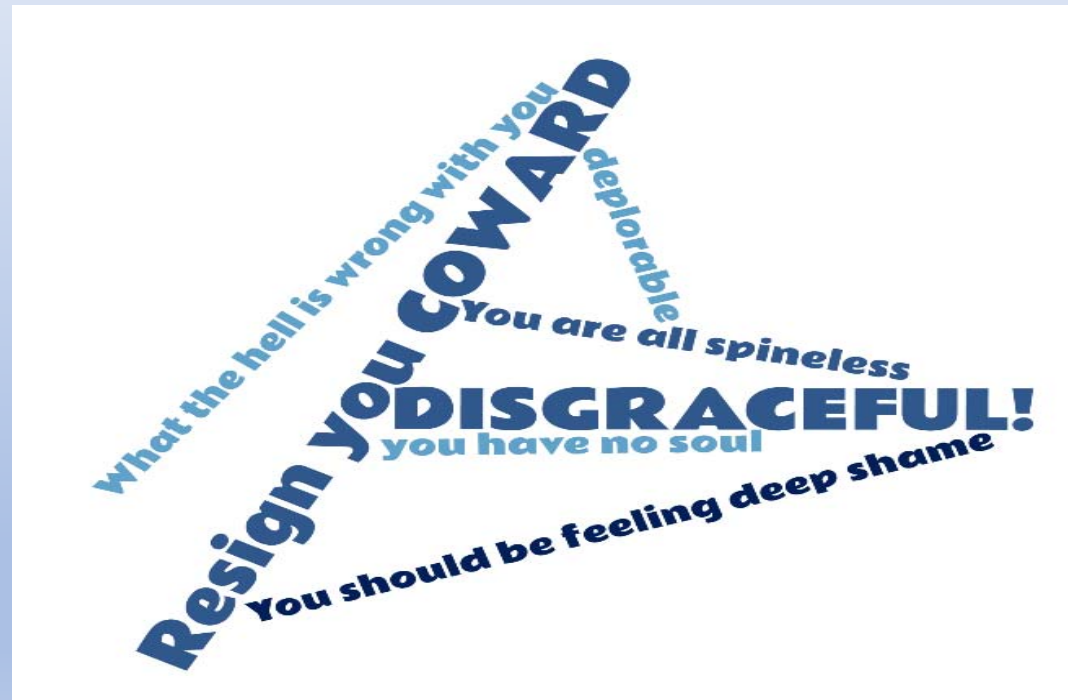
Week 2



- Staff meeting
- It's time to return calls
- Designated key contacts in staff that could manage inquiries



Dealing with the Public



Colleagues

- Notably missing was support from colleagues
- Silence was deafening



Week 3 and On

Continued to get calls
and emails for weeks
and even today

MPP visits

Petitions



The Aftermath

- Review what you did and how you did it
- What can we do better? What can we learn from this?



Legislative Reform

- Transparency
- Interim suspensions



Council Initiatives

- Enhance communication materials on our website
- Policy on referral to law enforcement
- Add to Discipline Committee training materials



Public Engagement

- Reached out to members of the public who contacted us via email to engage them in our public consultation
- Received more public input into our legislative reform initiatives that were relevant



Media Training

- Renewed media training
- How to develop the sound bite



Anticipation of Public Interest

- Increased analysis of what discipline decisions could attract public attention
- Implemented a process to determine a plan to manage each case
- Respond quickly



The Story Continues...

Suspension completed in
February 2017

Criminally charged on
June 1, 2017



It Could Happen to You!

- Increased media and public interest in regulatory activities
- Be prepared



Questions?

- Ask questions through the mobile app

OR

- Raise your hand and wait for a microphone



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