



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary-designee Randy Romanski

DATE: January 14, 2022

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Randy Romanski, Secretary-designee
Darlene Konkle, DVM, MS, DACVIM, Administrator, Division of Animal Health

SUBJECT: VE 1-11, Veterinarians and Veterinary Technicians

PRESENTED BY: Angela Fisher, Program and Policy Analyst, Division of Animal Health

REQUESTED ACTION:

At the January 27, 2022, Board meeting, the Department will request approval of the final rule draft regarding chs. VE 1 to 11 (Veterinarians and Veterinary Technicians).

SUMMARY:

The objective of the proposed rule is to make chs. VE 1 through 11 easier to access and understand quickly. In addition, in response to public comments, the proposed rule also includes rule language regarding the use of telehealth technologies in the practice of veterinary medicine.

This final rule draft requires approval by both the Veterinary Examining Board (VEB) and the Department of Agriculture, Trade and Consumer Protection (DATCP) Board. Wis. Stat. s. 89.03 authorizes the VEB to promulgate rules regarding veterinarians and veterinary technicians. However, the authority to determine fees for veterinarians and veterinary technicians is vested in DATCP, pursuant to Wis. Stat. s. 89.063.

2015 Wisconsin Act 55 transferred the VEB from the Department of Safety and Professional Services (DSPS) to DATCP. Current rules refer to the fees required under Wis. Stat. ch. 440, which is in the DSPS portion of the statutes, and does not list the dollar amounts of the fees. DATCP has continued to use the same fee amounts that DSPS used, but these amounts are not stated in chs. VE 1 to 11. Fee amounts would not be changed as a part of this proposal. However, the rule proposal states the existing fee amounts in rule.

The Department will also request that the VEB approve this final rule draft at the January 19, 2022, VEB meeting.

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

- 1 The Wisconsin Veterinary Examining Board proposes the following permanent rule *to repeal*
2 *and recreate chs.* VE 1 to 3; to repeal chs. VE 4 to 10; *to amend* VE 11.04 (1) (a) and (i), VE
3 11.10 (1) (d) and (g) 1. and 2.; *to renumber* VE 11; *relating to* veterinarians and veterinary
4 technicians.
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Analysis Prepared by the Veterinary Examining Board

The proposed rule makes structural changes, minor language changes, and telehealth changes.

Statutes Interpreted: Wis. Stat. §§ 89.02 (6) and (8) (c), 89.03, 89.05 (1), 89.063, 89.068 (1) (c), 89.07 (1), 89.075, and 95.21 (2) (a).

Statutory Authority: Wis. Stat. §§ 89.03 and 89.063.

Explanation of Statutory Authority

Wis. Stat. § 89.03 authorizes the Veterinary Examining Board (Board) to promulgate rules related to the practice of veterinary medicine.

Wis. Stat. § 89.063 authorizes the Department of Agriculture, Trade and Consumer Protection (Department) to determine by rule applicable fee amounts.

Related Statutes and Rules

Wis. Admin. Code chs. VE 1 to 11.

Plain Language Analysis

The proposed rule makes structural changes, minor language changes, and telehealth changes as described below.

Structural Changes

- Consolidates the eleven existing rule chapters into three chapters: one for veterinarians, one for veterinary technicians, and one for the professional assistance program. Consolidation makes the rules easier to access quickly.
- Adds a chapter for relevant complaint procedures that did not transfer in the previous rules from DSPS to DATCP.
- States the current fee amounts in rule. Fee amounts do not change.

Minor Language Changes

- Makes changes regarding procedures and processes.
 - o Removes the word annual from references to the review of colleges and technical schools.
 - o Expands the temporary veterinary permit process to include applicants who are scheduled to take or are awaiting results from the examination on state laws and rules.
 - o Clarifies that applicants for licensure who have previously been licensed in Wisconsin or another jurisdiction must apply by endorsement.
 - o Adds for clarity and consistency a section identifying common situations in which the board may require additional information from an applicant when reviewing an application.
 - o States more clearly that the board may reprimand the licensee or deny, suspend, limit or revoke a credential for cause, including filing an incomplete or fraudulent application, misrepresenting information on an application, or violating the rule chapter or Wis. Stat. ch. 89.
- Makes technical changes and updates.
 - o Adds the denial of a license to the list of reasons for a temporary veterinary permit to expire.
 - o Allows applicants to provide proof of graduation through the American Association of Veterinary State Boards (AAVSB), which allows for electronic submissions using the AAVSB online system.
 - o Adds direction in the rules to assure the requirements for access to health care records required in Wis. Stat. s. 89.075 are clear and consistently applied.
 - o Removes an obsolete provision regarding continuing education auditing of journal articles read. The Board previously eliminated the ability to self-study journal articles and mistakenly did not also eliminate this provision regarding auditing.
 - o Clarifies the continuing education requirements for persons who have not been credentialed for more than 5 years.
 - o Adds language to clearly state license exemptions.
- Allows veterinarians to delegate additional veterinary medical acts to certified veterinary technicians and unlicensed assistants.

- Allows veterinarians to delegate the placement of intravenous catheters to unlicensed assistants under the direct supervision of the veterinarian present on the premises, per requests from stakeholders.
- Additional changes to the delegation of veterinary medical acts are included in the telehealth section of this summary.
- Makes changes for consistency and ease of use the places in which rule requirements repeat, or refer to requirements in statute.
 - Modifies language regarding unprofessional conduct so that it also refers to Wis. Stat. s. 89.07 (1).
 - Modifies language regarding prescribing and dispensing a veterinary drug to refer to Wis. Stat. s. 89.068 (1) (c).
 - Makes a correction to the delegation of rabies vaccinations to reflect Wis. Stat. s. 95.21 (2) (a).
- Modifies terminology for clarity and consistency.
 - Adds additional definitions and updates existing definitions language for clarity.
 - Renames “temporary permit” to “temporary veterinary permit” and renamed “temporary consulting permit” to “veterinary consulting permit.”
 - Changes language to use the word “dispense” rather than “sell” to be more consistent with statutory language and definitions to make the language clearer and easier to understand.
 - Adds a note clarifying that the board accepts “veterinary nurse” as equivalent to “veterinary technician.”

Telehealth Changes

- Adds definitions related to telehealth.
- Adds definitions related to veterinary consulting and clarifies that a consulting veterinarian or other consultant may not do any of the following:
 - Visit the patient or client or communicate directly with the client without the knowledge of the attending veterinarian.
 - Take charge of a case or problem without the consent of the attending veterinarian and the client.
- Clarifies that the practice of veterinary medicine takes place where the animal is located at the time of practice, in alignment with Wis. Stat. §§ 89.05 (1) and 89.02 (6).
- Clarifies that in order to practice veterinary medicine in Wisconsin a veterinarian must be licensed in Wisconsin and have an established veterinary-client-patient relationship (VCPR) with the client. A VCPR must be established via an in person physical exam, or timely medically appropriate visits to the premises on which the patient is kept. It may not be established by telehealth technologies.

- Clarifies that the VCPR, once established, extends to other veterinarians within the practice, or relief veterinarians within the practice, that have access to, and have reviewed, the medical history and records of the animal.
- Clarifies that records must be kept, regardless of the encounter type.
- Clarifies, in accordance with Wis. Stat. § 89.02(8) (c), that an animal owner must be able to easily seek follow-up care or information from the veterinarian who conducts an encounter while using telehealth technologies.
- Expands the delegation of medical services to allow a veterinarian to delegate the following items to a certified veterinary technician (CVT) if the veterinarian is available to communicate via telehealth technologies within five minutes. Under current rules, these items may only be delegated to a CVT if the veterinarian is personally present on the premises.
 - o Performing diagnostic radiographic awake contrast studies not requiring general anesthesia.
 - o Sample collection via a cystocentesis procedure.
 - o Placement of intravenous catheters.
 - o Suturing of tubes and catheters.
 - o Fine needle aspirate of a mass.

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

Pursuant to 9 CFR 160 to 162, a veterinarian must be specifically authorized by the United States Department of Agriculture – Animal and Plant Health Inspection Service to perform animal disease eradication and control functions under federal animal health laws.

Licensure requirements to practice veterinary medicine are established by each state and should not be affected by federal requirements.

Summary of Comments Received during Hearing and Comment Periods

Preliminary Public Hearing and Comment Period on the Statement of Scope

The Board held a preliminary hearing on SS 064-20 on August 19, 2020, with a written comment period through August 26, 2020. The Board received three comments. One comment was for information. Two comments expressed support of the scope, both expressed support of including telehealth in the scope, and one also expressed support of including addressing the circumstances under which a veterinarian may dispense a drug for a patient of another veterinarian in the scope.

Comment Period on the Economic Impact Analysis

The economic impact analysis was posted for 14 days, with comments accepted through June 21, 2021. One comment was received. The comment noted a typo in the plain language analysis, which has been corrected. The comment also expressed objection to the term “veterinary nurse,”

stated that there are objections from the national nursing organization regarding the term, and stated that “nurse” does not adequately encompass the skills and knowledge base of veterinary technicians. The rule draft does not use “veterinary nurse” to refer to veterinary technicians, but does include a note that states that the Board accepts the classification of “veterinary nurse” in other jurisdictions as equivalent to “veterinary technician.” While the Board, and this rule, does not use “veterinary nurse” to refer to veterinary technicians, this note clarifies that the Board accepts the term as equivalent when used by other jurisdictions.

Public Hearing and Comment Period on the Preliminary Rule Draft

The Board held public hearings on the preliminary rule draft on September 9 and 15, 2021, with comments accepted through September 29, 2021. Both hearings offered a combination of in-person access and remote access. The Board sent an email notice to licensees notifying them of the hearing and comment period, in addition to the posting in the Administrative Register. The Board received 3 comments at public hearings and 25 written comments. There were 26 total commenters. Of these 26:

- Nine expressed support of the proposed rule. Of these nine:
 - o Nine also specified support of the veterinary-client-patient relationship (VCPR) definition
 - o Eight also specified support of the omission of Assisted Reproductive Technologies (ART) procedures in delegation changes
 - o Two also expressed that ART procedures should not be delegated to a CVT at all
 - o One also expressed opposition to delegation without the veterinarian on the premises generally
 - o Six also expressed support of language regarding veterinarians filling prescriptions for other veterinarians
- Fourteen expressed opposition to the VCPR definition
- One expressed opposition to the omission of ART in delegation changes
- Two did not express a position for/against the proposal
 - o One expressed concerns about existing rabies provisions

VCPR Definition

The hearing draft created a new section regarding telemedicine and stated that “In order to practice veterinary telemedicine in Wisconsin, a veterinarian must be licensed in Wisconsin and have an established VCPR with the client. A VCPR must be established via an in-person physical exam, or timely medically appropriate visits to the premises on which the patient is kept. The VCPR may not be established by telehealth technologies.”

Comments expressing opposition to the VCPR definition expressed that:

- There are cases where a veterinarian cannot do a physical exam because of the aggression displayed by the patient
- The VCPR definition is restrictive and will negatively impact pet owners, foster care providers, and animal shelters
- Telecommunicating might make veterinary services more affordable

- Access to veterinary care in northern Wisconsin is challenging and referral after hours is to a clinic over an hour away
- Being able to establish a VCPR via virtual tool would allow more pets to receive care at critical times
- Telemedicine can provide quality, and potentially lifesaving care, improve efficiency and flexibility in scheduling options, and provide benefits to pet owners without access to transportation or who are unable to easily leave their homes
- Dogs and cats needlessly suffer, experience premature death, or are relinquished to animal shelters due to gaps in veterinary access, and telemedicine is a critical tool for the veterinary community to bridge gaps in care
- While physical veterinary medical examinations are sometimes critical, responsible use of telemedicine can bring essential care to more animals
- The education and licensing requirements that veterinarians undertake prepare them to utilize professional judgement in determining whether telemedicine is appropriate in the care of a particular animal or condition
- The rule could require safeguards with criteria for establishing a VCPR through electronic means
- Telehealth technologies have been used to create a human physician-patient relationship, including infants and nonverbal children
- The American Association of Veterinary State Boards (AAVSB) practice act model language supports allowing a veterinarian to establish a VCPR through telemedicine
- Support options 2 and 3
- Support Michigan and Washington policies

Comments expressing support of the VCPR definition expressed that:

- The statutory definition of VCPR under Wis. Stat. s. 89.02 (8) requires that the veterinarian has recently examined the patient or has made medically appropriate and timely visits to the premises on which the patient is kept, the VEB is granted authority to promulgate rules within the limits established by the statutory authority granted to it by the legislature, and the VEB may not change the VCPR definition but may allow the use of telehealth technologies within the scope of the statutory definition
- The telehealth changes are good and oppose moving them beyond what was proposed in the hearing draft
- In-person contact is critical for the long-term care of the patient
- While telehealth is an excellent tool for managing very specific cases, it does not provide enough background for a broad picture view of a farm in its entirety
- There is a critical difference between providing care to animals and humans because animal patients cannot directly communicate their pain or their symptoms to a veterinarian using language
- The owner can misinterpret an animal's condition
- A physical exam or visit to the premises provides a more complete understanding of the animal, its medical history, the environment, and the client in order to provide the highest standard of care, and it is critical to the safe and effective provision of veterinary medicine using telehealth technologies
- An in-person visit by the veterinarian serves to protect patients and clients by assuring that animals have been appropriately evaluated

- Eliminating the requirement for an in-person evaluation can present substantial risks, including suboptimal diagnosis and treatment, misinterpretation of animals' clinical signs by owners/caretakers, overprescribing, animal disease risks associated with transport of livestock for which an in-person evaluation was not conducted prior to issuing a Certificate of Veterinary Inspection, public health risks associated with delayed or missed diagnosis of zoonotic disease, and claims of malpractice
- Medical care delivered to patients must continue to be of high quality, and technological tools used to support electronic veterinary visits are still in their early stages of development and as of yet do not provide the same amount of information as an in-person encounter
- Addressing care disparities is not as straightforward as allowing the VCPR to be established electronically, and barriers to the receipt of veterinary care include socioeconomic, geographic, knowledge and demographic/culture based
- Through research the lack of physical proximity and the requirement for an in-person visit do not appear to be the primary barriers to accessing veterinary care
- Telemedicine itself is not free of access barriers, right now only 10% of veterinary clients are using it (8% telephone only), and surveys on the human health side revealed technological barriers, such as lack of access to technology, insufficiency of broadband internet, and digital literacy
- Telemedicine is not a clear solution to the problem of cost, results are mixed as to whether telehealth reduces downstream utilization of health care, and study on the human side resulted no reduction in overall spending for patients
- The VCPR language is consistent with federal law, the Food and Drug Administration (FDA) does not allow a VCPR to be established through electronic means and does allow it to be maintained through electronic means, and Wisconsin veterinarians are required under federal law to follow federal VCPR requirement in each applicable circumstance, such as any extralabel drug use or when authorizing a veterinary feed directive
- The proposal is consistent with American Veterinary Medical Association (AVMA) and FDA policies, and is supported by the Wisconsin Veterinary Medical Association (WVMA)
- The practice of veterinary medicine should be as broad and expansive as is allowed under Wisconsin law and as is protective of animal health, and the proposed rule meets both of those criteria

Based on public comments, the Board decided to maintain the same VCPR definition in this final draft as was in the preliminary hearing draft. However, the Board did make changes to make related provisions clearer. The Board moved provisions regarding emergency care, general advice, and consulting, and from the definitions into the body of the rule and added language to the telemedicine section of the rule to make it clearer that those specified items do not require the establishment of a VCPR.

ART Procedures

The hearing draft included creating a new category of delegation to allow a veterinarian to delegate specific acts to a CVT when the veterinarian is available via telehealth technologies within five minutes, rather than requiring that the veterinarian be personally present on the

premises as current rule requires. This new category of delegation did not include ART procedures, which are performing amniocentesis, embryo collection and transfer, follicular aspiration, and transvaginal oocyte collection and recovery on livestock.

The comment expressing opposition to the omission of ART in delegation changes expressed that:

- CVTs safely and effectively perform ART under the direct supervision of a veterinarian hundreds of times each week
- The omission of ART will prevent the incorporation of technology into future operations, have a financial effect on farms, and cause delays to procedures due to the lack of large animal veterinarians
- Human medicine has broadly applied telehealth to existing procedures by modifying the definition of direct supervision generally and not based on individual services

Comments expressing support of the omission of ART in delegation changes expressed that:

- ART procedures are very tactile in nature, it is not uncommon to find reproductive abnormalities and pathology that require diagnosis by palpation, palpation is critical for the procedures, and specific tactile manipulations that cannot be visualized in their entirety from the exterior of the animal
- ART procedures pose a significant risk for complications that cannot be managed in a timely fashion unless the veterinarian is present on the premises
- Severe complications can have life-threatening and permanent consequences to a previously healthy animal, and the veterinarian needs to be present on the premises to mitigate the risk of permanent damage
- The required level of care cannot be accomplished via telehealth
- The risk of complications from ART procedures is significant, and the convenience of using telehealth does not outweigh the risk to the animal
- Relaxing these rules could hurt the perception of the Wisconsin dairy industry by giving the impression that Wisconsin quality is not up to standards, while delegating ART procedures could save some money up front, the long-term implications outweigh any potential short-term gain, and we need to continue to set the bar high when it comes to caring for animals and educating the public
- There may be business or financial reasons that could make the delegation of ART procedures using telehealth appealing to practitioners, clients, or businesses, but the argument is inappropriate in this context, the role of the VEB is to define the safe provision of veterinary care for animals and to protect animal health and not to make the practice of veterinary medicine fast or economical, and cited North Carolina State Board of Dental Examiners, *Petitioner v. Federal Trade Commission*, 574 U.S. 494 (2015)
- ART procedures should not be delegated to a CVT at all, and that performing them with telehealth would be a step in the wrong direction for the industry
- A veterinarian must be present on the premises for procedures delegated to a CVT in general, and being available within five minutes when the aorta has been lacerated during a cystocentesis is not acceptable
- The procedures identified in the draft can be safely supervised by a veterinarian using telehealth, but would oppose expansion of the proposed list

Based on public comments, the Board decided not to add ART procedures to the delegation changes. The delegation changes in this proposed final draft are the same as those in the hearing draft.

Other Comments

Six commenters expressed support of language regarding veterinarians filling prescriptions for other veterinarians. No commenters expressed opposition to this aspect of the rule proposal.

One commenter expressed concerns about existing rabies provisions, including that cats also have a risk of rabies, it is restrictive to require a veterinarian to be physically present for a CVT to give a rabies vaccine, and a veterinary assistant should be able to provide the rabies vaccine if the veterinarian is present. This rule draft references Wis. Stat. s. 95.21 (2) (a), which requires that rabies vaccinations required for dogs be administered “by a veterinarian or, if a veterinarian is physically present at the location the vaccine is administered, by a veterinary technician.” This requirement is statutory, and therefore the Board is unable to evaluate a change in rule.

Rules Clearinghouse

The Board modified the rule draft to address all Clearinghouse comments. Most significantly, per Clearinghouse comments, the Board evaluated the definitions sections for clarity and consistency. The Board identified several terms that are used only once or twice in rule, or in some cases not used at all in the body of the rule, and moved the content from the definitions into the body of the rule, including:

- In VE 1:
 - Complementary, alternative, and integrative therapies
 - Consulting veterinarian
 - Consultant
 - Consultation
 - Deception
 - Faculty license
 - Fraud
 - General Advice
 - Gross negligence
 - Post graduate training permit
 - Preceptor
 - Standard of care
 - Surgery
 - Telemedicine
 - Tele-triage
 - Temporary veterinary permit
 - Veterinary consulting permit
- In VE 2:
 - Advertising
 - Board approved technical school or college
 - Gross negligence

- Surgery

Comparison with Rules in Adjacent States

The structural changes and minor language changes in the proposed rule are unique to Wisconsin rules and make the rules clearer and easier to use. Veterinary telehealth regulations in Wisconsin, Illinois, Iowa, Michigan, and Minnesota are compared below. Regulatory recommendations by the American Association of Veterinary State Boards, the American Veterinary Medical Association, and the Wisconsin Veterinary Medical Association are also included for comparison.

Wisconsin

Under both the existing rule and the proposed rule, a veterinarian must be licensed in Wisconsin in order to practice veterinary medicine and have an established VCPR with the client. A VCPR must be established via an in-person physical exam, or timely medically appropriate visits to the premises on which the patient is kept. It may not be established by telehealth technologies.

The proposed rule clarifies items related to telehealth and also expands the delegation of medical services to allow a veterinarian to delegate the specific items to a CVT if the veterinarian is available to communicate via telehealth technologies within five minutes.

Illinois

In Illinois, a valid VCPR cannot be established solely by telephonic or electronic communications. No further information was provided regarding whether Illinois would allow telehealth to be used if a VCPR was previously established.

Iowa

In Iowa, a valid VCPR cannot be established solely by telephonic or electronic communications. No further information was provided regarding whether Iowa would allow telehealth to be used if a VCPR was previously established.

Michigan

Michigan recently promulgated a new rule related to the practice of veterinary medicine using telehealth technologies, which became effective April 15, 2021. The Michigan rules now require:

- Disclosure of the identity and contact information of the veterinarian providing telehealth services. Licensing information shall be provided upon request.
- Ensure that the technology method and equipment used to provide telehealth services complies with all current privacy-protection laws.
- Employ sound professional judgement to determine whether using telehealth is an appropriate method for delivering medical advice or treatment to the animal patient.
- Have sufficient knowledge of the animal patient to render telehealth services demonstrating by satisfying one of the following:

- Have recently examined the animal patient in-person or have obtained current knowledge of the animal patient through the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically.
- Have conducted medically appropriate and timely visits to the premises where the group of animal patients is kept.
- Act within the scope of practice.
- Exercise the same standard of care applicable to traditional, in-person veterinary care service.
- Be readily available to the animal patient for follow-up veterinary services or ensure there is another suitable provider available for follow-up care.
- Consent for medical advice and treatment shall be obtained before providing a telehealth service.
- Evidence of consent for medical advice and treatment must be maintained in the animal patient's medical record.
- A veterinarian providing a telehealth service may prescribe a drug if the veterinarian is a prescriber acting within the scope of practice and in compliance.

Minnesota

Minnesota only allows patient-specific telemedicine within a VCPR. A VCPR cannot be established without an in-person examination. A veterinarian licensed in another state can serve as a consultant to the Minnesota veterinarian that holds the VCPR for that patient. The same standards of care apply to services rendered via telemedicine as to in-person visits.

American Association of Veterinary State Boards (AAVSB)

The AAVSB practice act model and AAVSB guidelines for telehealth are both available at <https://www.aavsb.org/board-services/member-board-resources/practice-act-model/>. Regarding the VCPR, the AAVSB practice model act and AAVSB guidelines for telehealth state that:

- Veterinarian-Client-Patient Relationship (VCPR) exists when:
 - Both the Veterinarian and Client agree for the Veterinarian to assume responsibility for making medical judgments regarding the health of the Animal(s); and
 - The Veterinarian has sufficient knowledge of the Animal(s) to initiate at least a general or preliminary diagnosis of the medical condition of the Animal(s); and
 - The Veterinarian has provided the client with information for obtaining timely follow up care.
- The AAVSB recommends that each jurisdiction promulgate appropriate regulations clarifying who may be included within the scope of a single VCPR such as a Veterinarian or another Veterinarian within the same practice group with access to medical records. The AAVSB recommends that each jurisdiction promulgate appropriate regulations defining how to establish sufficient knowledge of the Animal(s), including the following:

- A recent examination of the Animal or group of Animals, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; or
 - Through medically appropriate and timely visits to the premises at which the Animal or group of Animals are kept.
- The AAVSB recommends that each Jurisdiction promulgate appropriate regulations for the Veterinarian to provide instructions to the Client for obtaining follow up care that may include directing the Client to another Veterinarian or emergency clinic. It is essential for the VCPR to be easily established in order to require the Veterinarian to assume accountability for the Veterinary Medical Services rendered. Furthermore, as standards of practice and codes of conduct change over time, it is easier to promulgate new rules incorporating such changes rather than adopting legislative modifications.

American Veterinary Medical Association (AVMA)

AVMA guidelines for the use of telehealth in veterinary practice are available at <https://www.avma.org/sites/default/files/2021-01/AVMA-Veterinary-Telehealth-Guidelines.pdf>. Regarding the VCPR, the AVMA guidelines state that:

- Having a VCPR in place is critical whenever practicing veterinary medicine, whether practicing in person or remotely using telemedicine. The AVMA Model Veterinary Practice Act, which many governmental bodies use as a guide when establishing or revising laws governing veterinary practice, includes the following definition of the VCPR: The veterinarian-client-patient relationship is the basis for veterinary care. To establish such a relationship the following conditions must be satisfied:
 - The licensed veterinarian has assumed the responsibility for making medical judgments regarding the health of the patient(s) and the need for medical therapy and has instructed the client on a course of therapy appropriate to the circumstance.
 - There is sufficient knowledge of the patient(s) by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition(s) of the patient(s).
 - The client has agreed to follow the licensed veterinarian's recommendations.
 - The licensed veterinarian is readily available for follow up evaluation or has arranged for:
 - Emergency or urgent care coverage, or
 - Continuing care and treatment has been designated by the veterinarian with the prior relationship to a licensed veterinarian who has access to the patient's medical records and/or who can provide reasonable and appropriate medical care.
 - The veterinarian provides oversight of treatment.
 - Such a relationship can exist only when the veterinarian has performed a timely physical examination of the patient(s) or is personally acquainted with the keeping and care of the patient(s) by virtue of medically appropriate and timely visits to the operation where the patient(s) is(are) kept, or both.

- Patient records are maintained. Both the licensed veterinarian and the client have the right to establish or decline a veterinarian-client-patient relationship within the guidelines set forth in the AVMA Principles of Veterinary Medical Ethics. A licensed veterinarian who in good faith engages in the practice of veterinary medicine by rendering or attempting to render emergency or urgent care to a patient when a client cannot be identified, and a veterinarian-client-patient relationship is not established, should not be subject to penalty based solely on the veterinarian's inability to establish a veterinarian-client-patient relationship.
- Many states have adopted this definition of the VCPR, or a very similar one, as a component of their state veterinary practice act or regulations. In addition, federal law requires a veterinarian to establish a VCPR before undertaking any extra-label drug use in animals, issuing a Veterinary Feed Directive, or the creation and use of certain types of biologics. It is also important for veterinarians to understand that they must comply with the federal law requiring a VCPR under these circumstances, regardless of how a state may ultimately define a VCPR in state law or regulation.
- Given current technological capabilities, available research, and the existing state and federal regulatory landscape, the AVMA believes veterinary telemedicine should only be conducted within an existing VCPR. An exception may be made for advice given in an emergency until a patient can be seen by a veterinarian. Ultimately, how a state defines the VCPR, the congruence of that state VCPR with federal requirements, and whether or not a VCPR exists in a given situation based on those definitions, determine what services can be offered.
- Within an established VCPR: A variety of telehealth and telemedicine service models are available to veterinarians and veterinary practices. Client-facing telemedicine services may include use of tools that allow the veterinarian to remotely and securely gather essential patient health information from the animal owner or another caretaker; access the patient's medical records; and conduct a virtual evaluation of the patient through real-time video or transmitted photographs or other data.
- Without an established VCPR: The veterinarian may provide non-patient-specific advice, but must stay clear of diagnosing, prognosis of, or treating patients. Two exceptions may apply: (1) if state law allows a VCPR to be established electronically, the veterinarian has met the requirements for doing so, and activities that would invoke a requirement for adherence to the federal VCPR are not conducted or (2) advice given in an emergency until a patient can be seen by a veterinarian. Non-client electronic communications that include the provision of non-patient-specific advice and general educational content are usually acceptable.

Wisconsin Veterinary Medical Association (WVMA)

WVMA formed a Telehealth Task Force and submitted suggested guidelines to the Board on December 19, 2019. Regarding the VCPR, the WVMA suggested guidelines state that:

- VCPR Required: Veterinary services may only be provided using telehealth technologies where a VCPR is established. If an existing VCPR relationship is present, then telehealth technologies may be used as long as the VCPR is maintained in accordance with Wis. Stat. s. 89.02 (8) and the requirements in this Section. If an existing VCPR relationship is not present, then a veterinarian must take appropriate steps to establish a VCPR consistent with Wis. Stat. s. 89.02 (8) and the requirements in this Section.
- Establishing an Initial VCPR for Telehealth: For purposes of establishing an initial VCPR prior to engaging in the practice of veterinary medicine using telehealth technologies, the veterinarian must meet the requirements of Wis. Stat. s. 89.02 (8) and:
 - o For livestock, (food and fiber animals), the veterinarian must have either conducted an in-person physical examination of the patient or must have visited the premises on which the patient is kept at least once in the immediate six (6) months prior to engaging in any telehealth treatment or services.
 - o For companion animals and equine animals, the veterinarian must have conducted an in-person physical examination of the patient at least once in the immediate six (6) months prior to engaging in any telehealth treatment or services.
- Maintaining a VCPR for Telehealth: Once a VCPR is established, for purposes of maintaining that VCPR and engaging in the ongoing practice of veterinary medicine using telehealth technologies, the veterinarian must meet the requirements of Wis. Stat. s. 89.02 (8) and:
 - o For livestock (food and fiber animals), the veterinarian must either conduct an in-person physical examination of the patient or must visit the premises on which the patient is kept at least once every six (6) months.
 - o For companion animals and equine animals, the veterinarian must conduct an in-person physical examination of the patient at least once every twelve (12) months.

Summary of Factual Data and Analytical Methodologies

The proposed rule makes the rules clearer and easier to use. Restructuring the chapters makes the rules easier to read and reference quickly. Adding a chapter for relevant complaint procedures makes these procedures clearer and more accessible to credential holders and members of the public. The fee amounts remain the same, but are stated in the proposed rule to make them readily accessible. Minor language changes relating to procedures and processes, technical changes and updates, delegation of veterinary medical acts, references to statutory requirements, and terminology make the proposed rule more consistent and easier to understand. The proposed rule includes language changes to respond to public interest in the use of telehealth technologies in veterinary medicine. The proposed rule could reduce the burden to veterinarians, veterinary technicians, and consumers of veterinary services, as the proposed rule is easier to read and understand quickly.

The Board held a preliminary public hearing on SS 125-19 on February 17, 2020, with a written comment period through February 24, 2020. The Board received three comments. All three comments requested that the statement of scope be expanded to address the use of telehealth technologies in the practice of veterinary medicine. One comment also requested that the

statement of scope address the circumstances under which a veterinarian may dispense a drug for a patient of another veterinarian. This statement of scope for this rule proposal (SS 064-20) includes both of these topics.

The Board held a preliminary hearing on SS 064-20 on August 19, 2020, with a written comment period through August 26, 2020. The Board received three comments. One comment was for information. Two comments expressed support of the scope, both expressed support of including telehealth in the scope, and one also expressed support of including addressing the circumstances under which a veterinarian may dispense a drug for a patient of another veterinarian in the scope.

The Board convened a Telehealth Advisory Committee (Committee) to advise the Board in relation to the veterinary telehealth. The Committee was comprised of 13 representatives: 10 veterinarians and 3 certified veterinary technicians. Of the veterinarians, 1 works in large and small animal practice, 3 work in large animal practice, 1 works in equine and small animal practice, and 5 work in small animal practice. The veterinarians included representatives from the Wisconsin Veterinary Medical Association, Sexing Technologies, and the Dairy Business Association. The Department submitted a notice to JCRAR with the names of the Committee members on February 9, 2021.

The Committee met on March 4, March 25, and April 8, 2021, to discuss potential veterinary telehealth options. The following is a summary of proposals that the Telehealth Advisory Committee discussed, as well as the responses of the Committee members:

A. Definitions

Attending Veterinarian: means the veterinarian who holds the Veterinarian-Client-Patient Relationship and is responsible for the medical care and treatment of the animal.

Consulting Veterinarian: means the veterinarian who gives advice or assistance, whether in-person or by any method of communication, to the attending veterinarian, for the benefit of an animal patient.

Consultant: means a person whose subject matter expertise, in the opinion of the attending veterinarian, will benefit an animal patient, and who gives the attending veterinarian advice or assistance, whether in-person or by any method of communication.

Consultation: means the advice or assistance given by a consulting veterinarian or other consultant to the attending veterinarian where the responsibility for patient treatment, prescriptions, and welfare remain with the attending veterinarian.

A consulting veterinarian or other consultant may not do any of the following:

- a. Visit the patient or client or communicate directly with the client without the knowledge of the attending veterinarian.
- b. Take charge of a case or problem without the consent of the attending veterinarian and the client.

Informed Consent: means the veterinarian has informed the client or the client's authorized representative, in a manner understood by the client or representative, of the diagnostic and treatment options, risk assessment, and prognosis, and the client has consented to the recommended treatment.

General Advice: means any advice provided by a veterinarian or certified veterinary technician, via any method of communication within or outside of an established VCPR, which is given in general terms and is not specific to an individual animal or group of animals, diagnosis, or treatment.

Telehealth: is the collection of technology tools used to remotely deliver virtual veterinary medical, health, and education services, allowing a veterinarian to deliver enhance care and education.

Telemedicine: is the remote delivery of veterinary healthcare services, such as health assessments or consultations, over the telecommunications infrastructure, allowing a veterinarian to evaluate, diagnose and treat patients without the need for an in-person visit.

Tele-triage: means emergency animal care, including animal poison control services, for immediate, potentially life-threatening animal health situations, including poison exposure mitigation, animal CPR instructions, and other critical lifesaving treatment or advice that may be performed within or outside of a VCPR.

Members asked for clarification about the consulting veterinarian, consultant, and consultation definitions but no member expressed opposition to these definitions. No member expressed concerns about any of the other definitions.

B. Location of Practice

The practice of veterinary medicine takes place where the animal is located at time of practice, in alignment with Wis. Stat. §§ 89.05 (1) and 89.02 (6).

No member expressed concerns.

C. Establishing Veterinarian-Client-Patient Relationship (VCPR)

- Option 1: In order to practice veterinary medicine in WI a veterinarian must be licensed in WI and have an established VCPR with the client. A VCPR must be established via an in person physical exam, or timely medically appropriate visits to the premises on which the patient is kept. It may not be established by telehealth technologies.
- Option 2: In order to practice veterinary medicine in WI a veterinarian must be licensed in WI and have an established VCPR with the client prior to treating a

patient. A VCPR may be established by utilizing telehealth technologies to examine the patient as medically appropriate to the circumstance.

- Option 3: In order to practice veterinary medicine in WI a veterinarian must be licensed in WI and have an established VCPR with the client prior to treating a patient. To establish a VCPR the veterinarian must meet the requirements of Wis. Stat. § 89.02 (8). A licensed veterinarian may satisfy the exam requirement under Wis. Stat. § 89.02 (8) (b) for the establishment of the VCPR via telehealth technologies through the use of instrumentation and diagnostic equipment where images and medical records are able to be transmitted electronically or a physical in person exam.

Six members expressed support of option 1. One member expressed support of either option 1 or 3, as long as the veterinarian physically touches the animal at some point. One member expressed support of option 2. Two members expressed support of either option 2 or 3. One member expressed support of either option 2 or 3, as long as a VCPR is established in person at some point during the life of the patient.

Seven members expressed support of keeping the current timeframe requirements as timely and medically appropriate. One member expressed support of a one-year minimum requirement. One member expressed support of a 12 or 18-month minimum requirement. One member expressed support of a one or two-year minimum requirement.

D. Extending VCPR

The VCPR, once established, extends to other veterinarians within the practice, or relief veterinarians within the practice, that have access to, and have reviewed, the medical history and records of the animal.

All members expressed support.

E. Prescribing

Medication may not be prescribed without either a physical examination or medically appropriate and timely visits to the premises where the animal or group of animals is kept.

Nine members expressed that the language is not necessary or is redundant to the VCPR language. One member expressed no opinion.

F. Record Keeping

Records must be kept, regardless of encounter type, in accordance with the current Wis. Admin. Code ch. VE 7.

All members agreed.

G. Continuity of Care

In accordance with Wis. Stat. § 89.02(8) (c), an animal owner must be able to easily seek follow-up care or information from the veterinarian who conducts an encounter while using telehealth technologies. The veterinarian must ensure that the client is aware of the veterinarian's identity and location.

Seven members expressed support of including identity and location. Of those, two specified that at least to the level of the state. One member expressed no need for the language. Two members expressed no opinion.

H. Permit and/or Continuing Education (CE)

Require a permit and/or telehealth-specific continuing education (CE) to practice telehealth.

Eight members expressed that a permit and/or specific CE should not be required to practice telehealth. One member expressed that CE on telehealth should be required, similar to what is required to practice telehealth in human medicine. One member expressed support of requiring both a permit and CE, but also expressed concerns about the logistics of it.

I. Delegated Medical Services – CVTs

Based on the discussion, staff highlighted the following items to consider with regards to CVTs and telehealth:

- (b) Performing diagnostic radiographic contrast studies: Only awake contrast studies not requiring general anesthesia
- (d) Sample collection via a cystocentesis procedure.
- (e) Placement of intravenous catheters (not arterial catheters)
- (f) Suturing of tubes and catheters.
- (g) Fine needle aspirate of a mass.
- (h) Performing amniocentesis, embryo collection and transfer, follicular aspiration, and transvaginal oocyte collection and recovery on livestock.

Eleven members expressed support of allowing b (only awake contrast studies not requiring general anesthesia), d, e (not arterial catheters), f, and g as shown above to be performed by a CVT with the ability to communicate with the veterinarian via telehealth.

Ten members expressed opposition to allowing h to be performed by a CVT without the veterinarian present on the premises. One member expressed support of allowing h to be performed by a CVT without the veterinarian present on the premises with the ability to communicate with the veterinarian via telehealth.

Eleven members expressed support of requiring a shorter than 15 minute timespan for communicating with the veterinarian via telehealth regarding the specified medical services. Of those, five members expressed support of five minutes, one member expressed support of ten minutes, and two members expressed support of five or ten minutes.

J. Delegated Medical Services – Unlicensed Assistants

Staff highlighted items currently delegable to unlicensed assistants to discuss with regards to telehealth.

Eleven members expressed that the medical services currently delegable to unlicensed assistants with the veterinarian present on the premises should continue to require the veterinarian to be present on the premises.

Analysis and Supporting Documents Used to Determine Effect on Small Business and in Preparation of an Economic Impact Analysis

The proposed rule will directly affect Wisconsin licensed veterinarians and certified veterinary technicians. Most veterinary practices are small businesses. Current fee amounts would not change. Adjustments to make rule language and structure clearer, and to simplify processes where possible, may reduce the burden to each of these affected entities, by making the rules easier to access and understand quickly.

The Board convened a Telehealth Advisory Committee (Committee) to advise the Board in relation to the veterinary telehealth. The Committee was comprised of 13 representatives: 10 veterinarians and 3 certified veterinary technicians. Of the veterinarians, 1 works in large and small animal practice, 3 work in large animal practice, 1 works in equine and small animal practice, and 5 work in small animal practice. The veterinarians included representatives from the Wisconsin Veterinary Medical Association, Sexing Technologies, and the Dairy Business Association.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on Small Business

The Board expects the proposed rule to have minimal to no economic impact. No fee amounts will be changed in the proposed rule.

Most veterinary practices are small businesses. The proposed rule's structural changes and minor language changes may reduce the burden to veterinarians, veterinary technicians, and consumers of veterinary services, as the rules may become easier to access and understand quickly.

- Performing diagnostic radiographic awake contrast studies not requiring general anesthesia.
- Sample collection via a cystocentesis procedure.
- Placement of intravenous catheters.
- Suturing of tubes and catheters.
- Fine needle aspirate of a mass.

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1 SECTION 1. Ch. VE 1 is repealed and recreated to read:

2 Chapter VE 1 Veterinarians

3 Subchapter I – Authority and Definitions

4 **VE 1.01 Authority.** The rules in this chapter are adopted by the veterinary examining
5 board pursuant to the authority delegated by ss. 15.08 (5), 89.03 (1) and (2), and 227.11 (2),
6 Stats.

7 VE 1.02 Definitions. In this chapter:

(1) “AAVSB” means the American Association of Veterinary State Boards.

(2) “Accredited college or university” means an educational institution that is accredited by a regional or national accrediting agency recognized by the U.S. department of education.

(3) “Advertising” means to give notice by any means, including any circular, card, notice, telephone book listing, magazine, newspaper or other printed material or any electronic medium.

(4) “Approved veterinary college” means a veterinary college which is AVMA accredited or approved.

(5) “Attending veterinarian” means the veterinarian who holds the VCPR and is responsible for the medical care and treatment of the animal.

(6) “AVMA” means the American Veterinary Medical Association.

(7) “Board” means the veterinary examining board.

Note: The board office is located at 2811 Agriculture Drive, P.O. Box 8911, Madison, Wisconsin 53708–8911.

(8) “Client” has the meaning set forth at s. 89.02 (3), Stats.

(9) “Department” has the meaning set forth at s. 89.02 (3d), Stats.

(10) “Informed consent” means the veterinarian has informed the client or the client’s authorized representative, in a manner understood by the client or the client’s authorized representative, of the diagnostic and treatment options, risk assessment, and prognosis, and the client or the client’s authorized representative has consented to the recommended treatment.

(11) “License” means a credential issued to a person by the board signifying the person has met the requirements of ss. 89.06 (1) or (2m) (a) or 89.072, Stats., to practice veterinary medicine in this state.

(12) “NAVLE” means the North American Veterinary Licensing Examination.

(13) “Patient” has the meaning set forth at s. 89.02 (4s), Stats.

(14) “Supervision” means available at all times for consultation, either in person or within 15 minutes of contact by telephone, by video conference or by electronic communications device, except where other provisions are specified in rule.

(15) “Telehealth technologies” means the collection of technology tools used to remotely deliver virtual veterinary medical, health, and education services, allowing a veterinarian to deliver enhanced care and education.

(16) “Unlicensed assistant” means a person working under the supervision of a veterinarian, but not holding a license, permit, or certificate issued by the board.

(17) “VCPR” means a veterinarian–client–patient relationship and has the meaning set forth at s. 89.02 (8), Stats.

(18) “Veterinary prescription drug” has the meaning set forth at s. 89.02 (11), Stats.

(19) “Veterinary student” means a person enrolled in an approved veterinary college in a curriculum leading to a doctor of veterinary medicine degree.

Subchapter II – Examinations

VE 1.04 Administration. (1) The board or its designee shall administer the examinations required of applicants for licensure as a veterinarian by s. VE 1.12 and of applicants for certification as a veterinary technician by s. VE 2.04 at least once each year.

(2) Prior to November 1, 2000, the board shall accept as its licensure examinations the national board examination and the clinical competency test. On and after November 1, 2000, the board shall accept as its licensure examination the NAVLE.

(3) The board or its designee shall provide an examination admission document to the applicant. The applicant shall present the admission document with any required identification at the examination.

(4) The board or its designee shall provide rules of conduct at the beginning of the examination. Time limits may be placed on each portion of the examination.

(5) The board may deny release of grades or issuance of a license or certificate if the board determines that the applicant violated rules of conduct or otherwise acted dishonestly.

Note: Qualified applicants with disabilities shall be provided with reasonable accommodations.

VE 1.06 Competency tested. (1) Examinations administered under this chapter test entry level competency and seek to determine that an applicant's knowledge of animals and their treatment is sufficient to protect public health and safety.

(2) The board shall furnish to individuals, upon request, general information describing the competencies upon which the examination is based.

VE 1.08 Passing scores. (1) Passing scores for veterinary applicants for the national board examination and the clinical competency test, and for the NAVLE, shall be based on the board's determination of the level of examination performance required for minimum acceptable competence in the profession. The board shall make the determination, after consulting with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and set the passing score for the examination at the point representing the minimum acceptable competence in the profession. The board may accept any recommendation of the national examination provider.

(2) The passing score for an examination on state laws and rules related to the practice of veterinary medicine shall be based on the board's determination of the level of examination performance required for minimum acceptable competence in the profession. The board shall make the determination, after consulting with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and set the passing score for the examination at the point representing the minimum acceptable competence in the profession.

VE 1.10 Claim of examination error. (1) An applicant for veterinary licensure wishing to claim examination error shall file a written request for board review in the board office within 30 days of the date the examination was reviewed. The request shall include all of the following:

- (a) The applicant's name and address.
- (b) The type of license for which the applicant applied.
- (c) A description of the mistakes the applicant believes were made in the examination content, procedures, or scoring, including the specific questions or procedures claimed to be in error.
- (d) The facts which the applicant intends to prove, including reference text citations or other supporting evidence for the applicant's claim.

(2) The board shall review the claim, make a determination of the validity of the objections and notify the applicant in writing of the board's decision and any resulting grade changes.

(3) If the board confirms the failing status following its review, the application shall be deemed incomplete, and the applicant may be reexamined under s. VE 1.04.

Subchapter III – Licensure

VE 1.12 License exemptions. No veterinary license or permit is required for the following veterinarians:

(1) Employees of the federal government while engaged in their official duties.

(2) Employees of an educational or research institution while engaged in teaching or research, except if employed by a school of veterinary medicine in this state and the employee practices veterinary medicine on privately owned animals.

(3) Graduates of schools outside the United States and Canada who are enrolled in the educational commission for foreign veterinary graduates certification program of the AVMA or the program for the assessment of veterinary education equivalence offered by the AAVSB while completing the required year of clinical assessment under the supervision of a veterinarian.

VE 1.14 Qualifications for licensure; examination or endorsement. The board may issue a license to practice veterinary medicine to an applicant who satisfies all of the following:

(1) Submits an application form provided by the board which includes the applicant's notarized signature.

Note: Applications are available upon request to the board office located at 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708-8911 or at the website at www.datcp.wi.gov.

(2) Successfully completes an examination on state laws and rules related to the practice of veterinary medicine.

Note: The examination on state laws and rules is separate from the NAVLE and the national board examination and clinical competency test.

(3) Provides proof of graduation through one of the following means:

(a) A certificate of graduation from a veterinary college which shall be signed and sealed by the dean of the school and submitted directly to the board by the school. The certificate may be provided by electronic means if the seal is visible.

(b) Certification of graduation provided by the AAVSB.

(4) Does not have a conviction record or pending criminal charge relating to an offense the circumstances of which substantially relate to the practice of veterinary medicine. An applicant who has a conviction record or pending criminal charge shall request appropriate authorities to provide information about the record or charge directly to the board in sufficient specificity to enable the board to make a determination whether the record or charge substantially relates to the practice of veterinary medicine.

(5) Provides all documents in English.

(6) Satisfies the requirements for either licensure by examination or licensure by endorsement. Applicants who have never previously been licensed in any jurisdiction must apply by examination. Applicants who have previously been licensed in Wisconsin or any other jurisdiction must apply by endorsement.

VE 1.16 Qualifications for licensure by examination. Applicants for licensure by examination shall satisfy all of the following:

(1) Passed the NAVLE within the last five years.

(2) For applicants who graduated from a veterinary college which is not board approved, provide proof of graduation required under VE 1.14 (3), and evidence of successful completion of either the educational commission for foreign veterinary graduates certification program or the program for the assessment of veterinary education equivalence offered by the AAVSB which shall be submitted directly to the board by the AVMA or the AAVSB.

(3) Pay the nonrefundable application fee of \$115.

VE 1.18 Qualifications for licensure by endorsement. Applicants for licensure by endorsement shall satisfy all of the following:

(1) The applicant has not previously failed the NAVLE, unless the applicant has subsequently retaken and passed the NAVLE.

(2) The applicant holds a current license to practice veterinary medicine in another state or U.S. territory or province of Canada.

(3) The applicant has satisfied the qualifications for licensure, in s. VE 1.16, within the last 5 years or has actively practiced for 4000 hours during the 5 years preceding application.

(4) For an applicant holding a current unrestricted license to practice veterinary medicine in a country other than the United States or Canada, who is not a graduate of an approved veterinary college, in addition to the requirements of sub. (3), submit evidence that the applicant has successfully completed either the certification program of the educational commission for foreign veterinary graduates of the AVMA or the program for the assessment of veterinary education equivalence offered by the AAVSB.

(5) For an applicant holding a current unrestricted license to practice veterinary medicine in a country other than the United States or Canada, who is a graduate of a school of veterinary medicine approved by the board, in addition to the requirements of sub. (3), submit the following:

(a) Evidence satisfactory to the board that the requirements for initial licensure in the country where the applicant was originally licensed, including examination requirements, are substantially equivalent to the requirements for graduates of schools of veterinary medicine approved by the board who are seeking initial licensure in this state; or

(b) Before November 1, 2000, evidence that the applicant has successfully completed the national board examination and the clinical competency test. On or after November 1, 2000, evidence that the applicant has successfully completed the NAVLE.

(6) Provides verification of licensure records and status which has been provided directly to the board by every state or country in which the applicant has ever held a license or certificate to practice veterinary medicine or by the AAVSB.

(7) Pays the nonrefundable application fee of \$185.

VE 1.20 Licensure review by board. The board may determine that an applicant is not eligible for licensure if any of the following apply:

(1) The applicant has a conviction record or pending criminal charge relating to an offense the circumstances of which substantially relate to the practice of veterinary medicine.

(2) The applicant has been disciplined by the veterinary licensing authority in any other state, territory or country.

(3) The applicant is a party in pending litigation in which it is alleged that the applicant is liable for acts committed in the course of practice which evidence a lack of ability or fitness to practice, as determined by the board.

(4) The applicant is currently under investigation by another veterinary licensing authority, for acts, related to the license to practice veterinary medicine, which may provide a basis for disciplinary action in this state, as determined by the board.

(5) The applicant has been found liable for damages for acts committed in the course of practice of veterinary medicine which evidenced a lack of ability or fitness to practice, as determined by the board.

(6) The applicant has had United States drug enforcement administration privileges restricted or revoked.

(7) The applicant has had 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.

VE 1.22 Reciprocal credentials for service members, former services members, their spouses. (1) The board shall grant a license or permit to an individual who the board determines meets all of the requirements under s. 89.073, Wis. Stat.

(2) A person applying for a reciprocal credential under s. 89.073, Wis. Stat., shall pay one of the following nonrefundable fees as applicable:

(a) \$40 for a service member or former service member.

(b) \$141 for a spouse as defined by s. 89.073 (1) (c), Wis. Stat.

VE 1.24 Issuing a license. (1) The board shall review its records to determine eligibility of the applicant for licensure. Within 30 business days of determining an applicant is eligible for licensure, the board shall issue a license to the applicant.

(2) 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 in issuing the license, including reexamination, as the board deems appropriate, if any of the following apply:

(a) The applicant has not previously been licensed in any jurisdiction and passed the NAVLE more than 5 years ago.

(b) The applicant was previously licensed in Wisconsin or another jurisdiction and has not been licensed in any jurisdiction for more than 5 years.

(c) The board has reviewed the application under any provision in s. VE 1.20.

VE 1.26 Administrative fees. (1) A person requesting a printed license shall pay a nonrefundable fee of \$10.

(2) A person requesting verification of licensure to another state or organization shall pay a nonrefundable fee of \$10.

VE 1.28 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, payment of the late fee if applicable, and fulfillment of 30 hours of continuing education required under s. VE 1.30 completed before the license renewal.

(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 fee and late fee, and to fulfill the continuing education hours required under s. VE 1.30 completed before the license renewal, 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 1.14 (2).

(3) The licensee shall pay a nonrefundable renewal fee of \$160.

(4) A licensee who submits a license renewal after January 1 of even numbered years shall pay, in addition to the renewal fee under sub. (3), a nonrefundable late fee of \$25.

VE 1.30 Continuing education; requirements. (1) (a) Except as provided in subs. (2) and (3), a veterinarian shall complete at least 30 hours of continuing education pertinent to veterinary medicine in each biennial renewal period. The 30 hours of continuing education shall include at least 25 hours of continuing education that relates to scientific topics pertinent to veterinary medicine.

(b) All 30 continuing education hours in this subsection shall be documented. A minimum of 25 hours of continuing education shall be documented by an approved continuing education provider.

(c) A continuing education hour shall consist of 50 minutes of contact time.

(2) Subsection (1) does not apply to an applicant who applies to renew a license that expires on the first expiration date after the initial issuance of the license.

(3) The board may waive the requirements, under sub. (1), if it finds that exceptional circumstances, such as prolonged illness, disability, or other similar circumstances, have prevented an applicant from meeting the requirements.

(4) Continuing education hours shall be completed during the preceding 2-year licensure period.

(5) To obtain credit for completion of continuing education hours, a licensee shall, at the time of each renewal, sign a statement saying that the licensee has completed, during the preceding 2-year licensure period, the continuing education programs required under sub. (1).

(6) A veterinarian who fails to complete the continuing education requirements by the renewal date shall not practice as a veterinarian until the license is renewed.

(7) For auditing purposes, every veterinarian shall maintain records of continuing education hours for at least 5 years from the date the certification statement required under sub. (5) is signed. The board may audit for compliance by requiring a veterinarian to submit evidence of compliance to the board for the biennium immediately preceding the biennium in which the audit is performed. Documentation of completion of continuing education hours shall include one of the following:

(a) A certificate of attendance from an approved course provider.

(b) A grade report or transcript from an accredited college or university.

(c) A copy of a published work authored or co-authored by the licensee.

(d) A copy of a meeting syllabus, announcement, abstract or proceeding for a presentation.

(e) A signed document from an internship or residency institution certifying enrollment in a program.

VE 1.32 Continuing education; programs and courses. (1) CRITERIA FOR PROGRAMS AND COURSE APPROVAL. To be approved, a continuing education program or course shall meet the following criteria:

(a) The subject matter of the program or course shall be pertinent to veterinary medicine.

(b) The program or course sponsor agrees to record registration and furnish a certificate of attendance to each participant.

(2) UNRELATED SUBJECT MATTER. If a continuing education course includes subject matter that is not pertinent to veterinary medicine, only those portions of the course that relate to veterinary medicine will qualify as continuing education under this chapter.

(3) MODALITIES AND METHODS OF DELIVERY. Modalities and methods of delivery of continuing education programs acceptable to the board include one or more of the following:

(a) Attendance at a scientific workshop, seminar, or laboratory demonstration pertinent to veterinary medicine.

(b) Enrollment in graduate or other college level courses pertinent to veterinary medicine. Credit for qualified courses will be approved on the basis of multiplying each college credit hour by 10.

(c) Enrollment in an internship, residency or certification program approved by a veterinary specialty organization recognized by the AVMA or in an AVMA accredited veterinary school.

(d) Authorship or co-authorship of a published work, such as review articles, abstracts, presentations, proceedings, book chapters, and web-based continuing education materials shall be approved for 5 hours each.

(e) A peer reviewed publication shall be approved for 5 hours.

(f) Development and presentation of research findings, scientific workshops, seminars or laboratory demonstrations pertinent to veterinary medicine shall be approved for 5 contact hours each.

(g) Up to 15 hours per biennium shall be granted for a combination of continuing education hours completed under pars. (d) to (f), provided the continuing education is published or presented under the auspices of a provider approved under sub. (4).

(h) On-line, video, audio, correspondence courses, or other interactive distance learning courses pertinent to veterinary medicine, or to employment as a veterinarian.

(4) APPROVED PROGRAM PROVIDERS. Subject to compliance with the requirements set forth in subs. (1) to (3), the board shall approve attendance at and completion of one or more continuing education programs approved by any one of the following approved program providers as fulfilling the continuing education hours required under this chapter:

(a) A national, regional, state, or local veterinary medical or veterinary technician association.

(b) A federal or state agency.

(c) An accredited college or university.

(d) An association listed in the AVMA or the National Association of Veterinary Technicians in America directory.

(e) An AVMA accredited veterinary school or veterinary technician program.

(f) A program approved by the AAVSB through its Registry of Approved Continuing Education approval program.

(g) A foreign veterinary medical or veterinary technician association, an accredited college or university, or a governmental agency that is, as determined by the board comparable to a program provider listed under pars. (a) to (f).

Subchapter IV – Permits

VE 1.34 Temporary veterinary permits. (1) In this section, “Preceptor” means a

veterinarian who agrees to supervise a holder of a temporary veterinary permit.

(2) An applicant may be granted a temporary veterinary permit before the board receives notice of successful completion of the NAVLE or the examination on state laws and rules related to the practice of veterinary medicine, if the applicant provides evidence that the applicant is either scheduled to take the examination for the first time, or is awaiting results of the examination.

(3) An applicant shall complete an application for temporary veterinary permit and submit the nonrefundable fee of \$10.

(4) The board shall receive written verification of employment signed and provided directly to the board by the preceptor.

(5) The application and verification required by subs. (3) and (4) shall be received by the board office at least 2 weeks prior to the date the applicant intends to begin work.

(6) In order to provide supervision for a holder of a temporary veterinary permit, a preceptor shall do all of the following:

(a) Delegate only those tasks commensurate with demonstrated abilities of the temporary veterinary permit holder.

(b) Be available for direct communication with the temporary veterinary permit holder when the temporary veterinary permit holder is providing veterinary services. Direct communication shall be in person, by telephone, video conference, or electronic communication device.

(7) A temporary veterinary permit shall expire upon any of the following:

(a) Notification of failure of any examination.

(b) Failure to take the next scheduled examination.

(c) Issuance of a license.

(d) Denial of a license.

(8) An applicant may be granted a temporary veterinary permit only once.

(9) Any change or addition of preceptor shall be reported to the board by filing a new verification as specified in sub. (4).

(10) Within 30 business days of determining an applicant is eligible for a temporary permit, the board shall issue a permit to the applicant. Notification of issuance shall also be provided to the preceptor.

VE 1.36 Veterinary consulting permits. (1) The board may issue a veterinary consulting permit to practice veterinary medicine in this state to a person holding a license to practice veterinary medicine in another state or territory of the U.S. or in another country, provided the licensee is in good standing in the other jurisdiction, and a veterinarian has requested a consultation.

(2) A veterinary consulting permit may be used up to 60 total days per calendar year.

(3) The veterinary consulting permit shall expire on December 31 of each year or on the 60th day of use in a calendar year. The holder of a consulting permit may apply for a new permit for a subsequent year by completing the application procedure specified in this section.

(4) An applicant for a veterinary consulting permit shall file a completed application with the board. All supporting documents shall be provided in English. An application is not complete until the board receives all of the following:

(a) An application form provided by the board and completed by the applicant which includes the applicant's notarized signature.

Note: Applications are available upon request to the board office located 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708-8911.

(b) The required nonrefundable fee of \$160.

(c) Verification of licensure records and status which has been provided directly to the board by the jurisdictions or the AAVSB for every state or country in which the applicant has ever held a license or certificate to practice veterinary medicine.

(d) Written verification from a veterinarian that a consultation is being sought.

(5) A veterinary consulting permit shall automatically expire upon notice to the board that the consultation has been completed.

(6) After hearing, a veterinary consulting permit may be denied, suspended, limited or revoked, or the permittee may be reprimanded, for any of the following reasons:

(a) Revisiting the patient or client or communicating directly with the client without the knowledge of the attending veterinarian.

(b) Taking charge of a case or problem without the consent of the attending veterinarian and the client.

(c) Violating any law or rule related to the practice of veterinary medicine.

Subchapter V – Practice Related to Veterinary Schools

VE 1.38 Faculty license. (1) APPLICATION. An applicant for a faculty license under s. 89.06 (2m) (a), Stats., shall file a completed application with the board. All supporting documents shall be submitted in English. An application is not complete until the board receives all of the following:

(a) An application form provided by the board and completed by the applicant, which includes the applicant's notarized signature.

Note: Applications are available upon request to the board office located at 2811 Agriculture Drive, P.O. Box 8911, Madison, Wisconsin 53708-8911.

(b) The required nonrefundable fee of \$185.

(c) Verification of employment by a school of veterinary medicine in this state which has been submitted directly to the board by the dean of the school.

(d) Proof of graduation through one of the following means:

1. A certificate of graduation from an approved veterinary college signed and sealed by the dean of the school submitted directly to the board by the school, or evidence of substantially equivalent qualifications.

2. Certification of graduation provided by the AAVSB.

(e) Successful completion of an examination on state laws and rules related to the practice of veterinary medicine.

(2) DISCIPLINARY ACTION. A faculty license may be denied, suspended, limited or revoked, or the licensee may be reprimanded, for any of the following reasons:

(a) Violation of any law or regulation substantially related to the practice of veterinary medicine.

(b) Engaging in the practice of veterinary medicine in this state outside the scope of employment unless licensed to do so.

(3) EXPIRATION. The faculty license expires upon termination of the faculty employee's employment with the school of veterinary medicine, as reported by the dean of the school of veterinary medicine.

VE 1.40 Post graduate training permit. (1) The board may grant a post graduate training permit allowing the permit holder to practice veterinary medicine on privately owned

animals only within the scope of the permittee's internship or residency program at a school of veterinary medicine in this state.

(2) An applicant for a post graduate training permit under s. 89.06 (2m) (b), Stats., shall file a completed application with the board. All supporting documents shall be provided in English. An application shall not be considered complete until the board receives all of the following:

(a) An application form provided by the board and completed by the applicant, including the applicant's notarized signature.

Note: Applications are available upon request to the board office located at 2811 Agriculture Drive, P.O. Box 8911, Madison, Wisconsin 53708-8911.

(b) Evidence that the applicant has received a degree from a school of veterinary medicine or an equivalent degree.

(c) The required nonrefundable fee of \$100.

(d) Verification that the applicant is undertaking intern or resident training at a school of veterinary medicine in this state. Verification shall consist of certification signed and sealed by the dean of the school and submitted directly to the board by the school.

(3) An applicant for a post graduate training permit shall successfully complete an examination on state laws and rules related to the practice of veterinary medicine before a permit may be issued.

(4) A post graduate training permit may be denied, suspended, limited or revoked, or the licensee may be reprimanded, for any of the following reasons:

(a) Violation of any law or regulation substantially related to the practice of veterinary medicine.

(b) Engaging in the practice of veterinary medicine in the State of Wisconsin outside the scope of the training program unless licensed to do so.

(5) The post graduate training permit expires upon termination of the permittee's internship or residency program, as reported by the dean of the school of veterinary medicine.

VE 1.42 Veterinary students. (1) A veterinary student may practice veterinary medicine within the school of veterinary medicine pursuant to standards and supervisory protocols established by the school.

(2) A veterinary student may perform delegated veterinary acts outside of the school setting as set forth under s. VE 1.44 (1), (3), and (9).

Subchapter VI – Standards of Practice and Unprofessional Conduct

VE 1.44 Delegation of veterinary medical acts. (1) 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 (8).

(c) Where the veterinarian is not required to be personally present on the premises where the delegated services are provided, 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.

(2) 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 1.36, 1.38, or 1.40; 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, which means any procedure in which the skin or tissue of the patient is penetrated or severed but does not include any of the following:

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

1. Activities identified in s. 89.05 (2) (a) and (b), Stats.
2. Subcutaneous insertion of a microchip for identifying an animal.
3. Ear tag or tattoo placement for identifying an animal.
4. Euthanasia by injection.

(b) Activities considered the practice of veterinary medicine, but which a veterinarian may delegate to a certified veterinary technician, as specified in s. VE 1.44 (5) and (6), as follows:

1. Simple dental extractions that require minor manipulation and minimal elevation.
2. Administration of injections, including local and general anesthesia.
3. Sample collection via a cystocentesis procedure.

480 4. Placement of intravenous and arterial catheters.

481 5. Suturing of tubes and catheters.

482 6. Fine needle aspirate of a mass.

483 7. Performing amniocentesis, embryo collection and transfer, follicular aspiration, and
484 transvaginal oocyte collection and recovery on livestock.

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

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

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

493 Note: See s. 95.21 (2) (a), Stats., for the delegation of rabies vaccinations.

494 (b) Observations and findings related to animal diseases and conditions to be utilized by a
495 veterinarian in establishing a diagnosis or prognosis, including routine radiographs, nonsurgical
496 specimen collection, drawing of blood for diagnostic purposes, and laboratory testing
497 procedures.

498 (c) Administration of sedatives and presurgical medications.

499 (d) Nutritional evaluation and counseling.

500 (e) Except to certified veterinary technicians who are also licensed professionals
501 governed by the provisions in s. VE 1.48, the provision of any complementary, alternative, or
502 integrative therapy, as defined in s. VE 1.48 (1).

(5) Veterinarians may delegate to certified veterinary technicians the provision of the following veterinary medical services under the supervision of the veterinarian when the veterinarian is available to communicate via telehealth technologies within 5 minutes or the veterinarian is personally present on the premises where the services are provided:

(a) Performing diagnostic radiographic awake contrast studies not requiring general anesthesia.

(b) Sample collection via cystocentesis procedure.

(c) Placement of intravenous catheters.

(d) Suturing of tubes and catheters.

(f) Fine needle aspirate of a mass.

(6) Veterinarians may delegate to certified veterinary technicians the provision of the following veterinary medical services under the 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, including those requiring general anesthesia.

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

(d) Placement of arterial catheters.

(e) Performing amniocentesis, embryo collection and transfer, follicular aspiration, and transvaginal oocyte collection and recovery on livestock.

(7) Veterinarians may delegate to unlicensed assistants the provision of the following veterinary medical services under the 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 patient.

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

(8) Except as provided under s. 95.21, Stats., veterinarians may delegate to unlicensed assistants the provision of the following veterinary medical services under the 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.

(e) Placement of intravenous catheters.

(9) Notwithstanding subs. (1) to (8), a veterinary student, certified veterinary technician or unlicensed assistant employed by a veterinarian may, under the 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.

VE 1.46 Veterinary consulting. (1) DEFINITIONS. In this section:

(a) “Consulting veterinarian” means the veterinarian who gives advice or assistance, whether in-person or by any method of communication, to the attending veterinarian, for the benefit of a patient.

(b) “Consultant” means a person whose subject matter expertise, in the opinion of the attending veterinarian, will benefit a patient, and who gives the attending veterinarian advice or assistance, whether in-person or by any method of communication.

(2) A consulting veterinarian or other consultant may give advice or assistance to the attending veterinarian where the VCPR remains with the attending veterinarian and the responsibility for patient treatment, prescriptions, and welfare remain with the attending veterinarian.

(3) A consulting veterinarian or other consultant may not do any of the following:

(a) Visit the patient or client or communicate directly with the client without the knowledge of the attending veterinarian.

(b) Take charge of a case or problem without the consent of the attending veterinarian and the client.

(4) Subsection (3) does not apply to other veterinarians licensed by the board, practicing with the attending veterinarian, who have access to, and have reviewed, the medical history and records of the animal.

VE 1.48 Veterinary referral to a license holder in another profession. (1) In this section, “Complementary, alternative, and integrative therapies” means a heterogeneous group of preventive, diagnostic, and therapeutic philosophies and practices. These therapies include:

(a) Veterinary acupuncture, acutheraPy, and acupressure.

(b) Veterinary homeopathy.

(c) Veterinary manual or manipulative therapy, meaning therapies based on techniques practiced in osteopathy, chiropractic medicine, or physical medicine and therapy.

(d) Veterinary nutraceutical therapy.

(e) Veterinary phytotherapy.

(2) A veterinarian may make a referral to a client, for treatment of a patient by a license holder in another profession, using complimentary, alternative, or integrative therapies, as defined in sub. (1), if the license holder, to whom the client and patient are referred, provides all of the following evidence to the veterinarian for performing the type of therapy for which the referral is being made:

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

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

(3) The VCPR, as defined in s. 89.02 (8), Stats., does not extend to the provision of any complementary, alternative, or integrative therapy performed on a veterinarian's patient, under either of the following circumstances:

(a) The therapy is performed by a license holder in another profession, where the veterinarian demonstrates meeting the requirements, in sub. (2), for making the referral to the license holder.

(b) The veterinarian's client obtains any complementary, alternative, or integrative therapy services for a veterinarian's patient without a referral by the veterinarian.

VE 1.50 Veterinary telemedicine. (1) In this section, "Telemedicine" means the remote delivery of veterinary healthcare services, such as health assessments or consultations, over the

telecommunications infrastructure, allowing a veterinarian to evaluate, diagnose and treat patients without the need for an in-person visit.

(2) The practice of veterinary medicine, in accordance with ss. 89.05 (1) and 89.02 (6), Wis. Stats., takes place where the animal is located at the time of practice.

(3) In order to practice veterinary telemedicine in Wisconsin, a veterinarian must be licensed in Wisconsin.

(4) Except as provided under subs. (6) and (7) and s. VE 1.46, the veterinarian must have an established VCPR with the client. The VCPR must be established via an in-person physical exam, or timely medically appropriate visits to the premises on which the patient is kept. The VCPR may not be established by telehealth technologies.

(5) The VCPR, once established, extends to other veterinarians licensed by the board, who are practicing with the attending veterinarian, and who have access to, and have reviewed, the medical history and records of the animal.

(6) Tele-triage and emergency animal care, including animal poison control services, for immediate, potentially life-threatening animal health situations, including poison exposure mitigation, animal cardiopulmonary resuscitation instructions, and other critical lifesaving treatment or advice that may be performed within or outside of a VCPR.

(7) A veterinarian may provide general advice in general terms that is not specific to an individual animal or group of animals, diagnosis, or treatment, and may provide this general advice within or outside of an established VCPR.

(8) Records must be kept in accordance with this chapter.

(9) In accordance with s. 89.02 (8) (c), Wis. Stat., an animal owner must be able to easily seek follow-up care or information from the veterinarian who conducts an encounter while using telehealth technologies.

(10) A veterinarian using telehealth technologies is required to follow all applicable requirements of this chapter.

VE 1.52 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) Complaint.

(f) Present illness.

(g) Provisional diagnosis.

639 (h) Physical examination findings.

640 (i) Record of client's informed consent by signature and date or other specified means.

641 (j) Treatment — medical, surgical.

642 (k) Vaccinations administered.

643 (L) Drugs prescribed, dispensed or administered, including strength or concentration,

644 route of administration, dosing schedule, number dispensed and number of refills allowed.

645 (m) Final diagnosis.

646 (n) Consultation, if any.

647 (o) Clinical laboratory reports.

648 (p) Radiographic reports.

649 (q) Necropsy findings.

650 (r) Identification of the veterinarian providing the care.

651 (3) The client record for food and fiber patients shall contain at least the following

652 information which apply:

653 (a) Date.

654 (b) Client name.

655 (c) Type of call.

656 (d) Individual or herd diagnosis.

657 (e) Record of client's informed consent by signature and date or other specified means.

658 (f) Treatment and drugs used including amounts of drugs administered and method of

659 administration.

660 (g) Drugs dispensed including dosing schedule and number dispensed.

661 (h) Meat or milk withholdings.

(i) Clinical laboratory reports.

(j) 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) Diagnosis.

(g) Record of client's informed consent by signature and date or other specified means.

(h) Treatment-medical, surgical.

(i) Treatment and drugs used including amount of drugs administered and method of administration.

(j) Drugs dispensed including dosing schedule and number dispensed.

(k) Clinical laboratory reports.

(L) Radiographic reports.

(m) Necropsy findings.

(n) Identification of the veterinarian providing the care.

(5) A veterinarian shall provide access to health care records in accordance with s. 89.075, Wis. Stat.

VE 1.54 Change of name and address. Every veterinarian shall notify the board of a change of name or address within 30 days.

VE 1.56 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.

VE 1.58 Unprofessional conduct. Unprofessional conduct by a veterinarian is prohibited. Unprofessional conduct includes:

(1) Unprofessional conduct under s. 89.07 (1), Wis. Stat.

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

(3) Fraud in the practice of veterinary medicine, including any of the following:

(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, serious, or grave negligence, as compared to less serious or more ordinary acts of negligence, in the practice of veterinary medicine.

(5) “Deception” in the practice of veterinary medicine, including any of the following:

(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.

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

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

(8) 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.

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

(10) 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.

(11) 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.

(12) Prescribing, ordering, dispensing, administering, supplying 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 hyperkinesis 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.

(13) Prescribing or dispensing veterinary prescription drugs to a client without following the requirements in s. 89.068 (1) (c), Stats.

(14) Dispensing any veterinary prescription drugs to a person unless the person requests fulfillment of a prescription meeting the requirements of s. 89.068 (1) (b), Stats.

(15) 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.

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

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

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

(19) Failure to maintain records as required by s. VE 1.52.

(20) 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."

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

(22) 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.

(23) 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.

(24) Practicing under an expired license.

(25) 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.

(26) Falsely certifying to the board under s. VE 1.30 (5) that the veterinarian:

(a) Has completed the 30 hours of continuing education required under s. VE 1.30 (1).

(b) Is exempt under s. VE 1.30 (2) from having to complete the 30 hours of continuing education required under s. VE 1.30 (1).

(27) Failure to inform a client prior to treatment of the diagnostic and treatment options consistent with the veterinary profession's standard of care, meaning diagnostic procedures and modes of treatment considered by the veterinary profession to be within the scope of current, acceptable veterinary medical practice, and the associated benefits and risks of those options.

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

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

(30) 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.

VE 1.60 Board action. The board may reprimand the licensee or deny, suspend, limit or revoke a veterinary license or permit under this chapter for cause, including any of the following:

(1) Filing an incomplete or fraudulent application, or misrepresenting any information on an application.

(2) Violating this chapter or ch. 89, Stats.

SECTION 2. Ch. VE 2 is repealed and recreated to read:

Chapter VE 2 Veterinary Technicians

Subchapter I – Authority and Definitions

VE 2.01 Authority. The rules in this chapter are adopted by the veterinary examining board pursuant to the authority delegated by ss. 15.08 (5), 89.03 (1) and (2), and 227.11 (2), Stats.

VE 2.02 Definitions. In this chapter:

(1) “Accredited college or university” means an educational institution that is accredited by a regional or national accrediting agency recognized by the U.S. Department of Education.

(2) “AVMA” means the American veterinary medical association.

(3) “Board” means the veterinary examining board.

Note: The board office is located at 2811 Agriculture Drive, P.O. Box 8911, Madison, Wisconsin 53708–8911.

(4) “Certificate” means a document issued to a person by the board, after the person has met the requirements of s. 89.06 (3), Stats., signifying that the person has met the statutory requirements to practice veterinary technology in Wisconsin.

(5) “Client” has the meaning set forth at s. 89.02 (3), Stats.

(6) “Department” has the meaning set forth at s. 89.02 (3d), Stats.

(7) “Patient” has the meaning set forth at s. 89.02 (4s), Stats.

(8) “VTNE” means the veterinary technician national exam.

Subchapter II – Certification

VE 2.04 Certification. (1) The board may issue a certificate to practice as a veterinary technician to an applicant who does all of the following:

(a) Submits an application form provided by the board which includes the applicant's notarized signature.

Note: Applications are available upon request to the board office located at 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708-8911 or at the website at www.datcp.wi.gov.

(b) Meets the age and training requirements of s. 89.06 (3), Stats.

(c) Pays one of the following nonrefundable fees as applicable:

1. \$115 for an applicant who has never been credentialed in Wisconsin or another jurisdiction.

2. \$185 for an applicant who has previously been credentialed in Wisconsin or another jurisdiction.

(d) Has successfully completed both the VTNE and an examination on state laws and rules related to the practice of veterinary technology, the results of which shall be submitted

818 directly to the board by the department's office of examinations or the interstate reporting
819 services.

820 (e) Provides verification of licensure records and status which has been provided directly
821 to the board by the jurisdictions or the American Association of Veterinary State Boards for
822 every state or country in which the applicant has ever held a license or certificate to practice
823 veterinary technology.

824 Note: The board accepts the classification of “veterinary nurse” in other jurisdictions as
825 equivalent to “veterinary technician.”

826 (f) Does not have a conviction record or pending criminal charge relating to an offense
827 the circumstances of which substantially relate to the practice of veterinary technology. An
828 applicant who has a conviction record or pending criminal charge shall request appropriate
829 authorities to provide information about the record or charge directly to the board in sufficient
830 specificity to enable the board to make a determination.

831 (g) Provides all supporting documents in English.

832 (2) The board shall review its records to determine eligibility of the applicant. Within 30
833 business days of determining an applicant is eligible for certification, the board shall issue a
834 certificate to the applicant.

835 (3) The board shall inquire as to whether the applicant is competent to practice as a
836 veterinary technician in this state and shall impose any reasonable conditions on instatement of
837 the certificate, including reexamination, as the board deems appropriate, if any of the following
838 apply:

839 (a) The applicant has not previously been certified in any jurisdiction and passed the
840 VTNE more than 5 years ago.

(b) The applicant was previously certified in Wisconsin or another jurisdiction and has not been certified in any jurisdiction for more than 5 years.

(c) The applicant has prior related discipline or litigation in another jurisdiction.

(d) The applicant has pending related discipline or litigation in any jurisdiction.

VE 2.06 Reciprocal credentials for service members, former services members, their spouses. (1) The board shall grant a certification to an individual who the board determines meets all of the requirements under s. 89.073, Wis. Stat.

(2) A person applying for a reciprocal credential under s. 89.073, Wis. Stat., shall pay one of the following nonrefundable fees as applicable:

(a) \$40 for a service member or former service member.

(b) \$141 for a spouse as defined by s. 89.073 (1) (c), Wis. Stat.

VE 2.08 Passing scores. (1) The passing score for veterinary technician applicants on the written national examination shall be based on the board's determination of the level of examination performance required for minimum acceptable competence in the profession. The board shall make the determination after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and shall set the passing score for the examination at that point that represents minimum acceptable competence in the profession. The board may accept the recommendation of the national examination provider.

(2) The passing score for an examination on state laws and rules related to the practice of veterinary technology shall be based on the board's determination of the level of examination performance required for minimum acceptable competence in the profession. The board shall make the determination after consultation with subject matter experts who have reviewed a

representative sample of the examination questions and available candidate performance statistics, and shall set the passing score for the examination at that point that represents minimum acceptable competence in the profession.

VE 2.10 Administrative fees. (1) A person requesting a printed certificate shall pay a nonrefundable fee of \$10.

(2) A person requesting verification of certification to another state or organization shall pay a nonrefundable fee of \$10.

VE 2.12 Renewal of certification. A certificate expires if not renewed by January 1 of even-numbered years. A certificate holder who allows the certificate to expire may apply to the board for renewal of the certificate as follows:

(1) If the certificate holder applies for renewal of the certificate less than 5 years after its expiration, the certificate shall be renewed upon payment of the renewal fee and late fee and fulfillment of 15 hours of continuing education required under s. VE 2.14 completed before the certificate renewal.

(2) If the certificate holder applies for renewal of the certificate 5 or more years after its expiration, in addition to requiring the certificate holder to pay the renewal fee and late fee, and to fulfill the continuing education hours required under s. VE 2.14 completed before the certificate renewal, the board shall inquire as to whether the applicant is competent to practice as a veterinary technician in this state and shall impose any reasonable conditions on renewal of the certificate including reexamination, as the board deems appropriate. An applicant under this subsection is presumed to be competent to practice as a veterinary technician in this state if at the time of application for renewal the applicant holds a full unexpired certificate 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 certification in this state. Notwithstanding any presumptions of competency under this subsection, the board shall require each applicant under this subsection to pass the examination specified under s. VE 2.04 (2).

(3) The certificate holder shall pay a nonrefundable renewal fee of \$160.

(4) A certificate holder who submits a certificate renewal after January 1 of even numbered years shall pay, in addition to the renewal fee under sub. (3), a nonrefundable late fee of \$25.

VE 2.14 Continuing education; requirements. (1) (a) Except as provided in subs. (2) and (3), a veterinary technician shall complete at least 15 hours of continuing education pertinent to veterinary medicine or veterinary technology in each biennial renewal period. The 15 hours of continuing education shall include at least 10 hours of continuing education that relates to scientific topics pertinent to veterinary medicine.

(b) All 15 continuing education hours required in this subsection shall be documented. A minimum of 12 hours of continuing education shall be documented by an approved continuing education provider.

(c) A continuing education hour shall consist of 50 minutes of contact time.

(2) Subsection (1) does not apply to an applicant who applies to renew a certificate that expires on the first expiration date after the initial issuance of the certificate.

(3) The board may waive the requirements under sub. (1) if it finds that exceptional circumstances, such as prolonged illness, disability, or other similar circumstances, have prevented an applicant from meeting the requirements.

(4) Continuing education hours shall be completed during the preceding 2-year certification period.

(5) To obtain credit for completion of continuing education hours, a certificate holder shall, at the time of each renewal, sign a statement saying that the certificate holder has completed, during the preceding 2-year certification period, the continuing education programs required under sub. (1).

(6) A veterinary technician who fails to complete the continuing education requirements by the renewal date shall not practice as a veterinary technician until the certificate is renewed.

(7) For auditing purposes, every veterinary technician shall maintain records of continuing education hours for at least 5 years from the date the certification statement required under sub. (5) is signed. The board may audit for compliance by requiring a veterinary technician to submit evidence of compliance to the board for the biennium immediately preceding the biennium in which the audit is performed. Documentation of completion of continuing education hours shall include one of the following:

(a) A certificate of attendance from an approved course provider.

(b) A grade report or transcript from an accredited college or university.

(c) A copy of a published work authored or co-authored by the licensee.

(d) A copy of a meeting syllabus, announcement, abstract or proceeding for a presentation.

(f) A signed document from an internship or residency institution certifying enrollment in a program.

VE 2.16 Continuing education; programs and courses. (1) CRITERIA FOR PROGRAMS AND COURSE APPROVAL. To be approved, a continuing education program or course shall meet the following criteria:

(a) The subject matter of the program or course shall be pertinent to veterinary technology.

(b) The program or course sponsor agrees to record registration and furnish a certificate of attendance to each participant.

(2) UNRELATED SUBJECT MATTER. If a continuing education course includes subject matter that is not pertinent to veterinary technology, only those portions of the course that relate to veterinary technology will qualify as continuing education under this chapter.

(3) MODALITIES AND METHODS OF DELIVERY. Modalities and methods of delivery of continuing education programs acceptable to the board include one or more of the following:

(a) Attendance at a scientific workshop, seminar, or laboratory demonstration pertinent to veterinary technology.

(b) Enrollment in graduate or other college level courses pertinent to veterinary technology. Credit for qualified courses will be approved on the basis of multiplying each college credit hour by 10.

(c) Enrollment in an internship, residency or certification program approved by a veterinary specialty organization recognized by the AVMA or in an AVMA accredited veterinary school.

(d) Authorship or co-authorship of a published work, such as review articles, abstracts, presentations, proceedings, book chapters, and web-based continuing education materials shall be approved for 5 hours each.

(e) A peer reviewed publication shall be approved for 5 hours.

(f) Development and presentation of research findings, scientific workshops, seminars or laboratory demonstrations pertinent to veterinary technology shall be approved for 5 contact hours each.

(g) Up to 8 hours per biennium shall be granted for a combination of continuing education hours completed under pars. (d) to (f), provided the continuing education is published or presented under the auspices of a provider approved under sub. (4).

(h) On-line, video, audio, correspondence courses, or other interactive distance learning courses pertinent to veterinary technology, or to employment as a veterinary technician.

(4) APPROVED PROGRAM PROVIDERS. Subject to compliance with the requirements set forth in subs. (1) to (3), the board shall approve attendance at and completion of one or more continuing education programs approved by any one of the following approved program providers as fulfilling the continuing education hours required under this chapter:

(a) A national, regional, state, or local veterinary medical or veterinary technician association.

(b) A federal or state agency.

(c) An accredited college or university.

(d) An association listed in the AVMA or the National Association of Veterinary Technicians in America directory.

(e) An AVMA accredited veterinary school or veterinary technician program.

(f) A program approved by the American Association of Veterinary State Boards through its Registry of Approved Continuing Education approval program.

(g) A foreign veterinary medical or veterinary technician association, an accredited college or university, or a governmental agency that is, as determined by the board comparable to a program provider listed under pars. (a) to (f).

Subchapter III – Standards of Practice and Unprofessional Conduct

VE 2.18 Prohibited acts. The following acts are limited to veterinarians and therefore prohibited for veterinary technicians:

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

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

(3) Performing surgery as defined by VE 1.44 (2) (c).

VE 2.20 Change of name and address. Every veterinary technician shall notify the board of a change of name or address within 30 days.

VE 2.22 Display of certificate. Each veterinary technician shall display a current certificate in a manner conspicuous to the public view.

VE 2.24 Standards of practice. (1) Veterinary technicians may perform delegated veterinary acts as set forth under s. VE 1.44 (4), (5), (6), and (9).

(2) In the performance of delegated veterinary acts a veterinary technician shall:

(a) Accept only those delegated veterinary acts for which there are mutually approved protocols, written standing orders or verbal directions.

(b) Accept only those delegated veterinary acts for which the veterinary technician is competent to perform based on education, training or experience.

(c) Consult with a veterinarian in cases where the veterinary technician knows or should know a delegated veterinary act may harm a patient.

VE 2.26 Unprofessional conduct. The following acts constitute unprofessional conduct by a veterinary technician and are prohibited:

(1) Unprofessional conduct under s. 89.07 (1), Wis. Stat.

(2) Performing as a veterinary technician unless supervised as specified under s. VE 1.44 (4), (5), (6), and (9).

(3) Misrepresentation in obtaining a veterinary technician certificate or in performing as a veterinary technician.

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

(5) Gross, serious, or grave negligence, as compared to less serious or more ordinary acts of negligence, while performing as a veterinary technician.

(6) The personal use, misuse or sale other than for medical treatment of patients, of drugs listed in the U.S. controlled substances act of 1970, as amended, or ch. 961, Stats., other than drugs prescribed by a physician for use by the veterinary technician.

(7) Practicing or attempting to practice while the veterinary technician 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 technology in a manner consistent with the safety of a patient or the public.

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

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

(10) Having a veterinary technician certificate limited, suspended or revoked or subject to any other disciplinary action in another state or U.S. jurisdiction.

(11) Accepting fees for animal health care services from a client.

(12) Practicing under an expired certificate.

(13) Falsely certifying to the board under s. VE 2.14 (5) that the veterinary technician:

(a) Has completed the 15 hours of continuing education required under s. VE 2.14 (1).

(b) Is exempt under s. VE 2.14 (2) from having to complete the 15 hours of continuing education required under s. VE 2.14 (1).

(14) Advertising, as defined under s. VE 1.02 (3), a specialty or claiming to be a specialist when not recognized as such by a veterinary technician specialty academy recognized by the National Association of Veterinary Technicians in America or by a foreign veterinary technician specialty academy which, in the opinion of the board, is equivalent to a National Association of Veterinary Technicians in America recognized veterinary technician specialty academy.

VE 2.28 Board action. The board may reprimand the certificate holder or deny, suspend, limit or revoke a certification under this chapter for cause, including any of the following:

(1) Filing an incomplete or fraudulent application, or misrepresenting any information on an application.

(2) Violating this chapter or ch. 89, Stats.

SECTION 3. Ch. VE 3 is repealed and recreated to read:

Chapter VE 3 Complaint Procedures

Subchapter I – Authority and Definitions

3.01 Authority. The rules in this chapter are adopted by the veterinary examining board pursuant to the authority in ss. 89.03 (1), 227.11 (2) (a) and 227.51 (3), Stats.

3.02 Definitions. In this chapter:

(1) “Administrative injunction” means a special order enjoining a person from the continuation of a practice or use of a title without a credential required under ch. 89, Stats.

(2) “Administrative law judge” means the administrative law judge assigned by the division to hear a disciplinary proceeding or summary suspension or limitation appeal, on behalf of the board, or an administrative injunction proceeding on behalf of the department.

(3) “Board” means the veterinary examining board.

(4) “Case advisor” means a member of the board assigned to assist disciplinary counsel in an investigation of an informal complaint about a credential holder.

(5) “Complainant” means the person who signs a complaint.

(6) “Complaint” means the formal charging of violations against a credential holder in a disciplinary proceeding.

(7) “Court-ordered injunction” means a judgment and order by a court of competent jurisdiction enjoining a person from the continuation of a practice or use of a title without a credential required under ch. 89, Stats.

(8) “Credential” means a license, certification, or permit that is issued under ch. 89, Stats.

(9) “Credential holder” means an individual holding any license, permit, or certificate granted by the board, or having any right to renew a license, permit, or certificate granted by the board.

(10) “Department” has the meaning set forth at s. 89.02 (3d), Stats.

1064 (11) “Department counsel” means the department attorney assigned an informal
1065 complaint against any person who may be continuing a practice or use of a title without a
1066 credential required under ch. 89, Stats.

1067 (12) “DHA” means the division of hearings and appeals in the department of
1068 administration.

1069 (13) “Division” means the division of animal health in the department.

1070 (14) “Disciplinary counsel” means the department attorney assigned an informal
1071 complaint against a credential holder.

1072 (15) “Disciplinary proceeding” means an administrative proceeding against a credential
1073 holder for any alleged violations of law constituting misconduct.

1074 (16) “Informal complaint” means any written information submitted to the board or
1075 department by any person, which alleges facts that, if true, warrant action including an
1076 administrative warning, discipline, or an injunction.

1077 (17) “Minor violation” means all of the following:

1078 (a) No significant harm was caused by misconduct of the credential holder.

1079 (b) Continued practice by the credential holder presents no immediate danger to the
1080 public.

1081 (c) If prosecuted, the likely result of prosecution would be a reprimand or a limitation
1082 requiring the credential holder to obtain additional education.

1083 (d) The complaint does not warrant use of prosecutorial resources.

1084 (18) “Misconduct” means a violation of a statute, rule, or regulation related to the
1085 profession or other conduct for which discipline may be imposed under ch. 89, Stats.

(19) "Petition" means a petition for summary credential suspension or limitation or a special order for an administrative injunction.

(20) "Petitioner" means the disciplinary or department counsel.

(21) "Respondent" means a credential holder who is charged in a disciplinary proceeding or a person who is charged in an administrative injunction proceeding.

(22) "Screening" means preliminary review of complaints to determine the disposition of any informal complaints.

(23) "Screening committee" means the committee of the board that meets with disciplinary counsel to determine the disposition of any informal complaints.

(24) "Special order" means an administrative order issued by the department enforced against a named or identified person.

Subchapter II – Procedures for Informal Complaints

3.04 Scope; kinds of proceedings. This subchapter governs procedures for investigating and disposing of informal complaints against credential holders and non-credentialed entities before the board and persons before the department.

3.06 Receiving informal complaints. All informal complaints received shall be referred to the office of legal counsel in the department for filing, screening and, if necessary, investigation.

3.08 Screening. Screening for complaints against credential holders shall be done by the board's screening committee, in consultation with the disciplinary counsel. Considerations in screening include:

(1) Whether the person complained against is credentialed.

(2) Whether the matter alleged is a violation of any statute, rule, regulation, or standard of practice.

(3) Whether the matter alleged, if taken as a whole, is any of the following:

(a) Not a violation, so that the matter may be closed.

(b) A minor violation, so that the matter may be disposed of with an administrative warning.

(c) Requires further investigation by disciplinary counsel, with assistance by a case advisor and department staff as assigned.

3.10 Non-credentialed persons. Department staff shall investigate complaints, and may consult with the board, concerning any complaint against a person who may be engaged in the practice of veterinary medicine or veterinary technology without holding a credential.

3.12 Negotiated settlement. (1) WHEN INITIATED. At the discretion of the disciplinary counsel, in consultation with the case advisor in assigned matters, or department counsel, negotiations for settlement may be held prior to the commencement of a disciplinary proceeding. Where the informal complaint investigation reveals undisputed or clearly ascertainable facts, from documents received, resolution through negotiations is encouraged.

(2) LIMITATION. Negotiations for settlement shall not be held without the consent of the credential holder. No agreement reached between the parties through negotiations, which imposes discipline upon a credential holder, shall be effective or binding until the parties stipulate to the agreement in writing, signed by the credential holder and any representative and disciplinary counsel, for approval by the board in a signed final order.

(3) ORAL STATEMENTS IN NEGOTIATIONS. Oral statements made during negotiations shall not be introduced into or made part of the record in a disciplinary proceeding.

3.14 Issuing an administrative warning. In lieu of commencing disciplinary proceedings under subch. III or injunction proceedings under subch. IV, the board or department may issue an administrative warning, after making all of the following findings:

(1) That there is specific evidence of misconduct by the credential holder.

(2) That the misconduct is a minor violation of a statute or rule related to the profession or other conduct for which discipline or an administrative injunction may be imposed.

(3) That issuance of an administrative warning will adequately protect the public.

3.16 Contents of an administrative warning.

(1) An administrative warning shall be issued in writing, shall state the findings required by s. VE 3.12, and include a notice of the right to request a review under s. VE 3.18.

(2) An administrative warning may be issued to a credential holder by mailing the administrative warning to the last address provided to the department. Service by mail is complete on the date of mailing. The warning may also be issued by email, if the credential holder has given permission to send all notices to a specified email address. Service by email is complete upon sending.

3.18 Review of an administrative warning. A credential holder who has been issued an administrative warning may make a request in writing for the board to review its issuance within 20 days after the date of mailing or emailing. The request shall be in writing and set forth:

(1) The credential holder's name and address.

(2) The reason for requesting a review.

3.20 Administrative warning review procedures. The procedures for an administrative warning review are:

(1) Within 45 calendar days of receipt of a request for review, the board shall notify the credential holder of the time and place of the review.

(2) No discovery is permitted. A credential holder may inspect records under s. 19.35, Stats., the public records law.

(3) The board shall preside over the appeal and the review shall be electronically recorded.

(4) The board shall provide the credential holder with an opportunity to make a personal appearance before it and present a statement. The board may request the disciplinary counsel to appear and present a statement on issues raised by the credential holder. The board may establish a time limit for making a presentation. Unless otherwise determined by the disciplinary authority, the time for making a personal appearance shall be 20 minutes.

(5) If the credential holder fails to appear for a review, or withdraws the request for a review, the disciplinary authority may note the failure to appear in the minutes and leave the administrative warning in effect without further action.

(6) The board may adjourn into closed session to deliberate on the request for review. Any action taken by the board following deliberation shall be made in open session. The board shall send the final decision of its review to the credential holder.

3.22 Review record. The credential holder may request a copy of the recorded review at no cost.

Subchapter III – Procedures for Disciplinary Proceedings

3.24 Scope. This subchapter governs procedures in all disciplinary proceedings against credential holders before the board.

3.26 Commencement of disciplinary proceedings. Disciplinary proceedings commence when a complaint is served upon the respondent.

3.28 Pleadings to be captioned. All pleadings, notices, orders, and other papers filed in disciplinary proceedings shall be captioned: "BEFORE THE WISCONSIN VETERINARY EXAMINING BOARD" and shall be entitled: "IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST _____, RESPONDENT."

3.30 Complaint. The disciplinary counsel may make a complaint upon information and belief and it shall contain:

(1) The name and address of the credential holder complained against and the name and address of the complainant.

(2) A short statement in plain language of the cause for disciplinary action identifying with reasonable particularity the transaction, occurrence or event out of which the cause arises and specifying the statute, rule or other standard alleged to have been violated.

(3) A request in essentially the following form: "Wherefore, the complainant demands that the board hear evidence relevant to matters alleged in this complaint, determine and impose the discipline warranted, and assess the costs of the proceeding against the respondent."

(4) The signature of the complainant.

3.32 Service and filing of complaint.

(1) The complaint and other papers may be served on a respondent by mailing a copy of the paper to the respondent at the last known address of the respondent, by any procedure described in s. 801.14 (2), Stats., or by electronic transmission if agreed to by the respondent or respondent's authorized representative. Service by mail is complete upon mailing.

(2) Any paper required to be filed with the board may be mailed to the board's office and, if an administrative law judge has been designated to preside in the matter, to the administrative law judge and shall be deemed filed on the date of the postmark. Materials submitted by personal service or by inter-departmental mail shall be considered filed on the date they are received at the board's office or by the administrative law judge. Papers required to be filed may instead be filed and served by electronic mail or facsimile transmission. For materials transmitted by electronic mail, the filing date shall be the date that the electronic mail was sent. For materials transmitted by facsimile, the date received shall determine the date of filing.

3.34 Answer.

(1) An answer to a complaint shall state in short and plain terms the defenses to each cause asserted and shall admit or deny the allegations upon which the complainant relies. If the respondent is without knowledge or information sufficient to form a belief as to the truth of the allegation, the respondent shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the allegations denied. The respondent shall make denials as specific denials of designated allegations or paragraphs but if the respondent intends in good faith to deny only a part or a qualification of an allegation, the respondent shall specify so much of it as true and material and shall deny only the remainder.

(2) The respondent shall set forth affirmatively in the answer any matter constituting an affirmative defense.

(3) Allegations in a complaint are admitted when not denied in the answer.

(4) An answer to a complaint shall be filed within 30 days from the date of service of the complaint.

3.36 Administrative law judge.

1220 (1) DESIGNATION. The board may request DHA assign an administrative law judge to
1221 preside over any disciplinary proceeding.

1222 (2) AUTHORITY AND DUTIES. An administrative law judge may, on behalf of the board,
1223 do all of the following:

1224 (a) Gain permission from parties for service of all documents to be via electronic
1225 transmission, or other means if necessary.

1226 (b) Require parties to clarify positions or issues.

1227 (c) Hold prehearing conferences and issue memoranda for the record, summarizing all
1228 actions taken and agreements reached.

1229 (d) Make procedural rulings and issue scheduling orders, including for motions, date,
1230 time and location of hearing, discovery, identification of witnesses and evidence for hearing,
1231 stipulations by the parties for hearing and other matters aiding in the orderly disposition of the
1232 proceedings.

1233 (e) Hold motion hearings and make rulings on said motions.

1234 (f) Adjourn or postpone proceedings.

1235 (g) Grant continuances or extensions of time.

1236 (h) Issue subpoenas to compel witness attendance and document production.

1237 (i) Regulate discovery proceedings, and issue orders to compel or limit discovery.

1238 (j) Select the location of the hearing.

1239 (k) Preside over hearings and regulate the course of hearings.

1240 (L) Administer oaths and affirmations.

1241 (m) Make evidentiary rulings and receive relevant evidence.

1242 (n) Impose sanctions on disobedient parties.

1243 (o) Require or permit the parties to file written briefs and arguments.

1244 (p) Supervise the required creation of a stenographic or electronic record of the portion of
1245 the proceedings conducted under the auspices of the administrative law judge.

1246 (q) If required, order and supervise the preparation of a written transcript of proceedings
1247 conducted before the administrative law judge.

1248 (r) Issue proposed decisions.

1249 (3) LIMITS ON AUTHORITY. The administrative law judge may not exercise any authority
1250 reserved to the board.

1251 (4) IMPARTIALITY.

1252 (a) An administrative law judge shall withdraw from a contested case if the
1253 administrative law judge determines that there is a conflict of interest or other circumstance
1254 which prevents the administrative law judge from acting impartially, or which creates an undue
1255 appearance of bias.

1256 (b) If an administrative law judge receives an ex parte communication which violates s.
1257 227.50 (1), Stats., the administrative law judge shall deal with the ex parte communication as
1258 provided in s. 227.50 (2), Stats. (3)

1259 **3.38 Settlements.** At any point in a proceeding, the parties may agree to settle the case.
1260 Parties wishing to settle a case shall file both a written stipulation, signed by the respondent and
1261 any representative and disciplinary counsel, setting forth the agreed terms of settlement, and a
1262 proposed final order disposing of the case, for approval by the board. No stipulation disposing of
1263 a complaint shall be effective or binding in any respect until approved by the board in a signed
1264 final order.

1265 **3.40 Conduct of hearing.**

(1) RECORD. An electronic or stenographic recording shall be made of all hearings in which the testimony of a witness is offered as evidence.

(2) EVIDENCE. The respondent shall have the right to appear in person or by counsel, and both parties have the right to call, examine, and cross-examine witnesses and to introduce evidence into the record.

(3) A hearing, or any portion of a hearing, may be held by telephone or video-conference if the administrative law judge determines that this method is justified for the convenience of any party or witness, and that no party is unfairly prejudiced by this method. The party calling a witness to testify by telephone or video-conference shall notify the administrative law judge before the hearing to allow for making the necessary arrangements and is responsible for providing the witness with a complete set of numbered copies of all exhibits.

(3) BRIEFS. The administrative law judge may require or permit the filing of briefs.

(4) MOTIONS. All motions, except those made at hearing, shall be in writing, filed by the date set by the administrative law judge, and a copy served upon the opposing party. If no date is set by the administrative law judge all motions shall be filed 10 business days before hearing.

(5) SUMMARY JUDGMENT. The parties may use the summary judgment procedure provided in s. 802.08, Stats.

(6) ADJOURNMENTS. The administrative law judge may, for good cause, grant continuances, adjournments and extensions of time.

(7) SUBPOENAS.

(a) Subpoenas for the attendance of any witness at a hearing in the proceeding may be issued in accordance with s. 885.01, Stats. Service shall be made in the manner provided in s. 805.07 (5), Stats. A subpoena may command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein.

(b) An administrative law judge may issue protective orders according to the provisions of s. 805.07, Stats.

3.42 Witness fees and costs. Witnesses subpoenaed at the request of the disciplinary counsel shall be entitled to compensation from the state for attendance and travel as provided in ch. 885, Stats.

3.44 Record of proceedings, transcripts.

(1) RECORD OF ORAL PROCEEDINGS. Oral proceedings in a disciplinary proceeding shall be electronically recorded unless the administrative law judge determines that a stenographic record is required.

(2) ELECTRONIC RECORDING; COPIES. If an oral proceeding in a contested case is electronically recorded, a copy of the recording shall be furnished at cost to any party who requests a copy.

(3) STENOGRAPHIC RECORDING; COPIES. (a) If a stenographic recording is made, the reporting service who records the proceeding may charge a fee for an original transcription and for copies. Fees are identified in the state operational purchasing bulletin for reporting services and fees allowed to be charged.

Note: Purchasing bulletins may be obtained through the State Bureau of Procurement, PO Box 7867, Madison WI 53707-7867, call (800) 482-7813 or email doawispro@wisconsin.gov.

(b) A person who is without means and who requires a transcript for appeal or other reasonable purposes shall be furnished with a transcript without charge upon the filing of a petition of indigency signed under oath.

1311 **3.46 Proposed decision.** The administrative law judge shall prepare a proposed decision
1312 for consideration by the board. The proposed decision shall include proposed findings of fact,
1313 conclusions of law, and a final order, with a signed opinion explaining the proposed decision.

1314 **3.48 Assessment of costs.**

1315 (1) The proposed decision shall include a recommendation whether all or part of the
1316 costs of the proceeding shall be assessed against the respondent.

1317 (2) If a respondent objects to the recommendation that costs be assessed, objections to
1318 the assessment of costs shall be filed at the same time as other objections to the proposed
1319 decision.

1320 (3) When costs are imposed, the administrative law judge shall file a supporting
1321 affidavit with the proposed decision, listing costs incurred to be paid by the respondent. Within
1322 20 days, the disciplinary counsel shall file a supporting affidavit showing costs incurred. The
1323 respondent shall file any objection to the affidavits within 15 days after service of the
1324 disciplinary counsel's affidavit.

1325 **3.50 Service of proposed decision.** The administrative law judge shall deliver the
1326 proposed decision, with a copy of the record including the electronic recording of the
1327 proceedings, to the board. The administrative law judge shall serve the proposed decision on the
1328 parties, in the manner agreed to by the parties. Each proposed decision shall contain a notice
1329 providing each party, adversely affected by the proposed decision, with an opportunity to file
1330 objections and written argument with the board. A party adversely affected by a proposed
1331 decision shall have 20 days from the date of service of the proposed decision to file objections
1332 and argument.

Note: Objections may be electronically filed at datcpveb@wisconsin.gov or mailed to the Wisconsin Veterinary Examining Board, PO Box 8911, Madison, WI 53708-8911.

3.52 Final decision and order. After the time expires for filing all objections to the proposed decision and order, including assessment of costs, the board shall meet to make a final decision and order in a disciplinary proceeding. The final decision and order shall include a determination whether all or part of the costs of the proceeding shall be assessed against the respondent. If the final decision varies from the administrative law judge's proposed decision, the final decision shall explain the reasons for all variations.

Subchapter IV – Summary Suspensions and Limitations

3.54 Scope. This subchapter governs procedures in all summary suspension or limitation proceedings against credential holders before the board.

3.56 Petition for summary suspension or limitation.

(1) The disciplinary counsel shall petition the board for a summary suspension or limitation. The petition shall state the name and credential status of the respondent, and an assertion of the facts establishing that the respondent has engaged in or is likely to engage in conduct such that the public health, safety or welfare imperatively requires summary suspension or limitation of the respondent's credential.

(2) The petitioner shall sign the petition upon oath and make the petition upon information and belief or by affidavit of another person with knowledge of the necessary facts to sustain the petition.

3.58 Notice of petition to respondent. Prior to presenting the petition, the petitioner shall give notice to the respondent and respondent's authorized representative of the time and place when the petition will be presented to the board. Notice may be given by mailing a copy of

the petition and notice to the last-known address of the respondent as indicated in the records of the board, pursuant to s. 227.44 (1), Stats. Notice by mail is complete upon mailing. Notice may also be given by electronic transmission if agreed to by the respondent or authorized representative.

3.60 Issuance of summary suspension or limitation order.

(1) If the board finds that notice has been given under s. VE 3.58 and finds probable cause to believe that the respondent has engaged in or is likely to engage in conduct such that the public health, safety or welfare imperatively requires emergency suspension or limitation of the respondent's credential, the board may issue an order for summary suspension or limitation. The order may be issued at any time prior to or subsequent to the commencement of a disciplinary proceeding under s. VE 3.26.

(2) The petitioner may establish probable cause under sub. (1) by affidavit or other evidence.

(3) The summary suspension or limitation order shall be effective upon service, under s. VE 3.62, or upon actual notice of the summary suspension or limitation order to the respondent or respondent's attorney, whichever is sooner. The order shall continue through the effective date of the final decision and order made in the disciplinary proceeding against the respondent, unless the credential is restored or the limitation is lifted under s. VE 3.64 or the disciplinary proceeding is otherwise terminated.

3.62 Contents of summary suspension or limitation order. The summary suspension or limitation order shall include all of the following:

(1) The manner in which the respondent or the respondent's attorney was notified of the petition for summary suspension or limitation.

(2) The identification of all witnesses providing evidence at the time the petition for summary suspension or limitation was presented and identification of the evidence used as a basis for the decision to issue the summary suspension or limitation order.

(3) A finding that the public health, safety or welfare imperatively requires emergency suspension or limitation of the respondent's credential.

(4) A statement that the suspension or limitation order is in effect and continues until the effective date of a final order and decision in the disciplinary proceeding against the respondent, unless otherwise ordered by the board.

(5) A statement of the respondent's right to request a hearing at any time to show cause why the summary suspension or limitation order should not be continued, with the board's office mailing address or email address where a request for hearing may be filed.

(6) A statement that the hearing to show cause shall be scheduled for hearing on a date within 20 days of receipt by the board of respondent's request for hearing, unless a later time is requested by or agreed to by the respondent.

3.64 Service of summary suspension or limitation order. An order of summary suspension or limitation shall be served upon the respondent by mail or by email if agreed to by respondent or respondent's attorney.

3.66 Hearing to show cause.

(1) A hearing to show cause shall be scheduled for a date no later than 20 days after the filing of the request for hearing with the board, unless a later time is requested by or agreed to by the respondent.

(2) Unless the parties otherwise agree, no discovery is permitted, except for the taking and preservation of evidence as provided in ch. 804, Stats., with respect to witnesses described in

s. 227.45 (7) (a) to (d), Stats. A respondent may inspect records under s. 19.35, Stats., the public records law.

(3) At the hearing to show cause, the disciplinary counsel may call, examine and cross-examine witnesses, or present other evidence in order sustain its burden to show, by a preponderance of the evidence, why the summary suspension or limitation order should be continued. The respondent may testify, call, examine and cross-examine witnesses, and offer other evidence to rebut disciplinary counsel's showing.

(4) Immediately upon conclusion of the hearing to show cause the board shall make findings and an order on the record. If it is determined that the summary suspension or limitation order should not be continued, the suspended credential shall be immediately restored, and any limitation shall be lifted.

3.68 Delegation.

(1) The board may delegate authority to preside over and rule in a hearing to show cause to an administrative law judge employed by the division.

(2) A delegation of authority under sub. (1) may be continuing.

3.70 Commencement of disciplinary proceeding.

(1) A complaint, under s. VE 3.26, commencing a disciplinary proceeding against the respondent shall be issued no later than 20 days following the issuance of the summary suspension or limitation order or the suspension or limitation shall lapse at the end of the tenth subsequent day, meaning the thirtieth day following the issuance of the summary suspension or limitation order. The formal disciplinary proceeding shall be determined promptly.

(2) If at any time the disciplinary proceeding is not advancing with reasonable promptness, the respondent may make a motion to the administrative law judge for an order granting relief.

(3) If it is found that the disciplinary proceeding is not advancing with reasonable promptness, and the delay is not as a result of the conduct of respondent or respondent's counsel, a remedy, as would be just, shall be granted including:

(a) An order immediately terminating the summary suspension or limitation.

(b) An order compelling that the disciplinary proceeding be held and determined by a specific date.

Subchapter V – Administrative Injunctions

3.72 Scope; kinds of proceedings. This subchapter governs procedures for public hearings before the department to determine whether a person has engaged in a practice or used a title without a credential required under ch. 89, Stats., and whether to issue a special order for an administrative injunction.

3.74 Pleadings to be captioned. All pleadings, notices, orders, and other papers filed in an administrative injunction proceeding shall be captioned: "BEFORE THE DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION" and shall be entitled: "IN THE MATTER OF A PETITION FOR A SPECIAL ORDER TO ENJOIN _____, RESPONDENT."

3.76 Petition for administrative injunction. Department counsel, on behalf of the division, may petition for a special order from the department to issue an administrative injunction, which shall allege that a person has engaged in a practice or used a title without a

1445 credential required under ch. 89, Stats. A petition may be made on information and belief and
1446 shall contain:

1447 (1) The name and address of the respondent and the name and address of the department
1448 attorney who is prosecuting the petition.

1449 (2) A short statement in plain language of the basis for the belief that the respondent has
1450 engaged in a practice or used a title without a credential required under ch. 89, Stats., and
1451 specifying the statute or rule alleged to have been violated.

1452 (3) A request in essentially the following form: "Wherefore, the petitioner requests that a
1453 public hearing be held and that the department issue a special order enjoining the person from the
1454 continuation of the practice or use of the title."

1455 (4) The signature of the petitioner.

1456 **3.78 Service and filing of petition.**

1457 (1) The petition and other papers required to be served on a respondent may be served by
1458 mailing a copy of the paper to the respondent at the last known address of the respondent, by any
1459 procedure described in s. 801.14 (2), Stats., or by electronic transmission if agreed to by the
1460 respondent or respondent's attorney. Service by mail is complete upon mailing.

1461 (2) Any paper required to be filed with the department may be mailed to the department
1462 secretary's office and, if an administrative law judge has been designated to preside in the
1463 matter, to the administrative law judge and shall be deemed filed on the date of the postmark.
1464 Materials submitted by personal service or by inter-departmental mail shall be considered filed
1465 on the date they are received at the department secretary's office or by the administrative law
1466 judge. Papers required to be filed may instead be filed and served by facsimile transmission or by

1467 electronic mail. For materials transmitted by facsimile, the date received shall determine the date
1468 of filing. For materials transmitted by electronic mail, the filing date shall be the date that the
1469 electronic mail was sent.

1470 **3.80 Answer.**

1471 (1) An answer to a petition shall state in short and plain terms the defenses to each cause
1472 asserted and shall admit or deny the allegations upon which the complainant relies. If the
1473 respondent is without knowledge or information sufficient to form a belief as to the truth of the
1474 allegation, the respondent shall so state and this has the effect of a denial. Denials shall fairly
1475 meet the substance of the allegations denied. The respondent shall make denials as specific
1476 denials of designated allegations or paragraphs but if the respondent intends in good faith to deny
1477 only a part or a qualification of an allegation, the respondent shall specify so much of it as true
1478 and material and shall deny only the remainder.

1479 (2) The respondent shall set forth affirmatively in the answer any matter constituting an
1480 affirmative defense.

1481 (3) Allegations in a petition are admitted when not denied in the answer.

1482 (4) An answer to a petition shall be filed within 20 days from the date of service of the
1483 petition.

1484 **3.82 Administrative law judge.**

1485 (1) DESIGNATION. The department may request DHA assign an administrative law judge
1486 to preside over any administrative injunction proceeding.

1487 (2) AUTHORITY AND DUTIES. An administrative law judge may, on behalf of the
1488 department, do all of the following:

1489 (a) Gain permission from parties for service of all documents to be via electronic
1490 transmission, or other means if necessary.

1491 (b) Require parties to clarify positions or issues.

1492 (c) Hold prehearing conferences and issue memoranda for the record, summarizing all
1493 actions taken and agreements reached.

1494 (d) Make procedural rulings and issue scheduling orders, including for motions, date,
1495 time and location of hearing, discovery, identification of witnesses and evidence for hearing,
1496 stipulations by the parties for hearing and other matters aiding in the orderly disposition of
1497 the proceedings.

1498 (e) Hold motion hearings.

1499 (f) Adjourn or postpone proceedings.

1500 (g) Grant continuances or extensions of time.

1501 (h) Issue subpoenas to compel the witness attendance and document production.

1502 (i) Regulate discovery proceedings, and issue orders to compel or limit discovery.

1503 (j) Select the location of the hearing.

1504 (k) Preside over hearings and regulate the course of hearings.

1505 (L) Administer oaths and affirmations.

1506 (m) Make evidentiary rulings and receive relevant evidence.

1507 (n) Impose sanctions on disobedient parties.

1508 (o) Require or permit the parties to file written briefs and arguments.

1509 (p) Supervise the required creation of a stenographic or electronic record of the portion of
1510 the proceedings conducted under the auspices of the administrative law judge.

(q) If required, order and supervise the preparation of a written transcript of proceedings conducted before the administrative law judge.

(r) Issue proposed decisions.

(s) Issue final decisions and orders, if requested by the department.

(3) LIMITS ON AUTHORITY.. The administrative law judge may not exercise any authority which is reserved to the department, except as delegated in writing under (1) (s).

(4) IMPARTIALITY.

(a) An administrative law judge shall withdraw from a contested case if the administrative law judge determines that there is a conflict of interest or other circumstance which prevents the administrative law judge from acting impartially, or which creates an undue appearance of bias.

(b) If an administrative law judge receives an ex parte communication which violates s. 227.50 (1), Stats., the administrative law judge shall deal with the ex parte communication as provided in s. 227.50 (2), Stats. (3)

3.84 Settlements. At any point in a proceeding, the parties may agree to settle the case. Parties wishing to settle a case shall file both a written stipulation, signed by the respondent and any representative, and the division representative and department counsel, setting forth the agreed terms of settlement, and a proposed final order disposing of the case, for approval by the department. No stipulation disposing of a petition filed under this subchapter shall be effective or binding in any respect until the final order is approved and signed by the department.

3.86 Conduct of public hearing.

(1) RECORD. A stenographic, electronic or other record shall be made of all hearings in which the testimony of witnesses is offered as evidence.

(2) EVIDENCE. The respondent shall have the right to appear in person or by counsel, and both parties have the right to call, examine, and cross-examine witnesses and to introduce evidence into the record.

(3) BRIEFS. The administrative law judge may require or permit the filing of briefs.

(4) MOTIONS. All motions, except those made at hearing, shall be in writing, filed by the date set by the administrative law judge, with a copy served upon the opposing party.

(5) SUMMARY JUDGMENT. The parties may use the summary judgment procedure provided in s. 802.08, Stats.

(6) ADJOURNMENTS. The administrative law judge may, for good cause, grant continuances, adjournments and extensions of time.

(7) SUBPOENAS.

(a) Subpoenas for the attendance of any witness at a hearing in the proceeding may be issued in accordance with s. 885.01, Stats. Service shall be made in the manner provided in s. 805.07 (5), Stats. A subpoena may command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein.

(b) An administrative law judge may issue protective orders according to the provision the provisions of s. 805.07, Stats.

3.88 Witness fees and costs. Witnesses subpoenaed at the request of the department shall be entitled to compensation from the state for attendance and travel as provided in ch. 885, Stats.

3.90 Record of proceedings, transcripts.

(1) RECORD OF ORAL PROCEEDINGS. Oral proceedings in an administrative injunction case shall be electronically recorded unless the administrative law judge determines that a stenographic record is necessary.

1557 **(2) ELECTRONIC RECORDING; COPIES.** If an oral proceeding in an administrative
1558 injunction case is electronically recorded, a copy of the recording shall be furnished at cost to
1559 any party who requests a copy.

1560 **(3) STENOGRAPHIC RECORDING; COPIES.** (a) If a stenographic recording is made, the
1561 reporting service who recorded the proceeding may charge a fee for an original transcription and
1562 for copies. Fees are identified in the state operational purchasing bulletin for reporting services
1563 and fees allowed to be charged.

1564 (b) A person who is without means and who requires a transcript for appeal or other
1565 reasonable purposes shall be furnished with a transcript without charge upon the filing of a
1566 petition of indigency signed under oath.

1567 **3.92 Decision.** The administrative law judge shall prepare a proposed decision for
1568 consideration by the department or a final decision, if designated as final decision maker. The
1569 decision, whether proposed or final, shall include findings of fact, conclusions of law, and an
1570 order, with a signed opinion explaining the decision.

1571 **3.94 Service of decision.** The administrative law judge shall deliver the proposed or final
1572 decision, with a copy of the record including the electronic recording of the proceedings, to the
1573 department. The proposed or final decision shall be served by the administrative law judge on the
1574 parties with a notice providing each party adversely affected by the proposed decision with an
1575 opportunity to file objections and written argument with respect to the objections to the
1576 department or to the administrator of DHA, depending on who is the final decision maker. A
1577 party adversely affected by a decision shall have 20 days from the date of service of the proposed
1578 decision to file objections and argument.

1579 **3.96 Final decision and order.** After the time expires for filing all objections to the
1580 proposed decision and order, the department or the administrator of DHA shall make a final
1581 decision and order in the administrative injunction proceeding. If the final decision varies from
1582 the administrative law judge's decision, the final decision shall explain the reasons for all
1583 variations.

1584 SECTION 4. Chs. VE 4 to 10 are repealed.

1585 SECTION 5. VE 11.04 (1) (a) is amended to read:

1586 **VE 11.04 (1) (a)** Contracting with assessment, testing, treatment, rehabilitation,
1587 monitoring, or support service providers, in accordance with the requirements in ss. VE ~~11.12~~
1588 4.12 and ~~11.14~~ 4.14. The program shall inform all service providers, and update changes in this
1589 information as soon as possible, of the employees in the program designated to receive required
1590 information from the service provider.

1591 SECTION 6. VE 11.04 (1) (i) is amended to read:

1592 **VE 11.04 (1) (i)** Reporting all require information in the disciplinary program, so the
1593 board may carry out its disciplinary authority under s. VE ~~7.07~~ 1.60 and VE 2.28.

1594 SECTION 7. VE 11.10 (1) (d) is amended to read:

1595 **VE 11.10 (1) (d)** An agreement to submit to random monitored alcohol, drug, or other
1596 chemical screens at the credential holder's expense, by a service provider for alcohol, drug, or
1597 other chemical testing approved by the program under s. VE ~~11.14~~ 4.14, if deemed necessary by
1598 the program.

1599 SECTION 8. VE 11.10 (1) (g) 2. and 3. are amended to read:

1600 **VE 11.10 (1) (g) 2.** If the credential holder violates the terms of the disciplinary program
1601 under s. VE ~~11.08 (1)~~ 4.08 (1).

1602 3. If the credential holder is dismissed from the disciplinary program, pursuant to s. VE
1603 ~~11.08 (2)~~ 4.08 (2).
1604 SECTION 9. Ch. VE 11 is renumbered Ch. VE 4.
1605 EFFECTIVE DATE. This rule is effective on the first day of the month commencing after the date
1606 of publication, as provided under Wis. Stat. § 227.22 (2) (intro.).

(END OF RULE TEXT)

Dated this _____ day of _____, 2022.

WISCONSIN VETERINARY EXAMINING BOARD

By _____
Hunter Lang, DVM
Chair
Veterinary Examining Board

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input type="checkbox"/> Original <input checked="" type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 7/1/21
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) VE 1 to 11	
4. Subject Veterinarians and Veterinary Technicians	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected 20.115 (2) (jm)
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The proposed rule makes structural changes, minor language changes, and telehealth changes as described below. Structural Changes <ul style="list-style-type: none">- Consolidates the eleven existing rule chapters into three chapters: one for veterinarians, one for veterinary technicians, and one for the professional assistance program. Consolidation makes the rules easier to access quickly.- Adds a chapter for relevant complaint procedures that did not transfer in the previous rules from DSPS to DATCP.- States the current fee amounts in rule. Fee amounts do not change. Minor Language Changes <ul style="list-style-type: none">- Makes changes regarding procedures and processes.<ul style="list-style-type: none">o Removes the word annual from references to the review of colleges and technical schools.o Expands the temporary veterinary permit process to include applicants who are scheduled to take or are awaiting results from the examination on state laws and rules.o Clarifies that applicants for licensure who have previously been licensed in Wisconsin or another jurisdiction must apply by endorsement.o Adds for clarity and consistency a section identifying common situations in which the board may require additional information from an applicant when reviewing an application.o States more clearly that the board may reprimand the licensee or deny, suspend, limit or revoke a credential for cause, including filing an incomplete or fraudulent application, misrepresenting information on an application, or violating the rule chapter or Wis. Stat. ch. 89.	

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- Makes technical changes and updates.
 - o Adds the denial of a license to the list of reasons for a temporary veterinary permit to expire.
 - o Allows applicants to provide proof of graduation through the American Association of Veterinary State Boards (AAVSB), which allows for electronic submissions using the AAVSB online system.
 - o Adds direction in the rules to assure the requirements for access to health care records required in Wis. Stat. s. 89.075 are clear and consistently applied.
 - o Removes an obsolete provision regarding continuing education auditing of journal articles read. The Board previously eliminated the ability to self-study journal articles and mistakenly did not also eliminate this provision regarding auditing.
 - o Clarifies the continuing education requirements for persons who have not been credentialed for more than 5 years.
 - o Adds language to clearly state license exemptions.
- Allows veterinarians to delegate additional veterinary medical acts to certified veterinary technicians and unlicensed assistants.
 - o Allows veterinarians to delegate the placement of intravenous catheters to unlicensed assistants under the direct supervision of the veterinarian present on the premises, per requests from stakeholders.
 - o Additional changes to the delegation of veterinary medical acts are included in the telehealth section of this summary.
- Makes changes for consistency and ease of use the places in which rule requirements repeat, or refer to requirements in statute.
 - o Modifies language regarding unprofessional conduct so that it also refers to Wis. Stat. s. 89.07 (1).
 - o Modifies language regarding prescribing and dispensing a veterinary drug to refer to Wis. Stat. s. 89.068 (1) (c).
 - o Makes a correction to the delegation of rabies vaccinations to reflect Wis. Stat. s. 95.21 (2) (a).
- Modifies terminology for clarity and consistency.
 - o Adds additional definitions and updates existing definitions language for clarity.
 - o Renames “temporary permit” to “temporary veterinary permit” and renamed “temporary consulting permit” to “veterinary consulting permit.”
 - o Changes language to use the word “dispense” rather than “sell” to be more consistent with statutory language and definitions to make the language clearer and easier to understand.
 - o Adds a note clarifying that the board accepts “veterinary nurse” as equivalent to “veterinary technician.”

Telehealth Changes

- Adds definitions related to telehealth.
- Adds definitions related to veterinary consulting and clarifies that a consulting veterinarian or other consultant may not do any of the following:
 - o Visit the patient or client or communicate directly with the client without the knowledge of the attending veterinarian.
 - o Take charge of a case or problem without the consent of the attending veterinarian and the client.
- Clarifies that the practice of veterinary medicine takes place where the animal is located at the time of practice, in alignment with Wis. Stat. §§ 89.05 (1) and 89.02 (6).

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- Clarifies that in order to practice veterinary medicine in Wisconsin a veterinarian must be licensed in Wisconsin and have an established veterinary-client-patient relationship (VCPR) with the client. A VCPR must be established via an in person physical exam, or timely medically appropriate visits to the premises on which the patient is kept. It may not be established by telehealth technologies.
- Clarifies that the VCPR, once established, extends to other veterinarians within the practice, or relief veterinarians within the practice, that have access to, and have reviewed, the medical history and records of the animal.
- Clarifies that records must be kept, regardless of the encounter type.
- Clarifies, in accordance with Wis. Stat. § 89.02(8) (c), that an animal owner must be able to easily seek follow-up care or information from the veterinarian who conducts an encounter while using telehealth technologies.
- Expands the delegation of medical services to allow a veterinarian to delegate the following items to a certified veterinary technician (CVT) if the veterinarian is available to communicate via telehealth technologies within five minutes. Under current rules, these items may only be delegated to a CVT if the veterinarian is personally present on the premises.
 - o Performing diagnostic radiographic awake contrast studies not requiring general anesthesia.
 - o Sample collection via a cystocentesis procedure.
 - o Placement of intravenous catheters.
 - o Suturing of tubes and catheters.
 - o Fine needle aspirate of a mass.

12. 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.

The Board held a preliminary public hearing on SS 125-19 on February 17, 2020, with a written comment period through February 24, 2020. The Board received three comments. All three comments requested that the statement of scope be expanded to address the use of telehealth technologies in the practice of veterinary medicine. One comment also requested that the statement of scope address the circumstances under which a veterinarian may dispense a drug for a patient of another veterinarian. This statement of scope for this rule proposal (SS 064-20) includes both of these topics.

The Board held a preliminary hearing on SS 064-20 on August 19, 2020, with a written comment period through August 26, 2020. The Board received three comments. One comment was for information. Two comments expressed support of the scope, both expressed support of including telehealth in the scope, and one also expressed support of including addressing the circumstances under which a veterinarian may dispense a drug for a patient of another veterinarian in the scope.

The Board convened a Telehealth Advisory Committee (Committee) to advise the Board in relation to the veterinary telehealth. The Committee was comprised of 13 representatives: 10 veterinarians and 3 certified veterinary technicians. Of the veterinarians, 1 works in large and small animal practice, 3 work in large animal practice, 1 works in equine and small animal practice, and 5 work in small animal practice. The veterinarians included representatives from the Wisconsin Veterinary Medical Association, Sexing Technologies, and the Dairy Business Association. The Department submitted a notice to JCRAR with the names of the Committee members on February 9, 2021. The Committee met on March 4, March 25, and April 8, 2021, to discuss potential veterinary telehealth options.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.

Not applicable.

14. 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)

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The Board expects the proposed rule to have minimal to no economic impact. No fee amounts will be changed in the proposed rule.

Most veterinary practices are small businesses. The proposed rule's structural changes and minor language changes may reduce the burden to veterinarians, veterinary technicians, and consumers of veterinary services, as the rules may become easier to access and understand quickly.

The proposed rule also allows for more use of telehealth technologies than the existing rule. New language regarding telehealth may reduce the economic burden to veterinarians and animal owners, especially in rural areas. The proposed rule expands the delegation of medical services to allow a veterinarian to delegate the following items to a CVT if the veterinarian is available to communicate via telehealth technologies within five minutes. Under current rules, these items may only be delegated to a CVT if the veterinarian is personally present on the premises.

- Performing diagnostic radiographic awake contrast studies not requiring general anesthesia.
- Sample collection via a cystocentesis procedure.
- Placement of intravenous catheters.
- Suturing of tubes and catheters.
- Fine needle aspirate of a mass.

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

The proposed rule makes changes clarity and ease of use. The fee amounts remain the same but are stated in the proposed rule to make them readily accessible. Restructuring the chapters makes the rules easier to read and reference quickly. Adding a chapter for relevant complaint procedures makes those procedures clearer and more accessible to credential holders and members of the public. Changes and clarifications to procedures and processes, technical changes and updates, delegation of veterinary medical acts, references to relevant statutory requirements, and terminology make the rules more consistent and easier to understand. The proposed rule allows the Board to respond to public interest to address the use of telehealth technologies in veterinary medicine.

Without the proposed rule, the existing rules would remain unnecessarily difficult to understand. The amounts of fees would continue to be unspecified in rule. Current requirements relating to veterinarians and veterinary technicians would remain scattered across multiple rule chapters. Some of the board's procedures and processes would remain unclear. The board would not be able to evaluate technical changes and updates or the delegation of veterinary medical acts. References to relevant statutory requirements would remain inconsistent. Some terminology would continue to be unclear and confusing. The board would also not be able to respond to public interest to address the use of telehealth technologies in veterinary medicine.

16. Long Range Implications of Implementing the Rule

The proposed rule's structural changes and minor language changes may reduce the burden to veterinarians, veterinary technicians, and consumers of veterinary services, as the rules may become easier to access and understand quickly. The proposed rule also allows for more use of telehealth technologies than the existing rule.

17. Compare With Approaches Being Used by Federal Government

Pursuant to 9 CFR 160 to 162, a veterinarian must be specifically authorized by the United States Department of Agriculture – Animal and Plant Health Inspection Service to perform animal disease eradication and control functions under federal animal health laws.

Licensure requirements to practice veterinary medicine are established by each state and should not be affected by federal requirements.

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

The structural changes and minor language changes in the proposed rule are unique to Wisconsin rules and make the

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rules clearer and easier to use. Veterinary telehealth regulations in Wisconsin, Illinois, Iowa, Michigan, and Minnesota are compared below. Regulatory recommendations by the American Association of Veterinary State Boards, the American Veterinary Medical Association, and the Wisconsin Veterinary Medical Association are also included for comparison.

Wisconsin

Under both the existing rule and the proposed rule, a veterinarian must be licensed in Wisconsin in order to practice veterinary medicine and have an established VCPR with the client. A VCPR must be established via an in-person physical exam, or timely medically appropriate visits to the premises on which the patient is kept. It may not be established by telehealth technologies.

The proposed rule clarifies items related to telehealth and also expands the delegation of medical services to allow a veterinarian to delegate the specific items to a CVT if the veterinarian is available to communicate via telehealth technologies within five minutes.

Illinois

In Illinois, a valid VCPR cannot be established solely by telephonic or electronic communications. No further information was provided regarding whether Illinois would allow telehealth to be used if a VCPR was previously established.

Iowa

In Iowa, a valid VCPR cannot be established solely by telephonic or electronic communications. No further information was provided regarding whether Illinois would allow telehealth to be used if a VCPR was previously established.

Michigan

Michigan recently promulgated a new rule related to the practice of veterinary medicine using telehealth technologies, which became effective April 15, 2021. The Michigan rules now require:

- Disclosure of the identity and contact information of the veterinarian providing telehealth services. Licensing information shall be provided upon request.
 - Ensure that the technology method and equipment used to provide telehealth services complies with all current privacy-protection laws.
 - Employ sound professional judgement to determine whether using telehealth is an appropriate method for delivering medical advice or treatment to the animal patient.
 - Have sufficient knowledge of the animal patient to render telehealth services demonstrating by satisfying one of the following:
 - o Have recently examined the animal patient in-person or have obtained current knowledge of the animal patient through the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically.
 - o Have conducted medically appropriate and timely visits to the premises where the group of animal patients is kept.
 - Act within the scope of practice.
 - Exercise the same standard of care applicable to traditional, in-person veterinary care service.
 - Be readily available to the animal patient for follow-up veterinary services or ensure there is another suitable provider available for follow-up care.
-

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- Consent for medical advice and treatment shall be obtained before providing a telehealth service.
- Evidence of consent for medical advice and treatment must be maintained in the animal patient's medical record.
- A veterinarian providing a telehealth service may prescribe a drug if the veterinarian is a prescriber acting within the scope of practice and in compliance.

Minnesota

Minnesota only allows patient-specific telemedicine within a VCPR. A VCPR cannot be established without an in-person examination. A veterinarian licensed in another state can serve as a consultant to the Minnesota veterinarian that holds the VCPR for that patient. The same standards of care apply to services rendered via telemedicine as to in-person visits.

American Association of Veterinary State Boards (AAVSB)

The AAVSB practice act model and AAVSB guidelines for telehealth are both available at <https://www.aavsb.org/board-services/member-board-resources/practice-act-model/>. Regarding the VCPR, the AAVSB practice model act and AAVSB guidelines for telehealth state that:

- Veterinarian-Client-Patient Relationship (VCPR) exists when:
 - o Both the Veterinarian and Client agree for the Veterinarian to assume responsibility for making medical judgments regarding the health of the Animal(s); and
 - o The Veterinarian has sufficient knowledge of the Animal(s) to initiate at least a general or preliminary diagnosis of the medical condition of the Animal(s); and
 - o The Veterinarian has provided the client with information for obtaining timely follow up care.
- The AAVSB recommends that each jurisdiction promulgate appropriate regulations clarifying who may be included within the scope of a single VCPR such as a Veterinarian or another Veterinarian within the same practice group with access to medical records. The AAVSB recommends that each jurisdiction promulgate appropriate regulations defining how to establish sufficient knowledge of the Animal(s), including the following:
 - o A recent examination of the Animal or group of Animals, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; or
 - o Through medically appropriate and timely visits to the premises at which the Animal or group of Animals are kept.
- The AAVSB recommends that each Jurisdiction promulgate appropriate regulations for the Veterinarian to provide instructions to the Client for obtaining follow up care that may include directing the Client to another Veterinarian or emergency clinic. It is essential for the VCPR to be easily established in order to require the Veterinarian to assume accountability for the Veterinary Medical Services rendered. Furthermore, as standards of practice and codes of conduct change over time, it is easier to promulgate new rules incorporating such changes rather than adopting legislative modifications.

American Veterinary Medical Association (AVMA)

AVMA guidelines for the use of telehealth in veterinary practice are available at <https://www.avma.org/sites/default/files/2021-01/AVMA-Veterinary-Telehealth-Guidelines.pdf>. Regarding the VCPR, the AVMA guidelines state that:

- Having a VCPR in place is critical whenever practicing veterinary medicine, whether practicing in person or

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remotely using telemedicine. The AVMA Model Veterinary Practice Act, which many governmental bodies use as a guide when establishing or revising laws governing veterinary practice, includes the following definition of the VCPR: The veterinarian-client-patient relationship is the basis for veterinary care. To establish such a relationship the following conditions must be satisfied:

- o The licensed veterinarian has assumed the responsibility for making medical judgments regarding the health of the patient(s) and the need for medical therapy and has instructed the client on a course of therapy appropriate to the circumstance.
- o There is sufficient knowledge of the patient(s) by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition(s) of the patient(s).
- o The client has agreed to follow the licensed veterinarian's recommendations.
- o The licensed veterinarian is readily available for follow up evaluation or has arranged for:
 - ☐ Emergency or urgent care coverage, or
 - ☐ Continuing care and treatment has been designated by the veterinarian with the prior relationship to a licensed veterinarian who has access to the patient's medical records and/or who can provide reasonable and appropriate medical care.
- o The veterinarian provides oversight of treatment.
- o Such a relationship can exist only when the veterinarian has performed a timely physical examination of the patient(s) or is personally acquainted with the keeping and care of the patient(s) by virtue of medically appropriate and timely visits to the operation where the patient(s) is(are) kept, or both.
- o Patient records are maintained. Both the licensed veterinarian and the client have the right to establish or decline a veterinarian-client-patient relationship within the guidelines set forth in the AVMA Principles of Veterinary Medical Ethics. A licensed veterinarian who in good faith engages in the practice of veterinary medicine by rendering or attempting to render emergency or urgent care to a patient when a client cannot be identified, and a veterinarian-client-patient relationship is not established, should not be subject to penalty based solely on the veterinarian's inability to establish a veterinarian-client-patient relationship.

- Many states have adopted this definition of the VCPR, or a very similar one, as a component of their state veterinary practice act or regulations. In addition, federal law requires a veterinarian to establish a VCPR before undertaking any extra-label drug use in animals, issuing a Veterinary Feed Directive, or the creation and use of certain types of biologics. It is also important for veterinarians to understand that they must comply with the federal law requiring a VCPR under these circumstances, regardless of how a state may ultimately define a VCPR in state law or regulation.

- Given current technological capabilities, available research, and the existing state and federal regulatory landscape, the AVMA believes veterinary telemedicine should only be conducted within an existing VCPR. An exception may be made for advice given in an emergency until a patient can be seen by a veterinarian. Ultimately, how a state defines the VCPR, the congruence of that state VCPR with federal requirements, and whether or not a VCPR exists in a given situation based on those definitions, determine what services can be offered.

- Within an established VCPR: A variety of telehealth and telemedicine service models are available to veterinarians and veterinary practices. Client-facing telemedicine services may include use of tools that allow the veterinarian to remotely and securely gather essential patient health information from the animal owner or another caretaker; access the patient's medical records; and conduct a virtual evaluation of the patient through real-time video or transmitted photographs or other data.

- Without an established VCPR: The veterinarian may provide non-patient-specific advice, but must stay clear of diagnosing, prognosis of, or treating patients. Two exceptions may apply: (1) if state law allows a VCPR to be established electronically, the veterinarian has met the requirements for doing so, and activities that would invoke a

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requirement for adherence to the federal VCPR are not conducted or (2) advice given in an emergency until a patient can be seen by a veterinarian. Non-client electronic communications that include the provision of non-patient-specific advice and general educational content are usually acceptable.

Wisconsin Veterinary Medical Association (WVMA)

WVMA formed a Telehealth Task Force and submitted suggested guidelines to the Board on December 19, 2019. Regarding the VCPR, the WVMA suggested guidelines state that:

- **VCPR Required:** Veterinary services may only be provided using telehealth technologies where a VCPR is established. If an existing VCPR relationship is present, then telehealth technologies may be used as long as the VCPR is maintained in accordance with Wis. Stat. s. 89.02 (8) and the requirements in this Section. If an existing VCPR relationship is not present, then a veterinarian must take appropriate steps to establish a VCPR consistent with Wis. Stat. s. 89.02 (8) and the requirements in this Section.
- **Establishing an Initial VCPR for Telehealth:** For purposes of establishing an initial VCPR prior to engaging in the practice of veterinary medicine using telehealth technologies, the veterinarian must meet the requirements of Wis. Stat. s. 89.02 (8) and:
 - o For livestock (food and fiber animals), the veterinarian must have either conducted an in-person physical examination of the patient or must have visited the premises on which the patient is kept at least once in the immediate six (6) months prior to engaging in any telehealth treatment or services.
 - o For companion animals and equine animals, the veterinarian must have conducted an in-person physical examination of the patient at least once in the immediate six (6) months prior to engaging in any telehealth treatment or services.
- **Maintaining a VCPR for Telehealth:** Once a VCPR is established, for purposes of maintaining that VCPR and engaging in the ongoing practice of veterinary medicine using telehealth technologies, the veterinarian must meet the requirements of Wis. Stat. s. 89.02 (8) and:
 - o For livestock (food and fiber animals), the veterinarian must either conduct an in-person physical examination of the patient or must visit the premises on which the patient is kept at least once every six (6) months.
 - o For companion animals and equine animals, the veterinarian must conduct an in-person physical examination of the patient at least once every twelve (12) months.

19. Contact Name

Angela Fisher

20. Contact Phone Number

608-224-4890

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 Board expects the proposed rule to have minimal to no economic impact. No fee amounts will be changed in the proposed rule.

Most veterinary practices are small businesses. The proposed rule's structural changes and minor language changes may reduce the burden to veterinarians, veterinary technicians, and consumers of veterinary services, as the rules may become easier to access and understand quickly.

The proposed rule also allows for more use of telehealth technologies than the existing rule. New language regarding telehealth may reduce the economic burden to veterinarians and animal owners, especially in rural areas. The proposed rule expands the delegation of medical services to allow a veterinarian to delegate the following items to a CVT if the veterinarian is available to communicate via telehealth technologies within five minutes. Under current rules, these items may only be delegated to a CVT if the veterinarian is personally present on the premises.

- Performing diagnostic radiographic awake contrast studies not requiring general anesthesia.
- Sample collection via a cystocentesis procedure.
- Placement of intravenous catheters.
- Suturing of tubes and catheters.
- Fine needle aspirate of a mass.

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

The proposed rule will directly affect Wisconsin licensed veterinarians and certified veterinary technicians. Most veterinary practices are small businesses. Current fee amounts would not change. Adjustments to make rule language and structure clearer, and to simplify processes where possible, may reduce the burden to each of these affected entities, by making the rules easier to access and understand quickly.

The Board convened a Telehealth Advisory Committee (Committee) to advise the Board in relation to the veterinary telehealth. The Committee was comprised of 13 representatives: 10 veterinarians and 3 certified veterinary technicians. Of the veterinarians, 1 works in large and small animal practice, 3 work in large animal practice, 1 works in equine and small animal practice, and 5 work in small animal practice. The veterinarians included representatives from the Wisconsin Veterinary Medical Association, Sexing Technologies, and the Dairy Business Association.

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

The proposed rule's structural changes and minor language changes may reduce the burden to veterinarians, veterinary technicians, and consumers of veterinary services, as the rules may become easier to access and understand quickly. The

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proposed rule also allows for more use of telehealth technologies than the existing rule.

5. Describe the Rule's Enforcement Provisions

The proposed rule does not makes changes to enforcement.

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: Veterinarians and Veterinary Technicians
Adm. Code Reference: VE 1 to 11
Rules Clearinghouse #:
DATCP Docket #: 19-R-07

Rule Summary

The proposed rule makes structural changes, minor language changes, and telehealth changes as described below.

Structural Changes

- Consolidates the eleven existing rule chapters into three chapters: one for veterinarians, one for veterinary technicians, and one for the professional assistance program. Consolidation makes the rules easier to access quickly.
- Adds a chapter for relevant complaint procedures that did not transfer in the previous rules from DSPS to DATCP.
- States the current fee amounts in rule. Fee amounts do not change.

Minor Language Changes

- Makes changes regarding procedures and processes.
 - o Removes the word annual from references to the review of colleges and technical schools.
 - o Expands the temporary veterinary permit process to include applicants who are scheduled to take or are awaiting results from the examination on state laws and rules.
 - o Clarifies that applicants for licensure who have previously been licensed in Wisconsin or another jurisdiction must apply by endorsement.
 - o Adds for clarity and consistency a section identifying common situations in which the board may require additional information from an applicant when reviewing an application.
 - o States more clearly that the board may reprimand the licensee or deny, suspend, limit or revoke a credential for cause, including filing an incomplete or fraudulent application, misrepresenting information on an application, or violating the rule chapter or Wis. Stat. ch. 89.
- Makes technical changes and updates.

- Adds the denial of a license to the list of reasons for a temporary veterinary permit to expire.
 - Allows applicants to provide proof of graduation through the American Association of Veterinary State Boards (AAVSB), which allows for electronic submissions using the AAVSB online system.
 - Adds direction in the rules to assure the requirements for access to health care records required in Wis. Stat. s. 89.075 are clear and consistently applied.
 - Removes an obsolete provision regarding continuing education auditing of journal articles read. The Board previously eliminated the ability to self-study journal articles and mistakenly did not also eliminate this provision regarding auditing.
 - Clarifies the continuing education requirements for persons who have not been credentialed for more than 5 years.
 - Adds language to clearly state license exemptions.
- Allows veterinarians to delegate additional veterinary medical acts to certified veterinary technicians and unlicensed assistants.
 - Allows veterinarians to delegate the placement of intravenous catheters to unlicensed assistants under the direct supervision of the veterinarian present on the premises, per requests from stakeholders.
 - Additional changes to the delegation of veterinary medical acts are included in the telehealth section of this summary.
- Makes changes for consistency and ease of use the places in which rule requirements repeat, or refer to requirements in statute.
 - Modifies language regarding unprofessional conduct so that it also refers to Wis. Stat. s. 89.07 (1).
 - Modifies language regarding prescribing and dispensing a veterinary drug to refer to Wis. Stat. s. 89.068 (1) (c).
 - Makes a correction to the delegation of rabies vaccinations to reflect Wis. Stat. s. 95.21 (2) (a).
- Modifies terminology for clarity and consistency.
 - Adds additional definitions and updates existing definitions language for clarity.
 - Renames “temporary permit” to “temporary veterinary permit” and renamed “temporary consulting permit” to “veterinary consulting permit.”
 - Changes language to use the word “dispense” rather than “sell” to be more consistent with statutory language and definitions to make the language clearer and easier to understand.
 - Adds a note clarifying that the board accepts “veterinary nurse” as equivalent to “veterinary technician.”

Telehealth Changes

- Adds definitions related to telehealth.

- Adds definitions related to veterinary consulting and clarifies that a consulting veterinarian or other consultant may not do any of the following:
 - o Visit the patient or client or communicate directly with the client without the knowledge of the attending veterinarian.
 - o Take charge of a case or problem without the consent of the attending veterinarian and the client.
- Clarifies that the practice of veterinary medicine takes place where the animal is located at the time of practice, in alignment with Wis. Stat. §§ 89.05 (1) and 89.02 (6).
- Clarifies that in order to practice veterinary medicine in Wisconsin a veterinarian must be licensed in Wisconsin and have an established veterinary-client-patient relationship (VCPR) with the client. A VCPR must be established via an in person physical exam, or timely medically appropriate visits to the premises on which the patient is kept. It may not be established by telehealth technologies.
- Clarifies that the VCPR, once established, extends to other veterinarians within the practice, or relief veterinarians within the practice, that have access to, and have reviewed, the medical history and records of the animal.
- Clarifies that records must be kept, regardless of the encounter type.
- Clarifies, in accordance with Wis. Stat. § 89.02(8) (c), that an animal owner must be able to easily seek follow-up care or information from the veterinarian who conducts an encounter while using telehealth technologies.
- Expands the delegation of medical services to allow a veterinarian to delegate the following items to a certified veterinary technician (CVT) if the veterinarian is available to communicate via telehealth technologies within five minutes. Under current rules, these items may only be delegated to a CVT if the veterinarian is personally present on the premises.
 - o Performing diagnostic radiographic awake contrast studies not requiring general anesthesia.
 - o Sample collection via a cystocentesis procedure.
 - o Placement of intravenous catheters.
 - o Suturing of tubes and catheters.
 - o Fine needle aspirate of a mass.

Small Businesses Affected

The proposed rule will directly affect Wisconsin licensed veterinarians and certified veterinary technicians. Most veterinary practices are small businesses. Current fee amounts would not change. Adjustments to make rule language and structure clearer, and to simplify processes where possible, may reduce the burden to each of these affected entities, by making the rules easier to access and understand quickly.

The Board convened a Telehealth Advisory Committee (Committee) to advise the Board in relation to the veterinary telehealth. The Committee was comprised of 13 representatives: 10 veterinarians and 3 certified veterinary technicians. Of the veterinarians, 1 works in large and small animal practice, 3 work in large animal practice, 1 works in equine and small animal practice, and 5 work in small animal practice. The veterinarians included representatives from the Wisconsin Veterinary Medical Association, Sexing Technologies, and the Dairy Business Association.

Reporting, Bookkeeping and other Procedures

The proposed rule does not create any new reporting or bookkeeping requirements. The proposed rule adds a chapter for relevant complaint procedures that did not transfer in the previous rules from DSPS to DATCP. The proposed rule also makes minor language changes regarding the following procedures and processes:

- Removes the word annual from references to the review of colleges and technical schools.
- Expands the temporary veterinary permit process to include applicants who are scheduled to take or are awaiting results from the examination on state laws and rules.
- Clarifies that applicants for licensure who have previously been licensed in Wisconsin or another jurisdiction must apply by endorsement.
- Adds for clarity and consistency a section identifying common situations in which the board may require additional information from an applicant when reviewing an application.
- States more clearly that the board may reprimand the licensee or deny, suspend, limit or revoke a credential for cause, including filing an incomplete or fraudulent application, misrepresenting information on an application, or violating the rule chapter or Wis. Stat. ch. 89.

Professional Skills Required

The proposed rule does not create any new professional skills requirements.

Accommodation for Small Business

No accommodation for small business will be necessary for the proposed rule. The Board expects the proposed rule to have minimal to no economic impact. No fee amounts will be changed in the proposed rule.

Most veterinary practices are small businesses. The proposed rule's structural changes and minor language changes may reduce the burden to veterinarians, veterinary technicians, and consumers of veterinary services, as the rules may become easier to access and understand quickly.

The proposed rule also allows for more use of telehealth technologies than the existing rule. New language regarding telehealth may reduce the economic burden to veterinarians and animal owners, especially in rural areas. The proposed rule expands the delegation of medical services to allow a veterinarian to delegate the following items to a CVT if the veterinarian is available to

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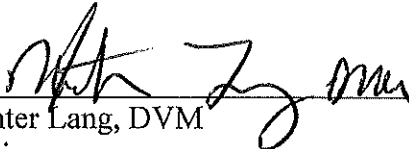
- Performing diagnostic radiographic awake contrast studies not requiring general anesthesia.
- Sample collection via a cystocentesis procedure.
- Placement of intravenous catheters.
- Suturing of tubes and catheters.
- Fine needle aspirate of a mass.

Conclusion

The Board expects the proposed rule to have minimal to no economic impact. No fee amounts will be changed in the proposed rule.

Dated this 21 day of July, 2021.

WISCONSIN VETERINARY EXAMINING BOARD

By 
Hunter Lang, DVM
Chair
Veterinary Examining Board