



1. TITLE OF RULE FILING:

**Administrative Rules for Veterinarians**

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

21P-030

3. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

4. PRIMARY CONTACT PERSON:

*(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).*

Name: Gabriel Gilman

Agency: Office of Professional Regulation

Mailing Address: 89 Main St, Montpelier, VT 05620-3402

Telephone: 802 828 - 2492 Fax: -

E-Mail: Gabriel.Gilman@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://sos.vermont.gov/veterinary-medicine/statutes-rules-resources/>

5. SECONDARY CONTACT PERSON:

*(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).*

Name: Kassandra Diederich

Agency: Office of Professional Regulation

Mailing Address: 89 Main St, Montpelier, VT 05620-3402

Telephone: 802 828 - 2191 Fax: -

E-Mail: Kassandra.Diederich@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

*(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?)* No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

N/A

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

N/A

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

*(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).*

26 V.S.A. § 2413(a)(1) (granting rulemaking authority)

3 V.S.A. § 123(a)(11) (making the Secretary of State the adopting authority for board rules.)

**EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:**

The agency is directed by 26 V.S.A. §

8. 2413(a)(1) to "Adopt rules under 3 V.S.A. chapter 25 necessary for the performance of" the duties of the Board of Veterinary Medicine.
9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.
10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.
11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.
12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.
13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.
14. **CONCISE SUMMARY (150 WORDS OR LESS):**

This rule adopts a definition of the Veterinarian Client Patient Relationship, including in telepractice, that is consistent with 26 V.S.A. § 2433 (Rules 1-12, 8-3, 8-4); provides for inspection (Rule 3-8); clarifies that the Board declines to require laws and rules exams (Rule 4-4); clarifies and interprets the consultation exemption (Rule 4-5); Clarifies and interprets the livestock management exemption (Rule 4-6); conforms lapsed-license reinstatement to the uniform standard at 3 V.S.A. § 135 (Rule 5-4) simplifies CE requirements (Rule 6-1); imposes clear duties to self-report certain sentinel events, consistent with other recent OPR rule updates (Rule 7-1); incorporates disease-reporting requirements found

## Final Proposed Coversheet

in Titles 6 & 13 (Rule 7-2); sets distinct recordkeeping requirements for companion and non-companion animals (Rule 8-5); announces a clear delegation rule (Rule 8-9); sets a clear rule on alternative therapies (Rule 8-10); and facilitates veterinarian participation in rabies clinics (Rule 8-12).

### 15. EXPLANATION OF WHY THE RULE IS NECESSARY:

This rule provides minimum necessary elaboration upon the licensing qualifications and practice standards for veterinarians. Amendment is necessary specifically to conform the rule to the statutory definition of the veterinarian-client-patient relationship at 26 V.S.A. § 2433, including in the setting of telepractice. Amendment is also necessary to reflect amendments to the law of professional regulation, 3 V.S.A. § 121 et seq., enacted since the 2012 adoption of the outgoing rule.

### 16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

Rule text has been developed in duly warned open Board meetings with stakeholders, OPR counsel and staff, and interested members of the public. The rule reflects the reasoned judgment of the board based on best practices observed in other jurisdictions, expert recommendations of stakeholders, and discussion and deliberation in meetings.

### 17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

Veterinarians; clients; animal shelters; rabies clinics Vermont Department of Health, Agency of Agriculture, Food & Markets.

### 18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

This rule is not expected to have a significant economic impact. A positive impact may be felt by veterinarians who avail themselves of relaxed continuing education requirements; these licensees may save approximately \$100 to \$300 biennially by pursuing less formal and less expensive means of ensuring continuing competency.

### 19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 10/30/2021

Time: 10:00 AM

Street Address: Remote Meeting (in accordance with 1 V.S.A. §§ 310-314)

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

10/29/2021

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Veterinarians, Veterinary Medicine, VCPR,  
Professional License, Licensure



**State of Vermont  
Office of the Secretary of State**

**Office of Professional Regulation**  
89 Main Street, 3<sup>rd</sup> Floor  
Montpelier, VT 05620-3402  
sos.vermont.gov

**James C. Condos, Secretary of State  
Christopher D. Winters, Deputy Secretary  
S. Lauren Hibbert, Director**

March 15, 2022

Hon. Mark McDonald, Chair Legislative  
Committee on Administrative Rules c/o  
Charlene Dindo, Committee Assistant Vermont  
State House  
Montpelier, Vermont 05602

Re: Final Proposed Rule: Veterinary Medicine [21P-030]

Dear Chairperson McDonald and Members:

Please find enclosed the final proposed rule titled *Administrative Rules for Veterinarians*. These materials have been filed in parallel with the Secretary of State today.

Accompanying this letter are:

- A. the Secretary of State's adopting memorandum;
- B. APA filing forms;
- C. the final proposed rule;
- D. written comments received;
- E. a summary of substantial arguments, agency responses, and changes to the proposed rule;  
and
- F. the ICAR minutes from July 12, 2021 showing approval.

I would be happy to answer any questions the Committee may have about the proposed rule in advance of your next meeting. Please feel free to contact me at 522-7306 or via email at [kassandra.diederich@vermont.gov](mailto:kassandra.diederich@vermont.gov).

Sincerely,

/S/ Kassandra Diederich

Kassandra Diederich  
General Counsel

cc: Louise F. Corliss, APA Rules, Vermont Secretary of State (original documents)

# Administrative Procedures – Adopting Page

## Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

**Administrative Rules for Veterinarians**

2. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

SOS Rule Log #12-017, CVR 04-030-320 Vermont Board of Veterinary Medicine Administrative Rules, July 1, 2012



## INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

**Meeting Date/Location:** July 12, 2021, Physical Location: 109 State Street, 5<sup>th</sup> Floor Conference Room, Montpelier VT; Virtual Meeting: Microsoft Teams

**Members Present:** Chair Kristin Clouser, Dirk Anderson, Diane Bothfeld, Jennifer Mojo, John Kessler, Matt Langham, Diane Sherman

**Members Absent:** Ashley Berliner, Clare O'Shaughnessy

**Minutes By:** Melissa Mazza-Paquette and Diane Bothfeld

- 2:12 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the June 14, 2021 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- Note: The following emergency rules were supported by ICAR Chair Clouser:
  1. 'Access to Health Care Services Related to COVID-19' by the Department of Financial Regulation on 6/30/21.
  2. 'Interim Rules for Clinical Pharmacy' by the Secretary of State, Office of Professional Regulation on 7/7/21.
  3. PUC Emergency Rule 2.600 COVID-19 Emergency Procedures' by the Public Utility Commission on 7/9/21.
- Presentation of Proposed Rules on pages 2-7 to follow.
  1. Hemlock Woolly Adelgid Quarantine, Agency of Agriculture, Food and Markets, page 2
  2. Vermont Joint Quarantine No. 1 (Scleroderma Canker), Agency of Agriculture, Food and Markets, page 3
  3. Hospital Licensing Rule, Agency of Human Services, page 4
  4. Administrative Rules for Veterinarians, Secretary of State, Office of Professional Regulation, page 5
  5. Independent School Program Approval, State Board of Education, page 6
  6. Vermont Use of Public Waters Rules, Agency of Natural Resources, page 7
- Next scheduled meetings:
  - Wednesday, July 14, 2021 - Review of ICAR Forms with the Office of the Secretary of State
  - Monday, August 9, 2021 at 2:00 p.m. – Monthly ICAR meeting
- 3:49 p.m. meeting adjourned.



**Proposed Rule: Administrative Rules for Veterinarians, Secretary of State, Office of Professional Regulation**

**Presented By: Gabe Gilman**

Motion made to accept the rule by John Kessler, seconded by Diane Bothfeld, and passed unanimously with the following recommendations:

1. Change all 'not applicable' to 'no impact' where appropriate.
2. Proposed Rule Coversheet, #8: Change period to a semicolon in the 7<sup>th</sup> line.
3. Proposed Rule Coversheet, #9: Include the causal connection of changes to Title 3.
4. Proposed Rule Coversheet, #12: Provide more detail on the nature of the economic impact and include any neutral or positive impacts.
5. Proposed Rule Coversheet, #13-15: Host a public hearing and include information.
6. Economic Impact, #6: Quantify minor savings if possible.

# Administrative Procedures – Economic Impact Analysis

## **Instructions:**

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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### 1. TITLE OF RULE FILING:

**Administrative Rules for Veterinarians**

### 2. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

### 3. CATEGORY OF AFFECTED PARTIES:

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:*

Veterinarians and veterinary clinics may see slightly reduced overhead secondary to more flexible continuing education requirements. Public rabies clinics may see slightly reduced costs as a result of clarifications of examination requirements intended to encourage veterinarians to be comfortable participating in clinics for animals that are not regular patients.

4. **IMPACT ON SCHOOLS:**

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:*

No impact.

5. **ALTERNATIVES: CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.**

No impact.

6. **IMPACT ON SMALL BUSINESSES:**

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):*

Individual veterinarians' regulatory compliance costs, and therefore the overhead expenses of veterinary clinics, may be reduced by approximately \$100-300 biennially, per veterinarian, as a result of more flexible continuing education requirements.

7. **SMALL BUSINESS COMPLIANCE: EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.**

Clinics will enjoy more flexibility in how staff continuing competency requirements may be satisfied, improving low-cost options.

8. **COMPARISON:**

*COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:*

By comparison to no rule, the rule improves clarity around recordkeeping and interaction with ancillary providers, but does so in a manner that is likely economically neutral. Most veterinary practices are small businesses, and these rules were written with those small businesses in mind.

9. **SUFFICIENCY: EXPLAIN THE SUFFICIENCY OF THIS ECONOMIC IMPACT ANALYSIS.**

This rule will lend order and structure to the operation of veterinary clinics, but it changes nothing about the fundamental economics of veterinary practice.

## Economic Impact Analysis

Consequently, more detailed economic analysis is neither necessary nor likely to offer additional insight.

# Administrative Procedures – Environmental Impact Analysis

## **Instructions:**

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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### 1. TITLE OF RULE FILING:

**Administrative Rules for Veterinarians**

### 2. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

### 3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

No impact.

### 4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

No impact.

### 5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

No impact.

### 6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

No impact.

### 7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

No impact.

8. **OTHER: EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:**

The rule adopts a statutory definition of the veterinarian-client-patient relationship that was intended by federal regulators and state officials to improve accountability around the use of antibiotics in herd animals. More responsible antibiotic use will minimize the development of drug resistant microbes and may be of general benefit to the environment and the public health.

9. **SUFFICIENCY: EXPLAIN THE SUFFICIENCY OF THIS ENVIRONMENTAL IMPACT ANALYSIS.**

The only expected environmental impact is set out above. Because this rule conforms to changes in federal regulation and State law that have already been enacted, impact directly caused by this rule will be minimal, and further analysis would offer little or no additional insight.

# Administrative Procedures – Public Input

## **Instructions:**

In completing the public input statement, an agency describes the strategy prescribed by ICAR to maximize public input, what it did do, or will do to comply with that plan to maximize the involvement of the public in the development of the rule.

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

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3. PLEASE DESCRIBE THE STRATEGY PRESCRIBED BY ICAR TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE:

The agency developed this rule in duly warned public meetings with stakeholders, the Board of Veterinary Medicine, and OPR staff. We maintain ongoing relationships with the Vermont Department of Health and the State Veterinarian, as well as the Vermont Veterinary Medical Association. We host evolving rule drafts on our website and we welcome public comment at a dedicated email address, [sos.opr.comment@vermont.gov](mailto:sos.opr.comment@vermont.gov). Through these measures, in addition to the public hearing process prescribed by the Administrative Procedure Act, we can be confident that most interested stakeholders and members of the public have enjoyed or will enjoy an opportunity to be heard.

4. PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

Outreach includes direct email to licensees and organizational stakeholders, online posting of the rule, and ongoing invitation to comment.

5. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

## Public Input

The Vermont Veterinary Medical Association; the Vermont Veterinary Technicians Association; the Vermont Department of Health; the Agency of Agriculture, Food & Markets.



**Final Proposed Administrative Rules for Veterinarians:  
Summary of Substantial Arguments, Agency Responses, and Amendments**

**Comment:**

Commenters requested that Rule 8-3 be further amended to mandate that a veterinarian-client-patient-relationship (VCPR) can only be established with an in-person, physical examination. This would prohibit the establishment of a VCPR via telemedicine. Commenter asserted that FDA rules prohibit establishment of a VCPR via telemedicine.

**Response:**

We disagree. The commenters' assertion that Federal authorities prohibit remote evaluation at the inception of a VCPR rests on a seven-year-old business letter from an FDA official, stating an informal interpretation. FDA suspended that interpretation in at the inception of the Covid-19 pandemic, and a return to the status quo seems unlikely. Even were it to occur, FDA's interpretation would apply only to extra label prescribing, not veterinary practice generally. A physician-patient relationship may be established remotely. We do not believe the General Assembly would want the Board to implement a stricter rule relative to veterinary medicine than to human medicine.

To address concerns that veterinary telemedicine may invite practice based upon inadequate examination or familiarity with animals, Rule 8-4 has been added to provide clear guidelines and standards for establishing a VCPR via telepractice. Whether a valid VCPR has been created turns on the "sufficiency, reliability and validity of the veterinarian's knowledge, not the means or modality by which that knowledge was obtained." Rule 8-4 also describes various means of obtaining clinical information about a patient at a distance and provides that the same standards of acceptable and prevailing practice around examination and prescribing that are applied to in-person treatment.

Subsection (b) of Rule 8-4 addresses the commenter's concerns about potential inconsistency of State and Federal statutes and regulations by stating that, "[t]his rule shall not be construed as superseding any contrary law or rule of the United States Food & Drug Administration."

**Comment:**

Commenter advocated that the revised Rules should not prohibit the establishment of a VCPR via telepractice, as this would restrict innovation and limit access to care, squandering opportunities created by information technology.

**Response:**

We agree. Rule 8-4 sets out clear standards for the establishment and maintenance of a VCPR via telemedicine modalities, but it allows the establishment of a VCPR in appropriate circumstances.

**Comment:**

Commenter opposed the language in Rule 6-1, regarding continued education, which stated, "Licensees are expected to identify and pursue appropriate learning opportunities in good faith." Commenter suggested that the Rules define what types of continuing education are acceptable to the Board.

Commenter also criticized the lack of express approval of the continuing learning opportunities. Commenter argued that this language improperly trusts licensees to complete the required 24 hours per year of continuing education.

**Response:**

We disagree with both critiques of Rule 6-1.

With regard the suggestion for clearer definition of what are acceptable continuing education opportunities, we feel that the following language in Rule 6-1(b) is sufficient, "Activities claimed under this rule shall be reasonably calculated to improve the particular professional practice of the licensee, shall be relevant, and shall be oriented toward evidence-based practice or the improvement of technical skill." More specific guidance is not needed, as we believe that licensees know better than we do what specific topics are most relevant to their diverse clinical practices.

We disagree that express approval of continuing learning opportunities should be required. We trust our licensees and do not feel that it is necessary to micromanage their continuing education learning opportunities. Rule 6-1(c) requires licensees to document their participation in professional learning activities for four years as the Board may audit continuing education compliance in the future.

**Comment:**

Commenter proposed striking the following language in proposed Rule 6-1(b) regarding continuing education: "Non-course-based activities, such as reading, research, presentation, or curriculum development, shall be documented by maintaining contemporaneous logs, which shall include at a minimum: applicable journal citations; applicable presentations titles, locations, dates, sponsors, and host institutions; the length of time spent on the activity; and a brief, written summary of the substantive reading, research, presentation, or curriculum developed. This documentation may be required as a condition of renewal." The reasons for this suggestion are as follows:

- Language stating that documentation of participation in professional learning activities **may** be required as a condition of renewal is too equivocal and should either be required or not be required.
- The text does not specify what volume of non-course activities is allowed.
- The content to be logged seemed burdensome to the commenter.

Commenter also criticized language in proposed Rule 6-1(c) which states "Express approval of continuing learning opportunities is not required" as being unclear whether it applies to non-course-based activities or all continuing education activities.

**Response:**

We revised Rule 6-1 to state that licensees shall maintain contemporaneous logs of non-course activities. "This documentation may be required as a condition of renewal" was stricken and replaced with a caution that the Board may audit continuing education compliance at any time. We also moved the language "Express approval of continuing learning opportunities is not required" to a new subsection of the Rule entitled "Relevance" to make it clear that it applies to all continuing learning opportunities.

We disagree that keeping documentation logs of non-course activities is too time consuming for licensees. We clarified with the commenter that the Board's website will be updated with a sample log offering a simple, fill-in-the-blanks template.

**Comment:**

Commenter requested clarification on what constitutes a “course” for purposes of proposed Rule 6-1. Specifically, the commenter questioned whether a course is a single topic immersion session that lasts a full day, or a number of separate, one-hour courses.

**Response:**

We do not believe that it is necessary to specify what constitutes a course for purposes of proposed Rule 6-1. The Rule clearly states that licensees must devote 24 hours to continuing professional learning opportunities in each biennial licensing period, and most readers will understand that one hour is a unit of time, as opposed to a collegiate credit hour. The Board believes that the licensees should be able to “identify and pursue appropriate learning opportunities in good faith” as stated in proposed Rule 6-1(b).

**Comment:**

Commenter supported the proposed revisions to proposed Rule 6-1 regarding continuing education, specifically, the broad definition in subsection (b) regarding what types of continuing learning activities are appropriate given that veterinarians have differing continuing education needs.

**Response:**

We agree.

**Comment:**

Commenter was concerned that Rule 8-10(g) (now Rule 8-11(g)), Integration of Complementary Care Providers, could be interpreted to require the physical presence or availability of the delegating veterinarian. Commenter felt that this would require the veterinarian to be available 24/7 which seemed unnecessary and unattainable.

**Response:**

We agree. The intent of the original language was to ensure that the delegating veterinarian be available for consultation by phone and able to arrange intervention in case of a mishap. Subsection (g) was accordingly revised to state that “an appropriately qualified veterinarian is available to consult and arrange for intervention in the event of complications.”

**Comment:**

Commenter argued that Rule 8-11, which allows veterinarians to delegate veterinary treatments to non-veterinarians (chiropractors, dentists) if certain enumerated criteria are met, conflicts with 26 V.S.A. § 2402(a)(1), which prohibits the unlicensed practice of veterinary medicine.

**Response:**

We disagree. The language of Rule 8-11 permits veterinarians to delegate veterinary treatment to non-veterinarians only if very specific criteria are met, including having an appropriately qualified veterinarian available to consult and arrange for intervention if any complications arise. Rule 8-11 does not permit non-veterinarians to practice or hold oneself out as practicing veterinary medicine. However, “Chiropractors, acupuncturists, dentists and physical therapists and other care providers” was replaced with “Non-veterinarian providers,” as the rule applies equally to all non-veterinarians. The rule now numbered 8-9 sets clear lines concerning the permissibility of delegation.

**Comment:**

Comments regarding Rule 8-11 (now Rule 8-12), Rabies Vaccination; VCPR Not Required, expressed confusion about the recordkeeping requirements pertaining to rabies clinics. These are governed by a related rule of the Agency of Agriculture, Food & Markets.

**Response:**

We agree that excerpting sections from the existing Agency of Agriculture, Food & Markets rule made for confusing reading. The rule has been revised to clarify that veterinarians participating in a rabies vaccination clinic who comply with the records requirements set forth in the Agency of Agriculture, Food & Markets rules are excused from the recordkeeping requirements that would apply to care of a veterinarian's regular patients. Additionally, "Minimal Recordkeeping" was added to the title of Rule 8-12.

## Alger, Kelsi

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**From:** Dr. Ashley Morgan <AMorgan@avma.org>  
**Sent:** Sunday, October 31, 2021 12:12 PM  
**To:** SOS - OPR Comments  
**Cc:** Dr. Ashley Morgan  
**Subject:** RE: Comments on proposed revisions to Administrative Rules for Veterinarians  
**Attachments:** AVMA letter\_VT VCPR regulatory proposal 10282021.pdf

**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**  
Hi, Gabe,

I realized that the comments I sent on Friday did not have the additional reference merged onto that document. Please find the complete version attached. My apologies for the mistake and we appreciate the consideration.

Best,  
Ashley

**Ashley S. Morgan, DVM, CAE**  
Director | Division of State Advocacy  
American Veterinary Medical Association  
o: 202.289.3210 | c: 703.517.1196

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**From:** SOS - OPR Comments <sos.opr.comments@vermont.gov>  
**Sent:** Friday, October 29, 2021 11:03 AM  
**To:** Dr. Ashley Morgan <AMorgan@avma.org>; SOS - OPR Comments <sos.opr.comments@vermont.gov>  
**Subject:** RE: Comments on proposed revisions to Administrative Rules for Veterinarians

Dr. Morgan,

I want to confirm that your written comments have been received and added to the administrative record. We are grateful to have AVMA as an expert resource in the field, and we appreciate your time assisting us in developing the best possible next-generation rules.

Yours,  
Gabe

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Gabriel M. Gilman  
General Counsel

*State of Vermont*  
*Office of Professional Regulation*  
89 Main Street, 3rd Floor  
Montpelier, Vermont 05620-3602  
desk 802.828.2492 // mobile 802.461.5221  
[gabriel.gilman@vermont.gov](mailto:gabriel.gilman@vermont.gov)

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**From:** Dr. Ashley Morgan <[AMorgan@avma.org](mailto:AMorgan@avma.org)>  
**Sent:** Friday, October 29, 2021 10:05 AM  
**To:** SOS - OPR Comments <[sos.opr.comments@vermont.gov](mailto:sos.opr.comments@vermont.gov)>  
**Cc:** Dr. Ashley Morgan <[AMorgan@avma.org](mailto:AMorgan@avma.org)>  
**Subject:** Comments on proposed revisions to Administrative Rules for Veterinarians

**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**  
Good morning,

Please find our feedback on proposed revisions to Vermont's Administrative Rules for Veterinarians. If I could receive acknowledgement of receipt, I would appreciate it.

Thank you!  
Ashley

**Ashley S. Morgan, DVM, CAE**  
Director | Division of State Advocacy  
American Veterinary Medical Association  
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[www.avma.org](http://www.avma.org)



October 28, 2021

Dr. Drexel Wheeler, Chair  
Vermont Board of Veterinary Medicine  
Vermont Office of Professional Regulation  
89 Main Street Third Floor  
Montpelier, VT 05602  
Via email to [SOS.OPR.Comments@vermont.gov](mailto:SOS.OPR.Comments@vermont.gov)

**Re: Proposed revisions to Administrative Rules for Veterinarians**

Dear Dr. Wheeler:

On behalf of our nation's veterinarians, who are dedicated to promoting and protecting animal health and welfare and public health, we are providing feedback on proposed revisions to Vermont's Administrative Rules for Veterinarians (Rules). Specifically, we ask that the proposed revisions to the Rules be further amended to make it clear that an examination used to establish a veterinarian-client-patient relationship (VCPR) must be in-person and physical, and that a VCPR may not be established electronically.

Having a VCPR in place is critical whenever practicing veterinary medicine, and how that VCPR is created is tremendously important. The AVMA believes establishing a VCPR should require an in-person examination of individual patients, or regular premise visits for groups of animals, with the exception of advice given in an emergency until the patient can be seen by a veterinarian.

An in-person visit by the veterinarian serves to protect patients and clients by assuring that animals have been appropriately evaluated (e.g., physical examination/timely and medically appropriate visit, results of any necessary diagnostic tests) and that a treatment plan has been formulated that reflects the results of the information gained during that evaluation. Eliminating the requirement for an in-person evaluation can present substantial risks for patients, clients, and practices. These include insufficient information leading to 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 (CVI), public health risks associated with delayed or missed diagnosis of zoonotic disease, and claims of malpractice.

AVMA is supported in its concerns and recommendation by Federal statute and regulations, which require an in-person examination or premise visits to establish the VCPR when using drugs in an extralabel manner; issuing Veterinary Feed Directives (VFD); using compounded products; and using certain biologics, including prescription platform product biologics and those that are manufactured by veterinarians for use in their specific patients (see attachment titled "Federal requirements for the veterinarian-client-patient relationship"). These are very common occurrences in the day-to-day practice of veterinary medicine. The federal government pays special attention to veterinary medicine and the use of drugs in animals, in part, because veterinarians are key to maintaining a healthy, safe, and wholesome food supply and to protecting public health. Veterinarians must comply with federal

VCPR requirements where they apply, regardless of whether state laws or regulations are more lax. Accordingly, conflicting state and federal VCPR definitions (e.g., allowing the VCPR to be established electronically) can cause significant confusion for veterinarians and additional investigatory and enforcement challenges for veterinary state boards.

Among the responsibilities veterinarians have in protecting public health is the judicious use of antimicrobials. Many of the antimicrobials that veterinarians have in their toolbox have been identified as those that are medically important for human patients and, because of concerns around the development of antimicrobial resistance, access to them for veterinary use is increasingly being restricted. More recently, similar concerns have been expressed around the emergence of resistance in antiparasitics. Key to retaining veterinarians' ability to access these drugs is confidence in veterinary stewardship and an important recognized component of veterinary stewardship is an appropriately established VCPR. Weakening the VCPR, by allowing it to be established electronically, has tremendous potential to severely reduce legislators' and regulators' confidence in veterinary oversight and result in reduced veterinary access to medications that are critical for our patients' care. The importance of the in-person examination/premise visit to establish the VCPR has already been recognized at the federal level when it comes to judicious use. At the state level, and on more than one occasion, this same requirement has helped us to preserve veterinary access to important antimicrobials.

To address the aforementioned concerns, we recommend the following edits to provision 8-3(b) that encompass use of FDA-approved human drug products and over-the-counter products, which veterinarians are legally allowed to use under the federal Animal Medicinal Drug Use Clarification Act of 1994 (AMDUCA). In addition, we suggest deleting "valid" as an adjective modifying the VCPR in provision 8-3. The AVMA made a similar change to our Model Veterinary Practice Act to make it clear that the VCPR exists or does not; there is no third option.

### **8-3 The Veterinarian-Client-Patient Relationship.**

The three elements of a VCPR—responsibility, familiarity, and availability—are defined more particularly at 26 V.S.A. § 2433, together with important related principles not restated in these Rules. A valid VCPR:

- (a) should exist prior to the provision of any veterinary care, other than in a rabies clinic or an emergency; and
- (b) must exist prior to issuance of a veterinary feed directive or any activity relative to the provision, administration, authorization, or prescribing of FDA-approved animal and human veterinary prescription drugs (including extralabel use of over-the-counter medications); and
- (c) may not be established solely by telemedicine.

In sharing our thoughts, we want to be clear that AVMA fully supports the responsible application of telehealth technologies, including—but not limited to—telemedicine, and recognizes their potential for improving clinical outcomes and contributing to continuity of care. For this reason, we have invested considerable time and financial resources in the development of associated guidance, including the *AVMA Guidelines for the Use of Telehealth in Veterinary Practice*, our online telehealth resource center, and online and in-person continuing education.



Thank you for your consideration. We look forward to continuing to work together to promote animal health, animal welfare, and public health in Vermont.

**About the AVMA**

The AVMA is the nation's leading representative of the veterinary profession, speaking for more than 97,000 member veterinarians across the United States who care passionately about protecting animal health, animal welfare and human health. Informed by its members' unique scientific training and knowledge, the AVMA advocates for policies that advance the practice of veterinary medicine and support the crucial work of veterinarians nationwide.

Sincerely,

A handwritten signature in cursive script that reads "Janet D. Donlin".

Janet D. Donlin, DVM, CAE  
Executive Vice President and CEO

## Alger, Kelsi

---

**From:** lamusoon@aol.com  
**Sent:** Wednesday, October 27, 2021 9:31 PM  
**To:** SOS - OPR Comments; Gilman, Gabriel; brad@trellisvets.com  
**Subject:** Fwd: Importance of a Virtual VCPR  
**Attachments:** Guidelines for Telehealth.pdf; PracticeActModel(1).pdf; State of Michigan Veterinary Telehealth regulations.docx

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See below. Sending same message from second email address as the first sometimes has issues. Please let me know if you received this email, the one from trellisvets.com, or both.

Thanks so much,  
Brad

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

**From:** Brad Burrington <brad@trellisvets.com>  
**To:** SOS.OPR.Comments@vermont.gov; gabriel.gilman@vermont.gov  
**Cc:** lamusoon@aol.com  
**Sent:** Wed, Oct 27, 2021 9:26 pm  
**Subject:** Importance of a Virtual VCPR

Dear Attorney Gilman and the Office of Professional Regulation (OPR) staff:

I appreciate the resent opportunity you provided for public comments regarding the proposed changes to the administrative rules governing the practice of veterinary medicine in the state of Vermont. I am hopeful that my input at that meeting will have provided a basis for a review of the rules and some impetus to alter the language such that the pet owners in the state can have access to telehealthcare whenever it is needed and appropriate. To further the discussion, I have attached several documents that I hope the OPR finds useful. I would welcome any opportunity to assist with this important work.

Vermont is not the first state to consider the ramifications of telehealthcare in the veterinary field. Several states have already allowed for the establishment of a veterinary-client-patient-relationship (VCPR) with telemedicine. Recently, Michigan's veterinary board created an excellent set of rules to govern the use of telemedicine in that state. Interestingly, and perhaps tellingly, the Michigan Veterinary Medical Association opposed this rule and became involved with a plan to create a law that would require a hands-on visit and exam to be performed prior to delivering any virtual veterinary care. The logic supporting these sorts of rules is faulty and lacks any scientific support. The question that should be asked is, are there veterinary health care problems that can effectively and safely be treated with telemedicine? If the answer to that question is yes, and pet owners and pets would benefit from having these issues addressed virtually, then one must question why veterinary medical associations would ever place unnecessary constraints on the delivery of this care.

The Covid pandemic created a perfect opportunity to test, in real-time, the benefits of telemedicine in the veterinary field. As a result, there is now excellent evidence to support the use of veterinary telehealthcare for many skin conditions, behavioral problems, some minor gastrointestinal issues, simple urinary tract infections, and for the delivery of some preventative health care. Some states and provinces of Canada had already implemented telehealthcare standards prior to Covid, and these locations provide additional valuable insight as to how the delivery of veterinary telemedicine should be regulated. For emphasis, I will point out here that it makes no sense to say that a pet's skin problem noted in October can only be treated if the veterinarian saw the patient in-person and administered vaccines in January. This, however, is the premise proposed by those veterinarians who do not believe that telemedicine can be effective without first physically touching the patient in the last year. Logic also fails when the position of those against the use of telehealthcare suggest that as long as someone in the veterinary hospital has seen the pet in the last year, then anyone else in the building can perform telemedicine, but anyone outside the building cannot.

Again, the extensive use of veterinary telehealthcare over the last 18 months or so has provided the bases for one of the simplest experiments one could run to address the safety and usefulness of virtual care. One only has to ask if after the massive increase in the use of telehealthcare in Vermont and nationwide, did the number of complaints to regulatory bodies increase? Was the care provided virtually more prone to failure or to the creation of a dissatisfied pet owner? Was there an increase in reports to the veterinary board of problems or complaints about telehealthcare during the pandemic?

Monitoring these types of complaints could provide insight into the weaknesses of any new technology. So, an excellent question for the Vermont Veterinary Board would be, how many telemedicine failures, or reports of abuse, or calls from pet owners for more regulation occurred over the last 18 months? I do not know the answer to this question for Vermont, but I suspect it is likely comparable to the experience of the province of Ontario, Canada. After over three years of allowing a VCPR to be established virtually, there were no reports of malpractice or abuse to the regulatory agencies responsible for oversight of the veterinary profession in Canada. Similar data has been generated by several European countries, including England, and the results are the same—veterinary telehealthcare delivery can be done safely and effectively for many disease conditions without having to physically touch the pet. If asked, I stand ready to provide examples of this important data to the OPR for your review.

Most of the veterinarians whose interests are represented by both the Vermont Veterinary Medical Association (VVMA), and the American Veterinary Medical Association (AVMA) currently either work for or own a brick and mortar practice. Interestingly, both of these organizations hire lobbyists to influence the legislative process, and both play a role in helping to craft legislation. It is laudable that these organizations look out for the best interest of their members, and that includes the financial interests of most veterinarians. If we are honest, that means it is possible for the organizations protecting the veterinary profession's financial interests could have a potential conflict of interest relative to the interests of pets and pet owners. Many of the protectors of the historical need to physically touch a patient in order to establish a VCPR do so out of an honest belief that such a rule benefits the pet. Plus, for some, there is tradition, which creates inertia that is sometimes difficult to overcome. My hope is that science and research and data can be used to make the best decisions on how to govern the use of veterinary telehealthcare in Vermont. I firmly believe the data supports allowing the creation of a VCPR virtually for many pet health care needs.

I, too, have my biases; I want to start a telehealthcare company separate and distinct from a brick and mortar practice. I am also concerned about the possible role large corporate entities with technology expertise can play in the veterinary arena, and I believe companies like Chewy can be a potential competitor in the growing telehealthcare market. I have a plan on how best to compete with those entities for my small local start-up company, but it does not include trying to constrain telehealthcare revenues to existing brick and mortar facilities.

Disruptive innovation is a critical part of the existing economic system we employ in our country. Veterinarians worried when the online pharmacies created an innovative way to deliver pet medications to pet owners. Those entities did indeed pose a threat to the revenue stream in traditional veterinary hospitals. I know this because for most of the last three decades I owned veterinary hospitals. In the end, the market adjusted, and many pet owners benefited from the cost savings and convenience of online pharmacies, and traditional veterinary hospitals continued to thrive.

The same result is likely to occur with online companies offering to provide telehealthcare to pet owners. Many pet owners will find the cost savings and convenience of telehealthcare to be very appealing; many will not, and all will learn of the limitations of telehealthcare and the need to still have access to a traditional veterinary practice. Brick and mortar veterinary hospitals will continue as critical locations for the delivery of important pet care, and many of those hospitals will come to realize that the profit margins of telehealthcare make it difficult to deliver from a traditional setting. Those innovative brick and mortar facilities will come to embrace the ability of online virtual pet care providers to assist with many simple problems that pet owners encounter regularly. Government agencies and professional boards should not create rules that prohibit the use of telehealthcare, or limit its use to veterinarians inside a traditional hospital. Rather, they should implement sound, scientifically based, rules to oversee the correct use of veterinary telehealthcare.

I strongly urge the Vermont Veterinary Board, and the Office of Professional Regulation to consider the use of the language suggested by the American Association of State Veterinary Boards, or the language adopted by the veterinary board in Michigan in regards to the use of telehealthcare in Vermont (both are attached to this email). I think veterinarians should be allowed to determine if a pet can benefit from care, including prescription medication, via a virtual telehealthcare visit. We trust veterinarians every day to assess if they have the skills and the technology to assist a pet in need. Sometimes, the answer is no, and the pet is referred to a tertiary care facility with more skills and equipment. The same will hold true for telehealthcare. If a veterinarian determines that a pet's problem cannot be solved with a virtual visit, then the vet will send the case to a brick and mortar facility. Critical to the success of this system is the use of informed consent. As an aside, I think the language on informed consent in the proposed regulations also has much value. Pet owners should be provided information on the pros and cons of all types healthcare they receive regardless of whether it is delivered virtually or in-person at a traditional hospital.

Again, I thank you for the opportunity to be heard on this important subject. As already stated, I stand ready to assist either the veterinary board or the OPR in any way I can in crafting language that allows for the implementation of a VCPR with a telehealthcare visit while creating the rules that insure that the public benefits from the best virtual care possible. The two issues are not mutually exclusive. Good regulations will make veterinary telehealthcare safe and accessible to a large group of pets and pet owners in Vermont.

Best regards,  
Brad

PS I would appreciate confirmation that you received this email. Thanks

Brad Burrington, D.V.M.  
Trellis

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## AAVSB RECOMMENDED GUIDELINES FOR THE APPROPRIATE USE OF TELEHEALTH TECHNOLOGIES IN THE PRACTICE OF VETERINARY MEDICINE

### Introduction

When telehealth is used within the confines of state and provincial regulations, it provides valuable tools to augment the delivery and availability of high quality veterinary care. According to the Center for Connected Health Policy, “Telehealth encompasses a broad variety of technologies and tactics to deliver virtual medical, health, and education services. Telehealth is not a specific service, but a collection of means to enhance care and education delivery.”<sup>1</sup> Advancements in communication and information technology provide opportunities for new approaches to the delivery of veterinary medicine.

The American Association of Veterinary State Boards (AAVSB) charged the AAVSB Regulatory Policy Task Force to draft proactive guidelines that provide an appropriate balance between enabling access to veterinary care while ensuring patient safety. This document provides guidance to AAVSB Member Boards for regulating the use of telehealth technologies in the practice of veterinary medicine. Key components of the document include: definitions, veterinarian-client-patient relationship (VCPR), licensure, evaluation and treatment of the patient, continuity of care, medical records, emergency services, prescribing medication, and telemedicine service requirements.

Veterinary medical boards face complex regulatory challenges and patient and public safety concerns in adapting regulations and standards historically intended for the hands-on provision of veterinary medical care to new delivery models involving telehealth technologies. Challenges include determining when a VCPR is established, assuring confidentiality and privacy of client and patient data, guaranteeing creation and maintenance of appropriate medical records, proper diagnosis and treatment of the patient, and limiting the prescribing and dispensing of certain medications.

These guidelines should be used in conjunction with the AAVSB Practice Act Model and in no way be construed to alter the scope of practice of any veterinarian or veterinary technician or

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<sup>1</sup> The Center for Connected Health Policy ([www.cchpca.org](http://www.cchpca.org))

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authorize the delivery of veterinary medical services in a setting or in a manner that is not otherwise authorized by law. In fact, these guidelines support a consistent standard of care and scope of practice. Veterinarians and veterinary technicians must review and understand the laws, regulations, and policies of each jurisdiction where they practice.

The veterinarian must employ sound professional judgment to determine whether using telehealth is suitable each time veterinary services are provided and only furnish medical advice or treatment via telemedicine when it is medically appropriate. A veterinarian using telemedicine must take appropriate steps to establish the VCPR, obtain informed consent from the client, and conduct all necessary patient evaluations consistent with currently acceptable standards of care. Some patient presentations are appropriate for the utilization of telemedicine as a component of, or in lieu of, hands-on medical care, while others are not.

## Definitions

When used in these guidelines, these words and phrases shall be capitalized and are defined as follows:

- **Animal** means any member of the animal kingdom other than humans, whether living or dead.
- **Client** means a Person who has entered into an agreement with a Veterinarian for the purposes of obtaining veterinary medical services in-person or by any means of communication.
- **Consultation** means when a Veterinarian receives advice or assistance in-person, or by any method of communication, from another veterinarian or other Person whose expertise, in the opinion of the Veterinarian, would benefit a Patient. Under any circumstance, the responsibility for the welfare of the Patient remains with the Veterinarian receiving Consultation.
- **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 Veterinary Technician via any method of communication within or outside of an established VCPR that is given in general terms and is not specific to an individual Animal, group of Animals, diagnosis, or treatment.
- **Jurisdiction** means any commonwealth, state, or territory, including the District of Columbia, of the United States of America, or any province of Canada.
- **Patient** means any Animal or group of Animals receiving veterinary care from a Veterinarian or Veterinary Technician.



- **Person** means any individual, firm, partnership, association, joint venture, cooperative, corporation, governmental body, or any other group, legal entity or combination acting in concert; and whether or not acting as a principal, trustee, fiduciary, receiver, or as any kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such Person.
- **Telehealth** is the overarching term that encompasses all uses of technology geared to remotely deliver health information or education. Telehealth encompasses a broad variety of technologies and tactics to deliver virtual medical, health, and education services. Telehealth is not a specific service, but a collection of tools which allow Veterinarians to enhance care and education delivery. Telehealth encompasses both Telemedicine and General Advice.
- **Telemedicine** is the remote delivery of healthcare services, such as health assessments or consultations, over the telecommunications infrastructure. It allows Veterinarians to evaluate, diagnose and treat patients without the need for an in-person visit.
- **Teletriage** means emergency Animal care, including Animal poison control services, for immediate, potentially life-threatening Animal health situations (e.g., poison exposure mitigation, Animal CPR instructions, other critical lifesaving treatment or advice).
- **Veterinarian** means an individual who is duly licensed to practice Veterinary Medicine under the Jurisdiction's practice act. When not capitalized, means an individual who is duly licensed to practice Veterinary Medicine in another Jurisdiction.
- **Veterinarian-Client-Patient Relationship (VCPR)** exists when:
  - 1) Both the Veterinarian<sup>2</sup> and Client agree for the Veterinarian to assume responsibility for making medical judgments regarding the health of the Animal(s); and
  - 2) The Veterinarian has sufficient knowledge<sup>3</sup> of the Animal(s) to initiate at least a general or preliminary diagnosis of the medical condition of the Animal(s); and
  - 3) The practicing Veterinarian is readily available for follow-up in case of adverse reactions or failure of the regimen of therapy.
- **Veterinary Technician** means an individual who is duly licensed to practice Veterinary Technology under the Jurisdiction's practice act.

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<sup>2</sup> 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, or a veterinarian with whom he/she is consulting.

<sup>3</sup> AAVSB recommends that each jurisdiction promulgate appropriate regulations defining how to establish sufficient knowledge, including the following:

- A. 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
- B. Through medically appropriate and timely visits to the premises at which the Animal or group of Animals are kept.



## **Guidelines for the Appropriate Use of Telehealth Technologies in Veterinary Medical Practice**

### **Licensure**

A Veterinarian or Veterinary Technician must be licensed by, or under the authority of, the Board of Veterinary Medicine in the Jurisdiction where the VCPR is established (location of Patient at time of VCPR establishment)<sup>4</sup>.

Any veterinarian who is licensed in another Jurisdiction, or any Person whose expertise, in the opinion of the Veterinarian with an established VCPR, would benefit an Animal, and who is consulting with the Veterinarian, is exempt from licensure in this Jurisdiction, provided such service is limited to such Consultation.

### **Evaluation and Treatment of the Patient(s)**

The Veterinarian must employ sound professional judgment to determine whether using Telehealth is suitable each time veterinary services are provided and only furnish medical advice or treatment via Telemedicine when it is medically appropriate. A Veterinarian using Telemedicine must take appropriate steps to establish the VCPR, obtain Informed Consent from the Client, and conduct all necessary Patient evaluations consistent with currently acceptable standards of care. Some Patient presentations are appropriate for the utilization of Telemedicine as a component of, or in lieu of, hands-on medical care, while others are not.

The Veterinarian must take appropriate precautions to safe guard the confidentiality of a Client's or Patient's records. Such includes ensuring that technology and physical settings used as part of Telemedicine services are compliant with Jurisdictional or federal requirements.

The Veterinarian must ensure that the Client is aware of the Veterinarian's identity, location and Jurisdiction's license number and licensure status. Evidence documenting Informed Consent for the use of Telemedicine must be obtained and maintained in the medical record.

### **Continuity of Care/Medical Records**

Veterinarians must maintain appropriate medical records<sup>5</sup> that contain sufficient information for continued care and are compliant with Jurisdictional requirements. Documentation of the Telemedicine encounter should be readily available upon request by the Client.

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<sup>4</sup> Arguments can also be made that identify the location of practice under these circumstances as occurring in both Jurisdictions; that is where the Patient is located and where the Veterinarian is located.

<sup>5</sup> See the AAVSB Practice Act Model Article V for suggested language.





### Emergency Services

Teletriage may be performed by a Veterinarian or Veterinary Technician without establishing a VCPR or obtaining Informed Consent to provide emergency, potentially life-saving Telemedicine services.

### Prescribing Medications

Prescribing medications in-person or via Telemedicine requires a VCPR and is at the professional discretion of the Veterinarian. The indication, appropriateness, and safety considerations for each prescription issued in association with Telemedicine services must be evaluated by the Veterinarian in accordance with all Jurisdictional and federal laws<sup>6</sup> and standards of care.

### Telemedicine Service Requirements

A provider of Telemedicine services must ensure that the Client is aware of the Veterinarian's identity, location and Jurisdiction's license number and licensure status, and should provide to Clients a clear mechanism to:

1. Access, supplement and amend Client-provided contact information and health information about the Patient; and
2. Register complaints with the appropriate Board of Veterinary Medicine or other regulatory body.

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<sup>6</sup> The Federal definition of the VCPR must be followed when issuing prescriptions in accordance with the Veterinary Feed Directive (VFD) and Animal Medicinal Drug Use Clarification Act (AMDUCA) of 1994.



# VETERINARY MEDICINE AND VETERINARY TECHNOLOGY PRACTICE ACT MODEL (PAM) WITH COMMENTARY

*As approved by the AAVSB Member Boards in September 2019*

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Boards can comment and fully discuss issues impacting the regulation of Veterinary Medicine, Veterinary Technology and the mission of public protection. The AAVSB Practice Act Model is an example of the resources that can be made available to AAVSB Member Boards when diverse interests work together toward a common goal.

### Acknowledgments

The American Association of Veterinary State Boards is very grateful to current and past volunteers who have spent countless hours on the AAVSB Practice Act Model.

### Revisions

Veterinary Medicine Practice Act Model with Comments created 2001

Veterinary Medicine and Veterinary Technology Practice Act Model with Comments revised 2002

Articles I and III revised 2005

Article I revised 2009

All articles revised 2014

All articles revised in 2018

Definition of VCPR revised in 2019

## Article I. Title, Purpose, and Definitions.

An ACT concerning the regulation of the practices of Veterinary Medicine and Veterinary Technology.  
Be it enacted...

### Commentary

#### Introductory Comment to Article I.

The AAVSB believes that the public interest must be the central precept of any professional regulatory act and its administration, and that jurisdiction regulatory boards must constantly strive to ensure that this basic principle is upheld. These beliefs are clearly articulated in the veterinary medicine and veterinary technology practice act model ("act").

Article I of the act states that safeguarding the public interest is the most compelling reason for regulating the practices of veterinary medicine and veterinary technology, and identifies the activities included within the practices. Definitions of other terms used throughout the act are also included in this article.

#### Section 101. Title of Act.

This Act shall be known as the "(Name of Jurisdiction) Veterinary Medicine and Veterinary Technology Practice Act."

#### Section 102. Legislative Declaration.

- (a) Veterinary Medicine and Veterinary Technology in the Jurisdiction of \_\_\_\_\_ are declared professional practices affecting the public health, safety, and welfare and are subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the practices of Veterinary Medicine and Veterinary Technology, as defined in the Act, merit and receive the confidence of the public and that only qualified individuals be permitted to practice Veterinary Medicine or Veterinary Technology in the Jurisdiction of \_\_\_\_\_. This Act shall be liberally construed to carry out these objectives and purposes.
- (b) It is further declared that the intent of this legislation is to regulate the Veterinary Medicine and Veterinary Technology professions and will result in displacing competition by restricting licensure to practice Veterinary Medicine and Veterinary Technology, as such practice is defined and interpreted by the Board, to Persons determined by the Board to be qualified under this Act.
- (c) It is further declared that any such restriction on competition is outweighed by the broader interest in protection of the public health, safety, and welfare. It is understood that the regulatory structure calls for Veterinarians, Veterinary Technicians and public members to serve on the Board and this legislation recognizes the need for professional expertise provided

**Section 104. Definitions.**

When used in this Act, these words and phrases shall be capitalized and are defined as follows:

- (a) **Animal** means any member of the Animal kingdom other than humans, whether living or dead.
- (b) **Animal Shelter** means a public or private humane society, Society for the Prevention of Cruelty to Animals, Animal protection shelter or control agency, rescue group, etc., that provides shelter and care for homeless Animals.
- (c) **Applicant** means a Person who submits an application for licensure or registration, whether complete or not, to the Board.
- (d) **Approved Provider of Continuing Education** means any Person, that has met the requirements of the Board to provide educational courses that are designed to assure continued competence in the practice of Veterinary Medicine or Veterinary Technology.
- (e) **Approved Program of Continuing Education** means an educational program approved by the Board or offered by an Approved Provider of Continuing Education.
- (f) **Approved Veterinary Medical Program** means a school of Veterinary Medicine or a veterinary medical education program that has been approved by the Board.
- (g) **Approved Veterinary Technology Program** means a school of Veterinary Technology or a Veterinary Technology or Veterinary Nursing education program that has been approved by the Board.
- (h) **Board of Veterinary Medicine** means the Board of Veterinary Medicine created under this Act.
- (i) **Client** means a Person who has entered into an agreement with a Veterinarian for the purposes of obtaining veterinary medical services in-person or by any means of communication.
- (j) **Complementary and Alternative Veterinary Medicine [Therapies]** means a heterogeneous group of preventive, diagnostic and therapeutic philosophies and practices that are not considered part of conventional Veterinary Medicine. These therapies include, but are not limited to, veterinary acupuncture, acuthery, and acupressure; veterinary homeopathy; veterinary manual or manipulative therapy (i.e., therapies based on techniques practiced in osteopathy, chiropractic medicine, or physical medicine and therapy); veterinary nutraceutical therapy; and veterinary phytotherapy.
- (k) **Consultation** means when a Veterinarian receives advice or assistance in-person, or by any method of communication, from a veterinarian or other Person whose expertise, in the

- (x) **Supervision**-related terms are defined as follows:
- (1) **Supervising Veterinarian** means a Veterinarian who assumes responsibility for the veterinary care given to a Patient by an individual working under his or her direction. The Supervising Veterinarian must have examined the Patient pursuant to currently acceptable standards of care.
  - (2) **Immediate Supervision** means the Supervising Veterinarian is in the immediate area and within audible and visual range of the Patient and the individual treating the Patient.
  - (3) **Direct Supervision** means the Supervising Veterinarian is readily available on the Premises where the Patient is being treated.
  - (4) **Indirect Supervision** means a Supervising Veterinarian need not be on the Premises but has given either written or oral instructions for the treatment of the Patient and is readily available for communication.
- (y) **Veterinarian** means an individual who is licensed to practice Veterinary Medicine under the provisions of this Act.
- (z) **Veterinarian-Client-Patient Relationship (VCPR)**
- exists when:
- 1) Both the Veterinarian and Client agree for the Veterinarian to assume responsibility for making medical judgments regarding the health of the Animal(s); and
  - 2) 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
  - 3) The Veterinarian has provided the client with information for obtaining timely follow up care.
- (aa) **Veterinarian Manager** is a Veterinarian who registers to assume responsibility for the Veterinary Facility registration, management and operation of a Veterinary Facility.
- (bb) **Veterinary Facility** means any building, place or mobile unit from which the practice of Veterinary Medicine and Veterinary Technology is conducted.

## Commentary

**Section 104. Definitions. (continued)**

**Section 104(y). Veterinarian** - To maintain consistency with the regulations promulgated by the Food and Drug Administration, Department of Health and Human Services with regard to Animal Drugs, Feed and Related Products (21 C.F.R. §530.3) which define Veterinarian and the Veterinarian-Client-Patient Relationship, the AAVSB defines Veterinarian as an individual who is duly licensed under the provisions of the Act. The AAVSB recognizes that there may be special limitations to the use of the title of Veterinarian and has defined Special Provisions in Section 107. The AAVSB also strongly believes that limiting the use of the title Veterinarian to individuals licensed to perform veterinary services better protects the public. It must be emphasized that the title restriction does not prevent anyone from referencing a valid educational degree (i.e. DVM) or other recognized credential (i.e. VMD). See also the comment to Section 301(b) of the Act. Several comments addressed this issue, saying the term Veterinarian belonged to individuals by virtue of the receipt of a degree. While this is understandable from an academic perspective, the AAVSB reasoned that the Code of Federal regulations and the potential for confusion to the public, mandate limitation of use of the term "Veterinarian" to Licensees. In that case, there would be no violation and enforcement would be left up to criminal prosecution through the state's attorney or through civil litigation, involving deceptive trade practices or other applicable remedies. The AAVSB determined this approach does not adequately protect the public because many Jurisdictions lack the resources or incentives to criminally prosecute such offenses or, alternatively, injured parties must pursue matters through an expensive civil process. The AAVSB has chosen to affirmatively address the issue, rather than pass the enforcement to other entities.

**Section 104(z). Veterinarian-Client-Patient Relationship (VCPR)** – Most Jurisdictions require the establishment of a valid VCPR to provide Patient care and prescribe medication. Failure to establish a valid VCPR may constitute grounds for charges of professional misconduct in many Jurisdictions. The qualifying characteristics of this relationship vary from Patient to Patient and, for a particular Patient, may also vary from situation to situation. For example, the AAVSB recognizes that in cases involving stray animals without an identified owner, emergency care may be rendered without establishment of a formal VCPR. The AAVSB determined that the establishment of the VCPR must be specified through general statutory language. Under certain circumstances, the failure to establish the VCPR may severely hinder the Boards' ability to prosecute or pursue administrative disciplinary actions against Licensees.

Certain comments suggested referencing the definition of VCPR set forth in the Code of Federal Regulations (CFR) within the statute. The VCPR as defined by the CFR under Title 21-Food and Drugs- applies only to the prescribing and dispensing of drugs and is not a federal requirement for the practice of veterinary medicine. Therefore, Jurisdictions may or may not require it, and may modify it when requiring it to practice. The AAVSB carefully reviewed the CFR and determined that the above definition was broad enough to encompass the more specific references in the CFR. Also, the AAVSB did not want to bind the Jurisdiction to a federal definition which, if changed, would necessitate subjecting the practice act to modifications and additional scrutiny by the legislature. Finally, the AAVSB determined that the specifics of the VCPR should be contained in the standards of practice/codes of conduct and promulgated through the rule/regulations, a process which is easier to modify, if necessary. Below are comments to the act which provide suggested language to be incorporated in the regulations.



Commentary

**Section 104(cc). Veterinary Technician** - The AAVSB believes that the title "Veterinary Technician" and the practice of Veterinary Technology should be protected as a licensed profession, and this is reflected in the Act. Jurisdictions have created other titles such as veterinary assistant, or veterinary employee to define the roles of staff who may perform tasks not relegated to Veterinary Technicians.

The AAVSB strongly believes there should be uniform degrees and titles for veterinary technicians or veterinary nurses. Regardless, in all cases, Jurisdictions are strongly encouraged to specify the roles of each designated title (in the rules), recognizing that all veterinary employees must be Supervised by a Veterinarian.

**Section 106. Practice of Veterinary Technology.**

The Practice of Veterinary Technology means:

Any individual practices Veterinary Technology when performing any one or more of the following on an Animal:

- (a) Provision of professional medical care, monitoring and treatment under Supervision of a Veterinarian;
- (b) Representation of oneself directly or indirectly, as engaged in the practice of Veterinary Technology; or
- (c) Use of any words, letters or titles under such circumstance as to induce the belief that the individual using them is authorized to practice Veterinary Technology under this Act. Such use shall be prima facie evidence of the intention to represent oneself as engaged in the practice of Veterinary Technology. Nothing in this section shall be construed to permit a Veterinary Technician to do the following:
  - (1) surgery;
  - (2) diagnose;
  - (3) prognose; and
  - (4) prescribe.

Regulations defining tasks of Veterinary Technicians:

The Board shall promulgate regulations establishing Animal health care tasks and an appropriate degree of Supervision required for those tasks that may be performed only by a Veterinary Technician or a Veterinarian.

**Commentary****Section 106. Practice of Veterinary Technology.**

See comment to Section 104 (cc) regarding the protection of the title and the licensed profession.

**Section 107. Special Provisions.**

The licensure requirements of the Act shall not apply to the following:

- (a) Any veterinary medical officer employed by a governmental body performing Veterinary Medicine services within the scope of official duties, provided such Veterinary Medicine services are limited to the period of employment;
- (b) Any Animal care provider employed by a governmental body performing Veterinary Technology services within the scope of official duties, provided such Veterinary Technology

- (j) Any Person or that Person's employee, who, subject to the Jurisdiction's anti-cruelty laws, treats Animals belonging to that Person, providing that ownership is not transferred for the purpose of circumventing this Act;
- (k) Any veterinarian or veterinary technician who is licensed in good standing in another Jurisdiction or country and is providing veterinary services in response to an emergency, disaster (natural or man-made) or a case involving Animal cruelty or fighting, provided a request for such assistance is received from a government, law enforcement, or Animal protection agency;
- (l) Any veterinarian who is licensed in good standing in another Jurisdiction or country and is providing a Continuing Education course or training at an Approved Veterinary Medical Program or Approved Veterinary Technology Program or in connection with an Approved Program of Continuing Education.

#### Commentary

##### Section 107. Special Provisions.

The AAVSB recognizes that some Jurisdictions include additional special provisions relating to the spaying, neutering, dehorning, castration emasculation or docking of cattle, horses, sheep, goats, or swine in the course or exchange of work for which no monetary compensation is paid, or to artificial insemination and the collection of semen as well as additional services. Due to the potential for harm to the public/Animal(s), it is the intent of the Act to include Persons performing such activities as professionals who must be licensed. Accordingly, these activities are intentionally absent from the list of special provisions and such activities are included in the practice definition.

The special provision for students who practice at a veterinary teaching hospital or under the Immediate or Direct Supervision of a Veterinarian is intended to be restricted to those students who have completed some basic clinical courses. After much discussion and review of the comments, the AAVSB chose to leave the time period blank. The Jurisdictions should determine the requisite time period which can be reflected in hours, percentages or years. Similarly, Jurisdictions should determine the appropriate prerequisites to be completed before Veterinary Technology students are permitted to practice Veterinary Technology.

As drafted, the special provision also restricts the practice of Veterinary Technology to those students who have completed some basic courses and are pursuing completion of the experience component of the program.

In all cases the special provision is intended to apply only to students practicing under the appropriate supervision as determined by the Board. With regard to faculty, the AAVSB noted that several Jurisdictions already require full licensure of faculty who teach clinical curriculum. Others require faculty licenses or institution licenses. The AAVSB feels strongly that Veterinary Medicine faculty involved in direct, clinical relations with the public and its Patients are engaged in practice and, thus, should be licensed, particularly when a VCPR exists.

## Article II. Board of Veterinary Medicine.

### Commentary

#### Introductory Comment to Article II.

Before it can regulate the practice of Veterinary Medicine or Veterinary Technology, the Jurisdiction must first establish and empower the Board. Accordingly, Article II of the Act defines and creates the Board by specifying elements necessary to its formation, organization, and operation. Each of the sections contained in this article covers elements that the AAVSB felt necessary to the proper formation and efficient operation of the Board. Several of these sections, especially those that contain innovative or infrequently utilized provisions, are supplemented by individual explanatory comments.

Among the sections of Article II that may be of particular interest to users of the Act are the following: Section 202 and 203(c), pertaining to the inclusion of public members as Board members; Section 207, which provides grounds and procedures for removal of Board members, and Section 213(b)(2), which enables Boards to avail themselves of research and study grants and other non-Jurisdiction monies without having to deposit such funds in Jurisdiction general revenue accounts (thereby losing control over the expenditure of such funds).

It is also important to note that Section 212 specifically empowers the Board to make such rules as are necessary to fully administer and implement the Act. This is a most significant feature of the Act. The underlying philosophy of this approach is that the statute should create goals, guidelines, and policies in general areas, and permit the Board to provide the specifics in its rules. This approach recognizes that it is impossible for State legislatures to enact comprehensive provisions regarding all the matters with which a Board may be confronted or to anticipate the rapidly changing conditions of the professions and the delivery of veterinary medical services. Consequently, the AAVSB recommends that Boards have adequate power to adopt and amend rules with the greatest possible flexibility and autonomy. Section 212 of this Act is designed to accomplish this objective.

#### **Section 201. Designation.**

The responsibility for enforcement of the provisions of this act is hereby vested in the Board of Veterinary Medicine (Board). Under active oversight and supervision by the Jurisdiction, the Board shall have all of the duties, powers, and authority specifically granted by or necessary for the enforcement of this Act, as well as such other duties, powers, and authority as it may be granted from time to time by applicable law.

## Commentary

**Section 203. Qualifications.**

Conflict of interest issues provide a legal basis for challenging the actions of a regulatory Board. As has been determined by the United States Supreme Court, a conflict need not be actual, but merely the appearance of an impropriety can create the basis for legal challenges. The AAVSB strongly suggests regulatory Board members not participate as an officer or in a policy-making position of a local, Jurisdiction or national professional association.

**Section 203(b). Qualifications.**

Section 203(b) of the Act requires that Veterinarians and Veterinary Technicians be licensed to practice at all times while serving as Board members. Although AAVSB recommends that board members should have at least five (5) years of experience in the practice of Veterinary Medicine or Veterinary Technology prior to appointment, it believes the number of years of experience should be determined by each Board. Since the practice of Veterinary Medicine is defined in Section 105 in broad terms, it renders a Veterinarian actively engaged in almost any phase of practice eligible for appointment. This provides for the eligibility of candidates who have divergent backgrounds and experiences, who are knowledgeable in the affairs of the profession, and who represent different geographic areas of the Jurisdiction.

**Section 203(c). Qualifications.**

Specific qualifying criteria for the public member have been deliberately omitted from this section. Reliance has been placed in the Governor to determine what attributes a Person should possess to meaningfully serve on a Board. To help assure that such a member would be truly independent in judgments, those Persons who have a possible substantial relationship with the profession are rendered ineligible by this section. The AAVSB also recommends that a public member of the Board be at least twenty-one (21) years old.

**Section 204. Appointment.**

In accordance with the principle of separation of powers and to provide for sufficient oversight by the respective branches of government, the Governor shall appoint the members of the Board in accordance with the provisions of this Article or other applicable laws.

## Commentary

**Section 204. Appointment.**

The AAVSB recognizes that there may be other appointing authorities in some Jurisdictions. Accordingly, Jurisdictions with an appointing authority other than the Governor should insert the appropriate reference to such authority within this section of the Act.

## Commentary

**Section 206. Vacancies.**

Based upon several experiences within Veterinary Medicine and other professions whereby vacancies on regulatory Boards have not been timely appointed, the AAVSB provided for a time period whereby the Governor (or other appointing authority) must fill such vacancies. The AAVSB recommends that failure to make such appointments within the six-(6) month period should divest the Governor of the appointment authority for that vacancy and empower the State Senate in this regard for said vacancy. It is hoped that this time period will provide incentives to the Governor to make such appointments in a timely fashion. However, each individual jurisdiction will have to consider proposed language to ensure such does not conflict with other laws. This is a model act for jurisdictions to consider and, obviously, they may not enact it verbatim. That being said, while boards might not be able to enforce these mandates, including such provisions will at the very least offer guidance to legislatures and courts as to how to ensure public safety by cooperating with and helping regulatory boards.

**Section 207. Removal.**

- (a) A Board member may be removed by the Governor. In addition, pursuant to the procedures set forth in subsection (b) herein, a board member may be removed by a three-quarter ( $\frac{3}{4}$ ) majority vote of the board upon one or more of the following grounds:
- (1) The refusal or inability for any reason of a Board member to perform the duties as a member of the Board in an efficient, responsible, and professional manner;
  - (2) The misuse of office by a member of the Board to obtain financial or material gain or advantage personally or for another through such office;
  - (3) A final adjudication by a recognized body including the courts that the Board member is in violation of the laws governing the practice of Veterinary Medicine or Veterinary Technology; or
  - (4) Other just and reasonable causes as determined solely by the Board pursuant to applicable law.
- (b) Removal of a member of the Board shall be in accordance with the Administrative Procedures Act of this Jurisdiction, or other applicable laws.

**Section 209. Compensation of Board Members.**

Each member of the Board shall receive a per diem as specified in the regulations for time engaged in performance of the official duties of the Board and shall also be reimbursed for all reasonable and necessary expenses incurred in connection with the discharge of such official duties.

**Commentary****Section 209. Compensation of Board Members.**

AAVSB recognizes that many boards do not pay board members, but the AAVSB believes board members should be paid a per diem for their time as well as their travel expenses. Failure to compensate volunteers for their time may result in difficulty recruiting Board members who must travel and may also lose a day's pay.

**Section 210. Meetings.**

- (a) The Board shall meet at least once every X month(s) to transact its business. The Board shall meet at such additional times as it may determine. Such additional meetings may be called by the Chairperson of the Board or by two-thirds (2/3) of the members of the Board.
- (b) The Board shall give prior notice of the time and place for each meeting in a manner prescribed by the Administrative Procedures Act or other applicable laws.
- (c) A majority of the members of the Board shall constitute a quorum for the conduct of a Board meeting and, except where a greater number is required by the Act or by any rule of the Board, all actions of the Board shall be by a majority of a quorum.
- (d) All Board meetings and hearings shall be open to the public. The Board may, in its discretion and according to law, conduct any portion of its meeting in executive session, closed to the public.

**Commentary****Section 210(a). Meetings.**

The AAVSB strongly recommends that Boards of Veterinary Medicine meet at least four (4) times per year. This is a minimum standard that would help Boards maintain an adequate level of efficiency and responsiveness.

**Section 210(c). Meetings.**

The AAVSB recommends that the Boards determine if remote participation is permissible by law.

**Section 213. Powers and Responsibilities.**

- (a) Under active Jurisdiction oversight and supervision, the Board shall be responsible for the control and regulation of the practices of Veterinary Medicine and Veterinary Technology in this Jurisdiction including, but not limited to, the following:
- (1) Licensure by Examination, or Transfer, or issuance of temporary, emergency or faculty licenses, or the renewal of licenses of individuals who are authorized to practice Veterinary Medicine or Veterinary Technology under the provisions of this Act;
  - (2) Registration and renewal of registration or licensure of facilities under provisions of this Act;
  - (3) The establishment and enforcement of standards or criteria of programs or other mechanisms to insure the continuing competence of Licensees;
  - (4) The establishment and enforcement of compliance with minimum standards for the registration of Veterinary Facilities, minimum standards of care and codes of conduct for Licensees who practice Veterinary Medicine or Veterinary Technology;
  - (5) The creation of a Bill of Rights concerning what veterinary services a Client may expect to receive;
  - (6) The determination and issuance of standards for recognition and approval of degree programs of schools and colleges of Veterinary Medicine and Veterinary Technology whose graduates shall be eligible for licensure in this Jurisdiction;
  - (7) The enforcement of those provisions of the Act relating to the conduct or competence of Applicants, Licensees practicing in this Jurisdiction, registration of Veterinary Facilities and the suspension, revocation, or restriction of licenses to practice Veterinary Medicine or Veterinary Technology;
  - (8) The maintenance of jurisdiction over Persons, irrespective of their licensure status, (i.e., active, inactive, expired, lapsed, surrendered or disciplined) relative to acts, omissions, complaints and investigations which occurred during the licensure period. The Board shall also maintain jurisdiction over registered facilities, irrespective of their registration status, relative to acts, omissions, complaints and investigations which occurred during the registration period. Such jurisdiction shall be for purposes of enforcement of all the provisions of this Act and any regulations duly promulgated hereunder, including the assessment and collection of fines, costs, and attorneys' fees. Jurisdiction of the Board shall also extend to Persons engaging in the unauthorized practice of Veterinary Medicine or Veterinary Technology. It is the intent of this subsection that Licensees cannot divest the Board of jurisdiction by changing or relinquishing licensure or registration status;



authorized to accomplish by this Act, or which the Board is qualified to accomplish by reason of its jurisdiction or professional expertise;

- (3) Any investigation, inquiry, or hearing that the Board is empowered to hold in accordance with applicable law may be held by or before any member(s) of the Board and the order of such member(s) shall be deemed to be the order of said Board when approved and confirmed as noted in Section 210(d);
- (4) The Board shall report any violation of this Act which also is deemed as violative of applicable criminal statutes to the Attorney General [State's Attorney] to cause appropriate proceedings to be instituted in the proper court without delay and to be prosecuted in the manner required by law. It is the duty of the Attorney General [State's Attorney] to prosecute such violations. Nothing in this paragraph shall be construed to require the Board to report violations whenever the Board believes that the public's interest will be adequately served in the circumstances by a suitable written notice or warning;
- (5) The Board shall have the power to subpoena Persons and documents for purposes of depositions and testimony, or both, in the same manner as prescribed in civil cases in the courts of this Jurisdiction. Any member of the Board, hearing officer, or administrative law judge shall have power to administer oaths to witnesses at any hearing that the Board is authorized to conduct, and any other oaths authorized in any Act administered by the Board;
- (6) In addition to the fees specifically provided for in this Act, the Board may assess additional reasonable fees for services rendered to carry out its duties and responsibilities as required or authorized by this Act or Board rules. Such services shall include but not be limited to the following:
  - (i) Issuance of duplicate certificates or identification cards;
  - (ii) Mailing lists, or reports of data maintained by the Board;
  - (iii) Copies of any documents;
  - (iv) Certification of documents;
  - (v) Notices of meetings;
  - (vi) Licensure Transfer;
  - (vii) Examination administration to a licensure Applicant; and
  - (viii) Examination materials;

## Commentary

**Section 213. Powers and Responsibilities. (continued)****Section 213(a)(3)(4)(5)(6). Powers and Responsibilities.**

Great care should be exercised by the Boards with respect to these Sections. Many Jurisdictions have statutes or rules which provide, for example, that approved degree programs of schools or colleges of Veterinary Medicine are those accredited by the Council on Education (COE) of the American Veterinary Medical Association (AVMA). Similarly, with regard to accredited Veterinary Technology programs, many Jurisdictions have statutes or rules that provide that approved programs are those accredited by the Committee on Veterinary Technician Education and Activities (CVTEA) of the AVMA. Furthermore, some Boards through their regulation/rules, rely upon the standards of practice or codes of ethics of private outside entities like the professional associations. As is emphasized by this Practice Act Model and Comments and for reasons stated below, the legislatures and/or regulatory Boards are encouraged to adopt, by statute or through the rule making process, the actual standards or criteria of the private outside entity to avoid allegations of improper delegation.

It is a well-established rule of administrative law that any delegation of governmental power (through statute or by rule) must carry with it appropriate limitations and procedural safeguards for affected individuals. For example, a direct, unequivocal grant of the accreditation function to a private organization, such as AVMA COE, by the legislature through a practice act or by the Board through the rule making process, might be deemed an unauthorized, improper, and invalid delegation of legislative or Board authority. Similarly, a direct reliance upon standards of practice or a code of conduct of a private outside body over which the legislature or Board has no control may constitute an unconstitutional delegation of authority. This doctrine is based upon the simple premise that regulatory decisions impacting an individual's property right (i.e. a license) must be made by Boards that have been created and empowered to protect the public and are answerable to the general public. Further, regulatory Boards in Veterinary Medicine have no control over AVMA activities. A review of this legal doctrine reveals case law invalidating legislation and rules that, without limitation, rely upon these outside entities without public accountability. See Garces v. Department of Registration and Education, 254 N.E.2d 622 (Ill. App., 1969); Gumbhir v. Kansas State Board of Pharmacy, 618 P. 2d 837 (Ks 1980); Coffman v. State Board of Examiners in Optometry, 50 N.W. 2d 322 (MI 1951); FM Properties Operating Co. v. City of Austin, 22 S.W. 3d 868 (TX 2000), Balian v. Board of Licensure in Medicine, 722 A. 2d 364 (ME 1999).

The AAVSB recommends that the statutory language grant the Board the authority to approve Veterinary Medicine programs and Veterinary Technology programs. Boards thereafter may adopt in their rules the standards, criteria and policies of accreditation established from time to time by the COE or the CVTEA, the nationally recognized accrediting agencies for Veterinary Medicine degree programs and Veterinary Technology programs. Thereafter, the regulatory Boards can annually adopt in their minutes the list of accredited Veterinary Medicine and Technology programs using the AVMA COE and CVTEA list. A similar process can take place by the Board should it wish to rely upon others in determining the standards of practice or codes of conduct. This will allow the legislatures and Boards to utilize the expertise of such private outside entities without improperly delegating such authority to an organization over whom the Boards have no control, and which is not accountable to the public.

## Article III. Licensing.

### Commentary

#### Introductory Comment to Article III.

Article III of this Act sets out the requirements for initial licensure of Veterinarians and Veterinary Technicians, and registration of Veterinary Facilities, as well as Licensure Transfer, renewal, and emergency, temporary or faculty licensure. As in other parts of the Act, this Article establishes basic criteria and delegates the authority for implementing those criteria to the Board. The Board exercises this authority by promulgating specific rules and utilizing appropriate enforcement mechanisms. For example, regarding initial licensure, the Act would be implemented by the Board's approval of Veterinarian or Veterinary Technician degree programs, specifications of the Examinations to be used, and establishment of all other prerequisites that must be met by each Applicant to whom it issues a license.

This article as well as the entire Act, also reflects the AAVSB's efforts to develop uniform standards for the transfer of licensure. The veterinary medical profession has become increasingly mobile, and Boards need to examine the ways in which differing standards between Jurisdictions may be affecting the public's access to qualified Licensees.

#### Section 301. Unlawful Practice.

- (a) The practice of Veterinary Medicine and Veterinary Technology in this Jurisdiction is subject to enforcement by the Board. Except as otherwise provided in this Act, it shall be unlawful for any Person to practice Veterinary Medicine or Veterinary Technology in this Jurisdiction through any means, unless duly licensed under the applicable provisions of this Act.
- (b)
  - (1) No Person shall use the designation Veterinarian, Licensed Veterinarian or any other designation indicating licensure status, including abbreviations, or hold themselves out as a Veterinarian unless duly licensed as such.
  - (2) No Person shall use the designation Veterinary Technician, Licensed Veterinary Technician or any other designation indicating licensure status, including abbreviations, or hold themselves out as a Veterinary Technician unless duly licensed as such.
- (c) The practice of Veterinary Medicine or Veterinary Technology through electronic or other means in this Jurisdiction shall constitute the practice of Veterinary Medicine or Veterinary Technology subject to licensure and enforcement by the Board.

## Commentary

**Section 301. Unlawful Practice. (continued)****Section 301(b). Unlawful Practice.**

This provision is intended to restrict the use of the terms Veterinarian and Veterinary Technician to those who are duly licensed under the provisions of this Act and is not intended to prevent accurate use of initials or abbreviations, such as DVM, VMD or any corresponding degree initials for Veterinary Technicians, indicating academic achievement. This Act is also not intended to prevent other licensed professionals from practicing within other "allied scopes." However, it is important to recognize the Veterinarian and Veterinary Technician titles and link this name recognition to licensure. This link protects the public through an assurance that there is regulatory consistency associated with the Veterinary Medicine and Veterinary Technology identity. See also the Comments to Section 104(y), defining the term Veterinarian.

**Section 301(c). Unlawful Practice.**

A license shall be required for any Veterinarian or Veterinary Technician who provides veterinary medical services to a Patient or Client in this Jurisdiction through telephonic, electronic or other means. Many factors, including technological advancements, increase the likelihood of the practice of Veterinary Medicine via electronic means and without physical presence, both intrastate and interstate. While the judiciary may have the final word on regulating professions across Jurisdiction lines, this section is designed to specifically address the issue of where practice takes place. The AAVSB believes the practice of Veterinary Medicine takes place where the Patient is located when the VCPR is established. Because the Board's central mission is to protect the public in its Jurisdiction, it must make every effort to regulate the practice of Veterinary Medicine being received in that Jurisdiction, regardless of the location of the Veterinarian providing the services. Arguments can also be made that identify the location of practice under these circumstances as occurring in both Jurisdictions; that is where the Patient is located and where the Veterinarian is located.

Veterinarians in this Jurisdiction may wish to utilize the services of other veterinarians not licensed to practice in this Jurisdiction or other Persons. Consultations are defined in Section 104, and there are special provisions in Section 107(c) and (d) for Consultations with other veterinarians and Persons. The responsibility for the welfare of the animal remains with the Veterinarian in this Jurisdiction.

**Section 302. Qualifications for Licensure by Examination.**

- (a) To obtain a license to practice Veterinary Medicine, an Applicant for licensure by Examination shall bear the burden of substantiating to the Board that the following criteria have been met:
- (1) Submission of a completed application in the form approved by the Board;
  - (2) Attainment of twenty-one (21) years of age;
  - (3) Is of good moral character. As one element of good moral character, the Board shall require each applicant for licensure to submit a full set of fingerprints for the purpose of obtaining criminal records checks, pursuant to applicable law. All good moral character information, including the information obtained through the criminal background checks, shall be relevant to licensure eligibility determinations to the extent permitted by law.
  - (4) Graduation and receipt of a doctorate degree in Veterinary Medicine from an Approved Veterinary Medical Program;
  - (5) Successful completion, within the X years preceding application, of an Examination(s) approved by the Board; and
  - (6) Payment of all applicable fees specified by the Board relative to the licensure process.
- (b) To obtain a license to practice Veterinary Technology, an Applicant for licensure by Examination shall bear the burden of substantiating to the Board that the following criteria have been met:
- (1) Submission of a completed application in the form approved by the Board;
  - (2) Attainment of eighteen (18) years of age;
  - (3) Is of good moral character. As one element of good moral character, the Board shall require each applicant for licensure to submit a full set of fingerprints for the purpose of obtaining criminal records checks, pursuant to applicable law. All good moral character information, including the information obtained through the criminal background checks, shall be relevant to licensure eligibility determinations to the extent permitted by law.
  - (4) Graduation and receipt of a degree from an Approved Veterinary Technology Program;
  - (5) Successful completion, within the X years preceding application of an Examination(s) approved by the Board; and
  - (6) Payment of all applicable fees specified by the Board relative to the licensure process.

**Section 303. Educational Equivalence.**

By rule, the Board may set forth a procedure for Applicants who have graduated from a program/school that is not approved by the Board for an equivalency determination related the educational component of licensure.

**Commentary****Section 303. Educational Equivalence.**

One of the most difficult tasks for regulatory Boards is to assess the educational equivalence of graduates of veterinary programs outside the United States and Canada that have not been evaluated by a recognized accrediting body under specific standards and criteria. There are currently two (2) programs designed to measure educational equivalence, the AAVSB Program for the Assessment of Veterinary Education Equivalence (PAVE) and the AVMA Educational Commission for Foreign Veterinary Graduates (ECFVG) program. As an entity with public protection as its primary mission and whose membership consists of veterinary Boards who share in this mission, the PAVE program was designed by the AAVSB in response to a request from its member Boards to assist them in the accurate and timely assessment of educational equivalence of foreign graduates. Boards are encouraged to adopt the standards and criteria of PAVE through their rule making process rather than through the statutes. Details of the PAVE program can be found on the AAVSB website. Details of the ECFVG program can be found on the AVMA website.

**Section 304. Examinations.**

- (a) Any Examination for licensure required under this Act, shall be given by the Board at least two (2) times during each year. The Board shall approve the content and subject matter of each Examination, the place, time and dates of administration of the Examination.
- (b) The Examination shall measure the entry level competence of the Applicant to practice Veterinary Medicine or Veterinary Technology. The Board may employ, cooperate, and contract with any organization or consultant in the preparation, administration and grading of an Examination, but shall retain the sole discretion and responsibility for determining which Applicants have successfully passed such an Examination.

**Commentary****Section 304. Examinations.**

As has been emphasized throughout this document and comments, the AAVSB recommends that the authority to make decisions directly impacting the licensure process be specifically vested in the Board. On a similar note, the discretion to determine the content and subject matter of each Examination and the passing score necessary to indicate minimum competence for purposes of licensure belongs solely to the Board. The Board, of course, may rely upon the expertise of the owner of the Examination in determining the content areas and pass/fail scores, however, the Board must be the ultimate decision-maker. That is, statutes and/or rules cannot blindly, and without limitations, delegate the decision to the outside entity. See the Comments to Section 213(a) for a more complete explanation.

## Commentary

**Section 305(a). Qualifications for a Temporary License.**

The privilege of practicing temporarily is only granted to individuals duly licensed and in good standing to practice Veterinary Medicine or Veterinary Technology in another Jurisdiction. Based upon the uniformity in accredited educational programs and the uniform national Examination(s), it is perceived that minimum competence in one Jurisdiction is reasonably equated to minimum competence in another Jurisdiction. Furthermore, practice privileges apply to such individuals only if the requirements for licensure in the Jurisdiction of licensure are substantially similar to the requirements for licensure in this Jurisdiction.

By design, the language of the temporary license references an "application" to be submitted to the Board prior to engaging in practice under this section. It is up to each individual Board to determine the extent of the application.

The unspecified time period is also, by design, left to the interpretation of a Board as to how the period is to be determined.

Finally, Veterinarians and Veterinary Technicians providing services under this temporary practice privilege are deemed to have submitted to the jurisdiction of the applicable Board and agree to be bound by the laws of the Jurisdictions thereof. It is recommended that the application determined by the Board contain language that verifies the submission of the Person to the Jurisdiction and the applicability of the laws of the Jurisdiction. It provides the Boards with important information about who is practicing (through the application). It also provides the Board with appropriate waivers relative to jurisdiction and the laws of the Jurisdiction. Finally, it provides a privilege which can be removed by the Board through the disciplinary process, reported to the databank, and, if Jurisdiction laws allow, have an eventual impact upon the actual license in the Jurisdiction of licensure.

**Section 305(b). Qualifications for Emergency Practice.**

See comments to 305(a) relative to the overall rationale for a temporary license and the applicability of jurisdictional and other legal issues. Similar rationale applies to this section as well. In addition, emergency practice in the case of a declared disaster is left to the Board to determine.

Again, this provides the Board with valuable information as to who is practicing within the Jurisdiction in the event of a reported complaint or wrongdoing. Written notice can be determined by the Board, but it is suggested it be limited to a simple statement as to the fact that a disaster has been declared, the Person has a license in good standing and is practicing relative to the disaster, submits him/herself to the jurisdiction of the Board and will abide by the applicable laws of the Jurisdiction. It is not anticipated any such notice will be subject to approval by the Board, thus eliminating the time-consuming Board approval process due to the emergency nature of the situation.

Alternatively, Boards may choose to use the special provisions approach for veterinarians providing services during disasters and other emergency found in Section 107(c).

## Commentary

**Section 306. Faculty Licensure.**

The AAVSB believes all members of faculty at a college or school of Veterinary Medicine should have a license if they practice on Client-owned Animals in direct association with their employment at the Approved Veterinary Medical Program. Veterinary colleges have indicated that flexibility in licensure is needed in employing eminent scholars from around the world, especially those who practice a sub specialty and may not want to or be able to pass the comprehensive American national licensing exam that covers all species and topics. Yet if faculty are practicing Veterinary Medicine, a mechanism must be in place to ensure public protection if a complaint arises regarding veterinary incompetence or a violation of the Practice Act. The school or college does not have a mission of public protection and it is not their responsibility nor can responsibility be delegated to them to investigate or take appropriate action regarding a complaint. The primary purpose of the faculty license is to allow Approved Veterinary Medical Programs a procedure to bring much desired talent to the faculty while the Jurisdictions can still ensure public protection subject to this article.

**Section 306(a)(4). Faculty Licensure.**

The faculty licensure examination may be a jurisprudence examination, or any other examination deemed appropriate for this specific purpose, not to be confused with the North American Veterinary Licensing Examination (NAVLE).

**Section 307. Qualifications for Licensure Transfer.**

- (a) In order for a veterinarian or veterinary technician currently licensed in another Jurisdiction to obtain a license as a Veterinarian or Veterinary Technician by Licensure Transfer in this Jurisdiction, an Applicant shall bear the burden of substantiating to the Board that the following criteria have been met:
- (1) Submission of a completed application in the form approved by the Board;
  - (2) Is of good moral character. As one element of good moral character, the Board shall require each applicant for licensure to submit a full set of fingerprints for the purpose of obtaining criminal records checks, pursuant to applicable law. All good moral character information, including the information obtained through the criminal background checks, shall be relevant to licensure eligibility determinations to the extent permitted by law;
  - (3) Active practice of Veterinary Medicine or Veterinary Technology for at least X hours during the X years preceding application;
  - (4) Proof that a Veterinary or Veterinary Technician license is current, unrestricted and in good standing;



## Commentary

**Section 308. Continuing Education. (continued)**

Continuing Education has been widely used as an acceptable method for ensuring the continued competence of Licensees. Many Boards mandate that Licensees obtain a specified number of hours of Continuing Education within a licensure renewal period. Some Boards specify that Licensees must obtain Continuing Education in certain practice areas. However, most Boards require that Continuing Education consist of more general content areas in Veterinary Medicine or Veterinary Technology. The AAVSB recommends that Boards require Licensees to complete a specified number of Continuing Education hours in each licensure renewal period and develop a method for ensuring compliance such as random audits.

Lending credibility to Continuing Education hours is imperative to the Board's mission of assessing the continuing competence of Licensees.

Rather than rely upon the expectation that Continuing Education programs chosen by the Licensee will meet the criteria of the Board, it is recommended that an assessment mechanism of programs or providers of CE be adopted. Evaluation of programs or providers of CE by experts can assist veterinary Boards by relieving them of time-consuming administrative responsibilities while providing content expertise and uniformity.

To this end, the AAVSB has instituted the Registry of Approved Continuing Education (RACE) program whereby the Association, on behalf of its Member Boards, approves providers and programs of Continuing Education. As set forth in the Definitions, an "Approved Program of Continuing Education" means an educational program approved by the Board or offered by an "Approved Provider of Continuing Education." The AAVSB has adopted stringent criteria utilized in its RACE program in determining Approved Providers and Approved Programs. This criterion was developed based upon an analysis of requirements currently used by the AAVSB Member Boards, along with a review of other organizations that also approve Continuing Education (CE) providers or programs.

At their option, the AAVSB Member Boards may wish to recognize the AAVSB RACE approved providers or programs as "approved" within their Jurisdictions for purposes of accepting CE for licensure renewal.

Such a process will save the administrative burdens placed upon the Board in assessing CE providers or programs while at the same time promoting the mission of the AAVSB to bring uniformity to the licensure and renewal processes. To avoid allegations of improper delegation of authority (see Comments, Section 213(a)), Boards are encouraged to adopt such criteria as established from time to time by the AAVSB RACE Program as the criteria of such Board. This "two-step" process will insure that the Board maintains the ultimate decision-making authority and avoids the legal pitfalls of improper delegation. Details about RACE can be found on the AAVSB website.

## Commentary

**Section 309. Registration of Veterinary Facilities. (continued)**

The AAVSB recommends that the statute include a provision that the Veterinarian Manager has the burden to notify the Board of any change in status of the Veterinarian Manager and should notify the Board within 14 days of such change. Facility registration is particularly useful in Jurisdictions that permit corporate or non-veterinarian ownership of practices; some of these Jurisdictions permit the manager of the practice to be a non-veterinarian and allow for discipline or corrective action to be taken against a non-Licensee.

Boards may want to consider whether to place a limit on the number of facilities a Veterinarian can register to manage, or whether to require their physical presence for a designated period of time at the facility. In addition, the Board may use its discretion to waive the restrictions for an Applicant to be a Veterinarian Manager upon receipt of a detailed description of any probationary or disciplinary actions against their license or any other violations of the Act.

Some Jurisdictions include standards of practice in the rules for registering a facility. California is an example of a Jurisdiction that has extensive minimum standards of practice in the regulations pertaining to veterinary premise inspection.

**Section 310. Licensure Renewal Requirements.**

- (a) Licensees shall be required to renew their license at the time and in the manner established by the Board. Under no circumstances, however, shall the renewal period exceed X years;
- (b) As a requirement for licensure renewal, each Licensee shall provide evidence satisfactory to the Board that the Licensee has completed at least X Continuing Education hours of an Approved Program of Continuing Education during the renewal period;
- (c) Veterinary Facilities shall be required to renew their registrations, at the time and in the manner established by the Board. Under no circumstances, however, shall the renewal period exceed X years.

**Section 312. Source of Data.**

In making determinations under this Article III and to promote uniformity and administrative efficiencies, the Board shall be authorized to rely upon the expertise of and verified data gathered and stored by not for profit organizations that share in the public protection mission of this Board including the American Association of Veterinary State Boards (AAVSB).

- (8) Failure to provide medical records in a timely fashion upon proper request by the Client, law enforcement, the Board or other regulatory agency;
- (9) Unauthorized disclosure of confidential information;
- (10) Being found by the Board or any court of competent jurisdiction to have engaged in acts of cruelty or abuse of Animals;
- (11) Misrepresentation of a fact by an Applicant or Licensee;
  - (a) In securing or attempting to secure the issuance or renewal of a license;
  - (b) In statements regarding the Licensee's skills or value of any treatment provided or to be provided or using any false, fraudulent, or deceptive statement connected with the practice of Veterinary Medicine or Veterinary Technology including, but not limited to, false or misleading advertising;
- (12) Fraud by a Licensee in connection with the practice of Veterinary Medicine or Veterinary Technology including engaging in improper or fraudulent billing practices;
- (13) Engaging in, or aiding and abetting any individual engaging in the practice of Veterinary Medicine or Veterinary Technology without a license, or falsely using the title of Veterinarian, or Veterinary Technician or a derivative thereof;
- (14) Failing to conform to currently accepted standards of practice;
- (15) Failing to maintain a Veterinary Facility at accepted minimum standards as defined by Board rules;
- (16) Failing to pay the costs assessed in a disciplinary matter or failing to comply with any stipulation or agreement involving probation or settlement of any disciplinary matter with the Board or with any order entered by the Board;
- (17) Conduct which violates the security of any licensure Examination, including, but not limited to:
  - (a) Removing from the Examination room any Examination materials without authorization;
  - (b) Unauthorized reproduction by any means of any portion of the actual Examination;
  - (c) Aiding by any means the unauthorized reproduction of any portion of the actual Examination;

- (c) Subject to an order duly entered by the Board, any Licensee whose license has been suspended or restricted pursuant to this Act, whether voluntarily or by action of the Board, shall have the right, at reasonable intervals as determined by the Board, to petition the Board for reinstatement of such license. Such petition shall be made in a form approved by the Board. Upon investigation and hearing, the Board may, at its discretion, grant or deny such petition, or it may modify its original finding to reflect any circumstances which have changed sufficiently to warrant such modifications. The Board, also at its discretion, may require such individual to pass an Examination(s), complete Board imposed Continuing Education requirements, or any other sanctions deemed appropriate by the Board for reentry into practice.
- (d) The Board may issue a cease and desist order to stop any Person from engaging in unauthorized practice or violating or threatening to violate a statute, rule, or order that the Board has issued or is empowered to enforce. The cease and desist order must state the reason for its issuance and give notice of the Person's right to request a hearing under applicable procedures as set forth in the Administrative Procedures Act. Nothing herein shall be construed as barring criminal prosecutions for violations of this Act.
- (e) All final decisions by the Board shall be subject to judicial review pursuant to the Administrative Procedures Act.
- (f) Any Veterinarian or Veterinary Technician whose license is revoked, suspended, or not renewed shall return such license to the offices of the Board within X days after notice of such action.
- (g) The Board is authorized to make public as much disciplinary information about Licensees as the law allows.

#### Commentary

##### **Section 401. Grounds, Penalties, and Reinstatement.**

Under this section, Boards are granted authority over both Licensees and Applicants. General powers are phrased in such a way as to allow the Board a wide range of actions, including the refusal to issue or renew a license, and the use of license restrictions or limitations. Similarly, the penalties outlined in this section give the Board wide latitude to make the disciplinary action fit the offense. Please refer to the Board powers of Section 213 for additional authority. Any "reasonable intervals," such as in 401(c), would be determined by the Board.

The AAVSB recommends that Boards develop clear policies regarding the reporting of disciplinary actions taken against Licensees, subject to confidentiality and to the applicable laws of the Jurisdictions. It is strongly recommended that Boards make public as much disciplinary action information as Jurisdiction law allows, and that all Boards participate in the AAVSB Veterinarian Information Verification Agency (VIVA), a national databank that allows Boards to review veterinary licensure candidates for past disciplinary actions from other Jurisdictions

## Commentary

**Section 401. Grounds, Penalties, and Reinstatement. (continued)****Section 401(a)(14). Grounds, Penalties, and Reinstatement.**

Veterinary Boards are encouraged to adopt specific standards of practice and codes of conduct into the rules/regulations to provide Licensees with reasonable guidance as to acceptable practice activities. Failure to adopt such standards may impede the Board from enforcement should a Licensee be accused of substandard practice. Reliance on standards adopted by an outside entity such as the professional association, without formal adoption by the Board may encourage improper delegation arguments as well as a failure to provide Licensees with the appropriate parameters of acceptable practice. This, of course, does not preclude the Board from formally adopting the standards that may already be in existence within these other associations.

**Section 401(b). Grounds, Penalties and Reinstatement.**

This section addresses the impaired Licensee and outlines the Board's flexibility when dealing with such Licensee through investigations and disciplinary actions.

Veterinary Boards may wish to consider the following for rules/regulations relative to the impaired Licensee to specify the contractual expectations of Licensees requesting participation in the program:

- (1) A Licensee who is physically or mentally impaired due to addiction to drugs or alcohol may qualify as impaired and have disciplinary action deferred and ultimately waived only if the Board is satisfied that such action will not endanger the public and the Licensee enters into an agreement with the Board for a treatment and monitoring plan approved by the Board, progresses satisfactorily in such treatment and monitoring program, complies with all terms of the agreement and all other applicable terms of subsection (b)
- (2) Failure to enter such agreement or to comply with the terms and make satisfactory progress in the treatment and monitoring program shall disqualify the Licensee from the provisions of this Section and the Board may activate an immediate investigation and disciplinary proceedings. Upon completion of the rehabilitation program in accordance with the agreement signed by the Board, the Licensee may apply for permission to resume practice upon such conditions as the Board determines necessary.
- (3) The Board may require a Licensee to enter into an agreement that includes, but is not limited to, the following provisions:
  - (i) Licensee agrees that the license may be suspended or revoked under Section (1);
  - (ii) Licensee will enroll in a treatment and monitoring program approved by the Board;
  - (iii) Licensee agrees that failure to satisfactorily progress in such treatment and monitoring program shall be reported to the Board by the treating professional who shall be immune from any liability for such reporting made in good faith; and
  - (iv) Licensee consents to the release of treatment and monitoring reports to the Board. The Board shall determine the format and intervals of such reports. Any personnel reporting to the Board under this section shall be immune from liability when such reports are made in good faith.

## Commentary

**Section 401(c). Grounds, Penalties, and Reinstatement. (continued)**

The AAVSB encourages Boards to review local law regarding disciplinary sanctions, and distinguish between revocation, suspension, and rights and conditions of reinstatement. See Flanzer v. Board of Dental Examiners, 271 Cal.Rptr. 583 (1990) (Board empowered to impose conditions of reinstatement); Jones v. Alabama State Board of Pharmacy, 624 So.2nd 613 (Ala. App.Ct. 1993) (revoked license carries no right of reinstatement); and Roy v. Medical Board of Ohio, 655 N.E.2d (Ohio App.Ct.1995) (authority to revoke a license to practice includes the authority to revoke permanently).

The AAVSB also recognizes the importance of appropriately drafted Board orders that include at least the following: findings of fact, conclusions of law, sanctions, reinstatement rights (if any) and notice of publication (newsletter, website, etc.). It is imperative that Board orders contain such specificity in order to provide enough information to the disciplined Licensee, current Board, as well as future Board members, as to the licensure status and/or eligibility for re-licensure of the individual.

**Section 401(g). Grounds, Penalties and Reinstatement.**

See the Introductory comment in Section 401 regarding the disclosure of disciplinary actions to the public.

**Section 402. Summary Suspension.**

Notwithstanding provisions of any applicable law, the Board may, without a hearing, temporarily suspend a license or Veterinary Facility registration for not more than X days if the Board finds that a Licensee or Veterinary Facility is in violation of a law or rule that the Board is empowered to enforce, and if continued practice by the Licensee or operation of the Veterinary Facility would create an imminent risk of harm to the public or an Animal. The suspension shall take effect upon written notice to the Licensee specifying the law violated. At the time it issues the suspension notice, the Board shall schedule a disciplinary hearing to be held under the Administrative Procedures Act within X days thereafter. The Licensee shall be provided with at least X days' notice effective from the date of issuance of any hearing held under this subsection.

## Article V. Medical Records and Confidentiality.

### Commentary

#### Introductory Comment to Article V.

This Article is intended to establish the need for complete and accurate medical records. Incomplete or inaccurate medical records are among the most common grounds for disciplinary action by regulatory boards. This Article also addresses confidentiality requirements for Licensees, based on the professional relationship between practitioner and Client. Although "confidentiality" and "privileged communication" are related terms, there are important differences between the two concepts. "Confidentiality" is a broad term, and describes the intention that information exchanged between a Licensee and a Client is to be maintained in secrecy, and not disclosed to outside parties. "Privileged communication" is a narrower term that describes the legal relationship between Licensee and Client when a law mandates confidentiality.

#### Section 501. Medical Records.

- (a) Each Veterinarian who provides veterinary medical services shall maintain accurate electronic or legibly written medical records that include the identity of the Veterinarian or authorized representative who makes the entry.
- (b) Veterinary medical records are the property of the veterinary practice where they were prepared.
- (c) All records required by law to be kept by a Veterinarian shall be open to inspection by the Board or its authorized representatives during a routine inspection or investigation of a complaint, and a copy provided immediately upon request.
- (d) Veterinary medical records must be safeguarded against loss, tampering or use by unauthorized Persons, readily available, and contain sufficient information to permit any authorized veterinarian to proceed with the care and treatment of the Patient by reading the medical record. They must include, but are not limited to the following information:
  - (1) Patient identification;
  - (2) Client identification;
  - (3) A record of every encounter and Consultation regarding the Patient;
  - (4) All written records and notes, radiographs, sonographic images, video recordings, photographs or other imaging and laboratory reports;
  - (5) Any information received as the result of a Consultation, including the date, name and



- (vii) As a part of an Animal cruelty report or an abuse investigation by a law enforcement or duly appointed animal welfare or governmental agency.
  - (viii) As part of a criminal investigation by a law enforcement agency.
  - (ix) When the Client cannot be reached to obtain authorization to release the records to another Veterinarian in a medical emergency.
  - (x) In the course of a Consultation as defined in Article I section 104 (k).
- (g) A Veterinarian shall not, with fraudulent intent, create a false record, make a false statement, alter or modify any medical record, document, or report concerning treatment of a Patient. When correcting a medical record, the original content should be readable, and the alteration must be clearly identified with the reason, date and author's name.

#### Commentary

##### **Section 501(d)(3). Medical Records.**

Encounters with the Patient include in person visits, telephone conversations or any telehealth interactions between the Veterinarian and the Client.

##### **Section 501(e). Medical Records.**

The dispensing of veterinary prescription drugs or controlled substances requires that, the records must be maintained in accordance with applicable laws.

##### **Section 501(f)(1)(ix). Medical Records.**

The Jurisdiction should determine which agencies or Persons in their Jurisdiction should be authorized to release medical records information without Client authorization.

#### **Section 502. Confidential Information and Exceptions.**

- (a) No Licensee shall disclose any information acquired from Persons consulting the Licensee in a professional capacity, except that which may be disclosed under the provisions of Section 501 (f) and the following circumstances:
- (1) In the course of formally reporting, conferring or consulting with colleagues or consultants, in which instance all recipients of such information are similarly bound to regard the information as confidential;
  - (2) With the consent of the Client;
  - (3) In case of death or disability of the Client, with the consent of a personal representative or other authorized Person;

## Article VI. Mandatory Reporting.

### Commentary

#### Introductory Comments to Article VI.

Licensees are in a unique position to know of and evaluate the conduct of other Licensees. This section establishes a Licensee's legal responsibility to report activities that may be harmful to Clients, Animals or the public, including incompetence, negligence and unethical practice.

Recently, consumer groups and others have voiced concerns that health care professionals often protect each other either through remaining silent when made aware of substandard practice, or through outright denial of this substandard practice to the detriment of the public. This perception undermines the public's confidence in professional regulation. The inclusion of mandatory reporting provisions provides assurance that professional "protection" that puts the public at risk is itself a violation of the practice act.

While it may not be mandated by law and may not fall within the authority of the Board, it is hoped that professional association, courts, and other entities will report relevant information or conduct to the Board.

#### Section 601. Responsibility to Report.

- (a) A Licensee or Applicant who has knowledge of any conduct by a Licensee or Applicant that may constitute grounds for disciplinary action under this Act or the rules of the Board, or of any unlicensed practice of Veterinary Medicine or Veterinary Technology under this Act, shall report the violation to the Board.
- (b) Failure of a Licensee or Applicant to report to the Board any information as required in this section 601 shall constitute grounds for discipline by the Board.

## Article VII. Other.

### **Section 701. Severability.**

If any provision of this Act is declared unconstitutional or illegal, or the applicability of this Act to any Person or circumstance is held invalid by a court of competent jurisdiction, the constitutionality or legality of the remaining provisions of this Act and the application of this Act to other Persons and circumstances shall not be affected and shall remain in full force and effect without the invalid provision or application.

### **Section 702. Effective Date.**

This Act shall be in full force and effect on [insert date].

## State of Michigan Veterinary Telehealth regulations

### R 338.4901a Telehealth services.

Rule 1a. (1) A veterinarian providing a telehealth service shall do all of the following:

(a) Ensure that the client knows the identity and contact information of the veterinarian providing the telehealth service. Upon request, the veterinarian shall provide his or her licensure information including the name of the state where he or she is licensed and his or her license number.

(b) Ensure that the technology method and equipment used to provide telehealth services complies with all current privacy-protection laws.

(c) Employ sound professional judgment to determine whether using telehealth is an appropriate method for delivering medical advice or treatment to the animal patient.

(d) Have sufficient knowledge of the animal patient to render telehealth services demonstrated by satisfying 1 of the following:

(i) 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.

(ii) Have conducted medically appropriate and timely visits to the premises where the group of animal patients is kept.

(e) Act within the scope of his or her practice.

(f) Exercise the same standard of care applicable to a traditional, in-person veterinary care service.

(g) Make himself or herself readily available to the animal patient for follow up veterinary services or ensure there is another suitable provider available for follow up care.

(2) Consent for medical advice and treatment shall be obtained before providing a telehealth service pursuant to section 16284 of the code, MCL 333.16284.

(3) Evidence of consent for medical advice and treatment must be maintained in the animal patient's medical record.

(4) A veterinarian providing a telehealth service may prescribe a drug if the veterinarian is a prescriber acting within the scope of his or her practice and in compliance with section 16285 of the code, MCL 333.16285.

## Alger, Kelsi

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**From:** CARL Wermer <clwerme@msn.com>  
**Sent:** Thursday, October 21, 2021 10:32 PM  
**To:** linda@vtvets.org; SOS - OPR Comments  
**Subject:** Re: Public Hearing on Changes to Administrative Rules is Wednesday, October 20 at 10 AM

**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**  
To Whom It May Concern,

I was working yesterday and thus unable to attend the public hearing.

What is purpose of expanding the CE requirement to include nonregulated or non-reviewed activities? It seems to me that "Express approval of continuing learning opportunities is not required." opens the door to abuse.

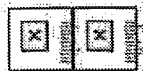
And, given the incidence of embezzlement in Vermont, where trusted employees stole from their companies, the expectation that "(d) Licensees are expected to identify and pursue appropriate learning opportunities in good faith" seems like a bad idea. Human nature isn't always honorable.

"Trust but verify" should be the guiding principles regarding CE. Definitions of what is and is not acceptable should be clearly stated.

Alison Knox, DVM  
Essex Junction

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**From:** vvma@memberclicks-mail.net <vvma@memberclicks-mail.net> on behalf of linda@vtvets.org <vvma@memberclicks-mail.net>  
**Sent:** Tuesday, October 19, 2021 9:21 AM  
**To:** clwerme@msn.com <clwerme@msn.com>  
**Subject:** Public Hearing on Changes to Administrative Rules is Wednesday, October 20 at 10 AM



The remote public hearing on changes to the administrative rules will be held on Wednesday, October 20 at 10 AM. Call-in information is below. As of last Thursday, there were only 2 comments submitted to the Board of Veterinary Medicine. If you have a question or comment (good, bad, or indifferent), you have until October 29 to submit them to OPR (see original email below). Let me know if you have any questions.

Best,  
Linda

Here is the information on the public hearing October 20<sup>th</sup> at 10am:

Microsoft Teams meeting

**Join on your computer or mobile app**

[Click here to join the meeting](#)

**Or call in (audio only)**

+1 802-828-7667, 372481335# United States, Montpelier

Phone Conference ID: 372 481 335#

[Find a local number](#) | [Reset PIN](#)

[Learn More](#) | [Meeting options](#)

To Dr. Wermer,

The VVMA (staff and at least one board member) attended all meetings of the Vermont Board of Veterinary Medicine involving the review and updating of Vermont rules. The sections of the administrative rules that were reviewed and substantively amended are noted below. The rules have been significantly reorganized to help provide greater clarity.

These changes may affect your practice to varying degrees and we encourage you and your staff to review them and to provide comments to the Vermont Office of Professional Regulation prior to October 29, 2021. (Copy of proposed rules are attached to this email for your convenience.) Comments can be submitted to:

[SOS.OPR.Comments@vermont.gov](mailto:SOS.OPR.Comments@vermont.gov). OPR will hold a virtual public hearing on October 20 at 10 AM to address comments.

**Part 1: Definitions** – new and or amended to provide clarity

**1-2 “Companion animal”** means an animal for which a client has assumed responsibility and ownership as an individual companion or service animal

**1-3 “Direct Supervision”** means oversight by a licensed veterinarian available to physically intervene in the care of an animal.

**1-8 “Non-companion animal”** means an animal raised for economic or agricultural purposes.

**Part 2 – Administration** - no substantive changes

**Part 3 – Procedures** - no substantive changes

**Part 4 – Licensing Requirements.** Section 4-6 is currently embedded in statute but because the statute is confusing and lacks clarity, the Board added this section.

**4-6 Livestock Management and Husbandry Exemption.** Board licensure is not required of persons engaged in accepted livestock management practices and animal husbandry practices. See 26 V.S.A. § 2403(2). Embryo transfer is not exempt as an accepted livestock management practice and may be performed only by or under the direct supervision of a Vermont-licensed veterinarian.

**Part 5 – License Renewal** – no substantive changes

**Part 6 – Continuing Veterinary Medical Education** - substantive changes are in red

**6-1 Continuing Education Expectations; Attestation; Documentation.**

(a) All licensees have a duty to maintain professional competence through conscientious pursuit of professional learning opportunities, interaction with peers, and continual review of relevant scientific and professional literature. In each biennial licensing period, a licensee shall

devote at least 24 hours to such pursuits and shall attest to having done so as a condition of renewal.

(b) A licensee shall document participation in professional learning activities. For course-based activities, this requires retention of completion certificates. Non-course-based activities, such as reading, research, presentation, or curriculum development, shall be documented by maintaining contemporaneous logs, which shall include at a minimum: applicable journal citations; applicable presentation titles, locations, dates, sponsors, and host institutions; the length of time spent on the activity; and a brief, written summary of the substantive reading, research, presentation, or curriculum developed. This documentation may be required as a condition of renewal.

(c) Express approval of continuing learning opportunities is not required.

(d) Licensees are expected to identify and pursue appropriate learning opportunities in good faith. Activities claimed under this rule shall be reasonably calculated to improve the particular professional practice of the licensee claiming them, shall be relevant, and shall be oriented toward evidence-based practice or the improvement of technical skill.

## **Part 7 – Reporting Duties – no substantive changes**

## **Part 8 – Practice Rules and Standards – clearly defines VCPR; addresses record retention for companion and non-companion animals; addresses records disposition; incorporates stand-alone policies on delegation of responsibilities; alternative therapies; integration of complementary care providers; and adds 8.11 VCPR Not Required for Rabies Vaccination**

**8-3 The Veterinarian-Client-Patient Relationship.** The three elements of a VCPR—responsibility, familiarity, and availability—are defined more particularly at 26 V.S.A. § 2433, together with important related principles not restated in these Rules. A valid VCPR:

(a) should exist prior to the provision of any veterinary care, other than in a rabies clinic or an emergency; and

(b) must exist prior to issuance of a veterinary feed directive or any activity relative to the provision, administration, authorization, or prescribing of veterinary prescription drugs.

**8-4 Veterinary Records: Companion Animals.** For each companion animal with which a veterinarian has a VCPR, the veterinarian shall retain a distinct file including:

(a) client and patient information;

(b) a competent history;

(c) individualized entries recording each assessment, treatment, consultation, procedure, intervention, diagnosis, and plan; and

(d) the identity of each person providing such service.

**8-5 Veterinary Records: Non-companion animals.** Group records are acceptable for non-companion animals; provided, however, that an individual record shall be initiated when indicated by the health status of the animal.

**8-6 Records Retention and Production.** A veterinarian shall retain patient records for not fewer than seven years from last contact with an animal, or in contexts where other law requires longer retention, for the longer period. Failure to keep appropriate records may constitute unprofessional conduct. 3 V.S.A. § 129a(a)(3). Records shall be typed when practicable under the circumstances, legible, reasonably protected from inadvertent destruction, and fit to transmit relevant content to a subsequent provider of care. Records shall be made available promptly upon written request of a client and may not be withheld for non-payment; provided, however, that a veterinarian may require that a client pay actual costs of production of transmission, such as copying and postage. *Accord*, 3 V.S.A. § 129a(a)(8).

**8-7 Records Disposition.** A veterinarian shall have in place a plan for responsible disposition of patient veterinary records in the event the veterinarian should become incapacitated or unexpectedly discontinue practice. 3 V.S.A. § 129a(a)(25). Group practices may satisfy this requirement through a written agreement among partners that contemplates dissolution of the

partnership or separation of a partner. Any veterinarian may satisfy this requirement through written agreement with a professional peer, attorney, or other person or organization credibly capable of seeing to appropriate disposition of records. A veterinarian's records-disposition plan shall be available upon request of a client or the Board, but need not be filed with the Board unless requested.

**8-8 Delegation.** A licensee shall delegate professional responsibilities only to those whom the licensed professional knows, or has reason to know, is qualified by training, experience, education, or licensing credentials to perform them. Diagnosis, prescription, and surgery are not delegable by a veterinarian to a non-veterinarian.

**8-9 Alternative Therapies.** Alternative therapies may be provided in conformity with accepted principles of veterinary ethics; provided, however, that a veterinarian shall not advertise, promote, or recommend a therapy or treatment in a manner tending to deceive the public or to suggest a degree of reliability or efficacy unsupported by competent evidence and professional judgment. See 26 V.S.A. § 129a(a)(17).

**8-10 Integration of Complementary Care Providers.** Vermont law does not authorize any non-veterinarian licensed under Title 26 to undertake any act within the scope of veterinary medical practice. Chiropractors, acupuncturists, dentists, physical therapists, and other care providers nonetheless may be skilled in certain modalities that may be safely applied for therapeutic benefit to animals under the supervision of a veterinarian. A veterinarian may delegate veterinary acts to such providers if:

- (a) the veterinarian has a valid VCPR;
- (b) the requirements of Rule 8-8 are satisfied;
- (c) the veterinarian has verified that the provider is oriented to the unique anatomy, physiology, and behavior of the animal to be treated by documented training additional to that required for the provider to practice his or her care modality on humans;
- (d) the veterinarian has a competent clinical and evidential basis to believe the service will be of therapeutic benefit;
- (e) the veterinarian has prescribed in writing the treatment or act to be performed;
- (f) the veterinarian and delegate provider have established a written plan of care recorded in the veterinary record; and
- (g) the veterinarian is available at all times to provide direct supervision; and
- (h) the informed consent of the client is obtained and recorded in the veterinary record, including as to any compensation exchanged between veterinarian and delegate provider

**8-11 Rabies Vaccination; VCPR Not Required.** It is in the interest of the public health, safety, and welfare that veterinarians participate in rabies vaccination clinics and offer office-based rabies vaccination. A VCPR is not required. A veterinarian participating in a vaccination clinic may do so in conformity with CVR 20-022-018 or successor rules of the Agency of Agriculture, Food & Markets. For purposes of those Rules, "examination" means such assessment as may be necessary to determine whether the animal is fit for vaccination and does not mean a comprehensive evaluation of health. In lieu of the recordkeeping requirements of these Rules, a veterinarian may, with respect to an animal with which the veterinarian does not have a VCPR, see that:

- (a) a rabies vaccination certificate and rabies tags are provided to each domestic pet and wolf-hybrid vaccinated; and
- (b) copies of the rabies vaccination certificates issued are provided to the clerk of the relevant municipality, who shall maintain them for three years unless entrusting them to the veterinarian under the clerk's supervision.

Again, we encourage our members to read and comment on the proposed changes. If you have any questions or if I can help in any way, please feel free to contact me by email or phone.

Thank you,  
Linda Waite-Simpson  
VVMA Executive Director



Linda@vtvets.org  
802-881-8528

## Connect with Us:

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This email was sent to [clwerme@msn.com](mailto:clwerme@msn.com) by [linda@vtvets.org](mailto:linda@vtvets.org)

Vermont Veterinary Medical Association · 76 Beech St. , Essex Jct , Vermont 05452, United States · [802-878-6888](tel:802-878-6888)

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**Alger, Kelsi**

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**From:** Julie M. Smith <Julie.M.Smith@uvm.edu>  
**Sent:** Thursday, October 21, 2021 2:17 PM  
**To:** SOS - OPR Comments  
**Subject:** Amendment to Veterinary Practice Rules

**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**

Hello,

I am writing in support of the proposed amendment to veterinary practice rules regarding continuing education. I appreciate that the requirement is broadly written since not all licensed and accredited veterinarians in the state are in private practice and thus have differing continuing education needs.

Sincerely,

Julie

**Julie Smith, DVM, PhD**

(she/her/hers - [Pronouns: A Resource](#))

University of Vermont

Research Associate Professor, Department of Animal and Veterinary Sciences

570 Main Street, Terrill Building

Burlington, VT 05405

802.656.4496 / [Julie.M.Smith@uvm.edu](mailto:Julie.M.Smith@uvm.edu) / [Healthy Farms Healthy Agriculture](#)

**Alger, Kelsi**

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**From:** Sarah Hoy <vteyvet@gmail.com>  
**Sent:** Tuesday, October 19, 2021 11:07 AM  
**To:** SOS - OPR Comments  
**Subject:** concerns over Board of Veterinary Medicine proposed changes to Vermont rules

**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**

To Whom It May Concern,

I have concerns about sections 6-1 (b) & (c) of the Board of Veterinary Medicine proposed changes to Vermont rules. These sections are unclear in that they do NOT indicate what volume of "non-course-based" activities are required for renewing a license. At the end of section (b) it says "this documentation may be required as a condition of renewal". It either **should** or **shouldn't be** required so it is more clear. And there needs to be some type of guidelines as to volume of "non-course-based" activities that will be considered acceptable. For example, if a vet documents that they read one journal article and summarize it in their documentation log, is that adequate volume of non-course-based learning? This is too loosely worded. I also chafe at that this is like being a resident or vet student again. Are "non-course-based" activities documentation logs required in other states? I find this ludicrous with the current demand on veterinarians' time where they are stretched thin and are finishing records into the evenings or sometimes late at night. I propose that we strike the section "Non-course-based activities, such as reading, research, presentation, or curriculum development, shall be documented by maintaining contemporaneous logs, which shall include at a minimum: applicable journal citations; applicable presentation titles, locations, dates, sponsors, and host institutions; the length of time spent on the activity; and a brief, written summary of the substantive reading, research, presentation, or curriculum developed. This documentation may be required as a condition of renewal."

Section 6-1-c is unclear as to whether or not the comment is in regards to formal CE "Express approval of continuing learning opportunities is not required." Does this mean that CE credits do not need to be RACE-approved? Or is this comment regarding "non-course-based" activities?

Section 6-1

(b) A licensee shall document participation in professional learning activities. For course-based activities, this requires retention of completion certificates. Non-course-based activities, such as reading, research, presentation, or curriculum development, shall be documented by maintaining contemporaneous logs, which shall include at a minimum: applicable journal citations; applicable presentation titles, locations, dates, sponsors, and host institutions; the length of time spent on the activity; and a brief, written summary of the substantive reading, research, presentation, or curriculum developed. This documentation may be required as a condition of renewal.

(c) Express approval of continuing learning opportunities is not required.

Thank you for your time and consideration of this matter.

Sincerely,

Sarah Hoy, DVM, MS, DACVO

Sarah Stone Hoy, DVM, MS  
Diplomate, American College of  
Veterinary Ophthalmologists  
**Vermont Veterinary Eye Care**  
158 Hurricane Lane  
Williston, VT 05495  
802-878-2022 (w)  
802-881-6570 (c)

802-878-1524 (f)

## Alger, Kelsi

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**From:** Karen Bradley <karenbdvm@gmail.com>  
**Sent:** Thursday, September 30, 2021 2:12 PM  
**To:** SOS - OPR Comments  
**Cc:** Linda  
**Subject:** Comments on Veterinary OPR rule updates

**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**

Dear Vermont OPR,

I am writing to offer comments I sought from the American Veterinary Medical Association state and legislative folks.

Please see below for recommended changes to the proposed VT rules.

Thank you,

Karen Bradley, DVM

Hi, Dr. Bradley,

Thank you for connecting with us on this. As you noted, the existing statutory VCPR language doesn't completely prevent the VCPR from being established virtually. While ideally the statutory language would be amended to make it clear that a physical exam (or timely visits) is needed to establish the VCPR, the proposed rule changes could be strengthened to help drive home this point. We made some suggestions in red below.

The proposed language also leaves out extra-label use of approved human drug products, and also doesn't address over-the-counter products, so we included suggested amendments to address these situations as well.

We would suggest deleting the word "valid" as an adjective modifying the VCPR, as shown here. We made this change many years ago to make it clear that the VCPR exists or does not; there is no third option.

Lastly, if the VVMA chooses to pursue making a statutory change, we'd suggest adding the word "physical" in front of examination as tracked below.

Please let us know if you have questions or if there are additional ways in which we can be helpful.

### **PROPOSED CHANGES**

#### **8-3 The Veterinarian-Client-Patient Relationship.**

The three elements of a VCPR—responsibility, familiarity, and availability—are defined more particularly at 26 V.S.A. § 2433, together with important related principles not restated in these Rules. A ~~valid~~ VCPR:

- (a) should exist prior to the provision of any veterinary care, other than in a rabies clinic or an emergency; ~~and~~
- (b) must exist prior to issuance of a veterinary feed directive or any activity relative to the provision, administration, authorization, or prescribing of FDA-approved animal and human veterinary prescription drugs (including extra label use of over-the-counter medications); and
- ~~(c) may not be established solely by telemedicine.~~

Vt. Stat. Ann. tit. 26, § 2433 (West) (CURRENT STATUTE)

#### **§ 2433. Veterinarian-client-patient relationship; veterinarian of record**

(a) The veterinarian-client-patient relationship (VCPR) exists when all of the following conditions have been met:

(1) The veterinarian has assumed the responsibility for making clinical judgments regarding the health of one or more animals and the need for medical treatment, and the client, who is the owner of the animals or their caretaker, has agreed to follow the veterinarian's instructions;

(2) The veterinarian has sufficient knowledge of those animals to initiate at least a general or preliminary diagnosis of the medical condition of the animals. This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animals by virtue of an physical examination of the animals or by medically appropriate and timely visits to the premises where the animals are kept; and

(3) The veterinarian is readily available or has arranged for emergency coverage for follow-up evaluation of those animals in the event of adverse reactions or failure of the treatment regimen.

(b) Only a licensed veterinarian with a ~~valid~~ VCPR may:

- (1) authorize the dispensing of veterinary prescription drugs;

- (2) issue a valid veterinary feed directive;
  - (3) authorize drug distributors to deliver veterinary prescription drugs to a specific client; or
  - (4) prescribe, order, or otherwise authorize a pharmacist to dispense veterinary prescription drugs to a specific client.
- (c)(1) The veterinarian of record (VOR) is the food animal veterinarian responsible for providing appropriate oversight of drug use on a farm premises for specific animals or group of animals.
- (2) If more than one veterinarian or veterinary practice has a working relationship on a farm premises, then the VCPR agreement shall establish which veterinarian has the responsibility for specific animals or animal groups.
  - (3) A veterinarian who is not the VOR, when providing professional services, is responsible for making provisions for emergency follow-up care and must notify the VOR of his or her findings and recommendations.
- (d) Prescriptions from veterinarians are subject to Vermont prescription drug cost containment statutes set forth in 18 V.S.A. chapter 91.
- (e) Establishment of a VCPR for the sole purpose of the sale of drugs or increased sales of a particular brand of drug product is not a valid or ethical reason for having a VCPR.

**Alger, Kelsi**

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**From:** Paula Yankauskas <yankauskas@aol.com>  
**Sent:** Tuesday, August 6, 2019 2:20 PM  
**To:** OPR.Comment  
**Subject:** Prelicensing Education Course Approval Fee - Comments

I think it is about time; a lot of time and effort goes into course approvals and this should indeed be supported by those seeking approval.

I do think it would be helpful to give some thought to what constitutes a "course" - would it be a single topic immersion session for a 6 hour day; or 6 separate 1 hour lectures each being an individual course? For example. (I mean, the question is worded as an example).

Otherwise, I'm all for it.

Best regards,

Paula Yankauskas, VMD  
Veterinary Board Member

## Administrative Rules for Veterinarians

### Part 1: Definitions

- 1-1 **"Client"** means a person seeking veterinary care on behalf of a patient.
- 1-2 **"Companion animal"** means an animal for which a client has assumed responsibility and ownership as an individual companion or service animal.
- 1-3 **"Direct Supervision"** means oversight by a licensed veterinarian available to physically intervene in the care of an animal.
- 1-4 **"Director"** means the Director of Professional Regulation.
- 1-5 **"Foreign"** means emanating from or existing within a governmental jurisdiction other than the State of Vermont.
- 1-6 **"License"** or **"licensure"** refers to any credential issued by the Office under these rules, including a certification or registration, except where context clearly indicates reference to a foreign or other professional license.
- 1-7 **"Licensee"** means a person or entity seeking or holding a license under these rules.
- 1-8 **"Non-companion animal"** means an animal raised for economic or agricultural purposes.
- 1-9 **"Office"** means the Office of Professional Regulation.
- 1-10 **"Office website"** means [sos.vermont.gov/opr](https://sos.vermont.gov/opr).
- 1-11 **"Patient"** means an animal that is the subject of veterinary care.
- 1-12 **"Veterinarian-Client-Patient Relationship"** or **"VCPR"** is defined at 26 V.S.A. § 2433. See Rule 8-3, *infra*.

### Part 2: Administration

- 2-1 **Applicable Law.** The practice of veterinary medicine is defined and regulated pursuant to 26 V.S.A. § 2401 *et seq.* Copies of these and other statutes are available online at [www.legislature.vermont.gov/statutes/](https://www.legislature.vermont.gov/statutes/). The Office administers licensure in conformity with these and other Vermont laws, to include the Administrative Procedure Act, 3 V.S.A. § 800 *et seq.*; the Public Records Act, 1 V.S.A. § 315 *et seq.*; and the Laws of Professional Regulation, 3 V.S.A. § 121 *et seq.*
- 2-2 **Resources for Applicants and Licensees.** The Office maintains a website at [sos.vermont.gov/opr](https://sos.vermont.gov/opr) with information and links relevant to all licensed professionals. Information specific to veterinarians is available from [sos.vermont.gov/veterinary-medicine/statutes-rules-resources/](https://sos.vermont.gov/veterinary-medicine/statutes-rules-resources/).
- 2-3 **U.S. Armed Forces.** The Director may accept toward the requirements of these rules relevant military education, training, or service completed by a member of the U.S. Armed Forces and may

Field Code Changed



## Administrative Rules for Veterinarians

expedite licensure of a person who left licensed employment in another state secondary to a spouse's military transfer to Vermont. 3 V.S.A. § 123(g). Service members and the spouses of service members should visit the Office website for details.

### Part 3: Procedures

- 3-1 Applications.** Online license applications must be completed through the Office website.
- (a) Incomplete applications will not be processed. Applications are complete only when all required questions have been answered fully, all attestations made, all required documentation and materials provided, and all fees paid.
  - (b) When the Board, or the Office on the Board's behalf, intends to deny an application, notice stating the reasons for the action shall be given to the applicant by certified mail, whereupon the applicant shall have 30 days to petition for a hearing before an administrative law officer.
  - (c) The Board may refuse to accept any application found to be redundant with a denied or in-process application.
  - (d) The Board may deem expired any application that is left pending for six months.

**3-2 Complaints.** Complaints against licensees, applicants for licensure, or persons practicing without a license may be submitted through the Office website, at [sos.vermont.gov/opr/complaints-conduct-discipline/](https://sos.vermont.gov/opr/complaints-conduct-discipline/).

Field Code Changed

**3-3 Contested Cases.** Procedures in contested cases relating to licensure or discipline are governed by the Office of Professional Regulation Administrative Rules of Practice, CVR 04-030-005, as those rules may from time to time be modified.

**3-4 Declaratory Rulings.** Petitions for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the Board or Office may be made pursuant to 3 V.S.A. § 808 and Office procedure.

**3-5 Conflict of Standards.** Where a standard of unprofessional conduct set forth in statute conflicts with a standard set forth in rule, the standard that is most protective of the public shall govern. See 3 V.S.A. § 129a(e).

**3-6 Determination of Equivalency.** Where the Board or Director is permitted by law or rule to accept certain training or experience on the basis of equivalence to a fixed standard, it is the burden of the applicant or licensee to establish equivalence to the Board or Director's satisfaction, by producing credible, clear, and convincing evidence of the same. The Board and the Office have no obligation to research the bona fides of any institution, program, course, degree, certification, practicum, fellowship, or examination.

**3-7 Waiver or Variance.** The Board will not grant routine waivers or variances from any provisions of these rules without amending the rules. See 3 V.S.A. § 845. Where, in extraordinary circumstances, application of a rule would result in manifest unfairness, an absurd result, unjustifiable inefficiency, or an outcome otherwise inimical to the public health, safety, and welfare, the Board may, upon written request of an interested party, so find, grant a waiver with or without particular conditions and limitations, and record the action and justification in a written memorandum. This rule shall not be construed as creating any administrative hearing right or cause of action.

## Administrative Rules for Veterinarians

**3-8 Inspection.** All veterinary hospitals and other non-residential premises used by licensees in relation to the provision of veterinary services shall be open to announced or unannounced visits by Office inspectors during regular business hours.

**3-9 Contacting the Board.** See the Office website for contact details. Send mail to: Office of Professional Regulation, ATTN: Board of Veterinary Medicine, 89 Main Street, 3rd Floor, Montpelier, VT 05620-3402.

### Part 4: Licensing Requirements

**4-1 Core requirements.** An applicant is eligible for licensure who has:

- (a) reached the age of majority;
- (b) graduated from a school of veterinary medicine accredited by the American Veterinary Medical Association or the Canadian Veterinary Medical Association; and
- (c) passed the North American Veterinary Licensing Examination (NAVLE), or any subsequent licensing examinations prepared under the authority of the National Board of Veterinary Medical Examiners (NBVME) or its successor organization, within two years preceding application.

**4-2 International Veterinary Graduates not Licensed in the United States or Canada.** In lieu of the graduation requirement of Rule 4-1(b), an applicant may present a certificate issued by the Educational Commission for Foreign Veterinary Graduates (ECFVG), its successor organization, or an organization acceptable to the Board.

**4-3 Veterinary Graduates Licensed Elsewhere in the United States or Canada.** A person licensed or certified in good standing under the laws of another jurisdiction may be eligible for licensure without examination as specified by 26 V.S.A. § 2424.

**4-4 State Laws & Rules.** Examination on Vermont-specific laws and rules is not required. All veterinarians are responsible to maintain ongoing familiarity with State and Federal laws and rules governing the practice of the profession, just as all veterinarians are responsible to follow evolving practice standards. Ignorance of regulatory requirements does not excuse noncompliance. Means of ensuring orientation to regulatory obligations include participation in professional associations, consultation with qualified legal counsel, subscription to professional publications, and periodic online monitoring of legislative and regulatory developments.

**4-5 Consultation Exemption.** Board licensure is not required of a veterinarian regularly licensed in another jurisdiction consulting with a licensed veterinarian in this State. Accord 26 V.S.A. § 2403(5). Exempt consultation is limited to the provision of specialized professional advice or assessment, or the demonstration of clinical practices. A consulting veterinarian is, for purposes of professional responsibility, a delegate of the Vermont veterinarian with whom he or she consults and may provide veterinary services only to animals with which the Vermont veterinarian has a valid VCPR and as requested by the Vermont veterinarian.

**4-6 Livestock Management and Husbandry Exemption.** Board licensure is not required of persons engaged in accepted livestock management practices and animal husbandry practices. See 26 V.S.A. § 2403(2). Embryo transfer is not exempt as an accepted livestock management practice and may be performed only by or under the direct supervision of a Vermont-licensed veterinarian.

## Administrative Rules for Veterinarians

### Part 5: License Renewal

**5-1 Biennial Licensing Period.** Licenses are valid for fixed, two-year periods. Expiration dates are printed on licenses. A license expires if not renewed by midnight on the date of expiry. Practice under an expired license is prohibited. An initial license issued fewer than 90 days prior to the beginning of the fixed biennial period shall be valid through the end of full biennial licensing period following initial licensure. A lookup tool on the Office website may be considered a primary source verification as to license status and expiration.

**5-2 License Renewal.** Online license renewal applications must be completed through the Office website. The Office transmits email reminders to licensees at the end of each biennial licensing period; however, non-receipt of such reminders shall not excuse a licensee from the obligation to maintain continuous licensure or the consequences of failing to do so. Practicing while a license is lapsed is a violation of 3 V.S.A. § 127.

**5-3 Late Renewal Penalties.** Late renewal applications are subject to reinstatement fees, which may be waived in certain circumstances. See 3 V.S.A. § 127(d). Reinstatement waivers may be requested through the online licensing system.

**5-4 Extended License Lapse.** A license expired for five or fewer years may be reactivated as of right upon proof of continuous veterinary practice elsewhere, or if veterinary practice ceased, upon completion of the continuing education required in the preceding biennial licensing period. When a license has been expired for five or more years, a licensee's preparation to return to practice will be assessed on a case-by-case basis. After consultation with the Board, the Director may require re-training, testing, or re-application. See 3 V.S.A. § 135; 26 V.S.A. § 2426.

### Part 6: Continuing Veterinary Medical Education

#### 6-1 Continuing Education ~~Expectations; Attestation; Documentation.~~

**(a) Requirement.** All licensees have a duty to maintain professional competence through conscientious pursuit of professional learning opportunities, interaction with peers, and continual review of relevant scientific and professional literature. In each biennial licensing period, a licensee shall devote at least 24 hours to such pursuits and shall attest to having done so as a condition of renewal.

~~—~~ **Relevance.** Licensees are expected to identify and pursue appropriate learning opportunities in good faith. Activities claimed under this rule shall be reasonably calculated to improve the particular professional practice of the licensee, shall be relevant, and shall be oriented toward evidence-based practice or the improvement of technical skill. Express approval of continuing learning opportunities is not required.

~~(a)(b)~~

**(b)(c) Documentation.** A licensee shall document participation in professional learning activities. ~~For course-based activities, this requires retention of completion certificates. For courses, completion a licensee should retain a~~ licensee shall retain completion certificates. ~~certificates should be retained on file. For Non-course-based activities, such as reading, research, presentation, or curriculum development, a licensee should~~ shall maintain a contemporaneous log of pertinent details, such as, shall be documented by maintaining contemporaneous logs, which shall include at a minimum: applicable journal citations; applicable presentation titles, locations, dates, sponsors, and host institutions; the length of

## Administrative Rules for Veterinarians

time spent on the activity; and a brief, written summary of the substantive reading, research, presentation, or curriculum developed. ~~A sample form log is available at the Board website. Certificates and logs should must be retained for four years. The Board may request may audit continuing education documentation compliance at any time request. This documentation may be required as a condition of renewal. See the Board website for a sample log sheet.~~

- ~~(e) Express approval of continuing learning opportunities is not required. Licensees are expected to identify and pursue appropriate learning opportunities in good faith. Activities claimed under this rule shall be reasonably calculated to improve the particular professional practice of the licensee claiming them, shall be relevant, and shall be oriented toward evidence-based practice or the improvement of technical skill.~~
- ~~(4)~~

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### Part 7: Reporting Duties

**7-1 Duty to Update and Self-Report.** Applicants and licensees owe a duty of candor to the Board and shall disclose circumstances that may call for further investigation to protect the public. That a matter is reportable does not imply that the matter necessarily is a basis for discipline. A licensee, including an applicant for licensure, shall report to the Office, in writing, within 30 days:

- (a) any change of name, e-mail, or mailing address;
- (b) any material inaccuracy or change in circumstance relative to any application question, where the changed circumstance arises between submission of a license application and issuance of the license sought;
- (c) any arrest or charge for conduct occurring in the course of, or in direct relation to, the practice of veterinary medicine;
- (d) any conviction for any criminal act;
- (e) any injunction or other order of a court or regulatory authority, including an assurance of discontinuance, limiting the licensee's ability to practice;
- (f) any legal claim, settlement, or judgment arising from alleged professional negligence, misconduct, or malpractice; and
- (g) any adverse action against a foreign professional license, where the adverse action relates to an allegation of misconduct, substandard practice, or unethical conduct.

### 7-2 Duty to Report Disease.

- (a) Pursuant to 6 V.S.A. § 1162, a veterinarian shall immediately report to the State Veterinarian:
  1. the discovery of any domestic animal that is infected with, is suspected of being infected with, or has been exposed to a disease reportable under 6 V.S.A. ch. 102;
  2. any sudden unexplained morbidity or mortality in a herd or flock.
- (b) A veterinarian shall report to the Secretary of Agriculture, Food & Markets any horse that has tested positive for equine infectious anemia and shall see that the animal is quarantined if required by 6 V.S.A. § 1182(c).
- (c) A veterinarian shall report to the Commissioner of Health any animal or animals having or suspected of having any disease that can result from bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agents or biological toxins, and those that might pose a risk of a significant number of human and animal fatalities or incidents of permanent or long-term disability. 13 V.S.A. § 3504(d).

## Administrative Rules for Veterinarians

### Part 8: Practice Rules & Standards

**8-1 Ethical Conduct.** The Board may consider the *Principles of Veterinary Medical Ethics of the AVMA* a recognized source of professional standards when determining “the essential standards of acceptable and prevailing practice” for purposes of 26 V.S.A. § 129a(b). This section shall not be construed as imposing any mandatory-reporting obligation not otherwise present under Vermont law.

**8-2 Compliance with Other Law.** Licensees must comply with all federal, state and local laws, governing the practice of the profession. 3 V.S.A. 129a(a)(3).

**8-3 The Veterinarian-Client-Patient Relationship.** The three elements of a VCPR—assumption of responsibility for care, familiarity/sufficient knowledge of the patient, and availability—are defined more particularly at 26 V.S.A. § 2433, together with important related principles not restated in these Rules. A valid VCPR:

- (a) ~~should~~must exist prior to the provision of any veterinary care, other than in a rabies clinic or an emergency; and
- (b) must exist prior to issuance of a veterinary feed directive or any activity relative to the provision, administration, authorization, or prescribing of veterinary prescription drugs.

**8-4 Telepractice.** ~~When determining whether a valid VCPR has been established, the Board will inquire into the sufficiency, reliability, and validity of the veterinarian’s knowledge, not the means or modality by which that knowledge was obtained. Veterinarians are authorized to use their reasoned clinical judgment to determine when and how telemedicine modalities maybe used.~~

- (a) **Common standard of care.** ~~A Veterinarian using telemedicine must take appropriate steps to establish thea VCPR, obtain informed consent from the client, and conduct all necessary patient evaluations consistent with currently acceptable standards of care. Some patient presentations are appropriate for the utilizationuse of tTelemedicine as a component of, or in lieu of, hands-on medical care, while others are not. The appropriateness of telepracticeetelemedicine for a particular purpose, including for the purpose of seeing and being acquainted with an animal and the conditions in which it is kept, including whether a veterinarian depends on the sufficiency and reliability of knowledge attained by the veterinarian relative to the patient presentation and complexity of care undertaken.~~
- (b) **Federal laws and rules.** ~~This rule shall not be construed as superseding any contrary law or rule of the United States Food & Drug Administration.~~

**8-54 Veterinary Records: Companion Animals.** For each companion animal with which a veterinarian has a VCPR, the veterinarian shall retain a distinct file including:

- (a) client and patient information;
- (b) a competent history;
- (c) individualized entries recording each assessment, treatment, consultation, procedure, intervention, diagnosis, and plan; and
- (d) the identity of each person providing such service.

**8-65 Veterinary Records: Non-companion animals.** Group records are acceptable for non-companion animals; provided, however, that an individual record shall be initiated when indicated by the health status of the animal.

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## Administrative Rules for Veterinarians

**8-76 Records Retention and Production.** A veterinarian shall retain patient records for not fewer than seven years from last contact with an animal, or in contexts where other law requires longer retention, for the longer period. Failure to keep appropriate records may constitute unprofessional conduct. 3 V.S.A. § 129a(a)(3). Records shall be typed when practicable under the circumstances, legible, reasonably protected from inadvertent destruction, and fit to transmit relevant content to a subsequent provider of care. Records shall be made available promptly upon written request of a client and may not be withheld for non-payment; provided, however, that a veterinarian may require that a client pay actual costs of production of transmission, such as copying and postage. ~~Accord~~See, 3 V.S.A. § 129a(a)(8).

**8-87 Records Disposition.** A veterinarian shall have in place a plan for responsible disposition of patient veterinary records in the event the veterinarian should become incapacitated or unexpectedly discontinue practice. 3 V.S.A. § 129a(a)(25). Group practices may satisfy this requirement through a written agreement among partners that contemplates dissolution of the partnership or separation of a partner. Any veterinarian may satisfy this requirement through written agreement with a professional peer, attorney, or other person or organization credibly capable of seeing to appropriate disposition of records. A veterinarian's records-disposition plan shall be available upon request of a client or the Board, but need not be filed with the Board unless requested.

**8-98 Delegation.** A licensee shall delegate professional responsibilities only to those whom the licensed professional knows, or has reason to know, is qualified by training, experience, education, or licensing credentials to perform them. Diagnosis, prescription, and surgery are not delegable by a veterinarian to a non-veterinarian.

**8-109 Alternative Therapies.** Alternative therapies may be provided in conformity with accepted principles of veterinary ethics; provided, however, that a veterinarian shall not advertise, promote, or recommend a therapy or treatment in a manner tending to deceive the public or to suggest a degree of reliability or efficacy unsupported by competent evidence and professional judgment. See 26 V.S.A. § 129a(a)(17).

**8-110 Integration of Complementary Care Providers.** Vermont law does not authorize any non-veterinarian licensed under Title 26 to undertake any act within the scope of veterinary medical practice. ~~Chiropractors, acupuncturists, dentists, physical therapists, and other careNon-~~  
~~veterinarian Title 26~~ providers nonetheless may be skilled in certain modalities that may be safely applied for therapeutic benefit to animals under the supervision of a veterinarian. A veterinarian may delegate veterinary ~~acts-treatments~~ to such providers if:

- (a) the veterinarian has a valid VCPR;
- (b) the requirements of Rule 8-98 are satisfied;
- (c) the veterinarian has verified that the provider is oriented to the unique anatomy, physiology, and behavior of the animal to be treated by documented training additional to that required for the provider to practice his or her care modality on humans;
- (d) the veterinarian has a competent clinical and evidential basis to believe the service will be of therapeutic benefit;
- (e) the veterinarian has prescribed in writing the treatment or act to be performed;
- (f) the veterinarian and delegate provider have established a written plan of care recorded in the veterinary record; ~~and~~
- (g) ~~the an appropriately qualified veterinarian or a designated associate veterinarian is is~~ available ~~at all times to provide direct supervisi~~to consult and ~~intervene~~arrange for ~~intervention in the event of complicationsnfor in-person~~; and

## Administrative Rules for Veterinarians

- (h) the informed consent of the client is obtained and recorded in the veterinary record, including as to any compensation exchanged between veterinarian and delegate provider.

**8-124 Rabies Vaccination; VCPR Not Required; Minimal Recordkeeping.** It is in the interest of the public health, safety, and welfare that veterinarians participate in rabies vaccination clinics and offer office-based rabies vaccination. A VCPR is not required. A veterinarian participating in a vaccination clinic may do so in conformity with ~~CVR 20-022-018 or successor rules~~ of the Agency of Agriculture, Food & Markets' ~~Rabies Vaccination Clinic Rule, CVR 20-022-018, or successor rules.~~ For purposes of those ~~Rules,~~ "examination" means such assessment as may be necessary to determine whether the animal is fit for vaccination and does not mean a comprehensive evaluation of health. ~~In lieu of the recordkeeping requirements of these Rules, a veterinarian may, with respect to an animal with which the veterinarian does not have a VCPR, see that:~~ A veterinarian participating in a rabies vaccination clinic, who complies with the records requirements specified in CVR 20-022-018 or successor rules, is excused from the recordkeeping requirements set out above.##

(a) ~~a rabies vaccination certificate and rabies tags are provided to each domestic pet and wolf-hybrid vaccinated; and~~

(b) ~~copies of the rabies vaccination certificates issued are provided to the clerk of the relevant municipality, who shall maintain them for three years unless entrusting them to the veterinarian under the clerk's supervision. The recordkeeping requirements of these rules shall not apply to a veterinarian who complies with the more specific records provisions these rules are~~

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### Part 9: Discipline

**9-1 Unprofessional Conduct.** Unprofessional conduct includes those acts set out at 3 V.S.A. § 129a (applicable to all professional licensees). Violation of these rules is cognizable as unprofessional conduct pursuant to 3 V.S.A. § 129a(a)(3).

**9-2 Remedies.** Upon a finding by the Board that a licensee, applicant, or person who later becomes an applicant has committed unprofessional conduct, within or without this State, or has had a license application denied or a license revoked, suspended, limited, conditioned, or otherwise disciplined by a licensing agency in another jurisdiction for conduct which would constitute unprofessional conduct in this State, or has surrendered a license while under investigation for unprofessional conduct, the Board may warn, reprimand, suspend, revoke, limit, condition, deny, or prevent the renewal of a license. See 3 V.S.A. § 129(a). A license may be summarily suspended pending further proceedings, consistent with 3 V.S.A. § 814(c), upon a finding that public health, safety, or welfare imperatively requires emergency action.

## Part 1: Definitions

- 1-1 “Client”** means a person seeking veterinary care on behalf of a patient.
- 1-2 “Companion animal”** means an animal for which a client has assumed responsibility and ownership as an individual companion or service animal.
- 1-3 “Direct Supervision”** means oversight by a licensed veterinarian available to physically intervene in the care of an animal.
- 1-4 “Director”** means the Director of Professional Regulation.
- 1-5 “Foreign”** means emanating from or existing within a governmental jurisdiction other than the State of Vermont.
- 1-6 “License” or “licensure”** refers to any credential issued by the Office under these rules, including a certification or registration, except where context clearly indicates reference to a foreign or other professional license.
- 1-7 “Licensee”** means a person or entity seeking or holding a license under these rules.
- 1-8 “Non-companion animal”** means an animal raised for economic or agricultural purposes.
- 1-9 “Office”** means the Office of Professional Regulation.
- 1-10 “Office website”** means [sos.vermont.gov/opr](https://sos.vermont.gov/opr).
- 1-11 “Patient”** means an animal that is the subject of veterinary care.
- 1-12 “Veterinarian-Client-Patient Relationship” or “VCPR”** is defined at 26 V.S.A. § 2433. See Rule 8-3, *infra*.

## Part 2: Administration

- 2-1 Applicable Law.** The practice of veterinary medicine is defined and regulated pursuant to 26 V.S.A. § 2401 *et seq.* Copies of these and other statutes are available online at [www.legislature.vermont.gov/statutes/](https://www.legislature.vermont.gov/statutes/). The Office administers licensure in conformity with these and other Vermont laws, to include the Administrative Procedure Act, 3 V.S.A. § 800 *et seq.*; the Public Records Act, 1 V.S.A. § 315 *et seq.*; and the Laws of Professional Regulation, 3 V.S.A. § 121 *et seq.*
- 2-2 Resources for Applicants and Licensees.** The Office maintains a website at [sos.vermont.gov/opr](https://sos.vermont.gov/opr) with information and links relevant to all licensed professionals. Information specific to veterinarians is available from [sos.vermont.gov/veterinary-medicine/statutes-rules-resources/](https://sos.vermont.gov/veterinary-medicine/statutes-rules-resources/).
- 2-3 U.S. Armed Forces.** The Director may accept toward the requirements of these rules relevant military education, training, or service completed by a member of the U.S. Armed Forces and may



# Administrative Rules for Veterinarians

expedite licensure of a person who left licensed employment in another state secondary to a spouse's military transfer to Vermont. 3 V.S.A. § 123(g). Service members and the spouses of service members should visit the Office website for details.

## Part 3: Procedures

**3-1 Applications.** Online license applications must be completed through the Office website.

(a) Incomplete applications will not be processed. Applications are complete only when all required questions have been answered fully, all attestations made, all required documentation and materials provided, and all fees paid.

(b) When the Board, or the Office on the Board's behalf, intends to deny an application, notice stating the reasons for the action shall be given to the applicant by certified mail, whereupon the applicant shall have 30 days to petition for a hearing before an administrative law officer.

(c) The Board may refuse to accept any application found to be redundant with a denied or in-process application.

(d) The Board may deem expired any application that is left pending for six months.

**3-2 Complaints.** Complaints against licensees, applicants for licensure, or persons practicing without a license may be submitted through the Office website, at [sos.vermont.gov/opr/complaints-conduct-discipline/](http://sos.vermont.gov/opr/complaints-conduct-discipline/).

**3-3 Contested Cases.** Procedures in contested cases relating to licensure or discipline are governed by the Office of Professional Regulation Administrative Rules of Practice, CVR 04-030-005, as those rules may from time to time be modified.

**3-4 Declaratory Rulings.** Petitions for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the Board or Office may be made pursuant to 3 V.S.A. § 808 and Office procedure.

**3-5 Conflict of Standards.** Where a standard of unprofessional conduct set forth in statute conflicts with a standard set forth in rule, the standard that is most protective of the public shall govern. *See* 3 V.S.A. § 129a(e).

**3-6 Determination of Equivalency.** Where the Board or Director is permitted by law or rule to accept certain training or experience on the basis of equivalence to a fixed standard, it is the burden of the applicant or licensee to establish equivalence to the Board or Director's satisfaction, by producing credible, clear, and convincing evidence of the same. The Board and the Office have no obligation to research the bona fides of any institution, program, course, degree, certification, practicum, fellowship, or examination.

**3-7 Waiver or Variance.** The Board will not grant routine waivers or variances from any provisions of these rules without amending the rules. *See* 3 V.S.A. § 845. Where, in extraordinary circumstances, application of a rule would result in manifest unfairness, an absurd result, unjustifiable inefficiency, or an outcome otherwise inimical to the public health, safety, and welfare, the Board may, upon written request of an interested party, so find, grant a waiver with or without particular conditions and limitations, and record the action and justification in a written memorandum. This rule shall not be construed as creating any administrative hearing right or cause of action.

# Administrative Rules for Veterinarians

**3-8 Inspection.** All veterinary hospitals and other non-residential premises used by licensees in relation to the provision of veterinary services shall be open to announced or unannounced visits by Office inspectors during regular business hours.

**3-9 Contacting the Board.** See the Office website for contact details. Send mail to: Office of Professional Regulation, ATTN: Board of Veterinary Medicine, 89 Main Street, 3rd Floor, Montpelier, VT 05620-3402.

## Part 4: Licensing Requirements

**4-1 Core requirements.** An applicant is eligible for licensure who has:

- (a) reached the age of majority;
- (b) graduated from a school of veterinary medicine accredited by the American Veterinary Medical Association or the Canadian Veterinary Medical Association; and
- (c) passed the North American Veterinary Licensing Examination (NAVLE), or any subsequent licensing examinations prepared under the authority of the National Board of Veterinary Medical Examiners (NBVME) or its successor organization, within two years preceding application.

**4-2 International Veterinary Graduates not Licensed in the United States or Canada.** In lieu of the graduation requirement of Rule 4-1(b), an applicant may present a certificate issued by the Educational Commission for Foreign Veterinary Graduates (ECFVG), its successor organization, or an organization acceptable to the Board.

**4-3 Veterinary Graduates Licensed Elsewhere in the United States or Canada.** A person licensed or certified in good standing under the laws of another jurisdiction may be eligible for licensure without examination as specified by 26 V.S.A. § 2424.

**4-4 State Laws & Rules.** Examination on Vermont-specific laws and rules is not required. All veterinarians are responsible to maintain ongoing familiarity with State and Federal laws and rules governing the practice of the profession, just as all veterinarians are responsible to follow evolving practice standards. Ignorance of regulatory requirements does not excuse noncompliance. Means of ensuring orientation to regulatory obligations include participation in professional associations, consultation with qualified legal counsel, subscription to professional publications, and periodic online monitoring of legislative and regulatory developments.

**4-5 Consultation Exemption.** Board licensure is not required of a veterinarian regularly licensed in another jurisdiction consulting with a licensed veterinarian in this State. Accord 26 V.S.A. § 2403(5). Exempt consultation is limited to the provision of specialized professional advice or assessment, or the demonstration of clinical practices. A consulting veterinarian is, for purposes of professional responsibility, a delegate of the Vermont veterinarian with whom he or she consults and may provide veterinary services only to animals with which the Vermont veterinarian has a valid VCPR and as requested by the Vermont veterinarian.

**4-6 Livestock Management and Husbandry Exemption.** Board licensure is not required of persons engaged in accepted livestock management practices and animal husbandry practices. See 26 V.S.A. § 2403(2). Embryo transfer is not exempt as an accepted livestock management practice and may be performed only by or under the direct supervision of a Vermont-licensed veterinarian.

# Administrative Rules for Veterinarians

## Part 5: License Renewal

**5-1 Biennial Licensing Period.** Licenses are valid for fixed, two-year periods. Expiration dates are printed on licenses. A license expires if not renewed by midnight on the date of expiry. Practice under an expired license is prohibited. An initial license issued fewer than 90 days prior to the beginning of the fixed biennial period shall be valid through the end of full biennial licensing period following initial licensure. A lookup tool on the Office website may be considered a primary source verification as to license status and expiration.

**5-2 License Renewal.** Online license renewal applications must be completed through the Office website. The Office transmits email reminders to licensees at the end of each biennial licensing period; however, non-receipt of such reminders shall not excuse a licensee from the obligation to maintain continuous licensure or the consequences of failing to do so. Practicing while a license is lapsed is a violation of 3 V.S.A. § 127.

**5-3 Late Renewal Penalties.** Late renewal applications are subject to reinstatement fees, which may be waived in certain circumstances. *See* 3 V.S.A. § 127(d). Reinstatement waivers may be requested through the online licensing system.

**5-4 Extended License Lapse.** A license expired for five or fewer years may be reactivated as of right upon proof of continuous veterinary practice elsewhere, or if veterinary practice ceased, upon completion of the continuing education required in the preceding biennial licensing period. When a license has been expired for five or more years, a licensee's preparation to return to practice will be assessed on a case-by-case basis. After consultation with the Board, the Director may require re-training, testing, or re-application. *See* 3 V.S.A. § 135; 26 V.S.A. § 2426.

## Part 6: Continuing Veterinary Medical Education

### 6-1 Continuing Education

- (a) **Requirement.** All licensees have a duty to maintain professional competence through conscientious pursuit of professional learning opportunities, interaction with peers, and continual review of relevant scientific and professional literature. In each biennial licensing period, a licensee shall devote at least 24 hours to such pursuits and shall attest to having done so as a condition of renewal.
- (b) **Relevance.** Licensees are expected to identify and pursue appropriate learning opportunities in good faith. Activities claimed under this rule shall be reasonably calculated to improve the particular professional practice of the licensee, shall be relevant, and shall be oriented toward evidence-based practice or the improvement of technical skill. Express approval of continuing learning opportunities is not required.
- (c) **Documentation.** A licensee shall document participation in professional learning activities. For courses, a licensee shall retain completion certificates. For non-course activities, such as reading, research, presentation, or curriculum development, a licensee shall maintain a contemporaneous log of pertinent details, such as journal citations; presentation titles, locations, dates, sponsors, and host institutions; the length of time spent on the activity; and a brief, written summary of the substantive reading, research, presentation, or curriculum developed. A form log is available at the Board website. Certificates and logs must be retained for four years. The Board may audit continuing education compliance at any time.

# Administrative Rules for Veterinarians

## Part 7: Reporting Duties

**7-1 Duty to Update and Self-Report.** Applicants and licensees owe a duty of candor to the Board and shall disclose circumstances that may call for further investigation to protect the public. That a matter is reportable does not imply that the matter necessarily is a basis for discipline. A licensee, including an applicant for licensure, shall report to the Office, in writing, within 30 days:

- (a) any change of name, e-mail, or mailing address;
- (b) any material inaccuracy or change in circumstance relative to any application question, where the changed circumstance arises between submission of a license application and issuance of the license sought;
- (c) any arrest or charge for conduct occurring in the course of, or in direct relation to, the practice of veterinary medicine;
- (d) any conviction for any criminal act;
- (e) any injunction or other order of a court or regulatory authority, including an assurance of discontinuance, limiting the licensee's ability to practice;
- (f) any legal claim, settlement, or judgment arising from alleged professional negligence, misconduct, or malpractice; and
- (g) any adverse action against a foreign professional license, where the adverse action relates to an allegation of misconduct, substandard practice, or unethical conduct.

## 7-2 Duty to Report Disease.

- (a) Pursuant to 6 V.S.A. § 1162, a veterinarian shall immediately report to the State Veterinarian:
  - 1. the discovery of any domestic animal that is infected with, is suspected of being infected with, or has been exposed to a disease reportable under 6 V.S.A. ch. 102;
  - 2. any sudden unexplained morbidity or mortality in a herd or flock.
- (b) A veterinarian shall report to the Secretary of Agriculture, Food & Markets any horse that has tested positive for equine infectious anemia and shall see that the animal is quarantined if required by 6 V.S.A. § 1182(c).
- (c) A veterinarian shall report to the Commissioner of Health any animal or animals having or suspected of having any disease that can result from bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agents or biological toxins, and those that might pose a risk of a significant number of human and animal fatalities or incidents of permanent or long-term disability. 13 V.S.A. § 3504(d).

## Part 8: Practice Rules & Standards

**8-1 Ethical Conduct.** The Board may consider the *Principles of Veterinary Medical Ethics of the AVMA* a recognized source of professional standards when determining "the essential standards of acceptable and prevailing practice" for purposes of 26 V.S.A. § 129a(b). This section shall not be construed as imposing any mandatory-reporting obligation not otherwise present under Vermont law.

**8-2 Compliance with Other Law.** Licensees must comply with all federal, state and local laws, governing the practice of the profession. 3 V.S.A. 129a(a)(3).

**8-3 The Veterinarian-Client-Patient Relationship.** The three elements of a VCPR—assumption of responsibility for care, sufficient knowledge of the patient, and availability—are defined more

# Administrative Rules for Veterinarians

particularly at 26 V.S.A. § 2433, together with important related principles not restated in these Rules. A valid VCPR:

- (a) must exist prior to the provision of any veterinary care, other than in a rabies clinic or an emergency; and
- (b) must exist prior to issuance of a veterinary feed directive or any activity relative to the provision, administration, authorization, or prescribing of veterinary prescription drugs.

**8-4 Telepractice.** When determining whether a valid VCPR has been established, the Board will inquire into the sufficiency, reliability, and validity of the veterinarian's knowledge, not the means or modality by which that knowledge was obtained. Veterinarians are authorized to use their reasoned clinical judgment to determine when and how telemedicine modalities may be used.

- (a) **Common standard of care.** A Veterinarian using telemedicine must take appropriate steps to establish a VCPR, obtain informed consent from the client, and conduct all necessary patient evaluations consistent with currently acceptable standards of care. Some patient presentations are appropriate for the use of telemedicine as a component of, or in lieu of, hands-on medical care, while others are not.
- (b) **Federal laws and rules.** This rule shall not be construed as superseding any contrary law or rule of the United States Food & Drug Administration.

**8-5 Veterinary Records: Companion Animals.** For each companion animal with which a veterinarian has a VCPR, the veterinarian shall retain a distinct file including:

- (a) client and patient information;
- (b) a competent history;
- (c) individualized entries recording each assessment, treatment, consultation, procedure, intervention, diagnosis, and plan; and
- (d) the identity of each person providing such service.

**8-6 Veterinary Records: Non-companion animals.** Group records are acceptable for non-companion animals; provided, however, that an individual record shall be initiated when indicated by the health status of the animal.

**8-7 Records Retention and Production.** A veterinarian shall retain patient records for not fewer than seven years from last contact with an animal, or in contexts where other law requires longer retention, for the longer period. Failure to keep appropriate records may constitute unprofessional conduct. 3 V.S.A. § 129a(a)(3). Records shall be typed when practicable under the circumstances, legible, reasonably protected from inadvertent destruction, and fit to transmit relevant content to a subsequent provider of care. Records shall be made available promptly upon written request of a client and may not be withheld for non-payment; provided, however, that a veterinarian may require that a client pay actual costs of production of transmission, such as copying and postage. See 3 V.S.A. § 129a(a)(8).

**8-8 Records Disposition.** A veterinarian shall have in place a plan for responsible disposition of patient veterinary records in the event the veterinarian should become incapacitated or unexpectedly discontinue practice. 3 V.S.A. § 129a(a)(25). Group practices may satisfy this requirement through a written agreement among partners that contemplates dissolution of the partnership or separation of a partner. Any veterinarian may satisfy this requirement through written agreement with a professional peer, attorney, or other person or organization credibly capable of seeing to appropriate disposition of records. A veterinarian's records-disposition plan

# Administrative Rules for Veterinarians

shall be available upon request of a client or the Board, but need not be filed with the Board unless requested.

**8-9 Delegation.** A licensee shall delegate professional responsibilities only to those whom the licensed professional knows, or has reason to know, is qualified by training, experience, education, or licensing credentials to perform them. Diagnosis, prescription, and surgery are not delegable by a veterinarian to a non-veterinarian.

**8-10 Alternative Therapies.** Alternative therapies may be provided in conformity with accepted principles of veterinary ethics; provided, however, that a veterinarian shall not advertise, promote, or recommend a therapy or treatment in a manner tending to deceive the public or to suggest a degree of reliability or efficacy unsupported by competent evidence and professional judgment. *See* 26 V.S.A. § 129a(a)(17).

**8-11 Integration of Complementary Care Providers.** Vermont law does not authorize any non-veterinarian licensed under Title 26 to undertake any act within the scope of veterinary medical practice. Non-veterinarian providers may be skilled in certain modalities that may be safely applied for therapeutic benefit to animals under the supervision of a veterinarian. A veterinarian may delegate veterinary treatments to such providers if:

- (a) the veterinarian has a valid VCPR;
- (b) the requirements of Rule 8-9 are satisfied;
- (c) the veterinarian has verified that the provider is oriented to the unique anatomy, physiology, and behavior of the animal to be treated by documented training additional to that required for the provider to practice his or her care modality on humans;
- (d) the veterinarian has a competent clinical and evidential basis to believe the service will be of therapeutic benefit;
- (e) the veterinarian has prescribed in writing the treatment or act to be performed;
- (f) the veterinarian and delegate provider have established a written plan of care recorded in the veterinary record;
- (g) an appropriately qualified veterinarian is available to consult and arrange for intervention in the event of complications; and
- (h) the informed consent of the client is obtained and recorded in the veterinary record, including as to any compensation exchanged between veterinarian and delegate provider.

**8-12 Rabies Vaccination; VCPR Not Required; Minimal Recordkeeping.** It is in the interest of the public health, safety, and welfare that veterinarians participate in rabies vaccination clinics and offer office-based rabies vaccination. A VCPR is not required. A veterinarian participating in a vaccination clinic may do so in conformity with the Agency of Agriculture, Food & Markets' Rabies Vaccination Clinic Rule, CVR 20-022-018, or successor rules. For purposes of those rules, "examination" means such assessment as may be necessary to determine whether the animal is fit for vaccination and does not mean a comprehensive evaluation of health. A veterinarian participating in a rabies vaccination clinic, who complies with records requirements specified in CVR 20-022-018 or successor rules, is excused from the recordkeeping requirements set out above.

## Part 9: Discipline

**9-1 Unprofessional Conduct.** Unprofessional conduct includes those acts set out at 3 V.S.A. § 129a (applicable to all professional licensees). Violation of these rules is cognizable as unprofessional conduct pursuant to 3 V.S.A. § 129a(a)(3).

## Administrative Rules for Veterinarians

**9-2 Remedies.** Upon a finding by the Board that a licensee, applicant, or person who later becomes an applicant has committed unprofessional conduct, within or without this State, or has had a license application denied or a license revoked, suspended, limited, conditioned, or otherwise disciplined by a licensing agency in another jurisdiction for conduct which would constitute unprofessional conduct in this State, or has surrendered a license while under investigation for unprofessional conduct, the Board may warn, reprimand, suspend, revoke, limit, condition, deny, or prevent the renewal of a license. *See* 3 V.S.A. § 129(a). A license may be summarily suspended pending further proceedings, consistent with 3 V.S.A. § 814(c), upon a finding that public health, safety, or welfare imperatively requires emergency action.

VERMONT **GENERAL ASSEMBLY**

# The Vermont Statutes Online

## Title 3 : Executive

### Chapter 005 : Secretary Of State

#### Subchapter 003 : Professional Regulation

(Cite as: 3 V.S.A. § 123)

#### § 123. Duties of office

(a) The Office shall provide administrative, secretarial, financial, investigatory, inspection, and legal services to the boards. The services provided by the Office shall include:

(1) Sending, receiving, and processing applications for licenses.

(2) Issuing, recording, renewing, and reinstating all licenses as ordered by the boards, an appellate officer, the Director, an administrative law officer, or a court.

(3) Revoking or suspending licenses as ordered by the boards, the Director, an administrative law officer, or a court.

(4) Keeping all files and records of the boards, including minutes of meetings.

(5) Compiling and maintaining a current register of all licensees.

(6) Compiling and maintaining statistical information for each board, including the number of applications received; the number of licenses, certificates, registrations, and permits issued, renewed, and reinstated; examination results; the number and disposition of inspections and complaints; and the number of board meetings.

(7) Collecting and depositing all fees into the Professional Regulatory Fee Fund.

(8) Arranging payment of all expenses incurred by the boards within the limits of the funds appropriated to them.

(9) Standardizing, to the extent feasible and with the advice of the boards, all applications, licenses, and other related forms and procedures, and adopting uniform procedural rules governing the investigatory and disciplinary process for all boards set forth in section 122 of this chapter.

(10) Notifying the public and board members of all meetings and examinations to be held by the boards and arranging for places for those meetings and examinations.

(11) Assisting the boards in developing rules consistent with the principles set forth in 26 V.S.A. chapter 57. Notwithstanding any provision of law to the contrary, the



Secretary of State shall serve as the adopting authority for those rules.

(12) With the assistance of the boards, establishing a schedule of license renewal and termination dates so as to distribute the renewal work in the Office as effectively as possible.

(A) Licenses may be issued and renewed according to that schedule for periods of up to two years.

(B) A person whose initial license is issued within 90 days prior to the set renewal date shall not be required to renew the license until the end of the first full biennial licensing period following initial licensure.

(13) To the extent that resources permit, providing other administrative services that are necessary or desirable for the efficient operation of the boards.

(b) The Director shall consult with each board and prepare a consolidated budget for the Office. The consolidated budget shall also contain funds deemed to be required by the Director for the administration of this chapter. The Director shall submit the consolidated budget to the Secretary of State.

(c) The Director may purchase examination materials and contract with examination providers to administer examinations.

(d) The Director may adopt procedures for the effective administration of this section.

(e) The Secretary of State shall contract with and appoint one or more attorneys licensed to practice in this State to serve as administrative law officers under subsection 129(j) of this title or appellate officers under section 130a of this title.

(f) Classified State employees who are employed as investigators by the Secretary of State who have successfully met the standards of training for a Level III law enforcement officer under 20 V.S.A. chapter 151 shall have the same powers as sheriffs in criminal matters and the enforcement of the law and in serving criminal process, and shall have all the immunities and matters of defense now available or hereafter made available to sheriffs in a suit brought against them in consequence for acts done in the course of their employment.

(g)(1) The Office shall establish uniform procedures applicable to all of the professions and boards set forth in section 122 of this chapter, providing for:

(A) appropriate recognition of education, training, or service completed by a member of the U.S. Armed Forces toward the requirements of professional licensure; and

(B) expedited issuance of a professional license to a person who is licensed in good standing in another regulatory jurisdiction; and

(i) whose spouse is a member of the U.S. Armed Forces and who has been

subject to a military transfer to Vermont; and

(ii) who left employment to accompany his or her spouse to Vermont.

(2) The Director may evaluate specific military credentials to determine equivalency to credentials required for professions attached to the Office. The determinations shall be adopted through written policy that shall be posted on the Office's website.

(3) The Director may evaluate apprenticeship programs recognized or administered by the Vermont Department of Labor, Agency of Education, or U.S. Department of Labor to determine equivalency to credentials required for professions attached to the Office. The determinations shall be adopted through written policy that shall be posted on the Office's website.

(h) Notwithstanding any provision of Title 26 of the Vermont Statutes Annotated to the contrary, the Office, on behalf of the Director or a board, may use electronic mail to send notices and reminders that would otherwise be sent by mail, except certified mail, and may use online services to elicit information and sworn attestations that would otherwise be obtained on a paper form.

(i)(1) The Director shall actively monitor the actions of boards attached to the Office and shall ensure that all board actions pursued or decided are lawful, consistent with State policy, reasonably calculated to protect the public, and not an undue restraint of trade.

(2) If the Director finds an exercise of board authority or discretion does not meet those standards, the Director may, except in the case of disciplinary actions:

(A) provide written notice to the board explaining the perceived inconsistency, which notice shall have the effect of staying that action and implementing any alternative prescribed by the Director;

(B) schedule a public meeting with the board to resolve questions about the action and explore alternatives; and

(C) within 60 days following that meeting, issue a written directive finding that:

(i) the exercise of board authority or discretion is consistent with State policy, in which case the action shall be reinstated;

(ii) the exercise of board authority or discretion is inconsistent with State policy in form, but may be modified to achieve consistency, in which case the board may issue a modified action consistent with the Director's recommendation; or

(iii) the exercise of board authority or discretion is inconsistent with State policy in purpose, in which case any alternative prescribed by the Director shall stand as the regulatory policy of the State.

(j)(1) The Office may inquire into the criminal background histories of applicants for

initial licensure and for license renewal of any Office-issued credential, including a license, certification, registration, or specialty designation for the following professions:

(A) licensed nursing assistants, licensed practical nurses, registered nurses, and advanced practice registered nurses licensed under 26 V.S.A. chapter 28;

(B) private investigators, security guards, and other persons licensed under 26 V.S.A. chapter 59;

(C) real estate appraisers and other persons or business entities licensed under 26 V.S.A. chapter 69; and

(D) osteopathic physicians licensed under 26 V.S.A. chapter 33.

(2) Prior to acting on an initial or renewal application, the Office may obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Federal Bureau of Investigation background checks shall be fingerprint-supported, and fingerprints so obtained may be retained on file and used to notify the Office of future triggering events. Each applicant shall consent to the release of criminal history records to the Office on forms developed by the Vermont Crime Information Center.

(3) Applicants subject to background checks shall be notified that a check is required, if fingerprints will be retained on file, and that criminal convictions are not an absolute bar to licensure, and shall be provided such other information as may be required by federal law or regulation.

(k) For any profession attached to it, the Office shall provide a pre-application determination of an individual's criminal background. This determination shall not be binding on the Office in a future application if the individual violates probation or parole or is convicted of another crime following the determination.

(1) The Office shall initiate this determination upon an individual's "second chance" determination request. This request shall provide documentation related to the individual's conviction or convictions, evidence of rehabilitation, and identification of the profession or professions for which the individual seeks licensure.

(2) The individual shall submit this request online, accompanied by the fee for preapplication determinations set forth in section 125 of this subchapter. If the individual thereafter applies for licensure, this preapplication fee shall be deducted from that license application fee.

(3) The Office shall:

(A) process a request within 30 days of receiving a complete request;

(B) assess the nature of the underlying conviction or convictions, the nexus to the profession or professions for which the individual seeks licensure, and the provided evidence of rehabilitation; and

(C) respond to the individual's request in writing.

(l) When, by reason of disqualification, resignation, vacancy, or necessary absence, a board is unable to form a quorum or assign one or more members to assist in the investigation and prosecution of complaints or license applications, or to adjudicate a contested case, the Secretary of State may appoint ad hoc members, either as voting members to establish a quorum at a specific meeting or as nonvoting members to assist Office investigators and prosecutors. (Added 1989, No. 250 (Adj. Sess.), § 1; amended 1997, No. 40, § 2; 1999, No. 133 (Adj. Sess.), § 51; 2003, No. 122 (Adj. Sess.), § 78g; 2005, No. 27, § 1; 2007, No. 163 (Adj. Sess.), § 1; 2009, No. 33, § 4; 2009, No. 103 (Adj. Sess.), § 1; 2011, No. 116 (Adj. Sess.), § 2; 2013, No. 27, § 1; 2013, No. 138 (Adj. Sess.), § 2; 2013, No. 141 (Adj. Sess.), § 11, eff. July 1, 2015; 2017, No. 48, § 1; 2017, No. 115 (Adj. Sess.), § 2, eff. Jan. 1, 2020; 2017, No. 144 (Adj. Sess.), § 1; 2019, No. 152 (Adj. Sess.), § 1, eff. April 1, 2021; 2019, No. 178 (Adj. Sess.), § 2, eff. Oct. 1, 2020; 2021, No. 69, § 2.)

# The Vermont Statutes Online

## Title 26 : Professions And Occupations

### Chapter 044 : Veterinary Medicine

#### Subchapter 002 : State Veterinary Board

(Cite as: 26 V.S.A. § 2413)

#### § 2413. Powers and duties

(a) The Board shall:

(1) Adopt rules under 3 V.S.A. chapter 25 necessary for the performance of its duties, ensuring that at least the following are established by statute or rule:

(A) a definition of the behavior for which a license is required;

(B) explanations of appeal and other significant rights given by law to licensees, applicants, and the public; and

(C) rules of practice in disciplinary cases, including provisions regarding representation and evidence at hearings and provisions regarding subpoenas and witness fees.

(2) Conduct any necessary hearings in connection with the issuance, renewal, suspension, or revocation of a license or otherwise related to the disciplining of a licensee.

(3) Receive complaints and charges of unprofessional conduct against any holder of a license. The Board shall investigate all complaints in which there are reasonable grounds to believe that unprofessional conduct has occurred.

(b) The Board may:

(1) with the approval of the Director of the Office of Professional Regulation, make contracts and arrangements for the performance of administrative and similar services required or appropriate in the performance of its duties;

(2) issue subpoenas and administer oaths in connection with any authorized investigation, hearing, or disciplinary proceeding;

(3) take or cause depositions to be taken as needed in any investigation, hearing, or proceeding;

(4) receive legal assistance from the Attorney General of the State. (Added 1981, No. 67, § 1; amended 1985, No. 158 (Adj. Sess.), § 1; 1989, No. 250 (Adj. Sess.), § 4(d).)

VERMONT **GENERAL ASSEMBLY**



# Proposed Rules Postings

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#### Deadline For Public Comment

Deadline: Oct 29, 2021

The deadline for public comment has expired. Contact the agency or primary contact person listed below for assistance.

#### Rule Details

Rule Number:	21P030
Title:	Administrative Rules for Veterinarians.
Type:	Standard
Status:	Proposed
Agency:	Office of Professional Regulation, Office of the Secretary of State
Legal Authority:	26 V.S.A. § 2413(a)(1), and 3 V.S.A. § 123(a)(11).
Summary:	This rule adopts a definition of the Veterinarian Client Patient Relationship that is consistent with 26 V.S.A. § 2433 (Rules 1-12 & 8-3); provides for inspection (Rule 3-8); clarifies that the Board declines to require laws and rules exams (Rule 4-4); clarifies and interprets the consultation exemption (Rule 4-5); Clarifies and interprets the livestock management exemption (Rule 4-6); conforms lapsed license reinstatement to the uniform standard at 3 V.S.A. § 135 (Rule 5-4) simplifies CE requirements (Rule 6-1); imposes clear duties to self-report certain sentinel events, consistent with other recent OPR rule updates (Rule 7-1); incorporates disease-

reporting requirements found in Titles 6 & 13 (Rule 7-2); sets distinct recordkeeping requirements for companion and non-companion animals (Rule 8-4); announces a clear delegation rule (Rule 8-8); sets a clear rule on alternative therapies (Rule 8-9); and facilitates veterinarian participation in rabies clinics (Rule 8-11).

**Persons Affected:** Veterinarians; clients; animal shelters; rabies clinics Vermont Department of Health, Agency of Agriculture, Food & Markets.

**Economic Impact:** This rule is not expected to have a significant economic impact. A positive impact may be felt by veterinarians who avail themselves of relaxed continuing education requirements; these licensees may save approximately \$100 to \$300 biennially by pursuing less formal and less expensive means of ensuring continuing competency.

**Posting date:** Sep 01,2021

## Hearing Information

### Information for Hearing # 1

**Hearing date:** 10-20-2021 10:00 AM [ADD TO YOUR CALENDAR](#)

**Location:** Virtual Hearing via Microsoft Teams ID: 372 481 335#

**Address:** Call in +1 802-828-7667

**City:** Montpelier

**State:** VT

**Zip:** n/a

**Hearing Notes:** Connection to the meeting will be available at the Office of Professional Regulation 89 Main Street, 3rd Floor, Montpelier, VT 05602 for those unable to attend remotely.

## Contact Information

### Information for Primary Contact

**PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE.**

**Level:** Primary

**Name:** Gabriel Gilman

**Agency:** Office of Professional Regulation, Office of the Secretary of State

**Address:** 89 Main Street, 3rd Floor

**City:** Montpelier

**State:** VT

**Zip:** 05620-3402

**Telephone:** 802-828-2495

**Fax:**

**Email:** [gabriel.gilman@vermont.gov](mailto:gabriel.gilman@vermont.gov)

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Website Address: <https://sos.vermont.gov/veterinary-medicine/statutes-rules-resources/>  
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### Information for Secondary Contact

**SECONDARY CONTACT PERSON - A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON.**

Level: Secondary  
Name: Jennifer Rotblatt  
Agency: Office of Professional Regulation, Office of the Secretary of State  
Address: 89 Main Street, 3rd Floor  
City: Montpelier  
State: VT  
Zip: 05620-3402  
Telephone: 802-828-2191  
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[SEND A COMMENT](#)

## Keyword Information

Keywords:

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Veterinary Mecedine  
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Vermont Lawyer ( <a href="mailto:hunter.press.vermont@gmail.com">hunter.press.vermont@gmail.com</a> )	Attn: Will Hunter

**FROM:** APA Coordinator, VSARA

**Date of Fax:** August 30, 2021

**RE:** The "Proposed State Rules " ad copy to run on

**September 9, 2021**

**PAGES INCLUDING THIS COVER MEMO:**

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## PROPOSED STATE RULES

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By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at <https://secure.vermont.gov/SOS/rules/>. The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

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10 Appendix V.S.A. § 10. Vermont endangered and threatened species rule.

Vermont Proposed Rule: 21P028

AGENCY: Agency of Natural Resources

CONCISE SUMMARY: The purpose of the rule is to identify and protect threatened and endangered (T&E) species in Vermont. This amended rule proposes the following: changing the designation of a mussel, the Brook Floater from threatened to endangered; listing a grassland bird, the Eastern Meadowlark as a threatened species; listing a plant Rue Anemone (*Thalictrum thalictroides* L.) as endangered; listing the American bumble bee (one of many species of bees in Vermont) as endangered; listing a plant, Houghton's sedge (*Carex houghtoniana* Torr. ex Dewey) as endangered; designating critical habitat for threatened and endangered bats, a shoreland bird, the Common Tern, and the Spiny Softshell Turtle; and delist the Bald Eagle and the plant, Canada Black Snakeroot (*Sanicula canadensis* L. var. *canadensis*). All of these species are listed as T&E in Vermont and are not listed under federal law. In addition, the rule is amended to conform with statutory changes that occurred since the rule was last promulgated.

FOR FURTHER INFORMATION, CONTACT: Catherine Gjessing Vermont Fish and Wildlife Department 1 National Life Drive, Davis 2, Montpelier, VT 05620-3208 Tel: 802-595-3331 Fax: 802-828-1250 Email: [catherine.gjessing@vermont.gov](mailto:catherine.gjessing@vermont.gov) URL: <https://vtfishandwildlife.com/consERVE/endangered-and-threatened-species>.

FOR COPIES: Mark Scott Vermont Fish and Wildlife Department 1 National Life Drive, Davis 2, Montpelier, VT 05620-3702 Tel: 802-777-4217 Fax: 802-828-1250 Email: [mark.scott@vermont.gov](mailto:mark.scott@vermont.gov).

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Rule No. S-2016-01, Vermont Securities Regulations (Revised 2021).

Vermont Proposed Rule: 21P029

AGENCY: Department of Financial Regulation

CONCISE SUMMARY: The proposed revisions amend the Vermont Securities Regulation to improve readability and internal consistency, and to ensure that it is drafted in a manner consistent with model laws and regulations promulgated by the North American Securities Administrators Association (NASAA), federal securities laws and regulations, and to the extent possible, with the laws and regulations of neighboring states. Substantive changes include: adopting the NASAA model rule requiring investment advisers to complete continuing education requirements annually, adopting part of the NASAA model rule requiring

investment advisers to adopt a code of ethics, requiring investment advisers to establish written policies/procedures to ensure protection of vulnerable adults from financial exploitation, and setting forth the procedures for allocating money from the Vermont Financial Services Education and Victim Restitution Special Fund established in 9 V.S.A. § 5616 (Fund) to the victims of securities violations in Vermont.

FOR FURTHER INFORMATION, CONTACT: Erin Moore, Department of Financial Regulation 89 Main Street, Montpelier, VT 05620-3101 Tel: 802-622-4198 Email: [erin.moore@vermont.gov](mailto:erin.moore@vermont.gov) URL: <https://dfr.vermont.gov/about-us/legal-general-counsel/proposed-rules-and-public-comment>.

FOR COPIES: William R. Carrigan, Department of Financial Regulation 89 Main Street, Montpelier, VT 05620-3101 Tel: 802-828-4858 Email: [william.carrigan@vermont.gov](mailto:william.carrigan@vermont.gov).

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#### Administrative Rules for Veterinarians.

Vermont Proposed Rule: 21P030

AGENCY: Secretary of State, Office of Professional Regulation

CONCISE SUMMARY: This rule adopts a definition of the Veterinarian Client Patient Relationship that is consistent with 26 V.S.A. § 2433 (Rules 1-12 & 8-3); provides for inspection (Rule 3-8); clarifies that the Board declines to require laws and rules exams (Rule 4-4); clarifies and interprets the consultation exemption (Rule 4-5); Clarifies and interprets the livestock management exemption (Rule 4-6); conforms lapsed license reinstatement to the uniform standard at 3 V.S.A. § 135 (Rule 5-4) simplifies CE requirements (Rule 6-1); imposes clear duties to self-report certain sentinel events, consistent with other recent OPR rule updates (Rule 7-1); incorporates disease-reporting requirements found in Titles 6 & 13 (Rule 7-2); sets distinct recordkeeping requirements for companion and non-companion animals (Rule 8-4); announces a clear delegation rule (Rule 8-8); sets a clear rule on alternative therapies (Rule 8-9); and facilitates veterinarian participation in rabies clinics (Rule 8-11).

FOR FURTHER INFORMATION, CONTACT: Gabriel Gilman, Office of Professional Regulation, 89 Main St, Montpelier, VT 05620-3402 Tel: 802-828-2492 Email: [gabriel.gilman@vermont.gov](mailto:gabriel.gilman@vermont.gov) URL: <https://sos.vermont.gov/veterinary-medicine/statutes-rules-resources/>.

FOR COPIES: Jennifer Rotblatt, Office of Professional Regulation, 89 Main St, Montpelier, VT 05620-3402 Tel: 802-828-2191 Email: [jennifer.rotblatt@vermont.gov](mailto:jennifer.rotblatt@vermont.gov).

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