

CHAPTER 453

VETERINARY EXAMINING BOARD

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Cross–reference: See definitions in s. 440.01.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The veterinarian has assumed the responsibility for making medical judgments regarding the health of the patient and the patient’s need for medical treatment, and the client has agreed to accept those medical judgments and to follow the related instructions of the veterinarian.

(b) The veterinarian has sufficient knowledge of the patient to initiate a general or preliminary diagnosis of the medical condition of the patient because the veterinarian has recently

examined the patient or has made medically appropriate and timely visits to the premises on which the patient is kept.

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

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

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

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

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

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

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

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

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

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

History: 1975 c. 309; 1983 a. 189; 1987 a. 39; 1989 a. 279; 1991 a. 306; 1993 a. 213; 1995 a. 321; 1997 a. 27.

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

453.03 Rules. **(1)** The examining board shall promulgate rules, within the limits of the definition under s. 453.02 (6), establishing the scope of practice permitted for veterinarians and veterinary technicians and shall review the rules at least once every 5 years to determine whether they are consistent with current practice. The examining board may promulgate rules relating to licensure qualifications, denial of a license, certificate or temporary permit, unprofessional conduct and disciplinary proceedings.

(2) The examining board shall promulgate rules requiring training and continuing education sufficient to assure competency of veterinarians and veterinary technicians in the use, handling, distribution and disposal of pesticides.

History: 1987 a. 39; 1989 a. 279; 1995 a. 321.

453.04 Violations. The chairperson of the examining board shall institute actions for violations of this chapter by any person and for violations of ch. 450 or 961 by veterinarians. The district attorney of the county in which the offense is committed shall

promptly prosecute any such violation upon being informed thereof, from any source.

History: 1985 a. 146; 1993 a. 184; 1995 a. 448.

453.05 Practice; penalties. (1) Except as provided under sub. (2), no person may offer to practice, advertise to practice or practice veterinary medicine, or use, in connection with his or her name, any title or description which may convey the impression that he or she is a veterinarian, without a license or temporary permit from the examining board. For purposes of this subsection, a person who makes extra-label use of a drug on an animal without a prescription or in any manner not authorized by that prescription is considered to be practicing veterinary medicine.

(2) No veterinary license or temporary permit is required for the following activities or persons:

(a) Artificial insemination, or for continuing the practice of pregnancy examinations of animals when such practice was engaged in prior to February 11, 1968.

(b) Castrating male dogs, cats, horses, pigs, goats, sheep or cattle or for dehorning or branding animals.

(c) Students at a veterinary college approved by the examining board.

(d) Certified veterinary technicians while working under the direct supervision of a veterinarian.

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

(f) Employees of an educational or research institution while engaged in teaching or research. This paragraph does not apply to employees of a school of veterinary medicine in this state who practice veterinary medicine on privately owned animals.

(g) Employees of a school of veterinary medicine in this state who practice veterinary medicine on privately owned animals only as a part of their employment and who are licensed under s. 453.06 (2m).

(h) Graduates of schools outside the United States and Canada who are enrolled in the educational commission for foreign veterinary graduates certification program of the American Veterinary Medical Association while completing the required year of clinical assessment under the supervision of a veterinarian.

(3) Any person violating this section may for the first offense be fined not more than \$1,000, and for any 2nd offense within 3 years be fined not more than \$3,000.

History: 1975 c. 309; 1977 c. 418; 1979 c. 337; 1981 c. 125; 1987 a. 39; 1991 a. 306; 1995 a. 321.

A license under sub. (2) (a) is not required for person to engage in artificial insemination of animals but is required for persons engaged in pregnancy examinations who were not engaged in practice prior to February 11, 1968. *78 Att. Gen. 236.*

453.06 Licensure. (1) Except as provided under s. 453.072, veterinary licenses shall be issued only to persons who successfully pass an examination conducted by the examining board and pay the fee specified in s. 440.05 (1). An applicant for an initial license shall be a graduate of a veterinary college which has been approved by the examining board or have successfully completed the educational commission for foreign veterinary graduates certification program of the American Veterinary Medical Association. Persons who qualify for examination may be granted temporary permits to engage in the practice of veterinary medicine in the employment and under the supervision of a veterinarian until the results of the next examination conducted by the examining board are available. In case of failure at any examination, the applicant shall have the privilege of taking subsequent examinations, upon the payment of another fee for each examination.

(2) The renewal date and renewal fee for veterinary licenses are specified under s. 440.08 (2) (a).

(2m) (a) Upon application, the examining board may issue a veterinary faculty license to an employee of a school of veterinary medicine in this state who has received the degree of doctor

of veterinary medicine from a veterinary college approved by the examining board or if the examining board determines that the person possesses substantially equivalent qualifications. A person holding a veterinary faculty license may practice veterinary medicine on privately owned animals only within the scope of the person's employment at the school.

(b) Upon application, the examining board may grant a veterinary postgraduate training permit to a person undertaking intern or resident training at a school of veterinary medicine in this state. The applicant shall submit evidence that the applicant has successfully completed the national board examination and the clinical competency test, is scheduled to take the national board examination and clinical competency test for the first time, or is awaiting results on the national board examination and clinical competency test. The only purpose of the veterinary postgraduate training permit is to provide opportunities in this state for the postgraduate education of persons who have received the degree of doctor of veterinary medicine but who have not yet met the requirements for licensure in this state. Issuance of a postgraduate training permit does not modify in any respect the requirements for licensure to practice veterinary medicine in this state, and a permittee may practice veterinary medicine on privately owned animals only within the scope of the permittee's internship or residency program. Violation of this restriction or of any applicable provision of this chapter constitutes cause for revocation of the permit.

(c) A license issued under this subsection expires upon termination of the licensee's employment at a school of veterinary medicine in this state. A postgraduate training permit expires upon termination of the permittee's internship or residency program, upon the permittee's failure to take the national board examination or the clinical competency test as scheduled, or upon notification to the permittee that he or she has failed to successfully complete either the national board examination or the clinical competency test.

(3) A veterinary technician certification may be issued only to a person who is at least 18 years of age and has either:

(a) Successfully completed a 4-semester course of study in animal technology or its equivalent, at a technical school or college approved by the examining board, and has passed an examination, administered by the examining board, which establishes that the applicant's knowledge of animals and their treatment is sufficient to qualify the applicant as a veterinary technician; or

(b) Been an employee of a veterinarian for a total of 2 years and has passed an examination, administered by the examining board, which establishes that the applicant's knowledge of animals and their treatment is sufficient to qualify the applicant as a veterinary technician. The 2-year employment requirement of this paragraph shall include at least 50% of the applicant's time spent in practical field experience and the remainder of the applicant's time spent in laboratory work, office procedure, and technical veterinary training with a veterinarian.

(4) The renewal date and renewal fee for veterinary technician certifications are specified under s. 440.08 (2) (a).

History: 1971 c. 213 s. 5; 1975 c. 309; 1977 c. 29, 418; 1979 c. 34 s. 2102 (58) (b); 1981 c. 125; 1985 a. 182 s. 57; 1987 a. 39; 1991 a. 39; 1995 a. 321.

The examining board lacks authority to condition the renewal of licenses upon either reexamination or continuing education. *65 Att. Gen. 35.*

453.065 Examinations. (1) Examinations under this chapter shall be designed to determine whether an applicant is competent to engage in the practice of veterinary medicine and shall be administered at least once annually. Examinations shall be objective and reliable, reasonably related to the skills likely to be needed by an applicant and seek to determine the applicant's preparedness to exercise such skills.

(2) The examining board may require passage of a nationally recognized examination if the examination meets basic standards of objectivity. The examining board may administer a state written examination in elements of practice that are not

covered in a national examination. The examining board may administer a practical or oral examination if such an examination tests knowledge and skills that cannot be measured or tested in a written examination.

(3) The passing score on examinations for licensure and certification shall be determined by the examining board to represent a standard of minimum competency in the profession, as established by the examining board by rule.

History: 1987 a. 39.

453.068 Drugs for animal use. (1) **PRESCRIBING; DISPENSING.** (a) *Extra-label use on animal; prescription required.* No person may make extra-label use of a drug on an animal without a prescription or in any manner not authorized by that prescription.

(b) *Form of prescription.* A prescription shall include all of the following:

1. The name and address of the veterinarian and, if the prescription is a written order, the signature of the veterinarian.
2. The name and address of the client.
3. The species and identity of the patient for which the prescription is issued.
4. The name, strength and quantity of the drug prescribed.
5. The date on which the prescription is issued.
6. The directions for administering the drug.
7. If the patient is a food-producing animal, the withdrawal time for the veterinary drug.
8. If the prescription authorizes extra-label use, the manner in which the client may use the drug.
9. Any cautionary statements required by law.

(c) *Prescribing, dispensing and administering requirements for veterinarian.* A veterinarian may not do any of the following:

1. Prescribe for or dispense to a client a veterinary prescription drug or a drug for extra-label use without personally examining the patient unless a veterinary-client-patient relationship exists between the veterinarian, client and patient and the veterinarian determines that the client has sufficient knowledge to administer the drug properly.
2. Prescribe or dispense a veterinary prescription drug to a client unless the veterinarian indicates in the appropriate records described under sub. (3), within 72 hours after the prescription is issued or the drug is dispensed, that the prescription has been issued or that the drug has been dispensed.
3. Prescribe a drug to a client for extra-label use on a patient unless all of the following apply:
 - a. A veterinary-client-patient relationship exists between the veterinarian, client and patient and the veterinarian has made a careful medical diagnosis of the condition of the patient within the context of that veterinarian-client-patient relationship.
 - b. The veterinarian determines that there is no drug that is marketed specifically to treat the patient's diagnosed condition, or determines that all of the drugs that are marketed for that purpose are clinically ineffective.
 - c. The veterinarian recommends procedures for the client to follow to ensure that the identity of the patient will be maintained.
 - d. If the patient is a food-producing animal, the veterinarian prescribes a sufficient time period for drug withdrawal before the food from the patient may be marketed.
4. Transmit a prescription electronically unless the client approves the transmission and the prescription is transmitted to a pharmacist or veterinarian designated by the client.

(2) **LABELING.** A veterinarian or pharmacist may not dispense a drug that has been prepared, mixed, formulated or packaged by the veterinarian or pharmacist unless the veterinarian or pharmacist affixes to the container in which the drug is dispensed a label containing all of the information specified in sub.

(1) (b), except the address of the client. A veterinarian or pharmacist may not dispense a veterinary prescription drug that has been prepackaged by its manufacturer for dispensing unless the veterinarian or pharmacist affixes to the container in which the drug is dispensed a label containing all of the information specified in sub. (1) (b), except the address of the client. A veterinarian or pharmacist may dispense a veterinary over-the-counter drug without affixing any information to the container in which the drug is dispensed if a label that has been affixed to the container by its manufacturer provides adequate information for its use.

(3) **PRESCRIPTION RECORDS.** A veterinarian shall maintain complete records of each veterinary prescription drug that the veterinarian receives, prescribes, dispenses or administers, and of each prescription issued by the veterinarian that authorizes extra-label use. Records of each veterinary prescription drug shall include the name of each veterinary prescription drug that is received, the name and address of the person from whom the drug is received and the date and quantity received, the name and address of the person to whom the drug is dispensed and the date and quantity dispensed and, if the veterinarian prescribes or administers the drug, the information specified in sub. (1) (b). Records of each prescription authorizing extra-label use shall include the information specified in sub. (1) (b). A veterinarian shall maintain records of each veterinary prescription drug under this subsection for not less than 3 years after the date on which the veterinarian prescribes, dispenses or administers the drug or extra-label use.

(4) **ENFORCEMENT.** (a) *Inspections.* Except as provided in par. (b), if the examining board has reason to believe that a person is violating or has violated this section, the examining board, the attorney general or the district attorney of the proper county may do any of the following:

1. Inspect the premises on which the person possesses, prescribes, dispenses, labels or administers veterinary drugs.
2. Inspect pertinent records, equipment, materials, containers or facilities that are relevant to determining whether the person is violating or has violated this section.
3. Collect relevant samples of veterinary drugs.

(b) *Records exempt from inspection.* The examining board, attorney general or district attorney may not inspect a person's financial, pricing, personnel or sales records under this subsection, other than the records described under sub. (3).

History: 1991 a. 306; 1997 a. 27.

453.07 Discipline. (1) In this section, "unprofessional conduct" includes, but is not limited to:

- (a) Making any materially false statement or giving any materially false information in connection with an application for a license or for renewal or reinstatement of a license or in making a report to the examining board.
- (b) Violating this chapter or ch. 440 or any federal or state statute or rule which substantially relates to the practice of veterinary medicine.
- (c) Practicing veterinary medicine while the person's ability to practice is impaired by alcohol or other drugs or physical or mental disability or disease.
- (d) Engaging in false, misleading or deceptive advertising.
- (e) Making a substantial misrepresentation in the course of practice which is relied upon by a client.
- (f) Engaging in conduct in the practice of veterinary medicine which evidences a lack of knowledge or ability to apply professional principles or skills.
- (fm) Handling, distributing, using or disposing of pesticides in violation of ss. 94.67 to 94.71 or the rules promulgated under ss. 94.67 to 94.71.
- (g) Obtaining or attempting to obtain compensation by fraud or deceit.
- (h) Violating any order of the examining board.

(2) Subject to subch. II of ch. 111 and the rules adopted under s. 440.03 (1), the examining board may, by order, reprimand any person holding a license, certificate or permit under this chapter or deny, revoke, suspend, limit or any combination thereof, the person's license, certificate or permit if the person has:

- (a) Engaged in unprofessional conduct.
- (b) Been adjudicated mentally incompetent by a court.
- (c) Been found guilty of an offense the circumstances of which substantially relate to the practice of veterinary medicine.

(3) In addition to or in lieu of a reprimand or denial, limitation, suspension or revocation of a license, certificate or permit under sub. (2), the examining board may assess against the applicant for or the holder of the license, certificate or permit a forfeiture of not more than \$5,000 for each violation of s. 453.068.

History: 1987 a. 39; 1989 a. 279; 1991 a. 306.

453.072 Licensees of other jurisdictions. (1) Upon application and payment of the fee specified in s. 440.05 (2), the examining board may issue a license to practice veterinary medicine to any person licensed to practice veterinary medicine in another state or territory of the United States or in another country if the applicant is not currently under investigation and has never been disciplined by the licensing authority in the other state, territory or country, has not been found guilty of a crime the circumstances of which are substantially related to the practice of veterinary medicine, is not currently a party in pending litigation in which it is alleged that the applicant is liable for damages for acts committed in the course of practice and has

never been found liable for damages for acts committed in the course of practice which evidenced a lack of ability or fitness to practice.

(2) Upon application and payment of the fee specified in s. 440.05 (6), the examining board may issue a temporary consulting permit to practice veterinary medicine in this state for up to 60 days per year to any nonresident licensed to practice veterinary medicine in another state or territory of the United States or in another country.

History: 1987 a. 39.

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

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

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

History: 1987 a. 39.

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

History: 1987 a. 39.