

Clearinghouse Rule 13-031

STATE OF WISCONSIN
VETERINARY EXAMINING BOARD

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IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : VETERINARY EXAMINING BOARD
VETERINARY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

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PROPOSED ORDER

An order of the Veterinary Examining Board to repeal VE 1.02(9), VE 7.02(3)(d); to renumber VE 1.02(10m), (11), (11m); renumber and amend VE 1.02(10); to amend VE 1.02(3), VE 7.01 (1), VE 7.02 (3) (a), VE 7.02 (4)(c), VE 7.02 (8)(c), VE 7.03(1); to repeal and recreate VE 7.03 (2) (a) to (r), VE 7.03 (3) (a) to (k); and to create VE 1.02 (3m), VE 7.03 (4), VE 7.06 (24), (25) and (26), and VE 9.05 (13) relating to standards of practice and unprofessional conduct of veterinarians and certified veterinary technicians.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

Statutes interpreted:

s. 453.03 (1), Stats.

Statutory authority:

ss. 15.08 (5) (b), 227.11 (2) (a), and 453.03 (1), Stats.

Explanation of agency authority:

Examining boards are generally authorized by ss. 15.08 (5) (b), and 227.11 (2) (a), Stats., to promulgate rules for their own guidance and for guidance within their profession and to promulgate rules interpreting any statute enforced or administered by it. Section 453.03 (1), Stats., specifically authorizes the Veterinary Examining Board to draft rules relating to current practice within the profession. Therefore, the Veterinary Examining Board is authorized both generally and specifically to draft these rules.

Related statute or rule:

Wisconsin Admin. Code ch. 1.02, 7, 8, and 9

Plain language analysis:

The Veterinary Examining Board is mandated by s. 453.03 (1) Stats., to review its rules once every 5 years for the purpose of bringing the rules into conformity with current practices within the Veterinarian profession. In so doing, the Board has taken this opportunity to draft provisions covering various topics in its rules. The topics include defining terms such as surgery and advertising, and delineating the information that should be in a patient's records. With regard to patient records the proposed rule specifically proposes to amend s. VE 7.03 (1), VE 7.03 (2) and VE 7.03 (3) to reflect items required in the patient records for small animals, farm animals, and equine patients. The proposed rule also gives consideration to advertising as a specialist when one is not properly credentialed to do so.

Summary of, and comparison with, existing or proposed federal regulation:

None

Comparison with rules in adjacent states:**Illinois:**

Veterinary professionals that fail to maintain medical records in Illinois violate the Standards of Professional Conduct ILL. Admin. Code tit. 68 §1500.50 Medical records may include, but are not limited to: patient identification information, client identification information, dated reason for visit and pertinent history, physical exam findings, and diagnostic, medical, surgical or therapeutic procedures performed. Medical records must be kept for a minimum of 5 years from the last contact with the patient.

ILL Admin. Code tit.68 §1500.55 bars any advertising that may be fraudulent or deceptive and lists the information that may be advertised including: the registrant's name, address, office hours and telephone number, schools attended and registrant's hospital affiliation.

Iowa:

Iowa administrative code disciplines veterinarians for making untruthful or improbable statements in advertising. Iowa Admin. Code r. 811-10.6 (8) (17A, 169,272 C) Iowa's statutes and administrative rules are silent as to the requirements for medical records.

Michigan:

Michigan requires medical records must be maintained for a minimum of 3 years from the date of the last veterinarian service. Records may be maintained in written, electronic, audio or photographic format. Mich. Admin. Code r. 338.4921. The required information in the medical records includes, but is not limited to, the following: identification of the species of the patient, date of the last veterinary service, name, address, and telephone number of the client, vaccination history if known, and results of the physical

examination. Michigan statutes and administrative rules are silent on advertising requirements for Veterinary professionals.

Minnesota:

Minnesota Veterinarians may generate either a written or computer record which details the name, address, and telephone number of the owner, identity of the animals, including age, sex, and breed, date of examination or treatment and surgery, a brief history of the condition of each animal, herd, or flock, examination findings, laboratory and radiographic reports, tentative diagnosis, treatment plan, and medication and treatment. Records must be kept for 3 years after the last visit. MINN. r. 9100.08000 subp. 4

Summary of factual data and analytical methodologies:

The Veterinary Examining Board ensures the accuracy, integrity, objectivity and consistency of data were used in preparing the proposed rule and related analysis.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

This rule will be posted on the department's website for public comment regarding any economic impact.

Fiscal Estimate and Economic Impact Analysis:

The fiscal estimate and economic impact analysis are attached.

Effect on small business:

This rule will not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Greg.Gasper@wisconsin.gov or by calling (608) 266-8608.

Agency contact person:

Shawn Leatherwood, paralegal, Department of Safety and Professional Services, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4438; email at Shancethea.L Leatherwood@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Shawn Leatherwood, paralegal, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to Shancethea.L Leatherwood@wisconsin.gov. Comments must be received on or before May 29, 2013 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. VE 1.02(3) is amended to read:

VE 1.02(3) “Client” means the person who owns ~~owner~~ or who has primary responsibility ~~other person responsible for caretaking the care of the animal which the veterinarian is treating~~ a patient.

SECTION 2. VE 1.02(3m) is created to read:

VE 1.02(3m) “Complementary, alternative, and integrative therapies” includes a heterogeneous group of preventive, diagnostic, and therapeutic philosophies and practices. These therapies include, but are not limited to: veterinary acupuncture, acupressure, veterinary homeopathy, veterinary manual or manipulative therapy (ie, therapies based on techniques practice in osteopathy, chiropractic medicine, or physical medicine and therapy); veterinary nutraceutical therapy, and veterinary phytotherapy.

SECTION 3. VE 1.02(9) is repealed.

SECTION 4. VE 1.02(10) is renumbered to VE 1.02(8) and amended to read:

VE 1.02(8) “Surgery” means any procedure in which the skin or tissue of the patient is penetrated, pierced or severed for therapeutic purposes, ~~other than giving injections.~~ except for activities identified in s. 453.05(2). Surgery does not include giving injections or simple dental extractions that require minor manipulation and minimal elevation.

SECTION 5. VE 1.02(10m), (11), and (11m) are renumbered to VE 1.02(9), (10), and (11).

SECTION 6. VE 7.01(1) is amended to read:

VE 7.01(1) “Advertising” means to give notice by any means, including but not limited to any circular, card, notice, telephone book listing, magazine, newspaper or other printed material or any ~~communication by radio or television~~ electronic media.

SECTION 7. VE 7.02(3)(a) is amended to read:

VE 7.02(3) (a) Nonsurgical veterinary treatment of animal diseases and conditions, including administration of vaccines, including rabies vaccines.

SECTION 8. VE 7.02(3)(d) is repealed.

SECTION 9. VE 7.02(4)(c) is amended to read:

VE 7.02(4) (c) Dental prophylaxis and simple extractions that require minor manipulation and minimal elevation.

SECTION 10. VE 7.02(8) (c) is amended to read:

VE 7.02(8)(c) Where the veterinarian is not required to be personally present on the premises where the delegated services are provided, be available at all times for consultation either in person or within 15 minutes of contact by telephone, by video conference or by ~~two-way radio or television communication~~ electronic communication device.

SECTION 11. VE 7.03(1) is amended to read:

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

SECTION 12. VE 7.03(2) (a) to (r) is repealed and recreated to read:

VE 7.03 (2) The individual patient record shall contain clinical information pertaining to patients other than food and fiber patients and equine patients with sufficient information to justify the diagnosis and warrant treatment, including information regarding each of the following matters which apply:

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

- (p) Complaint
- (q) Present illness.
- (r) Vaccination history

SECTION 13. VE 7.03(3) (a) to (k) is repealed and recreated to read:

VE 7.03(3) The client record for food and fiber patients shall contain at least the following information which apply:

- (a) Date.
- (b) Client name.
- (c) Number of patients examined
- (d) Type of call.
- (e) Treatment and drugs used including amounts of drugs administered and method of administration.
- (f) Drugs dispensed including dosing schedule and number dispensed.
- (g) Meat or milk withholding.
- (h) Individual diagnosis.
- (i) Clinical laboratory reports.
- (j) Medically-pertinent communication with the client.
- (k) Identification of the veterinarian providing the care.

SECTION 14. VE 7.03(4) is created to read:

VE 7.03(4) The client record for equine patients shall contain at least the following information which applies:

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

SECTION 15. VE 7.06(24), (25) and (26) are created to read:

VE 7.06(24) Failure to release a patient's medical records as required by s. 453.075, Stats.

Note: Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the department of agriculture, trade and consumer protection, the laboratory of hygiene, the local health department, as defined in s. 250.01(4), the officer involved and, if the animal is suspected to have bitten a person, the person's physician.

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

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

SECTION 16. VE 9.05(13) is created to read:

VE 9.05 (13) claiming or advertising a specialty or to be a specialist when not recognized as such by a veterinary technician specialty academy recognized by the National Association of Veterinary Technicians in America (NAVTA) or a foreign veterinary technician specialty academy which, in the opinion of the board, is equivalent to a NAVTA recognized veterinary technician specialty academy.

SECTION 17. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

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(END OF TEXT OF RULE)

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Dated _____

Agency _____

Member of the Board