

Wisconsin Veterinary Examining Board

Regulatory Flexibility Analysis

Standards of Practice and Unprofessional Conduct for Veterinarians - Veterinary Complementary, Alternative, and Integrative Therapies

Adm. Code Reference: VE 7
Rules Clearinghouse #: 17-084
DATCP Docket#: 16-VER-7

Rule Summary

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

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

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

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

Small Businesses Affected

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

Instead, the proposed rule is anticipated to have a positive impact for veterinarians, certified veterinary technicians, and other Wisconsin-licensed professionals, as it clarifies the steps a veterinarian shall use to make a referral to another professional for CAITs and the delegation for these CAITs to certified veterinary technicians under the veterinarian's supervision. The VEB has received many requests for just this type of guidance from veterinarians, other professions practicing these therapies, and certified veterinary technicians in Wisconsin. Comments from licensed professionals, at hearings and in writing, were very supportive of the clarification, believing it will be very beneficial for the development of these businesses, but more importantly, for the health of these animal patients.

There were comments, in the initial posting for economic impact, at the four hearings, and in written comments after the hearing, specifically about animal massage therapy. The rule clarifies that a veterinarian, in order to transfer the client-patient for the therapy to the other professional, must make the referral to a professional licensed for that therapy in Wisconsin. Some persons who perform animal massage therapy have been trained or have experience in this modality, but are not licensed massage therapists, although others animal massage therapists are Wisconsin-licensed massage therapists.

The rule only limits the veterinarian, in making a direct referral, to make it to a person who is licensed in Wisconsin to perform this therapy, and some of the commenters felt this was an unfair limitation. These commenters, including non-licensed animal massage therapists and some animal owners, requested that animal massage therapy be exempted as a therapy under this rule. However, by the statutory definition "to practice veterinary medicine" in s. 89.02 (6), Stats., and the administrative rule definition of "complementary, alternative and integrative therapies" in s. VE 1.02 (3m), Wis. Adm. Code, animal massage therapy is within the statutory definition of the practice of veterinary medicine, and the advisory committee came to the conclusion that the VEB is not statutorily authorized to make the exemption in the rule. In addition, while at least one commenter made reference to Illinois, veterinary CAITs are under specific statutory provisions. And while Colorado and Indiana exempt animal massage therapy and equine massage therapy, respectively, from the practice of veterinary medicine, each state does so by statute.

In addition, some of the comments seem to indicate that they thought the rule also limited an animal owner's choice in this regard. Although the initial draft tried to clarify that the rule does not affect that choice, the final rule's provision has additional language to clarify that the rule does not interfere with the relationship between any animal owner and a person the animal owner chooses to perform a CAITs on the owner's animal.

Given the statutory and administrative rule definitions that animal massage therapy, and all other

CAITs are within the practice of veterinary medicine, the rule also clarifies that a veterinarian using this referral process to another licensed professional transfers the patient-client relationship for the therapy provision, from the veterinarian to the other licensed professional, who will have their own professional client-patient relationship with the animal owner and patient. Only where a certified veterinary technician is delegated by the veterinarian to perform a CAITs, will the performance of the CAITs be under the direct supervision of the veterinarian and within the VCPR. This is a very specific assurance that veterinarians and other licensed professionals believe is important to make clear the professional who has the responsibilities in this regard.

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

Reporting, Bookkeeping and other Procedures

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

Professional Skills Required

The proposed rule does not require any new professional skills.

Accommodation for Small Business

While this rule change is anticipated to have an effect on small business, as many veterinary practices are small business, it is anticipated that the effect of certainty for veterinarians in making referrals to other licensed professionals will be positive for both persons. While some unlicensed massage therapists, performing equine massage therapy, requested an exemption to allow veterinary referrals, given the current statutory definition of the practice of veterinary medicine and the administrative rule definition of CAITs for animals, the VEB does not have the authority to make the exemption in the rule. The rule makes clear that this only deals with veterinarian referrals and supervision of certified veterinary technicians, and does not impact the relationship between an animal owner and any person the animal owner chooses to perform a CAITs on the owner's animal.

Conclusion

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

This rule is not expected to have a substantial adverse economic effect on "small business" so it is

not subject to the delayed "small business" effective date provided in s. 227.22 (2) (e), Stats.

Dated this _____ day of October, 2019

STATE OF WISCONSIN VETERINARY
EXAMINING BOARD

Dr. Robert Forbes, DVM
Board Chair