



VETERINARY EXAMINING BOARD
Room 121C, 1400 East Washington Avenue, Madison
Contact: Tom Ryan (608) 266-2112
April 29, 2015

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Board.

AGENDA

9:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A) Adoption of Agenda (1-3)**
- B) Welcome New Members**
- C) Approval of Minutes of January 28, 2015 (4-8)**
- D) APPERANCE- Deputy Secretary Jay Risch and Assistant Deputy Secretary Eric Esser (9)**
- E) Administrative Updates**
 - 1) Department and Staff Updates
 - 2) Other Informational Items
- F) Appointment of Delegated Authorities- Monitoring (10-11)**
- G) Legislative/Administrative Rule Matters**
 - 1) Update on VE 2,3,8 Relating to Entrance to Exams **(12)**
 - 2) Scope Statement for VE 10 Relating to Continuing Education **(13-15)**
 - 3) Wisconsin Veterinary Medical Association Proposed Modifications to Wis. Admin. Code VE 1.02(9), 1.02(3m), and 7.02 **(16-20)**
- H) American Association of Veterinary State Boards (AAVSB) Matters**
 - 1) 2015 Fall Veterinary Examining Board Meeting **(21)**
 - a) AAVSB Meeting Dates
 - b) VEB Fall Meeting Dates
- I) Informational Items**
 - 1) Model Practice Act – AVMA **(22-48)**
 - 2) Practice Act Model – AAVSB **(49-132)**
- J) Supreme Court Decision Involving NC Dentistry Board (133-134)**

- K) Items Added After Preparation of Agenda:
- 1) Introductions, Announcements and Recognition
 - 2) Administrative Updates
 - 3) Education and Examination Matters
 - 4) Credentialing Matters
 - 5) Practice Matters
 - 6) Legislation/Administrative Rule Matters
 - 7) Liaison Report(s)
 - 8) Informational Item(s)
 - 9) Disciplinary Matters
 - 10) Presentations of Petition(s) for Summary Suspension
 - 11) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
 - 12) Presentation of Proposed Decisions
 - 13) Presentation of Interim Order(s)
 - 14) Petitions for Re-Hearing
 - 15) Petitions for Assessments
 - 16) Petitions to Vacate Order(s)
 - 17) Petitions for Designation of Hearing Examiner
 - 18) Requests for Disciplinary Proceeding Presentations
 - 19) Motions
 - 20) Petitions
 - 21) Appearances from Requests Received or Renewed
 - 22) Speaking Engagement(s), Travel, or Public Relation Request(s)

L) Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (§ 19.85 (1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.).

M) Monitoring Matters

N) Deliberation on Proposed Stipulations, Final Decisions and Orders

- 1) John R. Prellwitz, D.V.M. – 15 VET 001 **(135-148)**

O) Administrative Warning

- 1) 14 VET 035 – K.M.C. **(149-150)**

P) Case Closing(s)

Q) Case Status Report (151)

R) Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) Disciplinary Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petition(s) for Summary Suspensions
- 7) Proposed Stipulations, Final Decisions and Orders
- 8) Administrative Warnings
- 9) Proposed Decisions

- 10) Matters Relating to Costs
- 11) Complaints
- 12) Case Closings
- 13) Case Status Report
- 14) Petition(s) for Extension of Time
- 15) Proposed Interim Orders
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

S) Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

T) Open Session Items Noticed Above not Completed in the Initial Open Session

U) Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

V) Ratification of Licenses and Certificates

ADJOURNMENT

**VETERINARY EXAMINING BOARD
MEETING MINUTES
January 28, 2015**

PRESENT: Bruce Berth; Diane Dommer Martin, D.V.M.; Robert Forbes, D.V.M.; Philip Johnson, D.V.M.; Brenda Nemec, C.V.T.; Sheldon Schall; Neil Wiseley, D.V.M (*via GoToMeeting*)

EXCUSED: Lisa Weisensel Nesson, D.V.M.

STAFF: Tom Ryan, Executive Director; Gretchen Mrozinski, Legal Counsel; Taylor Thompson, Bureau Assistant; and other Department staff

CALL TO ORDER

Philip Johnson, Chair, called the meeting to order at 9:01 A.M. A quorum of six (6) members was confirmed.

ADOPTION OF AGENDA

MOTION: Diane Dommer Martin moved, seconded by Brenda Nemec, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Robert Forbes moved, seconded by Bruce Berth, to approve the minutes of October 29, 2014 as published. Motion carried unanimously.

ELECTION OF OFFICERS

BOARD CHAIR

NOMINATION: Robert Forbes nominated Philip Johnson for the Office of Board Chair. Nomination carried by unanimous consent.

Tom Ryan called for other nominations three (3) times.

Philip Johnson was elected as Board Chair.

VICE CHAIR

NOMINATION: Philip Johnson nominated Robert Forbes for the Office of Vice Chair. Nomination carried by unanimous consent.

Tom Ryan called for other nominations three (3) times.

Robert Forbes was elected as Vice Chair.

SECRETARY

NOMINATION: Philip Johnson nominated Neil Wiseley for the Office of Secretary. Nomination carried by unanimous consent.

Tom Ryan called for other nominations three (3) times.

Neil Wiseley was elected as Secretary.

2015 ELECTION RESULTS	
Board Chair	Philip Johnson
Vice Chair	Robert Forbes
Secretary	Neil Wiseley

APPOINTMENT OF LIAISONS AND DELEGATED AUTHORITY

2015 LIAISON APPOINTMENTS	
Credentialing Liaison	Robert Forbes <i>Alternate: Sheldon Schall</i>
Monitoring Liaison	Neil Wiseley <i>Alternate: Lisa Weisensel Nesson</i>
Education and Exams Liaison	Philip Johnson <i>Alternate: Sheldon Schall</i>
Legislative Liaison	Bruce Berth <i>Alternate: Neil Wiseley</i>
Travel Liaison	Philip Johnson <i>Alternate: Robert Forbes</i>
Website Liaison	Sheldon Schall <i>Alternate: Robert Forbes</i>
Rules Liaison	Neil Wiseley <i>Alternate: Diane Dommer Martin</i>
Professional Assistance Procedure Liaison	Robert Forbes <i>Alternate: Neil Wiseley</i>
Screening Panel	Brenda Nemec, Sheldon Schall, Robert Forbes, Diane Dommer Martin

MOTION: Brenda Nemec moved, seconded by Sheldon Schall, to affirm the Chair's appointment of liaisons for 2015. Motion carried unanimously.

DELEGATED AUTHORITY MOTIONS

- MOTION:** Brenda Nemeč moved, seconded by Robert Forbes, to adopt the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as amended in. Motion carried unanimously.
- MOTION:** Diane Dommer Martin moved, seconded by Robert Forbes, that, in order to facilitate the completion of assignments between meetings, the Board delegates its authority by order of succession to the Chair, highest ranking officer, or longest serving member of the Board, to appoint liaisons to the Department to act in urgent matters, make appointments to vacant liaison, panel and committee positions, and to act when knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.
- MOTION:** Robert Forbes moved, seconded by Brenda Nemeč, that Board counsel or another Department attorney is formally authorized to serve as the Board's designee for purposes of Wis. Admin. Code § SPS 1.08(1). Motion carried unanimously.
- MOTION:** Brenda Nemeč moved, seconded by Sheldon Schall, to delegate authority to the Chair or Chief presiding officer, or longest serving member of the Board, by order of succession, to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair, chief presiding officer, or longest serving member of the Board, has the ability to delegate this signature authority for purposes of facilitating the completion of assignments during or between meetings. The Chair, chief presiding officer, or longest serving member of the Board delegates the authority to Executive Director to designee to sign the name of any Board member on documents as necessary and appropriate. Motion carried unanimously.

CONTINUING EDUCATION

- MOTION:** Robert Forbes moved, seconded by Bruce Berth, to request DSPS staff draft a Scope Statement revising VE 10 and any related provisions, regarding Continuing Education, and designate Philip Johnson to assist with drafting the Scope Statement. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

PUBLIC CLEARINGHOUSE RULE 14-064 RELATING TO ENTRANCE TO EXAMS

No one testified at the Public Hearing.

- MOTION:** Sheldon Schall moved, seconded by Brenda Nemeč, to adjourn the Public Hearing. Motion carried unanimously.
- MOTION:** Neil Wiseley moved, seconded by Diane Dommer Martin, to accept the Clearinghouse comments. Motion carried unanimously.

MOTION: Neil Wiseley moved, seconded by Brenda Nemec, to authorize the Chair to approve the Legislative Report and Draft for Clearinghouse Rule 14-064 for submission to the Governor's Office and Legislature. Motion carried unanimously.

AMERICAN ASSOCIATION OF VETERINARY STATE BOARDS (AAVSB) MATTERS

2015 AAVSB ANNUAL MEETING

MOTION: Robert Forbes moved, seconded by Brenda Nemec, to designate Neil Wiseley as the delegate, and Philip Johnson as an alternate, to attend the 2015 AAVSB Annual Meeting on September 17-19, 2015 in Milwaukee, WI, and to authorize travel. Motion carried unanimously.

MOTION: Neil Wiseley moved, seconded by Sheldon Schall, to authorize travel for the Board to attend the 2015 AAVSB Annual Meeting on September 17-19, 2015 in Milwaukee, WI. Motion carried unanimously.

CLOSED SESSION

MOTION: Sheldon Schall moved, seconded by Neil Wiseley, to convene to Closed Session to deliberate on cases following hearing (§ 19.85(1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.). The Chair read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Bruce Berth – yes; Diane Dommer Martin – yes; Robert Forbes – yes; Philip Johnson – yes; Brenda Nemec – yes; Sheldon Schall – yes; Neil Wiseley – yes. Motion carried unanimously.

The Board convened into Closed Session at 11:11 A.M.

RECONVENE TO OPEN SESSION

MOTION: Sheldon Schall moved, seconded by Brenda Nemec, to reconvene in Open Session at 11:40 A.M. Motion carried unanimously.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MOTION: Robert Forbes moved, seconded by Sheldon Schall, to affirm all Motions made and Votes taken in Closed Session. Motion carried unanimously.

**PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS BY THE DIVISION OF
LEGAL SERVICES AND COMPLIANCE**

**12 VET 004
LYNDA LUDWIG, D.V.M.**

MOTION: Robert Forbes moved, seconded by Neil Wiseley, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of 12 VET 004 – Lynda Ludwig, D.V.M. Motion carried unanimously.

**13 VET 018
MARK FRAUTSCHY, D.V.M., AND MARY FRAUTSCHY, D.V.M.**

MOTION: Sheldon Schall moved, seconded by Robert Forbes, to adopt the Findings of Fact, Conclusions of Law, Stipulations and Orders, in the matter of 13 VET 018 – Mark Frautschy, D.V.M., and Mary Frautschy, D.V.M. Motion carried unanimously.

**14 VET 028
LUCAS G. BRZEZINSKI, D.V.M.**

MOTION: Bruce Berth moved, seconded by Brenda Nemeč, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of 14 VET 028 – Lucas G. Brzezinski, D.V.M. Motion carried unanimously.

**DELEGATION OF RATIFICATION OF EXAMINATION RESULTS
AND RATIFICATION OF LICENSES AND CERTIFICATES**

MOTION: Diane Dommer Martin moved, seconded by Brenda Nemeč, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: Robert Forbes moved, seconded by Neil Wiseley, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:42 A.M.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Taylor Thompson, Bureau Assistant on behalf of Tom Ryan, Executive Director		2) Date When Request Submitted: 3/27/15 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Veterinary Examining Board			
4) Meeting Date: 4/29/15	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? APPEARANCE - Deputy Secretary Jay Risch and Assistant Deputy Secretary Eric Esser	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input checked="" type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
Taylor Thompson		3/27/15	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Ashley Horton Department Monitor Division of Legal Services and Compliance		2) Date When Request Submitted: January 13, 2015 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections:			
4) Meeting Date:	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Delegation to Monitoring Liaison and Department Monitor	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Delegated Authority Motion: <p style="text-align: center;"><i>“_____ moved, seconded by _____ to adopt/reject the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today’s agenda packet.”</i></p>			
11) Authorization <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">  </div> <div style="width: 35%; text-align: right;"> January 13, 2015 </div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> Signature of person making this request </div> <div style="width: 35%; text-align: right;"> Date </div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> Supervisor (if required) </div> <div style="width: 35%; text-align: right;"> Date </div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> Executive Director signature (indicates approval to add post agenda deadline item to agenda) </div> <div style="width: 35%; text-align: right;"> Date </div> </div>			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor

The Monitoring Liaison (“Liaison”) is a Board/Section designee who works with department monitors to enforce Board/Section orders as explained below.

Current Authorities Delegated to the Monitoring Liaison

The Liaison may take the following actions on behalf of the Board/Section:

1. Grant a temporary reduction in random drug screen frequency upon Respondent’s request if he/she is unemployed and is otherwise compliant with Board/Section order. The temporary reduction will be in effect until Respondent secures employment in the profession. The Department Monitor (“Monitor”) will draft an order and sign on behalf of the Liaison.
2. Grant a stay of suspension if Respondent is eligible per the Board/Section order. The Monitor will draft an order and sign on behalf of the Liaison.
3. Remove the stay of suspension if there are repeated violations or a substantial violation of the Board/Section order. In conjunction with removal of any stay of suspension, the Liaison may prohibit Respondent from seeking reinstatement of the stay for a specified period of time. The Monitor will draft an order and sign on behalf of the Liaison.
4. Grant or deny approval when Respondent proposes continuing/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. unless the order specifically requires full-Board/Section approval.
5. Grant a maximum of one 90-day extension, if warranted and requested in writing by Respondent, to complete Board/Section-ordered continuing education.
6. **Grant a maximum of one extension or payment plan for proceeding costs and/or forfeitures if warranted and requested in writing by Respondent.**

Monitoring Liaison currently has the authority to grant an extension up to 90 days. This change will allow the Liaison to grant payment plans and longer extensions on a case-by-case basis, which will be particularly helpful for Board/Sections that do not meet every month.

7. **Grant full reinstatement of licensure if Respondent has fully complied with all terms of the order without deviation. The Monitor will draft an order and obtain the signature or written authorization from the Liaison.**

This addition was initiated and approved by the Medical Examining Board in October 2014. The Liaison may choose to defer a particular request to the full Board/Section for review if needed.

Current Authorities Delegated to the Department Monitor

The Monitor may take the following actions on behalf of the Board/Section, draft an order and sign:

1. Grant full reinstatement of licensure if CE is the sole condition of the limitation and Respondent has submitted the required proof of completion for approved courses.
2. Suspend the license if Respondent has not completed Board/Section-ordered CE and/or paid costs and forfeitures within the time specified by the Board/Section order. The Monitor may remove the suspension and issue an order when proof completion and/or payment have been received.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Katie Paff Administrative Rules Coordinator		2) Date When Request Submitted: 4/15/2015 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Veterinary Examining Board			
4) Meeting Date: 4/29/2015	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Update on VE 2, 3, 8 relating to entrance to exams	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: VE 2, 3, 8 received approval from the Governor's Office on April 9 th , 2015 and was delivered to the Legislature on 4/16/2015.			
11) Authorization			
Kathleen Paff		4/15/2015	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Katie Paff, Administrative Rules Coordinator		2) Date When Request Submitted: 2/17/2015							
		Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting							
3) Name of Board, Committee, Council, Sections: Veterinary Examining Board									
4) Meeting Date: 4/29/2015	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Scope Statement for VE 10 relating to continuing education							
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A							
10) Describe the issue and action that should be addressed: The Board will review the scope statement for VE 10 relating to continuing education. To move forward in the rulemaking process, the Board must approve the scope statement for submission to GORC and publication and authorize the Chair to approve the scope for implementation no less than 10 days after publication.									
11) Authorization <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; border-top: 1px solid black; border-bottom: 1px solid black;"> Kathleen Paff Signature of person making this request </td> <td style="width: 30%; border-top: 1px solid black; border-bottom: 1px solid black; text-align: center;"> 2/17/2015 Date </td> </tr> <tr> <td style="border-top: 1px solid black; border-bottom: 1px solid black;"> Supervisor (if required) </td> <td style="border-top: 1px solid black; border-bottom: 1px solid black; text-align: center;"> Date </td> </tr> <tr> <td colspan="2" style="border-top: 1px solid black; border-bottom: 1px solid black;"> Executive Director signature (indicates approval to add post agenda deadline item to agenda) </td> </tr> </table>				Kathleen Paff Signature of person making this request	2/17/2015 Date	Supervisor (if required)	Date	Executive Director signature (indicates approval to add post agenda deadline item to agenda)	
Kathleen Paff Signature of person making this request	2/17/2015 Date								
Supervisor (if required)	Date								
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STATEMENT OF SCOPE

Veterinary Examining Board

Rule No.: VE 10

Relating to: Continuing Education

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

None.

2. Detailed description of the objective of the proposed rule:

The proposed rule will revise pertinent sections of Wis. Admin. Code ch. VE 10, concerning continuing education, in order to make the chapter consistent with current practice within the profession.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

In accordance with s. 453.062 (2) (a) and (b), Stats., licensed veterinarians are required to complete 30 hours of continuing education and licensed veterinary technicians are required to complete 15 hours of continuing education. Continuing education requirements for both veterinarians and veterinary technicians are found in Chapter VE 10. Recently, the Veterinary Examining Board identified several provisions within ch. VE 10 that required revising, specifically s. VE 10.03 (3) (b). The Board determined that this provision allowing self-study of veterinary medical or scientific journals was obsolete due to the abundance of continuing education offered via the internet. The Board also identified s. VE 10.03 (3) (i), regarding certification to use, handle, distribute and dispose of pesticides as outdated due to recent legislation, 2009 Wisconsin Act 139. Act 139 specified that the Board may not require training or continuing education concerning the use, handling, distribution, and disposal of pesticides, other than for disciplinary purposes. Other provisions in ch. VE 10 may be revised as the proposed rule is developed.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 15.08 (5) (b), Stats., provides examining boards, “shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .” The proposed rule seeks to provide guidance to licensed veterinarians and licensed veterinary technicians on compliance with continuing education requirements.

Section 227.11 (2) (a), Stats., sets forth the parameters of an agency’s rule-making authority, stating an agency, “may promulgate rules interpreting provisions of any statute enforced or administered by the agency. . .but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Section 453.03 (2), Stats., provides that the, “examining board shall promulgate rules requiring training and continuing education sufficient to assure competency of veterinarians and veterinary technicians in the practice of veterinary medicine, . . .”

Section 453.062 (2) (a), Stats., provides that, “. . ., the examining board may not renew a veterinary license unless the applicant certifies that he or she has completed, during the preceding 2-year licensure period, at least 30 hours of continuing education programs or courses approved by the examining board.”

Section 453.062 (2) (b), Stats., provides that, “. . ., the examining board may not renew a veterinary technician certification unless the applicant certifies that he or she has completed, during the preceding 2-year certification period, at least 15 hours of continuing education programs or courses approved by the examining board.”

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

State employees will spend approximately 50 hours developing the proposed rule.

6. List with description of all entities that may be affected by the proposed rule:

Licensed veterinarians and licensed veterinary technicians will be affected by the proposed rule.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

An Internet-based search revealed no specific existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

This rule is likely to have minimal or no economic impact on small businesses.

Contact Person: Katie Paff, (608) 261-4472, Kathleen.Paff@wisconsin.gov.

Approved for publication:

Approved for implementation:

Authorized Signature

Authorized Signature

Date Submitted

Date Submitted

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Taylor Thompson, Bureau Assistant on behalf of Tom Ryan, Executive Director		2) Date When Request Submitted: 4/13/15 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Veterinary Examining Board			
4) Meeting Date: 4/29/15	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Wisconsin Veterinary Medical Association Proposed Modifications to Wis. Admin. Code VE § 1.02(9), 1.02(3m), and 7.02	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
Taylor Thompson		4/13/15	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

March 3, 2015

**VIA EMAIL (Thomas.ryan@wisconsin.gov)
AND U.S. MAIL**

Mr. Thomas Ryan
Department of Safety and Professional Services
Executive Director, Veterinary Examining Board
1400 E. Washington Ave., Room 121C
P.O. Box 8366
Madison, WI 53708-8366

RE: Wisconsin Veterinary Medical Association Proposed Modifications To Wis. Admin. Code VE §§ 1.02(9), 1.02(3m), and 7.02

Dear Mr. Ryan:

On behalf of the Wisconsin Veterinary Medical Association (“WVMA”), I am writing to request several revisions to the Veterinary Examining Board’s regulations. Specifically, WVMA seeks to clarify the definition of “surgery” in VE § 1.02(9) and the definition of “complementary, alternative, and integrative therapy” in VE § 1.02(3m). WVMA further requests that the Veterinary Examining Board create a new provision in VE § 7.02 to allow veterinarians to delegate the complementary, alternative, and integrative therapies listed in VE § 1.02(3m) only to licensed professionals in those fields and require veterinary supervision of those therapies when they are performed on animals.

For the reasons stated below, WVMA respectfully requests that you consider these changes to VE §§ 1.02(9), 1.02(3m), and 7.02.

I. The Definition Of “Surgery” In Chapter VE 1 Should Include Cosmetic And Reproductive Procedures.

WVMA requests that the Veterinary Examining Board clarify the definition of “surgery” in VE § 1.02(9) so that it encompasses cosmetic and reproductive surgical procedures. Under current law, the definition of “surgery” is limited to procedures for “therapeutic purposes.” See Wis. Admin. Code VE § 1.02(9). Therefore, on its face, the definition in VE § 1.02(9) does not include cosmetic and reproductive surgical procedures such as spaying and

neutering, ear cropping, and reproductive medical procedures (e.g., in vitro fertilization). However, by deleting the phrase “for therapeutic purposes,” the definition of “surgery” becomes broad enough to include both therapeutic and cosmetic procedures.

An amendment to this definition is necessary to prevent confusion as to whether veterinary technicians and unlicensed individuals may perform “surgery.” Under the current regulations regarding the standards of practice for veterinarians (Chapter VE 7), “surgery” may not be delegated to or performed by “veterinary technicians or other persons not holding [a] license or permit[.]” Wis. Admin. Code VE § 7.02(1). But, if the definition of “surgery” in VE § 1.02(9) remains unchanged to only include therapeutic procedures, then VE § 7.02(1) could be misconstrued to permit veterinary technicians or unlicensed individuals to perform certain “nontherapeutic” surgery. Rather, we believe that it was the intent of the Legislature to only allow licensed veterinarians to perform surgery on animals, regardless of the purpose of that surgery.

Accordingly, to prevent such confusion, WVMA requests that the Veterinary Examining Board adopt the amendment described below.

The WVMA requests that Wis. Admin. Code VE § 1.02(9) be amended to read:

(9) “Surgery” means any procedure in which the skin or tissue of the patient is penetrated, pierced or severed ~~for therapeutic purposes~~, 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.”

II. The Definition Of “Complementary, Alternative, And Integrative Therapy” In VE § 1.02(3m) Should Be Linked To The Statutory Definition “To Practice Veterinary Medicine” In Wis. Stat. § 453.02(6) And Include “Rehabilitation Therapy.”

WVMA requests two amendments to the definition of “complementary, alternative, and integrative therapy” in Wis. Admin. Code VE § 1.02(3m).

First, the definition of “complementary, alternative, and integrative therapy” should conspicuously relate to the broad, statutory definition of the “practice [of] veterinary medicine” in Wis. Stat § 453.02(6). Under current law, there is not a direct link between the alternative therapies described in VE § 1.02(3m) and Wis. Stat. § 453.02(6), which defines the practice of veterinary medicine in traditional terms of medical treatment. *See* Wis. Stat. § 453.02(6) (stating that “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”). As a result, “complementary, alternative, and integrative therapy” could be interpreted to fall outside of the scope of the “practice [of] veterinary medicine.” The proposed amendment below links the regulation and the statutory definition by stating that the alternative therapies listed in VE § 1.02(3m) relate to “treating animal health, disease, or physical condition,” which is the language used to describe the practice of veterinary medicine in Wis. Stat. § 453.02(6).

Second, we believe that the rule would be improved by including “massage and rehabilitation therapy” as examples of “physical medicine” in the alternative therapies listed in VE § 1.02(3m)(c).

Therefore, WVMA requests that Wis. Admin. Code VE § 1.02(3m) be amended to read:

(3m) "Complementary, alternative, and integrative therapies" includes a heterogeneous group of preventive, diagnostic, and therapeutic philosophies and practices related to treating animal health, disease, or physical condition.

These therapies include:

(a) Veterinary acupuncture, acuthery, and acupressure.

(b) Veterinary homeopathy.

(c) Veterinary manual or manipulative therapy, i.e., therapies based on techniques practiced in osteopathy, chiropractic medicine, or physical medicine and including massage and rehabilitation therapy.

(d) Veterinary nutraceutical therapy.

(e) Veterinary phytotherapy.

III. Veterinarians Should Be Allowed To Delegate The Complementary, Alternative, And Integrative Therapies Listed In VE § 1.02(3m) To Licensed Professionals.

WVMA proposes the creation of a new regulatory provision within VE § 7.02 to allow veterinarians to delegate to other licensed professionals the complementary, alternative, and integrative therapies listed in VE § 1.02(3m) that are within the scope of the professional’s license. In addition, the rule should specify that although these services may be delegated, these therapies must be performed under the direct supervision of a licensed veterinarian. This will ensure that, for animal patients, these complementary, alternative and integrative therapies are only provided by veterinarians or other licensed professionals who are directly supervised by veterinarians.

DeWitt

Ross & Stevens s.c. Law Firm

Mr. Thomas Ryan

March 3, 2015

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Thank you for your consideration of WVMA's suggested revisions to VE §§ 1.02(9), 1.02(3m), and 7.02.

If you have any questions, please contact me directly at (608) 252-9358 or jkl@dewittross.com.

Very truly yours,

DeWitt Ross & Stevens s.c.



Jordan K. Lamb

JKL:jkl

cc. Ms. Kim Brown Pokorny, Executive Director, WVMA (*via U.S. Mail*)
Dr. Philip Johnson, Chair, Wisconsin Veterinary Examining Board (*via U.S. Mail*)

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Taylor Thompson, Bureau Assistant on behalf of Tom Ryan, Executive Director		2) Date When Request Submitted: 4/13/15 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Veterinary Examining Board			
4) Meeting Date: 4/29/15	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? 2015 Fall Veterinary Examining Board Meeting AAVSB Meeting Dates VEB Fall Meeting Planning	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
Taylor Thompson		04/13/15	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Taylor Thompson, Bureau Assistant on behalf of Tom Ryan, Executive Director		2) Date When Request Submitted: 1/30/15 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Veterinary Examining Board			
4) Meeting Date: 4/29/15	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Model Practice Act - AVMA	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input checked="" type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
Taylor Thompson		01/30/15	
Signature of person making this request		Date	
Supervisor (if required)		Date	
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Model Veterinary Practice Act- January 2013



Introduction to the AVMA Model Veterinary Practice Act

The American Veterinary Medical Association (AVMA) Model Veterinary Practice Act (MVPA) is intended to serve as a model set of guiding principles for those who are now or will be in the future preparing or revising a practice act under the codes and laws of an individual state. Commentary following each section of the MVPA also serves a similar purpose.

The first AVMA Model Veterinary Practice Act was developed by the Judicial Council of the AVMA, in cooperation with Professor N. William Hines of the University of Iowa College of Law, in the early 1960s. The AVMA House of Delegates approved this first MVPA in 1964, and since then, the MVPA has been revised several times to reflect professional, technological, and societal changes. A major revision occurred in 2003. In 2010, recognizing the need for another complete review of the MVPA, the AVMA Executive Board established the Task Force on AVMA Model Veterinary Practice Act, which consisted of representatives from the AVMA Executive Board, AVMA House of Delegates, AVMA Council on Veterinary Service (the oversight entity for the MVPA), AVMA Judicial Council (the entity responsible for drafting the original MVPA), AVMA State Advocacy Committee, AVMA Committee on Veterinary Technician Education and Activities, American Veterinary Medical Law Association, and American Society of Veterinary Medical Association Executives. The task force also included a member of a state veterinary licensing board, a small animal practitioner, a large animal practitioner, and a non-veterinarian public member.

The latest revision process began in January 2011 with a 30-day public comment period. Approximately 1,000 comments were submitted by AVMA members and non-members concerning various provisions of the MVPA. The task force reviewed these comments and issued a first draft of revisions in June 2011, which was followed by additional input from AVMA councils, committees and other entities. After further consideration, the task force submitted a final draft to the AVMA Executive Board in November 2011. The AVMA House of Delegates approved the revisions to the MVPA in January 2012.

Because the MVPA is intended to evolve as technology, the veterinary profession, and societal needs change, comments are welcome and should be directed to the Council on Veterinary Service at the AVMA, 1931 N Meacham Rd, Suite 100, Schaumburg, Illinois 60173-4360.

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Preamble

This statute is enacted as an exercise of the powers of the State to protect the health, safety, and welfare of the public and animals by ensuring the delivery of competent veterinary medical care. It is hereby declared that the practice of veterinary medicine is a privilege conferred by legislative grant to persons possessed of the personal and professional qualifications specified in this Act.

COMMENTARY TO THE PREAMBLE—The preamble defines the purpose of the veterinary practice act. It emphasizes that the right to practice veterinary medicine is a privilege granted by state law and is thus subject to regulation in order to protect health, safety, and welfare of the public and animals.

Section 1 – Title

This Act shall be known as the [name of State] Veterinary Practice Act. Except where otherwise indicated by context, in this Act the present tense includes the past and future tenses, the future tense includes the present tense, the singular includes the plural, and the plural includes the singular.

COMMENTARY TO SECTION 1—Sections such as this are commonly included in lengthy statutes for purposes of simplification and clarification of tense and number rules. "State" may include a territory of the United States, the

Section 2 – Definitions

1. "Accredited college of veterinary medicine" means any veterinary college, school, or division of a university or college that offers the degree of Doctor of Veterinary Medicine or its equivalent and that is accredited by the Council on Education of the American Veterinary Medical Association (AVMA).
2. "Accredited program in veterinary technology" means any postsecondary educational program that is accredited by the Committee on Veterinary Technician Education and Activities of the AVMA.
3. "Animal" means any living organism, except humans, having sensation and the power of voluntary movement and requiring for its existence oxygen and organic nutrients.
4. "Board" means the [State Board of Veterinary Medicine].
5. "Client" means the patient's owner, owner's agent, or other person responsible for the patient.
6. "Complementary, alternative, and integrative therapies" means a heterogeneous group of preventive, diagnostic, and therapeutic philosophies and practices that are not considered part of conventional (Western) medicine as practiced by most veterinarians and veterinary technicians. These therapies include, but are not limited to, veterinary acupuncture, acuthery, and acupressure; veterinary homeopathy; veterinary manual or manipulative therapy (ie, therapies based on techniques practiced in osteopathy, chiropractic medicine, or physical medicine and therapy); veterinary nutraceutical therapy; and veterinary phytotherapy.
7. "Consultation" means when a licensed veterinarian receives advice in person, telephonically, electronically, or by any other method of communication from a veterinarian licensed in this or any other state or other person whose expertise, in the opinion of the licensed veterinarian, would benefit a patient. The licensed veterinarian receiving consultation maintains the veterinarian-client-patient relationship.
8. "Credentialed veterinary technician or technologist" means a veterinary technician or veterinary technologist who is currently registered, certified, or licensed by the Board.
9. "ECFVG® certificate" means the certificate issued by the Educational Commission for Foreign Veterinary Graduates® of the AVMA indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited college of veterinary medicine.
10. "Extralabel use" means actual use or intended use of a drug in an animal in a manner that is not in accordance with the approved labeling. This includes, but is not limited to, use in species not listed in the labeling, use for indications (disease or other conditions) not listed in the labeling, use at dosage levels, frequencies, or routes of administration other than those stated in the labeling, and deviation from the labeled withdrawal time based on these different uses.
11. "Impaired" means a licensed veterinarian or credentialed veterinary technician who is unable to perform his or her duties in veterinary medicine with reasonable skill and safety because of a physical or mental disability as evidenced by a written determination from a competent authority or written consent based on clinical evidence, including deterioration of mental capacity, loss of motor skills, or abuse of drugs or alcohol of sufficient degree to diminish the person's ability to deliver competent patient care.
12. "Owner consent" means the veterinarian has informed the client, in a manner that would be understood by a reasonable person, of the diagnostic and treatment options, risk assessment, and prognosis and has provided the client with an estimate of the fees expected for the provision of veterinary services and the client has consented to the recommended treatment.

13. "Licensed veterinarian" means a person who is currently licensed to practice veterinary medicine in the State.
14. "Patient" means an animal or group of animals examined or treated by a veterinarian.
15. "Person" means any individual, firm, partnership (general, limited, or limited liability), association, joint venture, cooperative, corporation, limited liability company, or any other group or combination acting in concert; and whether or not acting as a principal, partner, member, trustee, fiduciary, receiver, or as any other 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.
16. "Practice of veterinary medicine" means:
 - a. To diagnose, prognose, treat, correct, change, alleviate, or prevent animal disease, illness, pain, deformity, defect, injury, or other physical, dental, or mental conditions by any method or mode; including the:
 - i. performance of any medical or surgical procedure, or
 - ii. prescription, dispensing, administration, or application of any drug, medicine, biologic, apparatus, anesthetic, or other therapeutic or diagnostic substance, or
 - iii. use of complementary, alternative, and integrative therapies, or
 - iv. use of any procedure for reproductive management, including but not limited to the diagnosis or treatment of pregnancy, fertility, sterility, or infertility, or
 - v. determination of the health, fitness, or soundness of an animal, or
 - vi. rendering of advice or recommendation by any means including telephonic and other electronic communications with regard to any of the above.
 - b. To represent, directly or indirectly, publicly or privately, an ability and willingness to do an act described in subsection 16(a).
 - c. To use any title, words, abbreviation, or letters in a manner or under circumstances that induce the belief that the person using them is qualified to do any act described in subsection 16(a).
17. "Practice of veterinary technology" means:
 - a. To perform patient care or other services that require a technical understanding of veterinary medicine on the basis of written or oral instruction of a veterinarian, excluding diagnosing, prognosing, performing surgery, or prescribing.
 - b. To represent, directly or indirectly, publicly or privately, an ability and willingness to do an act described in subsection 17(a).
 - c. To use any title, words, abbreviation, or letters in a manner or under circumstances that induce the belief that the person using them is qualified to do any act described in subsection 17(a).
18. "Supervision":
 - a. "Direct supervision" means a licensed veterinarian is readily available on the premises where the patient is being treated and has assumed responsibility for the veterinary care given to the patient by a person working under his or her direction.
 - b. "Indirect supervision" means a licensed veterinarian need not be on the premises; has given either written or oral instructions for treatment of the patient; is readily available by telephone or other forms of immediate communication; and has assumed responsibility for the veterinary care given to the patient by a person working under his or her direction.
19. "Veterinarian" means a person who has received a professional veterinary medical degree from a college of veterinary medicine.

20. "Veterinarian-client-patient relationship" means that all of the following are required:
- a. The veterinarian has assumed the responsibility for making medical judgments regarding the health of the patient and the client has agreed to follow the veterinarian's instructions.
 - b. The veterinarian has sufficient knowledge of the patient to initiate at least a general or preliminary diagnosis of the medical condition of the patient. This means that the veterinarian is personally acquainted with the keeping and care of the patient by virtue of:
 - i. a timely examination of the patient by the veterinarian, or
 - ii. medically appropriate and timely visits by the veterinarian to the operation where the patient is managed.
 - c. The veterinarian is readily available for follow-up evaluation or has arranged for the following:
 - i. veterinary emergency coverage, and
 - ii. continuing care and treatment.
 - d. The veterinarian provides oversight of treatment, compliance and outcome.
 - e. Patient records are maintained.
21. "Veterinary prescription drug" means a drug that may not be dispensed without the prescription of a veterinarian and that bears the label statement: "CAUTION: Federal law restricts this drug to use by or on the order of a licensed veterinarian."
22. "Veterinary specialist" means a veterinarian that has been awarded and maintains certification from an AVMA-recognized veterinary specialty organization.
23. "Veterinary technician" means a graduate of a two- or three-year accredited program in veterinary technology.
24. "Veterinary technologist" means a graduate of a four-year accredited program in veterinary technology.

COMMENTARY TO SECTION 2—The terms defined within the definition section of any practice act lay the groundwork for all other sections of that act. An attempt should be made to define each term in a manner so that the intended meaning is clear. The AVMA recognizes that names and acronyms of entities administering current programs may change or new programs may be developed to replace or parallel existing programs. State regulatory boards should keep abreast of simple name changes and correct those through annual legislative housekeeping policies. Addition of new programs to the practice act should be made only after careful review to ensure that the high standards of existing programs are met or exceeded.

The definition of "abandoned" was removed in 2012 as unnecessary and duplicative of the requirements contained in Section 22.

To protect and promote public health, safety, and welfare, the AVMA believes that it is important for state practice acts or the rules and regulations promulgated under those acts to include language that will preserve the present-day high standard of veterinary medical education throughout the United States (see subsection 1). The accreditation process administered by the Council on Education of the AVMA, which is the sole entity recognized by the United States Department of Education to accredit United States veterinary colleges, assures that this standard is maintained. All accreditation decisions made by the Council are independent of the AVMA. In a like manner, the accreditation process for veterinary technology programs administered by the Committee on Veterinary Technician Education and Activities of the AVMA maintains the standard for veterinary technician education throughout the United States (see subsection 2).

The 2012 revision also includes a more descriptive definition of "animal" in subsection 3. The new definition is intended to include invertebrates and cold-blooded or warm-blooded vertebrates, other than humans.

The definition of the practice of veterinary medicine in the 2012 revision continues to include the use of complementary, alternative, and integrative therapies, which is defined in Section 2, subsection 6. The definition used for the MVPA is based largely on that in the *AVMA Guidelines for Complementary and Alternative Veterinary Medicine*, which was approved by the AVMA Executive Board in 2001. In 2012, the definition was modified because of the increasing scientific information available about these modalities as well as increasing inclusion of these modalities in the curriculum at accredited veterinary schools. The definition reflects the current use of these modalities in regard to the standard care provided by most veterinarians. The inclusion of complementary, alternative, and integrative therapies in the MVPA should be viewed as a public protection issue, because if these definitions are excluded, the State has no authority to discipline an individual, whether a licensed veterinarian or not, who causes harm to an animal as a result of practicing such therapies. The AVMA recognizes that clients may seek any of a number of treatment modalities for their animals. However, when applied to animals, these treatment modalities represent the practice of veterinary medicine, and as such, are subject to regulation as outlined in the practice act. If one considers conventional animal drugs as a treatment modality, "animal drugs" could be defined as articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in an animal, or articles intended to affect the structure or any function of the body of an animal. This would include, but not be limited to, medicated feed or water, growth-promoting implants, and drugs labeled for human use administered in accordance with extralabel use guidelines. Veterinarians should ensure that they have the requisite skills and knowledge for any treatment modality they may consider using. The foremost objective in veterinary medicine is patient welfare. Owner consent should be obtained prior to initiating any treatment, including complementary, alternative, and integrative therapies.

In subsection 7, "consultation" is defined in part from the recognition that veterinary medicine is becoming an increasingly specialized profession, and a licensed veterinarian may believe it is in the best interest of the patient to request advice from another individual with given expertise. In addition, the definition used in this MVPA better delineates, for the public interest, who will maintain responsibility for maintaining the veterinarian-client-patient relationship.

Subsection 8 defines "credentialed veterinary technician or technologist". States are encouraged to standardize the terms used to describe technician credentialing.

In subsection 9, reference is made to the ECFVG® program. The Educational Commission for Foreign Veterinary Graduates® (ECFVG®) program is the only program that the AVMA believes adequately evaluates the educational equivalency of graduates of nonaccredited colleges of veterinary medicine at an acceptable educational standard. In the future, other educational equivalency assessment programs may be developed to parallel or succeed the ECFVG® program. States may find it prudent to prepare for that possibility by establishing by rule the necessary educational standards that need to be met by such alternate programs. These standards should include:

1. Proof of graduation from a nonaccredited foreign college of veterinary medicine recognized by the World Health Organization or the government of that country, and whose graduates are eligible to practice veterinary medicine in that country.
2. Demonstration and proof of English language proficiency.
3. Demonstration of adequate knowledge of basic and clinical veterinary medical sciences.

4. Demonstration of clinical skills proficiency through consistent and validated testing or evaluation after graduation.

In subsection 10, "extralabel use" is defined as written in federal regulation 21CFR530.3(a), which implements the Animal Medicinal Drug Use Clarification Act (AMDUCA).

Subsection 11 was revised in 2012 to address impaired veterinary technicians in addition to impaired veterinarians.

In subsection 12, "owner consent" is defined to better protect the public by ensuring that veterinarians provide sufficient information in a manner so that clients may reach informed decisions regarding the care of their animals. Consent should be documented in the medical record, and the signature of the client should be obtained whenever possible. A more specific description of owner consent is found in the AVMA policy titled "[Owner Consent in Veterinary Medicine.](#)"

In subsection 16, the definition of the practice of veterinary medicine is provided. In 2012, subsection 16(a)(i) was added to emphasize that both medical treatment and surgical procedures constitute the practice of veterinary medicine. Subsection 16(a)(iv) also was expanded to clarify that procedures for reproductive management of all types of conditions constitutes the practice of veterinary medicine. Subsection 16(a)(v) also was added to indicate that examination to verify the health of an animal, such as for prepurchase examinations or issuing of health certificates, constitutes the practice of veterinary medicine.

Rather than addressing the ever-changing telephonic/electronic industry by adding a specific definition of telemedicine or telepractice, the definition of the practice of veterinary medicine in subsection 16 reflects the continued increase in the use of telemedicine in veterinary practice. The definition indicates that the practice of veterinary medicine means "to diagnose, prognose, treat, correct, change, alleviate, or prevent animal disease...**by any method or mode.**" In addition, this definition stresses that the practice of veterinary medicine includes the use of **telephonic and other electronic communications** for the rendering of advice or recommendation for the diagnosis, treatment, correction, alteration, relief, or prevention of animal disease. The intention of this section is not to prevent non-veterinarians from discussing animal care; it is intended to regulate the practice of telemedicine. Several exemptions are included within Section 6 to clarify this intent.

Subsection 18 includes definitions of direct and indirect supervision. Revisions approved in 2012 clarify that in both cases, the licensed veterinarian assumes responsibility for the veterinary care provided to the patient by another person working under his or her direction.

The definition of "veterinarian-client-patient relationship" (VCPR) in subsection 20 was changed in 2012, and is now different from that embodied in federal regulation 21 CFR 530.3(i) relating to extralabel drug use.

In 2012, subsection 14 was revised to define "patient" as "an animal or group of animals." Therefore, the definition of VCPR can be applied to individual animals as well as a group or groups of animals within an operation (production system).

The AVMA recognizes that individual states may wish to more clearly define specific terms within the definition of VCPR. For example, a state regulatory board may wish to include a specific time period (eg, no less frequent than 6 or 12 months) to better delineate the term "timely" relating to examinations and visits. The term "timely" should be considered in light of the nature and circumstances of the patient (eg, species, condition or disease, or operation).

In 2012, subsections 20-b and 20-c were revised for purposes of clarification. Subsection 20-e was added to state

that patient records must be maintained to establish a VCPR.

States may also wish to further specify that when establishing a VCPR in the case of large operations, "sufficient knowledge" can be supplemented by means of:

1. examination of health, laboratory, or production records; or
2. consultation with owners, caretakers or supervisory staff regarding a health management program for the patient; or
3. information regarding the local epidemiology of diseases for the appropriate species.

The definition of "veterinary specialist" (subsection 24) was added to the MVPA in 2003 to clearly define for the public and the profession what is meant by "veterinary specialist." The *Principles of Veterinary Medical Ethics of the AVMA* also states that "It is unethical for veterinarians to identify themselves as members of an AVMA-recognized specialty organization if such certification has not been awarded." In *Policies and Procedures of the AVMA American Board of Veterinary Specialties*, it is also stated that: "Veterinarians should not in any way imply they are specialists unless they are certified by an AVMA-recognized veterinary specialty organization," and "The use of the terms 'board eligible' or 'board qualified' as an indication of special qualification is potentially misleading to the public and should not be used in any public communication or other solicitation." This definition was revised in 2012 to clarify that the veterinarian was actually awarded certification, not that he or she has merely completed the requirements to become a diplomate. The AVMA believes that it is important to include language in the practice act that clearly defines the term "specialist". The AVMA also recommends that rules and regulations promulgated under the practice act include language that will ensure the ethical and legal use of these terms by licensees, in order to protect the public's interests and to avoid confusion regarding the qualifications of board-certified veterinary specialists.

The definitions of "veterinary technician" and "veterinary technologist" (subsections 25 and 26) are included to emphasize the belief that the educational pathway of choice for a veterinary technician or technologist throughout the United States should be graduation from an AVMA-accredited or CVMA (Canadian Veterinary Medical Association)-accredited program, as defined in this MVPA. With the increasing number of accredited veterinary technology programs in the United States, both in traditional settings and as distance-learning modalities, it can no longer be stated that an individual wishing to become a veterinary technician or technologist does not have access to an accredited educational program. In the future, states may wish to consider defining veterinary technician specialists. For a definition, we suggest that the term "veterinary technician specialist" refers to a veterinary technician or technologist who has been awarded certification from a NAVTA-recognized veterinary specialty organization.

Section 3 – Board of Veterinary Medicine

1. A Board of Veterinary Medicine shall be appointed by the governor and shall consist of five licensed veterinarians, one credentialed veterinary technician or technologist, and one member of the public who is not a veterinarian or veterinary technician or technologist. All persons appointed to the Board shall have been residents of the State for at least the five years immediately preceding appointment. Each member shall be appointed for a term of five years or until a successor is appointed, except that the terms of the first appointees may be for shorter periods to permit a staggering of terms. Members of the Board appointed under the chapter that this Act replaces may continue as members of the Board until the expiration of the term for which they were appointed. Vacancies due to death, resignation, or removal shall be filled for the remainder of the unexpired term in the same manner as regular appointments. No person shall serve more than two consecutive full terms.

- a. A licensed veterinarian shall be qualified to serve as a member of the Board if he or she has been licensed to practice veterinary medicine in the State for the five years immediately preceding the time of his or her appointment. A credentialed veterinary technician or technologist shall be qualified to serve as a member of the Board if he or she has been credentialed in the State for the five years immediately preceding his or her appointment.
 - b. Each member of the Board shall be paid for each day or substantial portion thereof if he or she is engaged in the work of the Board, in addition to such reimbursement for travel and other expenses as is normally allowed to state employees.
 - c. Any member of the Board may be removed in accordance with the Administrative Procedures Act of the State or other applicable laws.
2. The Board shall meet at least once each year at the time and place fixed by rule of the Board. Other necessary meetings may be called by the Board by giving notice as may be required by rule. Except as may otherwise be provided, a majority of the Board constitutes a quorum. Meetings shall be open and public, except that the Board may meet in closed session to prepare, approve, administer, or grade examinations or to deliberate the qualification of an applicant for license or the disposition of a proceeding to discipline a licensed veterinarian or credentialed veterinary technician or technologist.
3. The Board shall annually elect officers from its membership as may be prescribed by rule. Officers of the Board serve for terms of 1 year and until a successor is elected, without limitation on the number of terms an officer may serve. The duties of officers shall be prescribed by rule.
4. The Board shall have the power to:
 - a. Adopt, amend, or repeal all rules necessary for its government and all regulations necessary to carry into effect the provisions of this Act, including the establishment and publication of standards of practice and professional conduct for the practice of veterinary medicine or veterinary technology.
 - b. Adopt, promulgate, and enforce rules and regulations relating to specific duties and responsibilities; certification, registration, or licensure; and other matters pertaining to veterinary technicians, veterinary technologists, or nonlicensed persons consistent with the provisions of this Act.
 - c. Initiate disciplinary procedures, hold hearings, reprimand, suspend, revoke, or refuse to issue or renew credentials, and perform any other acts that may be necessary to regulate veterinary technicians and technologists in a manner consistent with the provisions of this Act applicable to veterinarians.
 - d. Examine by established protocol the qualifications and fitness of applicants for a license to practice veterinary medicine or veterinary technology in the State.
 - e. Issue, renew, or deny the licenses and temporary permits to practice veterinary medicine or veterinary technology in the State.

- f. Limit, suspend, or revoke the licenses of disciplined veterinarians or veterinary technicians, or otherwise discipline licensed veterinarians or credentialed veterinary technicians, consistent with the provisions of the Act and the rules and regulations adopted thereunder.
 - g. Establish and publish annually a schedule of fees for licensing, certification, and registration.
 - h. Conduct investigations of suspected violations of this Act to determine whether there are sufficient grounds to initiate disciplinary proceedings. All investigations shall be conducted in accordance with the Administrative Procedures Act of the State or other applicable laws.
 - i. Inspect veterinary premises and equipment, including practice vehicles, at any time in accordance with protocols established by rule.
 - j. Hold hearings on all matters properly brought before the Board and in connection thereto to administer oaths, receive evidence, make necessary determinations, and enter orders consistent with the findings. The Board may commission depositions and require by subpoena the attendance and testimony of witnesses and the production of papers, records, or other documentary evidence. The Board may designate one or more of its members to serve as its hearing officer or may employ a hearing officer defined by state law. All hearings shall be conducted in accordance with the Administrative Procedures Act of the State or other applicable laws.
 - k. Employ full or part-time personnel necessary to effectuate the provisions of this Act and purchase or rent necessary office space, equipment, and supplies.
 - l. Appoint from its own membership one or more members to act as representatives of the Board at any meeting within or outside the State where such representation is deemed desirable.
 - m. Bring proceedings in the courts against any person for the enforcement of this Act or any regulations made pursuant thereto.
5. The powers enumerated above are granted for the purpose of enabling the Board to effectively supervise the practice of veterinary medicine and veterinary technology and are to be construed liberally to accomplish this objective.

COMMENTARY TO SECTION 3—This section provides guidelines for the establishment, composition, and duties of the Board. As stated in the MVPA, the Board is the supervisory body created to administer the practice act in any given state. The intent of this section is not to be prescriptive, but to provide broad guidelines that each state may use to establish an appropriate and well-functioning Board. For example, in subsection 1, it is stated that each member shall be appointed for a term of five years. Currently, terms on state boards typically range from four to six years, which the AVMA believes is sufficient time to provide continuity to Board activities and deliberations but not too extensive to prevent infusion of new ideas. Moreover, the number of Board members listed in subsection 1 is a suggestion based on current practice. Individual states may wish to vary this number, but all Boards should include a number of licensed veterinarians, at least one credentialed veterinary technician or technologist, and at least one public member.

Although not explicitly stated, the AVMA believes that it is important that the Board interact with the state veterinary

medical association to forward names of potential well-qualified nominees to the Governor for appointment so that all areas of veterinary practice prevalent within the state are represented on the Board.

In subsection 4(b), language was added to empower the Board to adopt, promulgate, and enforce rules and regulations relating to specific duties and responsibilities; certification, registration, or licensure; and other matters pertaining to nonlicensed persons consistent with the provisions of this act. The intent is to provide Boards with the power to regulate non-veterinarians who may be performing specific duties related to veterinary medicine (eg, equine dentists).

Subsection 4(c) was inserted to provide the Board with the authority to regulate veterinary technicians and technologists. This subsection provides substantial latitude to the individual state boards to adopt and implement rules pertaining to the duties of veterinary technicians and technologists. The Board should adopt regulations establishing health-care tasks and an appropriate degree of supervision required for those tasks that may be performed only by a veterinary technician or technologist. There needs to be a degree of flexibility that will allow the Board to make necessary adjustments from time to time to meet the ongoing needs of consumers and the ever changing profession of veterinary medicine.

Section 4 – License Requirement

No person may practice veterinary medicine or veterinary technology in the State who is not a licensed veterinarian or the holder of a valid temporary permit issued by the Board or a credentialed veterinary technician unless otherwise exempt pursuant to Section 6 of this Act.

COMMENTARY TO SECTION 4—The intent of this section is to declare unlawful the practice of veterinary medicine by any person not licensed or holding a temporary permit to practice in the state or the practice of veterinary technology without credentials if the state requires credentialing.

Section 5 – Veterinarian-Client-Patient Relationship Requirement

1. No person may practice veterinary medicine in the State except within the context of a veterinarian-client-patient relationship.
2. A veterinarian-client-patient relationship cannot be established solely by telephonic or other electronic means.

COMMENTARY TO SECTION 5—This section, which was added in 2003, emphasizes not only that veterinary medicine must be practiced within the context of a veterinarian-client-patient relationship (VCPR), but also emphasizes that because a VCPR requires the veterinarian to examine the patient, it cannot be adequately established by telephonic or other electronic means (ie, via telemedicine) alone. However, once established, a VCPR may be able to be maintained between medically necessary examinations via telephone or other types of consultations.

Section 6 – Exemptions

This Act shall not be construed to prohibit:

1. Any employee of the federal, state, or local government performing his or her official duties.
2. Any student who is enrolled:
 - a. in an accredited college of veterinary medicine performing duties or actions assigned by instructors or working under the direct supervision of a licensed veterinarian, or
 - b. in an accredited program of veterinary technology performing duties or actions other than diagnosis, prognosis, prescription, or surgery, as assigned by instructors or working under the direct supervision of a licensed veterinarian
3. Any person advising with respect to or performing acts that the Board has designated by rule as accepted livestock management practices.
4. Any person providing consultation to a licensed veterinarian in the State on the care and management of a patient.
5. Any licensed individual of a licensed or regulated profession within the State who is providing assistance requested by a veterinarian licensed in the State, acting with owner consent from the client, and acting under the supervision of the licensed veterinarian. The licensed veterinarian shall maintain responsibility for the veterinarian-client-patient relationship.
6. Any veterinarian employed by an accredited college of veterinary medicine providing assistance requested by a veterinarian licensed in the State, acting with owner consent from the client, and acting under the direct or indirect supervision of the licensed veterinarian. The licensed veterinarian shall maintain responsibility for the veterinarian-client-patient relationship.
7. Any pharmacist, merchant, or manufacturer selling at his or her regular place of business medicines, feed, appliances, or other products used in the prevention or treatment of animal diseases as permitted by law.
8. Any person lawfully engaged in the art or profession of farriery.
9. Subject to the State's [animal cruelty law(s)], an owner of an animal and any of the owner's regular employees caring for and treating the animal belonging to such owner, except where the ownership of the animal was transferred for purposes of circumventing this Act. Individuals must comply with all laws, rules and regulations relative to the use of medicines and biologics.
10. Any person who provides training for animals that does not include diagnosing or the prescribing or dispensing of any therapeutic agent.
11. Any instructor at an accredited college of veterinary medicine or accredited program in veterinary technology performing his or her regular functions or any person lecturing or giving instructions or demonstrations at an accredited college of veterinary medicine or accredited program in veterinary technology or in connection with a veterinary or veterinary technology continuing education course or seminar.
12. Any person selling or applying pesticides, insecticides, or herbicides as permitted by law.

13. Any person engaging in scientific research involving animals conducted in accordance with federal, state, and local laws and regulations.
14. Any credentialed veterinary technician, veterinary technologist, or other employee of a licensed veterinarian performing lawful duties under the direction and supervision of such veterinarian who shall be responsible for the performance of the employee.
15. A veterinarian licensed or a veterinary technician credentialed in another state may practice in the State during an emergency or natural disaster within the scope and location of assigned veterinary medical duties of the response efforts without written examination or other qualification if:
 1. an official declaration of the disaster or emergency has been made by the Governor or the delegated State official; and
 2. an official invitation has been extended to the veterinarian or veterinary technician for a specified time by the authority that has jurisdiction for coordinating the animal/agricultural issues in the State during emergencies either within or outside the Emergency Management Assistance Compact (EMAC).
16. Any person who, without expectation of compensation, provides immediate veterinary care in the event of an emergency or accident situation.
17. Any person acting under the direct or indirect supervision of a licensed veterinarian to provide care to animals that are the property of an animal shelter when at least the following three conditions are met:
 0. the person is an employee of an animal shelter or its agencies; and
 1. the person is performing these tasks in compliance with a written protocol developed in consultation with a licensed veterinarian; and
 2. the person has received proper training.

Such persons shall not diagnose, prescribe or perform surgery.

18. Any person who lawfully provides care and rehabilitation of wildlife species under the supervision of a licensed veterinarian.

COMMENTARY TO SECTION 6—This section provides a list of carefully considered exemptions to the general rule outlined in Section 4 that it is unlawful to practice veterinary medicine without a valid license.

Subsection 1 exempts any federal, state, or local government employee performing his or her official duties. This exemption is intended to include full-time, temporary, or contract employees, particularly in the case of emergency outbreak events or disaster situations.

"Livestock management practices," in the context of subsection 3, refers to those cosmetic or surgical procedures currently considered essential and routine individual animal husbandry techniques necessary for management of groups of animals raised at various levels of confinement. As used in this MVPA, the term "livestock" includes cattle, horses, sheep, goats, swine, farm-raised cervidae and camilidae, and other species used in the production of fiber, meat, and milk products. State legislatures, as a part of the veterinary practice act, should identify, list, or describe those factors the Board must or should consider in determining whether a particular procedure, technique, or endeavor is an accepted livestock management practice. Among the acts that a state may consider exempting by rule are nonsurgical methods of artificial insemination, dehorning, castration or emasculation of male animals, and tail docking, which are procedures that typically should be performed by persons working under the order of a

veterinarian within a valid VCPR. State humane laws apply to farm and ranch personnel during the performance of and subsequent aftercare associated with these exempted procedures. It behooves the attending veterinarian to advocate on the animal's behalf to ensure that procedures are performed at the proper age to minimize pain and discomfort and that appropriate techniques are applied.

A licensed veterinarian may, in the best interest of the patient, and with the owner's consent, request assistance from either non-veterinarians licensed in a licensed or regulated profession in the state with specific expertise or veterinarians who are exempt from licensure by employment at an accredited college of veterinary medicine. Subsections 5 and 6 indicate that such licensed non-veterinarians and veterinarians employed at an accredited college of veterinary medicine may provide assistance only if the individual is acting under the supervision of a licensed veterinarian and the licensed veterinarian maintains responsibility for the VCPR. Acting outside these parameters constitutes the practice of veterinary medicine, and as such, may result in penalties specified within the act. Subsection 5 does not preclude a state from adopting oversight requirements applicable to non-veterinarian licensed professionals, such as referral by a veterinarian, obtaining a veterinarian's medical clearance prior to treatment, certification by an approved entity, continuing education relating to working on animals, and liability coverage.

It has been a common practice for states to allow an owner of an animal or any of that owner's regular employees to treat animals belonging to that owner. In subsection 9, the term "regular employee" is used to avoid circumvention of the intent of this exemption by individuals employed primarily to treat the owner's animals. Furthermore, this exemption should not apply to situations in which ownership of the animal is transferred to qualify for the exemption. Finally, language in subsection 9 indicates that regardless of the situation, no prescription drug or nonprescription drug intended for extralabel use can be administered, dispensed, or prescribed during the treatment of the animal unless a VCPR exists. This latter requirement reflects language embodied in federal regulation 21CFR530 (which implements the Animal Medicinal Drug Use Clarification Act [AMDUCA]). Classification of animal drugs and biologics as to prescription or over-the-counter is not the purview of the state practice act, but rather the purview of the United States Food and Drug Administration, the United States Department of Agriculture, and, in some cases, state law. Subsection 9 does not exempt the owner or his or her regular employee from compliance with the state's animal cruelty laws.

Subsection 14 is not intended to allow for diagnosing, prognosing, prescribing, or performing surgery by veterinary technicians, veterinary technologists or other employees of a licensed veterinarian.

Subsection 15 was added to exempt those who respond to disasters under a strict set of circumstances. This is written to exempt self-responders who have not been invited into the state through the proper channels. Adherence to an authoritative chain of command is necessary to protect out-of-state responders' credentials and to ensure a successful response to an incident. States may wish to provide details about what person(s) or agency(ies) can request assistance in animal or agricultural emergencies either within or outside the Emergency Management Compact (EMAC). Proper credentialing as established by the Incident Command System (ICS) through the National Incident Management System (NIMS) for the duties the out-of-state individuals are responding could be added.

Subsection 17 was expanded in 2012 to clearly outline the care of animals for which a shelter has taken possession. This exemption allows a shelter employee to perform tasks, such as vaccinations, prophylactic treatment of parasites, testing for infectious diseases and euthanasia, under supervision of a licensed veterinarian, when certain specific conditions are met. In reference to veterinary care, including euthanasia, performed at animal shelters (subsection 17), the AVMA urges that each Board check with the United States Drug Enforcement Administration (DEA) to determine the current requirements governing use of DEA-regulated drugs in veterinary medicine. To be in compliance with DEA requirements, a Board may need to require that euthanasia be performed under the **direct**

supervision of a licensed veterinarian or by a euthanasia technician licensed by the Board.

Subsection 18 was added to exempt those who lawfully provide care and rehabilitation to wildlife under the supervision of a veterinarian.

Section 7 — Veterinary Technicians and Technologists

1. No person may practice veterinary technology in the State who is not a veterinary technician or technologist credentialed by the Board.
 2. A veterinary technician or technologist who performs veterinary technology contrary to this Act shall be subject to disciplinary actions in a manner consistent with the provisions of this Act applicable to veterinarians.
 3. Credentialed veterinary technicians and technologists shall be required to complete continuing education as prescribed by rule to renew their credentials.
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COMMENTARY TO SECTION 7—Section 7 was inserted because the AVMA believes it is important for Boards to have the authority to regulate the practice of veterinary technology and to discipline those persons representing themselves as credentialed veterinary technicians or technologists but who have not fulfilled the requirements set forth in the definition of a veterinary technician or technologist.

Section 7, together with subsection 4(b) of Section 3, allows Boards to develop rules and regulations governing the practice of veterinary technology in a separate but related document to the veterinary practice act. A state may instead choose to add statutory language pertaining to the practice of veterinary technology within its veterinary practice act or may choose to develop a separate veterinary technology practice act.

It should also be noted that although subsection 4(b) of Section 3 provides Boards with the power to adopt, promulgate, and enforce rules and regulations relating to specific duties and responsibilities; certification, registration, or licensure; and other matters pertaining to veterinary technicians, veterinary technologists, or nonlicensed persons, it should not be construed that this MVPA intends for states to adopt alternate educational routes for veterinary technicians and technologists. Indeed, it is clearly stated in Section 2, subsections 25 and 26, that a "veterinary technician or technologist" means a graduate of a two- or three-year accredited program in veterinary technology or a four-year accredited program in veterinary technology, respectively.

If credentialing of unlicensed assistants and certified non-veterinarian practitioners continues to increase and evolve in the future, the AVMA may need to study how the MVPA should treat the use and activities of these non-licensed individuals.

Section 8 – Status of Persons Previously Licensed

Any person who holds a valid license to practice veterinary medicine or is credentialed as a veterinary technician in the State on the date this Act becomes effective shall be recognized as a licensed veterinarian or a credentialed veterinary technician and shall be entitled to retain this status so long as he or she complies with the provisions of this Act, including periodic renewal of the license.

COMMENTARY TO SECTION 8—The sole purpose of this section is to clarify the status of veterinarians licensed or veterinary technicians credentialed under a former regulatory procedure. Such practitioners or technicians are authorized to practice under the new act without a special reregistration or examination. It is also clear under this section that persons licensed or credentialed under a former act are nevertheless subject to all of the provisions of the new act.

Section 9 – Application for License: Qualifications

1. Any person desiring a license to practice veterinary medicine in the State shall make written application to the Board. The application shall show that the applicant is a graduate of an accredited college of veterinary medicine or the holder of an ECFVG® certificate and has passed a recognized national licensing examination. The application shall also show that the applicant is a person of good moral character and provide such other information and proof as the Board may require by rule. The application shall be accompanied by a fee in the amount established and published by the Board.
2. Any person desiring to become a credentialed veterinary technician in the State shall make written application to the Board. The application shall show that the applicant is a graduate of an accredited program of veterinary technology and has passed a recognized national licensing examination for credentialed technicians. The application shall also show that the applicant is a person of good moral character and provide such other information and proof as the Board may require by rule. The application shall be accompanied by a fee in the amount established and published by the Board.
3. If the Board determines that the applicant possesses the proper qualifications, it shall admit the applicant to the next State examination, or if the applicant is eligible for license by endorsement under Section 11 of this Act, the Board may forthwith grant him or her a license. If an applicant is found not qualified to take the State examination or for a license by endorsement under Section 11 of this Act, the Board shall notify the applicant in writing in compliance with State law of such finding and the grounds therefore. An applicant found unqualified may request a hearing on the questions of his or her qualifications under the procedure set forth in Section 16.

COMMENTARY TO SECTION 9—Section 9 marks the beginning of sections addressing the licensing procedure. This section specifically covers both the qualifications a candidate must possess to be eligible for licensure or credentialing and the general process such a candidate must pursue to make application for licensure or credentialing.

The qualifications stated in this section derive in part from the preamble to the MVPA, which clearly states its scope and purpose. To facilitate the charge stated in the preamble, the Board should only license qualified persons of "good moral character." The Board can utilize various means (eg, the Veterinary Information Verifying Agency [VIVA®], state police background checks) in assessing the qualities of applicants for licensure. The AVMA encourages Boards to conduct extensive checks, while at all times ensuring that the applicant's civil rights are respected.

Section 9 also indicates that the Board must notify candidates of adverse decisions. It is essential that adverse decisions be forwarded in a timely manner and include the grounds by which the Board reached its decision.

As is the case with all sections relating to licensure, references to named licensing or testing entities should be interpreted to include any recognized successor or parallel entities.

Section 10 – Examinations

1. The Board shall provide for at least one examination for licensing, certification, or registration during each calendar year and may provide for such additional examinations as are necessary. The Board shall give public notice of the time and place for each examination in compliance with state law. A person desiring to take the State examination shall make application before the date of the examination in compliance with state law.
2. The passing score for the examination shall be established by the testing entity.
3. After examination, each examinee shall be notified of the result of the examination, and the Board shall issue a certificate of registration to the successful candidates. Any person who fails the State examination may be admitted to any subsequent examination on payment of the application fee.

COMMENTARY TO SECTION 10—General examination procedures are set out in this section. Procedures listed are purposefully broad to leave as many of the details concerning the examination to the discretion of each Board.

Although not explicitly stated in the MVPA, to maintain the integrity and security of national and state licensing examinations, a Board may elect to limit the number of times a candidate may take and fail each examination in a given time period. The restriction on the number of attempts should be in the practice act, rather than in the regulations, to provide statutory authority to any subsequent challenge. A state may also elect to require that a candidate who fails several examinations engage in remedial strategies prior to reapplying for examination.

Section 11 – License By Endorsement

1. Veterinarian: The Board, in its sole discretion, may issue a license by endorsement to a qualified applicant who
 - a. has submitted a complete application,
 - b. holds a license issued by another state and is in good standing,
 - c. has successfully passed an examination covering the laws and rules pertaining to the practice of veterinary medicine in the State, and
 - d. has actively practiced clinical veterinary medicine for 3,000 hours during the 5 years preceding application
2. Veterinary Technician: The Board, in its sole discretion, may issue certification, registration, or license by endorsement to a qualified applicant who:
 - a. furnishes satisfactory proof that he or she is a graduate of an accredited program of veterinary technology,
 - b. shows that he or she is a person of good moral character,
 - c. is currently credentialed as a veterinary technician in at least one state of the United States, and

- d. has practiced veterinary technology in one or more of those states without disciplinary action by any state or federal agency for at least the three years immediately prior to filing the application.

3. At its sole discretion, the Board may examine any person qualifying for licensing under this Section.

COMMENTARY TO SECTION 11—This section addresses situations in which the Board may issue a license or other credential by endorsement. In 2012, the requirements for veterinarians to qualify for a license by endorsement were revised. The section also was revised to include provisions for veterinary technicians. Certain Boards, perhaps most likely those in northern border states, may wish to add inclusive language (eg, "or province of Canada") in subsection 1(b) and subsection 2(c), respectively, to allow veterinarians licensed or veterinary technicians credentialed in Canada to seek license by endorsement.

In certain states, agencies other than the Board may have jurisdictions that exercise control over certain aspects of veterinary licensure. For example, it is a common requirement that applicants for license by endorsement pass an examination on a state's laws and rules related to veterinary medicine. The impetus for such requirements can also be driven by state pesticide regulations that require certification and permits for pesticide applicators and distributors. In other states, licensure or relicensure of those veterinarians with a state tax delinquency may be under the jurisdiction of a state agency other than the Board.

Section 12 – Temporary Permit

The Board, in its sole discretion, may issue a temporary permit to practice veterinary medicine in the State:

1. To a qualified applicant for license, pending examination, provided that such temporary permit shall expire the day after the notice of results of the first examination given after the permit is issued and provided that the grantee is under indirect supervision of a licensed veterinarian. No temporary permit may be issued to any applicant who has previously failed the examination in the State or in any other state, territory, or district of the United States or a foreign country.
2. To a nonresident veterinarian who is a graduate of an accredited college of veterinary medicine or an ECFVG® certificate holder validly licensed in another state, territory, or district of the United States or a foreign country who pays the fee established and published by the Board, provided that such temporary permit shall be issued for a period of no more than 60 consecutive days and that no more than one permit shall be issued to a person during a calendar year.

A temporary permit may be summarily revoked or limited by the Board without a hearing.

COMMENTARY TO SECTION 12—This section authorizes the Board to grant temporary permits for the practice of veterinary medicine to two categories of individuals: qualified applicants pending examination and nonresident veterinarians who are graduates of an accredited college or ECFVG® certificate holders and who are validly licensed in the United States or another country. The AVMA supports the policy of states offering temporary permits to practice to qualified but unlicensed applicants waiting to take the licensing examination(s), with the added stipulation that such applicants must work under the indirect supervision of a veterinarian licensed in that state. Furthermore, a

nonresident veterinarian meeting all other application requirements (ie, graduation from an accredited college of veterinary medicine or completion of the ECFVG® program) and holding a license to practice in another state or country may be granted a temporary permit to practice and may do so with or without indirect supervision of a veterinarian licensed to practice in that state.

Each state veterinary medical licensing board may wish to add language to the last line of this section to indicate whether the decision of the board to summarily revoke or limit temporary permits is to be made on the basis of a simple majority of voting membership, a simple majority of a quorum present, or a 2/3 majority of either the voting membership or quorum present.

Section 13 – License Renewal

1. All licenses shall expire periodically but may be renewed by registration with the Board and payment of the registration renewal fee established and published by the Board. The Board shall provide written or electronic notification to each licensed veterinarian that his or her license will expire within a specific number of days, as specified by Board rules, and provide him or her with a form for reregistration. The Board shall issue a new certificate of registration to all persons registering under this Act.
2. The Board shall establish the continuing education requirements that must be met for license renewal. The Board shall also define the types of continuing education that will meet its requirements.
3. Any person who shall practice veterinary medicine after the expiration of his or her license and willfully or by neglect fail to renew such license shall be practicing in violation of this Act. Licenses may be reinstated after the date of expiration provided conditions are met as defined by Board rules, such as payment of a late fee in addition to the renewal fee. A person who submits an application for renewal more than a specific number of days after the license renewal date, as specified in Board rules, is subject to all requirements governing new applicants. As defined by Board rules, the Board may, after giving due consideration to the protection of the public, waive examination if that renewal application is received, together with all fees as may apply, within 3 years from the date of the expiration, and providing the applicant has complied with the continuing education requirements.
4. The Board may by rule waive the payment of the registration renewal fee of a licensed veterinarian during the period when he or she is on active duty with any branch of the armed services of the United States.

COMMENTARY TO SECTION 13—This section contains information regarding expiration of veterinary licenses and renewal fees. It provides details of notification procedures and issuing of new certificates. This section also specifies that any person practicing after expiration of his or her license and who willfully or by neglect fails to renew shall be in violation of the Act. This section allows reinstatement provided all conditions set forth by the Board are met. It provides that a person has up to 3 years after expiration of his or her license to renew the license by application and payment of fees and penalties in addition to complying with current continuing education (CE) requirements. After 3 years have elapsed, the individual must reapply for licensure. This section also allows each Board to establish its own CE requirements and establishes that by rule, renewal fees can be modified for individuals on duty in the military. It is important to note that the intent of this last clause is to allow only waiver of fees. An individual on active duty in the military will still be required to renew his or her license.

Section 14 – Discipline of Licensees

Upon written complaint sworn by any person, the Board, in its sole discretion, may, after a hearing, revoke, suspend, or limit for a certain time the license of, or otherwise discipline, any licensee (for the purpose this Section, "licensee" means a licensed veterinarian or credentialed veterinary technician) for any of the following reasons:

1. Violations of any order of the Board.
2. Unprofessional conduct as defined in regulations adopted by the Board.
3. Violations of this Act or of the rules promulgated under this Act.
4. The use of advertising or solicitation that is false or misleading.
5. Failure to keep accurate and comprehensive patient records as set by rules promulgated by the Board.
6. Failure to keep veterinary premises and equipment, including practice vehicles, in a clean and sanitary condition as set by rules promulgated by the Board.
7. Failure to permit the Board or its agents to enter and inspect veterinary premises and equipment, including practice vehicles, as set by rules promulgated by the Board.
8. Fraud, misrepresentation, or deception in obtaining a license.
9. Aiding the unlawful practice of veterinary medicine or veterinary technology.
10. The inability to practice with reasonable skill and safety because of a physical or mental disability, including deterioration of mental capacity, loss of motor skills, or abuse of drugs or alcohol of sufficient degree to diminish the person's ability to deliver competent patient care.
11. Incompetence, gross negligence, or other malpractice in the practice of veterinary medicine or veterinary technology.
12. Revocation, suspension, or limitation of a license to practice by another state, on grounds other than nonpayment of registration fees.
13. Loss or suspension of accreditation by any federal or state agency on grounds other than nonpayment of registration fees or voluntary relinquishment of accreditation.
14. Fraud or dishonesty in the application or reporting of any test for disease in animals.
15. Failing to report or making an intentional false or misleading report of reportable diseases; reportable diseases are those stipulated by federal or state laws or requirements of the Board.
16. Dishonesty or gross negligence in the performance of food safety inspections or the issuance of any Certificates of Veterinary Inspection.
17. The dispensing, distribution, prescription, or administration of any veterinary prescription drug, or the extralabel use of any drug, in the absence of a veterinarian-client-patient relationship.
18. Violations of state or federal drug laws.
19. Conviction or entering of a diversion agreement relative to the following in any federal court or in the courts of the State or any other jurisdiction, regardless of whether the sentence is deferred:
 - a. Any felony.
 - b. Any crime involving cruelty, abuse, or neglect of animals, including bestiality.
20. Any crime of moral turpitude including, but not limited to, any crime involving unlawful sexual contact; child abuse; the use or threatened use of a weapon; the infliction of injury; indecent exposure; perjury, false reporting, criminal impersonation, forgery, and any other crime involving a lack of truthfulness, veracity, or honesty; intimidation of a victim or witness; larceny; or alcohol or drugs.

21. For the purposes of subsection 19, a plea of guilty or a plea of nolo contendere accepted by the court shall be considered as a conviction.

COMMENTARY TO SECTION 14—This section, together with Sections 16, 17, and 23, provides the procedures for initiating and enforcing disciplinary action against individuals violating any section of this act. Language in Section 14 specifically delineates the reasons for which the Board may initiate hearing procedures and disciplinary actions against licensed veterinarians or credentialed veterinary technicians.

The AVMA recommends that each Board require that complaints be made in writing and provide positive identification of the complainant by means deemed sufficient by the Board.

In 2012, section 14 was revised to include credentialed veterinary technicians.

Section 15 – Impaired Licensed Veterinarian and Credentialed Veterinary Technician

1. The Board shall establish by rule a program of care, counseling, or treatment for impaired licensed veterinarians and credentialed veterinary technicians.
2. The program of care, counseling, or treatment shall include a written schedule of organized treatment, care, counseling, activities, or education satisfactory to the Board, designed for the purposes of restoring an impaired person to a condition whereby the impaired person can practice veterinary medicine or veterinary technology with reasonable skill and safety of a sufficient degree to deliver competent patient care.
3. All persons authorized to practice by the Board shall report in good faith any licensed veterinarian or credentialed veterinary technician they reasonably believe to be impaired as defined in Section 2, subsection 11.

COMMENTARY TO SECTION 15—This section addresses the licensed veterinarian or credentialed veterinary technician who is in violation of the practice act according to section 14, subsection 10, which provides for the revocation, suspension, or restriction of the veterinary license of any veterinarian or credential of any veterinary technician whose mental or physical ability to practice with reasonable skill and safety is impaired. "Impaired" is clearly defined in Section 2, subsection 11.

In 2012, section 15 was revised to include credentialed veterinary technicians.

Section 16 – Hearing Procedure

All hearings shall be in accordance with the Administrative Procedures Act of the State or other applicable State law.

COMMENTARY TO SECTION 16—This section establishes the hearing procedure for any person who is the subject of a complaint under section 14 of the act; found to be an unqualified applicant for licensure under section 9 of the act; or as required in accordance with section 23 of the act. The principle underlying this section is that no person shall be denied the right to practice or be otherwise disciplined unless he or she has been granted a fair hearing on the charges brought against him or her.

The language in this section was left broad in recognition that in most states, hearings are conducted under the provisions defined in the state's administrative procedures act or other applicable laws. There may be certain provisions that may be exempted and that would be noted. In addition, any unique provisions specific to the veterinary practice act should be specified.

Section 17 – Appeal

All appeals shall be in accordance with the Administrative Procedures Act of the State or other applicable State law.

COMMENTARY TO SECTION 17—This section expressly provides a right of appeal to any person dissatisfied with the decision of the Board. As with the language in Section 16, this language was left broad in recognition that in most states, the appeal process is conducted under the provisions defined in the state's administrative procedures act or other applicable laws. There may be certain provisions that may be exempted and that would be noted. In addition, any unique provisions specific to the veterinary practice act should be specified.

Section 18 – Reinstatement

Any person whose license or credential is suspended, revoked, or limited may be reinstated at any time, with or without an examination, by approval of the Board after written application is made to the Board showing cause justifying relicensing or reinstatement.

COMMENTARY TO SECTION 18—This section permits the Board to reinstate a suspended, revoked, or limited license or credential at any time with or without examination. Each Board may wish to add language to this section to indicate whether approval of the Board means an affirmative vote of a simple majority of either the voting membership or quorum present, or whether approval of the Board will require a 2/3 majority of either the voting membership or quorum present.

Section 19 – Veterinarian-Client Confidentiality

1. No licensed veterinarian shall disclose any information concerning the licensed veterinarian's care of a patient, except on written or electronic authorization or waiver by the licensed veterinarian's client or an appropriate court order or subpoena, or as otherwise provided in this Section.
2. Copies of or information from veterinary records shall be provided without the owner'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.
3. Any licensed veterinarian releasing information under written or electronic authorization or other waiver by the client or under an appropriate court order or subpoena, or as otherwise provided by this Section, shall not be liable to the client or any other person.
4. The privilege provided by this Section shall be waived to the extent that the licensed veterinarian's client or the owner of the patient places the licensed veterinarian's care and treatment of the patient or the nature and extent of injuries to the animal at issue in any administrative, civil, or criminal proceeding.

5. This Section shall not prevent a licensed veterinarian from disclosing identifiable client and patient information to a third party so that the third party can use the information to provide services for or perform functions on behalf of the licensed veterinarian, provided that a written agreement is in place requiring the third party to maintain the confidentiality of such information.
6. This Section shall not prevent a licensed veterinarian from disclosing any information for purposes of the veterinarian's own treatment, payment, or veterinary care operations.
7. This Section shall not prevent a licensed veterinarian from disclosing medical information for research purposes, so long as patients and clients are not individually identifiable or, if patients or clients are individually identifiable, appropriate written or electronic authorizations have been obtained.
8. For purposes of this Section, "appropriate court order or subpoena" means for information or veterinary records specifically exempted or deemed waived as provided in this Section.
9. For purposes of this Section, "client" means the client at the time services were rendered by the licensed veterinarian.

COMMENTARY TO SECTION 19—This section reflects the ethical obligation of veterinarians and their employees to consider information from clients and veterinary medical records privileged and confidential. This section recognizes that an important objective of the veterinarian-client-patient relationship is to encourage clients to provide the fullest extent of information possible to the veterinarian so that a reasonable determination might be made about an animal's condition. Section 19 in the MVPA is modeled after statutes in Georgia, Kansas, Illinois, Missouri, Oklahoma, and Texas.

As stated in this Section 19, information and records related to patient care should remain confidential except under certain well-defined exceptions. The AVMA also encourages each state board to be familiar with other open-records laws (eg, laws relating to the Freedom of Information Act) at the federal and state level that must be taken into consideration. It should also be noted that subsection 1 refers to "waiver by the licensed veterinarian's client." Such waiver includes written documentation of a client's verbal consent.

States with veterinary colleges are encouraged to specify that the confidentiality protections and exceptions apply to veterinarian faculty members even if they are not licensed in the state.

Exceptions were added in 2012 for disclosure to third parties providing services; information within the veterinarian's practice for purposes of treatment, payment or veterinary care operations; and research purposes under certain circumstances. Language was added to clarify that "appropriate court order or subpoena" means for information or veterinary records specifically exempted or deemed waived as provided in this section. Subsection 9 was added to clarify that "client" means client at the time services were rendered by the licensed veterinarian.

Section 20 – Immunity from Liability

Any member of the Board, any witness testifying in a proceeding or hearing authorized under this Act, any person who lodges a complaint pursuant to this Act, and any person reporting an impaired licensed veterinarian or credentialed veterinary technician shall be immune from liability in any civil or criminal action brought against him or her for any action occurring while acting in his or her capacity as a Board member, witness, complainant, or reporting party, if such person was acting in good faith within the scope of his or her respective capacity.

COMMENTARY TO SECTION 20—This section was included to encourage members of the public (including veterinarians) to report, in good faith, any licensed veterinarian or credentialed veterinary technician whose conduct or status may have violated the provisions of the practice act. It is also intended to promote and facilitate full, fair, and truthful disclosure to the Board and allow the Board to make good faith decisions thereon. Any member of the Board, any witness or complainant, and any reporting party who acts in bad faith would not be protected under the provisions of this section.

Section 21 – Cruelty to Animals – Immunity for Reporting

Any veterinarian or veterinary technician licensed or credentialed in the State who reports, in good faith and in the normal course of business, a suspected incident of animal cruelty, as described by law, to the proper authorities shall be immune from liability in any civil or criminal action brought against such veterinarian or veterinary technician for reporting such incident.

COMMENTARY TO SECTION 21—This section was inserted to encourage veterinarians to report animal abuse to the appropriate authorities by providing immunity to the reporting veterinarian. The AVMA recognizes that veterinarians may observe cases of animal abuse or neglect as defined by federal or state laws or local ordinances. The AVMA considers it the responsibility of the veterinarian to report such cases to appropriate authorities. Disclosure may be necessary to protect the health and welfare of animals and people. Veterinarians should be aware that accurate record keeping and documentation of these cases are invaluable. Any veterinarian who acts in bad faith would not be protected under the provisions of this section.

In 2012, this section was revised to provide credentialed veterinary technicians reporting under this section similar protection from liability.

Section 22 – Abandoned Animal

1. Any animal placed in the custody of a licensed veterinarian for treatment, boarding or other care, which is not retrieved by the client within ten calendar days after written notice is sent by certified mail, registered mail, postage pre-paid return receipt requested, or courier with confirmation of receipt to the client at the client's last known address shall be deemed to be abandoned. Such abandoned animal may be turned over to a humane society or animal shelter, adopted, otherwise disposed of, or destroyed by the licensed veterinarian in a humane manner.
 2. If notice is sent pursuant to subsection 1 of this Section, the licensed veterinarian responsible for such abandoned animal is relieved of any further liability for disposal. If a licensed veterinarian follows the procedures of this Section, the veterinarian shall not be subject to disciplinary action under Section 14 of this Act, unless such licensed veterinarian fails to provide the proper notification to the client.
 3. The disposal of an abandoned animal shall not relieve the client of any financial obligation incurred for treatment, boarding, or other care provided by the licensed veterinarian.
-

COMMENTARY TO SECTION 22— This section was inserted to encourage responsible animal ownership and to provide a standardized procedure for veterinarians to address animals that may have been abandoned by a client. Section 22 is modeled after a Missouri statute, and many states have adopted the same or similar abandoned animal

Section 23 – Enforcement

1. Any person who practices veterinary medicine or veterinary technology without a valid license, temporary permit, or credential issued by the Board shall be guilty of a criminal offense and upon conviction for each violation shall be fined [an appropriate amount of money according to the Board or the laws of the State] or imprisoned [an appropriate amount of time according to the Board or the laws of the State], provided that each act of such unlawful practice shall constitute a distinct and separate offense.
2. Any person not licensed or credentialed under this Act is considered to have violated this Act and may be subject to all the penalties provided for such violations if that person:
 - a. Performs any of the functions described as the practice of veterinary medicine or veterinary technology as defined in this Act, or
 - b. Represents, directly or indirectly, publicly or privately, an ability and willingness to perform any of the functions described as the practice of veterinary medicine or veterinary technology as defined in this Act, or
 - c. Uses any title, words, abbreviation, or letters in a manner or under circumstances that induces the belief that the person using them is qualified to perform any of the functions described as the practice of veterinary medicine or veterinary technology as defined in this Act.
3. The Board may bring an action to enjoin any person from practicing veterinary medicine or veterinary technology without a currently valid license, temporary permit, or credential issued by the Board. If the court finds that the person is violating or is threatening to violate this Act, it shall enter an injunction restraining him or her from such unlawful acts.
4. Notwithstanding other provisions of this Act, the Board may take immediate action if there is an imminent threat to the health, safety, or welfare of the public. The Board shall find that this action is necessary for the protection of the public and necessary to effectively enforce this Act. If the Board takes immediate action pursuant to this subsection 4, efforts shall be made as soon as possible to proceed in accordance with a hearing pursuant to Section 16 of this Act.
5. In addition to any other penalty or remedy provided by law, the Board shall have the authority to implement a system of Cite and Fine procedures for licensed and non-licensed persons who violate the State Veterinary Practice Act. The Board may also impose a civil penalty, upon conviction, for each separate violation. This civil penalty shall be in an amount not to exceed [dollar amount] for each violation and shall be assessed by the Board in accordance with the provisions set forth in Section 16 of this Act.
6. The success or failure of an action based on any one of the remedies set forth in this Section shall in no way prejudice the prosecution of an action based on any other of the remedies.

COMMENTARY TO SECTION 23—Under this section, any licensed or nonlicensed person, veterinarian or non-veterinarian, who engages in the unlawful practice of veterinary medicine may have criminal action brought against him or her. The person may be fined or imprisoned. Each act of unlawful practice constitutes a separate crime.

Subsection 5 indicates that the Board is authorized to implement a system of Cite and Fine procedures and to impose civil penalties for licensed and nonlicensed persons who violate the state veterinary practice act. The Board, in accordance with laws of each state, would establish these procedures, including the amount of the fines or the time of imprisonment.

Subsection 6 indicates that all of the remedies set forth in this section are available in any case and that enforcement of this act through one remedy does not prevent the use of other remedies.

In 2012, several subsections were revised to emphasize that the enforcement provisions are applicable to veterinary technology as well as veterinary medicine.

Section 24 – Severability

If any part of this Act is held invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid part remain in effect.

COMMENTARY TO SECTION 24—This section simply provides that if any part of the act should be found invalid, this finding of invalidity shall not affect any portion of the act found valid.

Section 25 – Effective Date

This Act shall become effective on 1, 20_. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

COMMENTARY TO SECTION 25—This section sets out the effective date of the act and provides for the handling of matters during the transition to the new procedure. The Board should also recognize that obsolete laws or laws superseded by changes to the act must first be repealed.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Taylor Thompson, Bureau Assistant on behalf of Tom Ryan, Executive Director		2) Date When Request Submitted: 1/30/15 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Veterinary Examining Board			
4) Meeting Date: 4/29/15	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Practice Act Model - AAVSB	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
Taylor Thompson		1/30/15	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

AMERICAN ASSOCIATION OF
VETERINARY STATE BOARDS

**Veterinary Medicine and Veterinary
Technology Practice Act Model
with Comments**

Veterinary Medicine Practice Act Model with Comments created 2001

Latest revisions in 2014

380 West 22nd Street
Suite 101
Kansas City, MO 64108



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Introduction

The American Association of Veterinary State Boards (AAVSB) is a not-for-profit, 501(c)(3) association comprised of 59 veterinary licensing boards from the United States, six provinces in Canada, the U.S. Virgin Islands and Puerto Rico. The AAVSB is committed to serving these veterinary regulatory agencies (its Member Boards) by providing quality, relevant programs and services they can rely on to carry out their statutory responsibilities in the interest of public protection.

The AAVSB Member Boards have direct input and formally set policy and direction for the AAVSB by submitting nominations, Bylaws amendments and resolutions, and appointing a Delegate from their jurisdiction to attend the annual Delegate Assembly. Voting delegates elect the AAVSB Board of Directors and vote on important matters at the annual Delegate Assembly. The AAVSB Board of Directors is responsible for governing the association and fulfilling the mission and strategic priorities of the organization.

The American Association of Veterinary State Boards (AAVSB) is pleased to present the AAVSB Veterinary Medicine and Veterinary Technology Practice Act Model. At the 2000 AAVSB annual meeting in Salt Lake City, the AAVSB Member Boards were presented with a “generic” model practice act for comment and discussion. After receiving several constructive comments, and based upon the will of the membership, the AAVSB Executive Committee convened a Model Act Task Force. The Task Force was convened in July 2000 and met twelve times between September 2000 and June 2001. During its meetings, Task Force members argued passionately their points of view and studied research, information, and other regulatory schemes. Such healthy debate led to the draft, which was disseminated for comment on March 7, 2001. The AAVSB endeavored to disseminate its draft Model Act to all interested organizations. To this end, it was also posted on the the AAVSB web site to provide access to the entire public. Comments were received from over fifty organizations and individuals from across the country. All comments were extensively reviewed by the Model Act Task Force in subsequent meetings from the public protection perspective. Where appropriate, constructive comments resulted in modifications to the act and/or commentary.

In July 2001, the Delegates to the AAVSB Delegate Assembly in Boston approved the Veterinary Practice Act Model as a resource document available for use by Member Boards. Because it is a “living document”, the Assembly also directed the Practice Act Model Task Force to continue their work by adding statutory language regarding the regulation of veterinary technicians.

The purpose of the AAVSB Practice Act Model is to provide a resource to its Member Boards, many of which regulate the practice of veterinary technology as well as veterinary medicine. This document reflects a national perspective and was developed by the AAVSB consistent with its public protection mission. The AAVSB Practice Act Model reflects the most current thinking on professional regulation. An additional goal is to facilitate greater standardization of terminology and regulation

among jurisdictions. It is hoped that such uniformity will begin to allow jurisdictions to provide for increased public protection through effective regulation as well as facilitating mobility of veterinary professionals from jurisdiction to jurisdiction through the licensure process. Such developments are advantageous to the public by clarifying the role of veterinary medical regulatory boards while creating valid and accurate expectations for veterinary medical services. Increased mobility will also provide the public with greater access to qualified veterinarians to perform important services.

The AAVSB Practice Act Model was not drafted to protect professional territory or to define or secure specific job descriptions for veterinarians or veterinary technicians. While professional promotion may be an important activity of professional associations, societies, and other professional veterinary medicine membership groups, the sole concern of the AAVSB Practice Act Model is the protection of the public.

From the perspective of the Practice Act Model Task Force, and as reflected by the comments, the most challenging issues included the scope of practice, exemptions from licensure, board powers and responsibilities, the title protection of the term “veterinarian”, and mandatory reporting. Several additional comments also addressed other aspects of the Practice Act Model. While the Practice Act Model commentary contains explanations for most of the issues raised by individuals and entities who provided written comments to the original document, certain challenging issues are worthy of discussion in this Introduction. It is also worth noting that virtually the entire AAVSB Practice Act Model is law at least in part in one or more jurisdictions. Thus, the Model is not a departure from what already exists in several jurisdictions.

First, the Scope of Practice is probably one of the most important clauses within the legislation. Accordingly, it was extensively discussed by the Task Force and also was the subject of comments as well. The AAVSB is of the opinion that section 104 of the Practice Act Model reflects an appropriate reference to both generalities and the specifics of the practice of veterinary medicine. The AAVSB believes that the broadness and flexibility within the definitions of the practices of veterinary medicine are necessary in order to most effectively protect the public. Similarly, section 105 reflects an appropriate reference to tasks which may be performed by a veterinary technician under the supervision of a licensed veterinarian.

Also subject to various comments were the Exemptions contained in section 106. These exemptions have been redefined as “Special Provisions” in the 2014 revision to recognize that such activities fall within the scope of practice but do not require licensure, rather than attempting to exempt them or formulate the scope of practice to not include such activities. The commentary to sections 106 and 107 further address these issues.

The Powers and Responsibilities as set forth in section 213 were the subject of rigorous review and comments. Specifically, section 213 (a)(5) grants authority to the board to determine the standards for recognition and approval of degree programs of schools and colleges of veterinary medicine and veterinary technology for purposes of determining licensure eligibility. As has been addressed in the

commentary to this particular section, the AAVSB respects the 10th Amendment of the United States Constitution which bestows upon the states the authority to provide regulation within their borders. Furthermore, the AAVSB also recognizes the legal doctrine of improper delegation, which prohibits the legislatures and boards from delegating to outside private entities their authority to determine criteria necessary for licensure as a veterinarian. The AAVSB believes that such decision-making must be maintained by the regulatory board, through the legislative process, based upon its accountability to the public and public protection mission. Delegation analysis involves constitutional principles and prohibits unequivocal reliance in licensure decision-making upon outside private entities that are not accountable to the public and over whom the legislature and regulatory board have no rights of participation. Again, this concept is fully discussed in the commentary to section 213 (a)(5). Furthermore, a similar legal analysis applies to sections 302 (a)(4) and (5) and 302 (b)(4) and (5) Qualifications for Licensure by Examination, as well as section 303, Educational Equivalence, and section 304, Examinations.

Regarding the protection of the title “Veterinarian” and “Veterinary Technician,” the AAVSB believes that the use of such terms should be limited to those legally able to practice veterinary medicine and veterinary technology. This position is not only consistent with federal law but also provides the maximum public protection by minimizing the misconceptions of the consumers over individuals who are and are not able to practice veterinary medicine. Additionally, several states already limit the use of the term veterinarian to only licensees; however, since not all states regulate veterinary technicians, the term may not always be protected. The AAVSB believes that an administrative enforcement mechanism must be vested in the regulatory board in order to best protect the public. The AAVSB also believes that limiting enforcement of protecting the title “veterinarian” through the civil sector (after harm has occurred) or through the District Attorney’s office (if criminal statutes are implicated) does not satisfactorily protect the public. Again, interested parties are encouraged to read the comments to section 301 (b), Unlawful Practice.

The AAVSB intends that the Practice Act Model provide a basis for information on the regulation of veterinary medicine and veterinary technology. Consistent with other regulatory schemes, the Practice Act Model does not contain specific references to the administrative procedures used in the disciplinary process. Each jurisdiction has an Administrative Procedures Act that addresses the “due process” rights to which licensees are entitled in the administrative investigative and disciplinary processes. Also, the federal and state constitutions address the procedural rights bestowed upon licensees. To avoid inconsistencies with such other laws and regulations, the AAVSB has not addressed these specific rights in the Practice Act Model.

Although the AAVSB Practice Act Model includes language authorizing a board to regulate veterinary facilities, it does not have recommended standards of practice for facilities. Many jurisdictions currently regulate facilities, so this area of concern to the legislatures and boards is one that the AAVSB has begun to address in section 311 in the 2014 revisions.

The AAVSB Practice Act Model was developed and is available to the AAVSB Member Boards as a resource containing contemporary language regarding the regulation of veterinary medicine and

veterinary technology. It was drafted to withstand legal scrutiny and provide maximum public protection. While distancing itself from undue influence from professional associations to avoid legal and practical allegations of the “profession protecting its own,” the AAVSB welcomes input from these organizations, their state chapters, individual practitioners, academia, and others in formulating this document. The association appreciates all those who provided constructive comments to the original document. It is important to note the AAVSB Practice Act Model is a fluid document which will always be subject to modifications and, thus, can never be “final.” The AAVSB looks forward to continued dialogue on its Practice Act Model whereby Member 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.

The AAVSB invites comments from all interested persons on the revised and retitled Veterinary Medicine and Veterinary Technology Practice Act Model. Like the original, it has been formatted to include the Model legislation in the left-hand column with corresponding commentary in the right-hand column. In an attempt to provide the rationale and thought processes behind several portions of the Practice Act Model, readers are encouraged to read the commentary as well as the Act to receive a complete perspective.

Acknowledgments

The American Association of Veterinary State Boards is very grateful to Dr. Lila Miller, chair of the original Practice Act Model Task Force and to Marilyn Cute, LVT, Barbara Pinker, CAHT, Georgianne Ludwig, DVM, Bob Gillespie, DVM, and Joe Gordon, DVM, subsequent Task Force members and consultants who worked so hard and devoted so much time to developing the AAVSB Veterinary Medicine and Veterinary Technology Practice Act Model.

The AAVSB would also like to thank the veterinary regulatory boards, professional organizations, and individuals who took the time to review and comment on this original model during its creation and hopes that many will comment on this draft. Input from these groups is an extremely important part in the development of this document.

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

Article I

Title, Purpose, and Definitions

Model Law**Comments****Article I. Title, Purpose, and Definitions**

An ACT concerning the regulation of the practices of veterinary medicine and veterinary technology.

Be it enacted...

Section 101. Title of Act

This Act shall be known as the “(Name of State) Veterinary Medicine and Veterinary Technology Practice Act.”

Section 102. Legislative Declaration

The practices of veterinary medicine and veterinary technology in the state 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 Persons be permitted to engage in the practice of veterinary medicine or veterinary technology in the state of _____. This Act shall be liberally construed to carry out these objectives and purposes.

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 state 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 102. Legislative Declaration

Veterinary medicine and veterinary technology are learned professions affecting public health and welfare and should be declared as such by the legislature.

Model Law**Comments****Section 103. Statement of Purpose**

- (a) It is the purpose of this Act to promote, preserve, and protect the public health, safety, and welfare by and through the effective control and regulation of Persons, residing in or out of the state who practice veterinary medicine or veterinary technology within this state.
- (b) (1) The purpose of this Act is to fully occupy the field of veterinary medicine and provide a uniform state-wide regulatory scheme to be enforced by the Board of Veterinary Medicine as defined in the scope of practice. As such, no city or county shall prohibit a Veterinarian, as defined, from engaging in any act or performing any procedure that falls within the professionally recognized scope of practice of licensure as a Veterinarian, including but not limited to the scope of practice set forth in this Act.
- (2) Nothing in this section 103(b) shall prohibit any city or county from:
- (i) levying a business license tax solely for revenue purpose, or
- (ii) levying a license tax solely for the purpose of covering the cost of regulation.

Section 103. Statement of Purpose

The Statement of Purpose defines the general scope of the veterinary medicine and veterinary technology Practice Act. A Board must have full knowledge of the Persons practicing veterinary medicine and veterinary technology within its Jurisdiction, and must effectively protect the public through regulation. This section provides for the regulation of both practices and the licensure of Veterinarians and Veterinary Technicians engaged in these practices, and also stipulates that the regulation of the practices of veterinary medicine and veterinary technology extends to all Veterinarians and Veterinary Technicians practicing in the state, regardless of their actual state of residency.

Model Law**Comments****Section 104. Practice of Veterinary Medicine**

The Practice of Veterinary Medicine means:

Any Person practices veterinary medicine with respect to Animals when such Person performs any one or more of the following:

- (a) Directly or indirectly consults, diagnoses, prognoses, corrects, supervises, or recommends treatment of an Animal, for the prevention, cure or relief of a wound, fracture, bodily injury, disease, physical or mental condition;
- (b) Prescribes, dispenses or administers a drug, medicine, biologic, appliance, application or treatment of whatever nature;
- (c) Performs upon an Animal a surgical or dental operation or a Complementary or Alternative Veterinary Medical procedure;
- (d) Performs upon an Animal any manual procedure for the diagnosis and/or treatment of pregnancy, sterility, or infertility;
- (e) Determines the health, fitness, or soundness of an Animal;
- (f) Represents oneself directly or indirectly, as engaging in the practice of veterinary medicine; or
- (g) Uses any words, letters or titles under such circumstance as to induce the belief that the Person using them is qualified to engage in the practice of veterinary medicine, as defined. Such use shall be prima facie evidence of the intention to represent oneself as engaged in the practice of veterinary medicine.

Section 104. Practice of Veterinary Medicine

The definition of the practice of veterinary medicine is one of the most important – and most-discussed – clauses in the AAVSB Veterinary Medicine and Veterinary Technology Practice Act Model. Veterinary Medicine is a dynamic profession, particularly over the past several years, and any definition of practice needs to contain a degree of flexibility that will allow the Board to make necessary adjustments from time to time to meet a changing veterinary medicine environment, an evolving practice, and the ongoing needs of consumers. The definition in Section 104 is purposely broad in order to provide substantial latitude to the Board in the adoption and implementation of rules. However, the definition does specifically identify a range of acceptable activities. The rules process would function as an important tool in the Board's efforts to adapt the definition to the needs of its state, since any new or amended rules that the Board may implement would be promulgated within the requirements of the state's Administrative Procedures Act, and would afford all interested parties an opportunity to provide review and comment.

Model Law**Comments****Section 105. Practice of Veterinary Technology**

The Practice of Veterinary Technology means:

Any Person practices veterinary technology with respect to Animals when such Person performs any one or more of the following:

- (a) Provides professional medical care, monitors and treats Animals, under supervision of a Veterinarian;
- (b) Represents oneself directly or indirectly, as engaging in the practice of veterinary technology; or
- (c) Uses any words, letters or titles under such circumstance as to induce the belief that the Person using them is qualified to engage in the practice of veterinary technology, as defined. 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 adopt 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.

Section 106. Special Provisions (formerly Exempt Persons or Activities)

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

- (a) Any veterinary medical officer serving in the United States armed forces or in the federal or

Section 105. Practice of Veterinary Technology

See comment to Section 107 (z) regarding the protection of the title and the licensed profession.

Section 106. Special Provisions (formerly Exempt Persons or Activities)

The AAVSB recognizes that some states 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

Model Law**Comments****Section 106. Cont'd.**

state government performing veterinary medical services within the scope of official duties, provided such veterinary medical services are limited to the period of their military service;

- (b) Any Animal care specialist serving in the United States armed forces or in the federal or state government performing veterinary technology services within the scope of official duties, provided such veterinary technology services are limited to the period of their military service;
- (c) Any Person offering gratuitous services in cases of emergency;
- (d) Any veterinarian who is licensed in another Jurisdiction or country, or any Person whose expertise, in the opinion of the Veterinarian licensed in this state, would benefit an Animal, and who is consulting with a Veterinarian licensed in this state provided such service is limited to such Consultation;
- (e) Any Person in this state other than a Veterinarian whose expertise, in the opinion of a veterinarian licensed in another Jurisdiction or country, would benefit an Animal, and who is consulting with such Veterinarian provided such service is limited to such Consultation;
- (f) Any intern or resident who practices veterinary medicine in an Approved Veterinary Medical Program and who is a graduate of an Approved Veterinary Medical Program in any Jurisdiction or country, provided such practice is limited to such duties as intern or resident and is under the Direct Supervision of a Veterinarian or faculty under Section 106(11);
- (g) Any student enrolled and in good standing in an Approved Veterinary Medical Program who engages in practice at a veterinary teaching hospital or under the Direct Supervision of a Veterinarian under this article; provided however, that only such students who have completed at least _____ [time period

Section 106. Cont'd.

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 particular 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 engage in practice at a veterinary teaching hospital or under the 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 states should determine the requisite time period which can be reflected in hours, percentages or years. Similarly, states should determine the appropriate prerequisites to be completed before veterinary technology students are permitted to engage in the practice of veterinary technology.

As drafted, the special provision is intended to restrict 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 licensure of faculty who teach clinical curriculum. Others require faculty licenses or institutional licenses. The AAVSB feels strongly that veterinary medicine faculty involved in direct, clinical relationships with the public and its Animals are engaged in practice and, thus, should be licensed, particularly when a Veterinarian-Client-Patient Relationship exists.

Through the Practice Act Model comment process, however, concerns were voiced regarding the practical implications such a licensure requirement would have on the education, recruitment of faculty and the

Model Law**Comments****Section 106. Cont'd.**

may be reflected in course hours, percentage of completion of curriculum or years] in an Approved Veterinary Medical Program may assist in diagnosis, prognosis, treatment and surgery in such practice, subject to the following limitations:

- 1) assistance in diagnosis and surgery must be under the Immediate Supervision of such Veterinarian; and
 - 2) assistance in treatment must be under the Indirect Supervision of such Veterinarian;
- (h) Any student enrolled and in good standing in an Approved Veterinary Technology Program approved by the Board who engages in the practice of veterinary technology in pursuance of the required experience component of the program under Direct Supervision of a Veterinarian or at a veterinary teaching hospital under Direct Supervision of veterinary faculty;
- (i) An Animal Shelter employee or volunteer who provides care and performs euthanasia for the shelter's Animals in the course and scope of the Person's employment or duties if the Person has successfully completed training acceptable to the Board and is acting under the Direct or Indirect Supervision of a Veterinarian or in accordance with the written guidelines of a Veterinarian. Such Persons shall not diagnose, prognose, prescribe or perform surgery;
- (j) Any Persons engaged in bona fide scientific research that reasonably requires experimentation involving Animals and is conducted in a facility or with a company that complies with federal regulations regarding Animal welfare;
- (k) Any Person or that Person's employee, who treats Animals belonging to that Person, providing that ownership is not transferred for the purpose of circumventing this Act;

Section 106. Cont'd.

undertaking of research and other important projects related to the educational process. In recognition of the practical implications such a requirement might have on educational institutions, the AAVSB Practice Act Model, provides a faculty license to provide for public protection, see Section 306.

To protect the public and to prevent Persons from circumventing the licensure requirements, the faculty license is limited to recognized faculty members who teach courses in Approved Veterinary Medical Programs.

A special provision is granted in the model statute to Animal Shelter employees who provide care and perform euthanasias. The Task Force acknowledges that many Jurisdictions have adopted more specific language requiring that shelter Animals be euthanized by certified euthanasia technicians when a Veterinarian or Veterinary Technician is not available.

A variety of certification methods have emerged through the rules process. To train euthanasia technicians, some Boards have established guidelines to certify euthanasia technicians whereas other Boards have little involvement.

Shelters, private and government agencies often respond to disasters and large scale cruelty such as dog fighting and puppy mill cases by setting up temporary shelters to provide care and shelter for rescued victims. In disaster cases, the Animals needing care and shelter often number well into the hundreds. In order to provide appropriate care for these Animals, it may be necessary to recruit Veterinarians from outside the state. In cruelty cases, law enforcement often depends upon assistance from Veterinarians with expertise in forensics, diagnosing, prognosing and treating Animal in large scale cruelty and fighting cases. They should not be limited in their ability to effectively enforce state criminal laws or render needed veterinary care due to jurisdictional constraints on veterinary practice.

Model Law**Comments****Section 106. Cont'd.**

- (l) 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;
- (m) 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 or Veterinary Technology Program or in connection with an Approved Program of Continuing Education.

Section 106. Cont'd.

There needs to be a special provision that would allow them to practice temporarily in response to a call from a government, law enforcement or Animal protection agency that does not require a written Examination or other qualifications.

Model Law**Comments****Section 107. Definitions**

When used in this Act, these words and phrases shall be 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, Animal Shelter, society for the prevention of cruelty to Animals, Animal protection or control agency, rescue group, etc, that provides shelter and care for homeless Animals.
- (c) **Approved Provider of Continuing Education** means any Person, professional association, university or college, corporation or other entity 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.
- (d) **Approved Program of Continuing Education** means an educational program approved by the Board or offered by an Approved Provider of Continuing Education.
- (e) **Approved Veterinary Medical Program** means a school of veterinary medicine or a veterinary medical education program that has been approved by the Board.
- (f) **Approved Veterinary Technology Program** means a school of veterinary technology or a veterinary technology education program that has been approved by the Board.
- (g) **Board of Veterinary Medicine** means the Board of Veterinary Medicine created under this Act.
- (h) **Client** means an entity, Person, group or corporation that has entered into an agreement with

Section 107. Definitions

The Practices of Veterinary Medicine and Veterinary Technology are defined in Sections 104 and 105.

Section 107(c) and (d). Approved Provider and Approved Program of Continuing Education.

See comment to Section 213(a) regarding Board's role in the approval process of programs and providers.

Section 107(g). Board of Veterinary Medicine

Some Jurisdictions may select the title, Board of Veterinary Medicine and Veterinary Technology.

Model Law**Comments****Section 107. Cont'd.**

a Veterinarian for the purposes of obtaining veterinary medical services.

- (i) **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.
- (j) **Consultation** means when a Veterinarian receives advice or assistance in Person, telephonically, electronically, or by any other method of communication, from a veterinarian or other Person whose expertise, in the opinion of the Veterinarian, would benefit an Animal. Under any circumstance, the responsibility for the welfare of the Animal remains with the Veterinarian receiving Consultation.
- (k) **Continuing Education** means training which is designed to assure continued competence in the practice of veterinary medicine or veterinary technology.
- (l) **Continuing Education Contact Hour** means a fifty (50) minute clock hour of instruction, not including breaks or meals.
- (m) **Conviction** means Conviction of a crime by a court of competent jurisdiction and shall include a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered on admission of guilt, a no consent plea, a plea of nolo contendere, or a guilty plea.

Section 107. Cont'd.

Model Law**Comments****Section 107. Cont'd.**

- (n) **Examination** means an Examination approved by the Board.
- (o) **Felony** means a criminal act as defined by this state or any other state or by definition under federal law.
- (p) **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 has provided the Client with an estimate of the charges for veterinary services to be rendered and the Client has consented to the recommended treatment.
- (q) **Jurisdiction** means any commonwealth, state, or territory, including the District of Columbia, of the United States of America, or any province of Canada.
- (r) **Licensee** means a Person duly licensed under this Act.
- (s) **Licensure Transfer** means the method whereby a veterinarian or a veterinary technician currently licensed in another Jurisdiction can also become licensed as a Veterinarian or Veterinary Technician in this Jurisdiction.
- (t) **Person** means any individual, firm, partnership, association, joint venture, cooperative, corporation, 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.
- (u) **Premises** means any place where the animal is located and where veterinary medicine is

Section 107. Cont'd.**Section 107(s). Licensure Transfer**

The phrase "Licensure Transfer" is intended to provide a mechanism for a licensee from another Jurisdiction to also become licensed in the model state through a process which recognizes certain already established qualifications.

The AAVSB has elected to use "Licensure Transfer" rather than Licensure by Endorsement or Reciprocity because of the confusion existing in regulation between such terms. "Licensure Transfer" is intended to allow for the possession of multiple licenses.

Model Law**Comments****Section 107. Cont'd.**

being practiced.

(v) **Supervision**-related terms are defined as follows:

(1) **Supervising Veterinarian** means a Veterinarian who assumes responsibility for the professional veterinary care given to an Animal by a Person working under his or her direction. The Supervising Veterinarian must have examined the Animal at such time as acceptable veterinary medical practice requires consistent with the particular delegated Animal healthcare task.

(2) **Immediate Supervision** means the Supervising Veterinarian is in the immediate area and within audible and visual range of the Animal patient and the Person treating the patient.

(3) **Direct Supervision** means the Supervising Veterinarian is on the premises where the Animal is being treated and is quickly and easily available.

(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 Animal.

(w) **Veterinarian** means an individual who is duly licensed to practice veterinary medicine under the provisions of this Act.

(x) **Veterinarian Manager** is a Veterinarian who registers to assume responsibility for the management and operation of a veterinary facility.

Section 107. Cont'd.**Section 107(v)(3). Direct Supervision**

Boards may want to define “premises” to include ranches, racetracks, farms or other venues in which veterinary care may be provided.

Section 107(v)(4). Indirect Supervision

The AAVSB contemplates that this definition of Indirect Supervision includes and incorporates the technological advancements and the ability of Persons to communicate through electronic and other means as a form of supervision. Of course, such supervision must maintain the necessary “contacts” to be as effective as the Veterinarian deems appropriate, using professional judgment.

Section 107 (w). 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 a Person who is duly licensed under the

Model Law**Comments****Section 107. Cont'd.**

- (y) **Veterinary Facility** means any place or mobile unit from which the Practice of Veterinary Medicine is conducted.

Section 107 (w). Veterinarian. Cont'd.

provisions of the Act. The AAVSB also strongly believes that limiting the use of the title Veterinarian to individuals able to perform veterinary services better protects the public. Not only is this position consistent with many Jurisdictions which also limit the use of the title Veterinarian to Licensees, such is also consistent with most professions. Currently, at least thirteen states have a similar definition of Veterinarian. 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 trades practices or other applicable remedies. The AAVSB determined this approach does not adequately protect the public as the state lacks 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 107(y). Veterinary Facility

“Veterinary Facility” is defined with the intention that Jurisdictions license or otherwise register facilities or issue facility permits as a mechanism for protecting the public, especially when such facilities are owned by non-veterinarians, see Section 311. Regulatory Boards can thereafter establish standards and monitor qualifications of such facilities. Indeed, at least thirty-one Jurisdictions in veterinary medicine already provide for such regulation. It is the intention of the AAVSB to continue to develop this important area of regulation by formulating the model standards by which such facilities will be recognized.

Model Law**Comments****Section 107. Cont'd.****Section 107(y). Veterinary Facility, Cont'd.**

The AAVSB recommends that regulatory Boards consider delineating the various specific Veterinary Facilities within its *rules*. Differing facilities can be defined within the rules which can identify minimum standards and the allowable practices in an effort to insure public protection. The AAVSB initially identified the following categories of Veterinary Facilities:

- (1) Veterinary or Animal hospital or clinic means a facility that meets or exceeds all physical requirements and minimum standards as established by Board rule for Veterinary Facilities; provides examination, diagnostic and health maintenance services for medical and surgical treatment of Animals and is equipped to provide housing and nursing care for Animals during illness or convalescence.
- (2) Specialty practice or clinic means a facility that provides complete specialty service by a Veterinarian who has advanced training in a specialty and is a diplomate of an approved specialty board. A specialty practice or clinic shall meet all minimum standards which are applicable to a specialty as established by Board rule.
- (3) Central hospital means a facility that meets all requirements of a veterinary or Animal hospital or clinic as defined in paragraph (1) of this subdivision and other requirements as established by Board rule, and which provides specialized care, including but not limited to the availability of nursing care during specified hours and specialty Consultation on a permanent or on-call basis. A central hospital shall be utilized primarily on referral from area veterinary hospitals or clinics.

The AAVSB recognizes the different references to emergency facilities/central hospitals and offers the above definition as a starting point, understanding the numerous variations of requirements within these specific facilities including hours of operation, emergency services provided, on-call basis and referrals.

Model Law**Comments****Section 107. Cont'd.**

- (z) **Veterinarian-Client-Patient Relationship (VCPR)** exists when the Veterinarian has assumed responsibility for making medical judgements regarding the health of the Animal(s) and the need for medical treatment.

Section 107(y). Veterinary Facility, Cont'd.

- (4) Satellite, outpatient, ambulatory clinic means a supportive facility, including but not limited to humane societies, vaccine clinics and limited service clinics, owned by or associated with and having ready access to a full-service veterinary hospital or clinic or a central hospital, providing all mandatory services, including Examination, diagnostic, preventative medicine, and minor surgical services for Animals not requiring confinement or hospitalization, and meeting all physical requirements and minimum standards as established by statute or rule.

Section 107(z). Veterinarian-Client-Patient Relationship (VCPR)

After much consideration, 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 AAVSB carefully reviewed the CFR and determined that the above definition was broad enough to encompass the more specific references in the CFR. Furthermore and respecting the rights of states to regulate within the police powers set forth in the 10th Amendment of the United States Constitution, the AAVSB did not want to bind the states to a federal definition, should the state wish to be more stringent than the federal government. Also, the AAVSB did not want to bind the states 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 in-

Model Law**Comments****Section 107. Cont'd.****Section 107(z). Veterinarian-Client-Patient Relationship (VCPR), Cont'd.**

incorporated in the regulations. This suggested language incorporates the requirements of the CFR.

Due to the importance of the recognition of the establishment of the VCPR, the AAVSB strongly recommends that at least the following attributes of this relationship be recognized in the standards of practice/codes of conduct adopted in the Board rules/regulation, rather than in the definition of the VCPR. When promulgating such rules/regulations at least the following attributes should be incorporated:

- (1) The Veterinarian must have sufficient knowledge of the Animal(s) to initiate at least a general or preliminary diagnosis of the medical condition of the Animal(s). This means that the Veterinarian has seen the Animal(s) within the last year and is personally acquainted with the care of the Animal(s) by virtue of a physical examination of the Animal or by medically appropriate and timely visits to the premises where the Animal is kept;

In cases involving operations with several Animals, such as encountered at farms, laboratories or in shelters, the sufficient knowledge component of the VCPR can be met by:

- (a) examination of health, laboratory or production records;
 - (b) consultations with owners, managers, directors, caretakers or other supervisory staff who oversee the health care management program; or
 - (c) information regarding the local epidemiology of diseases for the appropriate species;
- (2) The Veterinarian has obtained Informed Consent and the Client has agreed to follow the instructions; and

Model Law**Comments****Section 107. Cont'd.****Section 107(z). Veterinarian-Client-Patient Relationship (VCPR), Cont'd.**

- (3) The Veterinarian is readily available or has arranged for emergency coverage or follow-up evaluation in the event of adverse reaction or the failure of the treatment regiment.

It is essential for the VCPR to be easily established in order to require the Veterinarian to assume accountability for the veterinary medical services rendered. Furthermore, as standards of practice and codes of conduct change over time, it is easier to promulgate new rules incorporating such changes rather than adopting legislative modifications.

Section 107. Con't.

(aa) **Veterinary Technician** means an individual who is duly licensed to practice veterinary technology under the provisions of this Act.

Section 107(aa). 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. However, the Practice Act Model Task Force recognizes that states have chosen various methods of regulating veterinary technicians. Some states 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.

Other states have chosen to either not regulate technicians or to use alternative titles such as registered or certified technicians. In all cases, states are strongly encouraged to specify the roles of each designated title (in the rules), recognizing that all veterinary employees must be supervised by a licensed Veterinarian.

Article II

Board of Veterinary Medicine

Model Law**Comments****Article II. Board of Veterinary Medicine****Introductory Comment to Article II****Section 201. Designation**

The responsibility for enforcement of the provisions of this act is hereby vested in the Board of Veterinary Medicine (Board). 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.

Before it can regulate the practice of veterinary medicine or veterinary technology, the state 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 which the AAVSB felt necessary to the proper formation and efficient operation of the Board. Several of these sections, especially those which 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-state monies without having to deposit such funds in state 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 of 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.

Model Law**Comments****Section 202. Membership**

The Board shall consist of _____ members, [at least one (1) of whom shall be a representative of the public, and the remainder] [each] of whom shall be Veterinarians or Veterinary Technicians, who possess the qualifications specified in Section 203. At all times, at least fifty percent (50%) of the members of the Board shall be Veterinarians who are actively engaged in the practice of veterinary medicine in this state.

Section 203. Qualifications

- (a) Board members shall at all times maintain eligibility to serve on the Board by avoiding relationships which would interfere with the Board mission of public protection. Board members must be especially cognizant of issues of conflict of interest.
- (b) Each Veterinarian or Veterinary Technician member of the Board shall at all times as a Board member:
- (1) Be a resident of this state for not less than two years;
 - (2) Be currently licensed and in good standing to engage in the practice of veterinary medicine or veterinary technology in this state; and

Section 202. Membership

The number of Board members should be determined by each individual state according to its particular requirements. Individual states may wish to consider Board composition which represents the diversity of practice types and interests within a state. Variable factors, such as state population, number of Veterinarians, and other local considerations, may all be relevant in determining the number of Board members needed to most effectively enforce the Act. Since the mission of the Board is public protection, the AAVSB strongly recommends that the Board have at least one public member. In the event a state prefers to limit the Board membership to Veterinarians and Veterinary Technicians, the bracketed language pertaining to a public member should be deleted, as should Section 203(c) and the alternative “each” should be selected.

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, state 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 and have at least five (5) years of experience in the practice of veterinary medicine or veterinary technology prior to appointment. Since the practice of veterinary medicine is defined in Section 104 in broad terms, it renders a Veterinarian actively engaged in almost any phase of practice eligible for appointment. This provides for

Model Law**Comments****Section 203(b). Qualifications, Cont'd.**

- (3) Have had at least five (5) years of experience in the practice of veterinary medicine or veterinary technology.
- (c) The public member(s) of the Board shall be a resident of this state who has attained twenty-one (21) years of age and shall not be, nor shall ever have been, a Veterinarian, Veterinary Technician or the immediate family member of a Veterinarian or Veterinary Technician, or a Person who has ever had any material financial interest in the provision of veterinary services or who has engaged in any activity directly related to the veterinary profession.

Section 204. Appointment

The Governor shall appoint the members of the Board in accordance with the provisions of this Article and the state constitution.

Section 205. Terms of Office

- (a) Members of the Board shall be appointed for a term of ___ years, except as provided in subsection (b) and except that members of the Board who are appointed to fill vacancies which occur prior to the expiration of a former member's full term shall serve the unexpired portion of such term.
- (b) The terms of the members of the Board shall be staggered, so that the terms of no more than three (3) members shall expire in any year. Each member shall serve until a qualified successor is appointed.
- (1) The present members of the Board shall serve the balance of their terms.

Section 203(b). Qualifications, Cont'd.

the eligibility of candidates who have divergent backgrounds and experiences and who are knowledgeable in the affairs of the profession and who represent different geographic areas of the state.

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 in order to meaningfully serve on a Board. In order 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.

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.

Model Law**Comments****Section 205. Terms of Office, Cont'd.**

- (2) Any present Board members appointed initially for a term of less than ____ years shall be eligible to serve for two (2) additional full terms.
- (c) No member of the Board shall serve more than two (2) consecutive full terms. The completion of the unexpired portion of a full term shall not constitute a full term for purposes of this section.

Section 206. Vacancies

Any vacancy which occurs in the membership of the Board for any reason, including expiration of term, removal, resignation, death, disability, or disqualification, shall be filled within six (6) months as prescribed by Section 204. Failure to fill a vacancy within the six (6) month period shall divest the Governor of the appointment authority for such vacancy and vest such authority in the state senate.

Section 207. Removal

- (a) A Board member may be removed pursuant to the procedures set forth in subsection (b) herein, 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;

Section 205. Terms of Office, Cont'd.

(2) Any present Board members appointed initially for a term of less than ____ years shall be eligible to serve for two (2) additional full terms.

(c) No member of the Board shall serve more than two (2) consecutive full terms. The completion of the unexpired portion of a full term shall not constitute a full term for purposes of this section.

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) can fill such vacancies. Failure to make such appointments within the six-month period divests the governor of the appointment authority and empowers the Senate in this regard. It is hoped that this time period will provide incentives to the governor to make such appointments in a timely fashion.

Section 207. Removal

In certain Jurisdictions, there may be general statutory provisions that establish the procedures and grounds for the removal of appointed public officials. In these Jurisdictions, disregard Section 207. Specific grounds may be addressed in the regulations, to include failure to attend meetings and any other parameters established by the Board.

Model Law**Comments****Section 207. Removal, Cont'd.**

- (3) A final adjudication by a recognized body including the courts that there has been a 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 state, or other applicable laws.

Section 208. Organization

- (a) The Board shall elect from its members a Chairperson and such other officers as it deems appropriate and necessary to conduct its business. The Chairperson shall preside at all meetings of the Board, shall be responsible for the performance of all of the duties and functions of the Board and shall perform those duties customarily associated with the position and such other duties assigned from time to time by the Board.
- (b) Officers elected by the Board shall serve terms of one (1) year commencing with the day of their election and ending upon election of their successors and shall serve no more than three (3) consecutive full terms in each office to which they are elected.
- (c) The Board shall employ an Executive Director who shall be responsible for the performance of the administrative functions of the Board and such other duties as the Board may direct.

Section 207. Removal, Cont'd.**Section 208(c). Organization**

The AAVSB urges that every Board have a permanent administrative official (Executive Director) to perform and supervise the administrative duties and functions for which the Board is responsible on a day-to-day basis. The responsibilities of the Executive Director should include the hiring of necessary staff to assist in fulfilling the responsibilities of the Board. The position title may vary from Jurisdiction to Jurisdiction.

Model Law**Comments****Section 209. Compensation of Board Members**

Each member of the Board shall receive as compensation the sum of \$_____ per day for each day on which the member is engaged in performance of the official duties of the Board, and shall be reimbursed for all reasonable and necessary expenses incurred in connection with the discharge of such official duties.

Section 210. Meetings

- (a) The Board shall meet at least once every _____ 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 meet at such place as it may from time to time determine. The place for each meeting shall be determined prior to giving notice of such meeting and shall not be changed after such notice is given without adequate prior notice.
- (c) Notice of all meetings of the Board shall be given in the manner and pursuant to requirements prescribed by the Administrative Procedures Act.
- (d) 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.
- (e) 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.

Section 209. Compensation of Board Members**Section 210(a). Meetings**

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

Section 210(e). Meetings

Many states have adopted “sunshine” laws which provide for open meetings. Section 210(e) may not be necessary or may need revision to eliminate or to curtail the use of executive sessions.

Model Law**Comments****Section 211. Employees**

The Board may, in its discretion, employ Persons in addition to the Executive Director in such other positions or capacities as it deems necessary to the proper conduct of Board business and to the fulfillment of the Board's responsibilities as defined by the Act.

Section 212. Rules

The Board shall make, adopt, amend, and repeal such rules as may be deemed necessary by the Board for the proper administration and enforcement of this Act. Such rules shall be promulgated in accordance with the procedures specified in the Administrative Procedures Act.

Section 213. Powers and Responsibilities

- (a) The Board shall be responsible for the control and regulation of the practices of veterinary medicine and veterinary technology in this state including, but not limited to, the following:
- (1) Licensure by Examination, by Licensure Transfer, by temporary or provisional recognition, by issuance of a faculty license, or the renewal of licenses of individuals who are qualified to engage in the practice of veterinary medicine or veterinary technology

Section 211. Employees

Inspectors employed by the Board may be Veterinarians or Veterinary Technicians. Boards may wish to consider whether or not investigators must be Veterinarians.

Section 212. Rules

The legislative authority granted to a Board to adopt, amend and repeal rules is an extremely important power. Boards are encouraged to fully exercise this authority by adopting rules, where necessary, to more specifically address regulatory issues. This rule-making authority is not only beneficial for the protection of the public, but also benefits the Board when it is necessary to interpret the Act. As membership on the Board changes, these rules become increasingly more important in an effort to maintain consistency in the application of the Act. Generally, the rule-making process is governed by an Administrative Procedures Act (APA) or other applicable law which provides for public disclosure and comments prior to promulgation. These processes are designed to provide for public input and the necessary checks and balances upon the regulatory Board. Of course, any action undertaken by the Board must be to enhance the Board authority and public protection.

Section 213(a)(1). Powers and Responsibilities

See Section 107(r) and Section 306 and the corresponding comments for a definition and explanation of "Licensure Transfer."

Model Law**Comments****Section 213. Powers and Responsibilities, Cont'd.**

- under the provisions of this Act;
- (2) Licensure and renewal of licensure or registration 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, and minimum standards and codes of conduct for Licensees engaged in the practice of veterinary medicine or veterinary technology. A *Bill of Rights* may be included concerning the disclosures a Client may expect in regard to the qualifications of the Licensee, Informed Consent, and the provision of veterinary medical services;
 - (5) 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 state;

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

Great care should be exercised by the Boards with respect to these Sections. Many states 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 AVMA. Similarly, with regard to accredited Veterinary Technician programs, many states have statutes or rules which 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 in an attempt 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

Model Law**Comments****Section 213. Powers and Responsibilities, Cont'd.****Section 213. Powers and Responsibilities, Cont'd.**

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 medical 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 medical degree programs and veterinary technology programs. Thereafter, the regulatory Boards can annually adopt in their minutes the list of accredited veterinary medicine programs using the AVMA COE 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.

Section 213(a)(4). Powers and Responsibilities

To avoid improper delegation allegations as referenced above, the standards of practice and codes of conduct should be a product of the Board. Again, the Board may rely upon the expertise of outside private entities by adopting those standards which the Board deems acceptable. The “Bill of Rights” is intended to provide legislative or regulatory guidance to practitioners regarding the information to be made available to Clients/patients during the establishment of the professional relationship. Included would be information regarding the qualifications of Licensees (licensure status, specialty certification), the regulatory Board

Model Law**Comments****Section 213. Powers and Responsibilities, Cont'd.**

- (6) The enforcement of those provisions of the Act relating to the conduct or competence of Licensees practicing in this state, registration of Veterinary Facilities and the suspension, revocation, or restriction of licenses to engage in the practice of veterinary medicine or veterinary technology;
- (7) The Board shall maintain jurisdiction over individuals, 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 individuals 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.

Section 213. Powers and Responsibilities, Cont'd.

and contact information in the event of a complaint, billing policies, Informed Consent and the like. The "Bill of Rights" should be consistent with standards of practice, codes of ethics and regulations that the Board has adopted under the Act to avoid inadvertently expanding the role and the responsibilities of the Licensee through the establishment of such a "Bill of Rights".

Model Law**Comments****Section 213. Powers and Responsibilities, Cont'd.**

- (8) The Board may issue an order directing an applicant or Licensee to undergo a mental or physical examination or chemical dependency evaluation, with probable cause that the applicant or Licensee has engaged in conduct prohibited by this Act or a statute or rule enforced by the Board. For the purpose of this Section, every applicant or Licensee is considered to have consented to undergo a mental and/or physical examination or chemical dependency evaluation when ordered to do so, in writing, by the Board and to have waived all objections to the admissibility of the examiner's or evaluator's testimony or reports on the grounds that the testimony or reports constitute a privileged communication;
- (9) The collection of data necessary to carry out the provisions of this Act;
- (ii) Such funds are expended for the pursuit of the objective for which they are awarded;
- (iii) Activities connected with or occasioned by the expenditures of such funds do not interfere with the performance of the Board's duties and responsibilities and do not conflict with the exercise of the Board's powers as specified by this Act;
- (iv) Such funds are kept in a separate account; and
- (v) Periodic reports are made concerning the Board's receipt and expenditure of such funds.

Section 213(a)(8). Powers and Responsibilities

This section allows a Board to order mental or physical examinations or chemical dependence evaluations upon a showing of probable cause. This power should be used judiciously, only when the Board has reason to believe that there may be a connection between a mental and/or physical condition and the alleged conduct. This power is necessary to ensure to the public that an applicant or Licensee's ability to practice veterinary medicine or veterinary technology safely and competently is not impaired.

Model Law**Comments****Section 213. Powers and Responsibilities, Cont'd.**

- (10) The investigation of any Person or facility, including facility inspection, during customary business hours for the purpose of determining if any provisions of the Act governing the practice of veterinary medicine or veterinary technology are being violated. The Board, its officers, inspectors, and representatives shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to the practice of veterinary medicine or veterinary technology.
- (b) The Board shall have such other duties, powers, and authority as may be necessary to the enforcement of this Act and to the enforcement of duly adopted Board rules which shall include, but are not limited to, the following:
- (1) The Board may join such professional organizations and associations organized exclusively to promote the improvement of the standards of the practices of veterinary medicine and veterinary technology for the protection of the health and welfare of the public and/or whose activities assist and facilitate the work of the Board.
- (2) The Board may receive and expend funds, in addition to its [annual/biennial] appropriation, from parties other than the state, provided:
- (i) Such funds are awarded for the pursuit of a specific objective which the Board is authorized to accomplish by this Act, or which the Board is qualified to accomplish by reason of its jurisdiction or professional expertise;

Section 213. Powers and Responsibilities, Cont'd.

Model Law**Comments****Section 213. Powers and Responsibilities, Cont'd.**

- (3) Any investigation, inquiry, or hearing which 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 State. Any member of the Board, hearing officer, or administrative law judge shall have power to administer oaths to witnesses at any hearing which the Board is authorized to conduct, and any other oaths authorized in any Act administered by the Board

Section 213. Powers and Responsibilities.

The legislative process provides a system of checks and balances to ensure that the Board acts within the scope of its authority and in accordance with all other applicable laws, such as the Administrative Procedures Act.

Model Law**Comments****Section 213. Powers and Responsibilities, Cont'd.**

(6) In addition to the fees specifically provided for herein, 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 duly adopted 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.

(7) Cost Recovery.

(i) In any order issued in resolution of a disciplinary proceeding before the Board, the Board may request the Administrative Law Judge/Hearing Officer (ALJ/HO) to direct any Person or Veterinary Facility found guilty of a charge involving a violation of any laws or rules, to pay to the Board a sum not to exceed the reasonable costs, including attorneys' fees, of the investigation and prosecution of the case.

Section 213. Powers and Responsibilities, Cont'd.**Section 213(b)(7). Cost Recovery**

The ALJ/HO interspersed throughout this section refer to the terms: "administrative law judge," or "hearing officer" as determined by individual states.

Model Law**Comments****Section 213. Powers and Responsibilities, Cont'd.**

(ii) In the case of a Person or Veterinary Facility, the order permissible under (i) above may be made as to the corporate owner, if any, and as to any Veterinarian, manager, officer, owner, or partner of the practice or facility who is found to have had knowledge of or have knowingly participated in one or more of the violations set forth in this section.

(iii) The costs to be assessed shall be fixed by the ALJ/HO and shall not be increased by the Board; where the Board does not adopt a proposed decision and remands the case to a(n) ALJ/HO, the ALJ/HO shall not increase any assessed costs.

(iv) Where an order for recovery of costs is made and timely payment is not made as directed in the Board's decision, the Board may enforce the order for payment in the _____ Court in the county where the administrative hearing was held. This right of enforcement shall be in addition to any other rights the Board may have as to any Person directed to pay costs.

(v) In any action for recovery of costs, the Board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

- (8) Except as otherwise provided to the contrary, the Board shall exercise its duties, powers, and authority in accordance with the Administrative Procedures Act.

Section 213. Powers and Responsibilities, Cont'd.

Article III

Licensing

Article III. Licensing.**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 veterinarian facilities, as well as Licensure Transfer, renewal, and provisional, 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, in the area of 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 and continue 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 states may be affecting the public's access to qualified Licensees.

Section 301. Unlawful Practice.**Section 301. Unlawful Practice.**

- (a) Except as otherwise provided in this Act, it shall be unlawful for any Person to engage in the Practice of Veterinary Medicine or Veterinary Technology, unless duly licensed under the applicable provisions of this Act.

Section 301 establishes the basis for this Article by making it unlawful for any unlicensed Person to engage in the practice of veterinary medicine or veterinary technology, and by enabling the Board to impose penalties for unlawful practice. See Sections 104 and 105 for the definitions of the Practice of Veterinary Medicine and Veterinary Technology.

Boards are often confronted with the issue of preventing unlicensed Persons from engaging in practice. Most practice acts do not give the Board jurisdiction and authority to take action against individuals other than those who are licensed or seeking licensure. Thus, Boards must rely on the difficult task of persuading local prosecutors to take criminal action against Persons not licensed to practice. This gap in jurisdictional

Model Law**Comments****Section 301. Cont'd.**

- (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.

Section 301. Cont'd.

authority makes it difficult to effectively prevent unlawful practice.

This section is intended to empower the Board with jurisdiction over Persons engaged in unlicensed practice. The regulation of the practices of veterinary medicine and veterinary technology, including jurisdiction over unlicensed practice in the professions, has a reasonable and rational relation to public health, safety, and welfare. See, e.g., State v. Wakeen, 57N.W.2d 364 (Wis., 1953). cf. State v. VanKeegan, 113 A.2d141 (Conn., 1955), and Williamson v. Lee Optical of Oklahoma, 348 U.S. 483 (1955). For this reason, vesting power in the Board to regulate illegal practice would not appear to violate constitutional due process requirements. Because monetary fines are not generally considered criminal sanctions, it can be strongly argued that there are no constitutional barriers that would restrict the imposition of fines by a Board. See, e.g., Helvering v. Mitchell, 303 U.S. 376 (1938); City of Waukegan v. Pollution Control Boards, 311 N.E.2d 146 (Ill., 1974); County Council for Montgomery County v. Investors Funding Corp., 312 A.2d 225 (Md., 1973); and Roday v. Hollis, 500 P.2d 97 (Wash., 1972).

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 107(w), defining the term Veterinarian.

Model Law**Comments****Section 301. Cont'd.**

- (c) It shall be unlawful for any Person who is not licensed in this state to provide veterinary medical services from any state to a Client or patient in this state through telephonic, electronic or other means.

Section 301(c). Unlawful Practice.

A license shall be required for any Veterinarian who provides veterinary medical services to a patient or Client in this state 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 state lines, this section is designed to specifically address the issue of where practice takes place. The AAVSB believes veterinary medicine practice takes place where the Client/patient is located when receiving services. Because the Board's central mission is to protect the public in its state, it must make every effort to regulate the practice of veterinary medicine being received in that state, regardless of the location of the Veterinarian providing the services. Arguments can also be made which identify the location of the practice under these circumstances as occurring in both Jurisdictions; that is where the Client/patient is located and where the Veterinarian is located.

Veterinarians in this state may wish to utilize the services of other veterinarians not licensed to practice in this state or other Persons. Consultations are defined in Section 107j, and there are special provisions in section 106, numbers 4 and 5 for Consultations with other veterinarians and Persons. The responsibility for the welfare of the animal remains with the Veterinarian in this state.

Model Law**Comments****Section 301. Cont'd.**

- (d) Any Person who, after a hearing, shall be found by the Board to have unlawfully engaged in the Practice of Veterinary Medicine or Veterinary Technology shall be subject to a fine to be imposed by the Board, not to exceed \$ _____ for each offense, and cost recovery as set forth in this Act. The Board may also seek to issue an order, obtain an injunction or take other administrative, civil or criminal court action against any Licensee or Person to restrain said Persons from violating the provisions of this Veterinary Practice Act. Each such violation of this Act or the rules promulgated hereunder pertaining to unlawfully engaging in the Practice of Veterinary Medicine or Veterinary Technology shall also constitute a _____ (misdemeanor/Felony) punishable upon Conviction as provided in the criminal code of this state.
- (e) Nothing in this Act shall be construed to prevent members of other professions from performing functions for which they are duly licensed. However, such other professionals must not hold themselves out or refer to themselves by any title or description stating or implying that they are licensed or otherwise entitled to engage in the practice of veterinary medicine or veterinary technology.

Section 302. Qualifications for Licensure by Examination.

- (a) To obtain a license to engage in the practice of 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 written application in the form determined by the Board;
 - (2) Attainment of twenty-one (21) years of age;

Section 301(d). Unlawful Practice

It is a common belief that the veterinary practice act allows Boards to take action against Licensees only. However, a survey of the state Boards revealed that about 60% of the Boards are empowered to take action against unlicensed practice. In states without this authorization, whenever non-veterinarians are illegally engaged in veterinary activities, the Board must rely upon the Attorney General or other legal authorities to take action against these individuals. Sadly, in many cases, illegal veterinary practice is seen as a low-level criminal activity that seldom gets a response from law enforcement agencies. Unfortunately, the undertaking of criminal proceedings against unlicensed practice may be beyond the ability of many Boards with limited resources, and if undertaken, caution is advised because the criminal code will come into play and the due process rights granted the accused increase significantly based upon the rights at stake. The Oklahoma Practice Act has language that allows the Board to take more direct action against unlicensed practice. Some Boards may want to adopt this language. The ability to take action against unlicensed practice should be delineated in the actual Practice Act, whereas the administrative process and specific actions to be taken should be outlined in the administrative code.

Model Law**Comments****Section 302. Cont'd.**

- (3) Possession of good moral character;

Section 302(a)(3). Qualifications for Licensure by Examination.

Legislatures have generally agreed that “good moral character” is a proper requirement for licensure of Veterinarians and Veterinary Technicians. Defining precisely what constitutes good or bad character has caused regulatory Boards and courts considerable difficulty, and a review of applicable case law reveals a considerable variance in the judicial opinions concerning the interpretation of good character requirements. Nevertheless, the courts have uniformly enforced such requirements, reasoning that because regulatory Boards are composed primarily of members of the profession being regulated, they are capable of applying character standards to their professions with relevance and specificity.

While specific character requirements may vary from state to state, and may even appear to vary from case to case, the purpose of these requirements remains constant. The public has the right to expect the highest degree of integrity from members of the veterinary medical profession. Boards have a duty to ensure that these expectations are realized. From this perspective, requirements of good moral character for licensure can be expected to be sustained by the courts so long as their enforcement is reasonably related to protection of the public health, safety, and welfare.

When grounded in public protection, issues involving moral character may lead to concerns about the potential for this qualification to be misused by Boards. Although there are many legal ways to ensure that the good moral character issue is not misapplied, including state and federal civil rights legislation, when making character judgments Boards need to be extremely sensitive. Practice act provisions that bear a reasonable relationship to the purpose of protecting the public welfare will generally be regarded as constitutionally acceptable by most courts, so long as the enforcement by Boards is reasonably related to the protection of the public.

Model Law**Comments****Section 302. Cont'd.**

- (4) Graduation and receipt of a doctorate degree in veterinary medicine from an Approved Veterinary Medical Program;
- (5) Within the five (5) years preceding application, successful completion 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 engage in the practice of 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 written application in the form determined by the Board;
- (2) Attainment of eighteen (18) years of age;
- (3) Possession of good moral character;
- (4) Graduation and receipt of a degree in Veterinary Technology from an Approved Veterinary Technology Program;
- (5) Within the five (5) years preceding application, successful completion 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 302(a)(4). Qualifications for Licensure by Examination.

The AAVSB anticipates that Boards will approve those programs whose standards are at least equivalent to the minimum standards required by the AVMA's Council on Education. See Comment to Section 213(a) for a discussion of the Board's role in the approval process.

Section 302(b) Qualifications for Licensure by Examination

Recognizing that different Jurisdictions have varying requirements for Veterinary Technicians, this section provides the basis for standardized requirements that Boards may wish to work toward.

Section 302(b)(4). Qualifications for Licensure by Examination.

The AAVSB anticipates that Boards will approve those programs whose standards are at least equivalent to the minimum standards required by the AVMA's Committee on Veterinary Technician Education and Activities. See Comment to Section 213(a) for a discussion of the Board's role in the approval process.

Model Law**Comments****Section 303. Educational Equivalence.**

By rule, the Board may set forth a procedure for applicants who have graduated from a veterinary medical program/school which is not approved by the Board to petition the Board for an equivalency determination. At a minimum, the criteria shall include:

- (a) A certified transcript from such program/school;
- (b) Successful completion of an equivalency Examination(s) and/or assessment mechanism designed to evaluate educational equivalence, including clinical competencies;
- (c) Successful completion of a communication ability Examination(s) designed to assess communication skills, including a command of the English language; and
- (d) Any other reasonable assessment mechanism designed to ensure an applicant possesses the educational background necessary to protect the public health and safety.

Successful completion of the criteria set forth herein and by the Board under this section shall establish educational equivalence as one of the criteria for licensure set forth in this Act. Candidates under this Section must also meet all other statutory criteria for licensure prior to the issuance of any such license.

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 2 programs designed to measure educational equivalence, the AAVSB Program for the Assessment of Veterinary Education (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 or regulations to reduce the likelihood of allegations of improper delegation. The adoption of PAVE is also recommended to avoid concerns about a conflict of interest associated with the professional association controlling entry into the profession through the ECFVG program. Details of the PAVE program can be found on the AAVSB website.

Model Law**Comments****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 Examinations shall be prepared to measure the competence of the applicant to engage in the practice of 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.

Section 305. Qualifications for a Provisional License or Temporary Practice.

- (a) The Board may issue a provisional license to practice veterinary medicine or veterinary technology only under the Direct Supervision of a Veterinarian to a nonlicensed Person who meets all statutory criteria for licensure under this Act with the exception of an applicable jurisprudence Examination. The provisional license shall be issued under procedures set forth by the Board but under no circumstances shall such provisional license be granted for a period exceeding one (1) year from date of issuance. Such a provisional license may also contain restrictions as to time, place, or supervision, which the Board deems appropriate and may be summarily revoked by a majority vote of the Board without a hearing.

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 Examination entity in determining the content areas and “cut” 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.

Section 305(a). Qualifications for a Provisional License.

The procedures established by the Board should include an application form and requirements to register and take the jurisprudence Examination within a certain period of time.

Model Law**Comments****Section 305. Cont'd.**

- (b) Any Person licensed to practice veterinary medicine or veterinary technology in another Jurisdiction may, upon prior written application to the Board, practice in this Jurisdiction within the scope of practice designated by such license for no more than _____ days per year without applying for a license. Practice privileges under this paragraph shall apply only if the requirements for licensure in such other Jurisdiction are substantially similar to the requirements for licensure in this Jurisdiction. Such Person shall not be eligible to practice under this provisional license until the date the Board receives the written application and shall be deemed to have submitted to the Jurisdiction of the applicable Board and be bound by the laws of this state.

Section 305(b). Qualifications for Temporary Practice.

With the advent of technological advancements leading to increased mobility of Veterinarians, Veterinary Technicians and practice itself, it may be prudent to anticipate and address practice by Persons not physically located within the state. Rather than attempting to define “telepractice” or create a limited license to address sporadic practice, it is recommended that legislatures address these technologically driven practice issues through a temporary practice approach. This temporary practice language is intended to address sporadic practice within the state irrespective of whether it is electronically rendered or rendered in Person. The privilege of practicing temporarily is only granted to individuals duly licensed 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 state of licensure are substantially similar to the requirements for licensure in this state.

By design, the language of the temporary practice references a “written 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 and whether the Board will actually “approve” the ability to practice or merely maintain a file on the Person for future reference.

The unspecified time period is also, by design, left to the interpretation of a Board whether such period is consecutive or 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 thereof. It is recommended that the written application as determined by the Board contain various language which verifies the submission of the Person to

Model Law**Comments****Section 305. Cont'd.**

- (c) Any Person licensed to practice veterinary medicine or veterinary technology in another Jurisdiction who is providing services within the scope of practice designated by such license and in response to a disaster declared by the appropriate authority or governor of the state may, upon prior written notice to the Board, provide such services in this Jurisdiction for a period of time not to exceed ___ consecutive days per year without applying for a license. Such Person shall be deemed to have submitted to the Jurisdiction of the applicable Board and be bound by the laws of this state.

Section 305. Cont'd.

the jurisdiction and the applicability of the laws of the state. It is believed that this process provides solutions to legal issues confronting alternatives which attempt to address telepractice. It provides the Boards with important information as to who is practicing (through the written application). It also provides the Board with appropriate waivers relative to Jurisdiction and the applicability of the laws of the state. Finally, it provides a privilege which can be removed by the Board through the disciplinary process, reported to the databank, and, if state laws allow, have an eventual impact upon the actual license in the state of licensure.

Section 305(c). Qualifications for Temporary Practice.

See comments to 305(b) relative to the overall rationale for temporary practice and the applicability of Jurisdictional and other legal issues. Similar rationale applies to this particular section as well. In addition, temporary 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 is practicing relative to the disaster, submits him/herself to the jurisdiction of the Board and will abide by the applicable laws of the state. 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, rather than issue a temporary license, Boards may choose to use the special provisions approach for veterinarians providing services during disasters and other large scale events found in Section 106.13

Model Law**Comments****Section 306. Faculty Licensure.**

The Board may issue a faculty license to an applicant who is a member of the faculty at an Approved Veterinary Medical Program in this state, is involved in the instruction of veterinary medicine students and is engaged in the practice of veterinary medicine. Holders of a faculty license are permitted to practice veterinary medicine while engaged in the performance of his or her official duties as a faculty member only.

- (a) Applicants for a faculty license shall perform all of the following:
- (1) Complete the application form provided by the Board. If the applicant is licensed in another Jurisdiction or country, he or she shall disclose if they have been convicted of a Felony or been the recipient of a disciplinary action by a veterinary Board within the last 5 years;
 - (2) Provide proof of graduation from an Approved Veterinary Medical Program;
 - (3) Provide proof of an appointment to the faculty of an Approved Veterinary Medical Program teaching veterinary students, including a description of their faculty responsibilities; and
 - (4) Take and pass any Examinations as directed by the Board.
- (b) The license issued pursuant to this subsection authorizes the Licensee to practice veterinary medicine only while engaged in the performance of his or her official duties as a faculty member and is confined to clinical and hospital units or field services units, or both, of the Approved Veterinary Medical Program where employed. A faculty Licensee may not use a faculty license to practice veterinary medicine outside of his or her faculty responsibilities.

Section 306. Faculty Licensure

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 cover all species and topics. Yet if faculty are practicing veterinary medicine, a mechanism must be in place to assure 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 state can still ensure public protection subject to this article.

Model Law**Comments****Section 306. Faculty Licensure. Cont'd.**

- (c) Faculty Licensees must abide by all the laws governing the practice of veterinary medicine in the state and are subject to the same disciplinary action as any other Veterinarian licensed in the state. The faculty license issued pursuant to this subsection may be disciplined, suspended or revoked in accordance with this Act.
- (d) The faculty license must be renewed at an interval to be determined by the Board.
- (e) The license issued pursuant to this subsection shall be revoked by the Board upon receipt of information that the holder of the license is no longer employed as faculty of an Approved Veterinary Medical Program. Faculty Licensees must notify the Board of termination of employment within _____ days of termination

Section 307. Qualifications for License 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 license transfer in this state, an applicant shall bear the burden of substantiating to the Board that the following criteria have been met:

Section 306. Cont'd.**Section 307. Qualifications for License Transfer.**

The AAVSB recommends regulatory Boards adopt uniform language which references eligibility through Licensure Transfer because the terms “endorsement” or “reciprocity” may be confusing. Should the state wish to create a reciprocity statute whereby Veterinarians or Veterinary Technicians can transfer licensure into one state only if reciprocal Licensure Transfer is allowed, it may adopt language such as:

No applicant shall be eligible for license transfer unless the state in which the applicant was initially licensed as a Veterinarian or Veterinary Technician also grants Licensure Transfer to Veterinarians and Veterinary Technicians duly licensed by Examination in this state, under like circumstances and conditions.

Additionally, Boards are encouraged to develop extensive applications designed to elicit the information

Model Law**Comments****Section 307. Cont'd.**

- (1) Submission of a written application in the form prescribed by the Board;
- (2) Possession of good moral character;
- (3) Possession at the time of initial licensure of all qualifications necessary to have been eligible for licensure at that time in this state;
- (4) Active engagement in the practice of veterinary medicine or veterinary technology for at least _____ hours during the three (3) years prior to application;
- (5) Presentation to the Board of proof of initial licensure by Examination and proof that such license is in good standing;
- (6) Presentation to the Board of proof that any other veterinary medical or veterinary technology license granted to the applicant by any other state has not been suspended, revoked, or otherwise restricted for any reason (except nonrenewal or failure to obtain the required Continuing Education credits in any state where the applicant is currently licensed but not engaged in practice), nor subject to any discipline, however the Board shall have the discretion to assess the magnitude of any such disciplinary action and determine the licensure eligibility of such applicant;

Section 307. Cont'd.

necessary to assess the eligibility of license transferring candidates. Applications should include not only inquiries regarding adverse actions against the Licensee, but also pending investigations, pending disciplinary proceedings, or other matters that may not have been completed. In this regard, Boards may wish to refer to the Model Licensure/Renewal/Reinstatement Application developed by the Federation of Associations of Regulatory Boards (FARB).

Section 307(a)(4). Qualifications for License Transfer.

The AAVSB recommends applicants for Licensure Transfer under this section have engaged in at least 3000 hours of veterinary medical practice during the three (3) years prior to application. The 3000-hour figure represents approximately half-time employment. The AAVSB feels strongly that active engagement in practice is an important criterion in determining eligibility for licensure under this section. The model law does not contain a specific numeric requirement leaving such determination to each Jurisdiction.

Section 307(a)(6). Qualifications for License Transfer.

The AAVSB maintains its Veterinary Information Verification Agency (VIVA) which is a databank of primary source verified information on Veterinarians accessible only to the AAVSB Member Boards. Included within VIVA is the AAVSB Practitioner Databank which includes final adverse actions reported by Member Boards. VIVA and its Practitioner Databank lessen burdens on regulatory Boards and Veterinarians by providing a single source of information that can be confidentially disseminated to regulatory Boards in veterinary medicine upon request by the Veterinarian. VIVA relieves the Veterinarian who wishes to become licensed in an additional Jurisdiction(s) from the responsibility of personally obtaining primary source verified documentation from multiple sources (such as transcripts, licensure status, etc.) in support of such application(s) for licensure. VIVA details can be found on www.aavsb.org.

Model Law**Comments****Section 307. Cont'd.**

- (7) Successful completion of the state Examination, if applicable; and
- (8) Payment of the fees specified by the Board.

Section 308. Continuing Competence.

The Board shall, by rule, establish requirements for Continuing Education in veterinary medicine and veterinary technology, including the determination of acceptable program content. The Board shall adopt rules necessary to carry out the stated objectives and purposes and to enforce the provisions of this Section and the continuing competence of Licensees.

Section 307(a)(7). Qualifications for License Transfer.

Section 307(a)(7) is applicable to those Jurisdictions that utilize a state specific Examination as part of the licensure process.

Section 308. Continuing Competence.

The issue of how best to ensure and assess continuing competence is an on-going concern. Numerous options are being considered by a number of national organizations, including self-assessment tools, continuing competence Examinations, Continuing Education, and others, but no single model has emerged as the single most effective way to ensure continuing competence.

The AAVSB considered a number of alternatives to mandated Continuing Education, the method currently used by most states. These alternatives ranged from simply stating that Licensees will maintain continuing competence as a standard of practice, to requiring retesting at periodic intervals. The AAVSB recognized that while some of these alternatives might better evaluate the continuing competence of Licensees, it might be premature to recommend an alternative to mandated Continuing Education.

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.

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

Model Law**Comments****Section 308. Cont'd.****Section 308. Cont'd.**

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 examined. 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 criteria was developed based upon an analysis of requirements currently used by the AAVSB Member Boards, along with a review of other organizations which 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 at www.aavsb.org.

Model Law**Comments****Section 309. 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 ____ years;
- (b) As a requirement for licensure renewal, each Licensee shall provide evidence satisfactory to the Board that such Licensee has completed at least ____ Continuing Education hours of an Approved Program of Continuing Education during the renewal period; and
- (c) Veterinary Facilities shall be required to renew their registrations, permits or licenses at the time and in the manner established by the Board. Under no circumstances, however, shall the renewal period exceed ____ years.

Section 310. Requirements for Reinstatement of an Expired License.

- (a) A Licensee who allows a license to expire due to non-renewal or for failure to submit the required Continuing Education hours or pay the applicable renewal fees shall be treated as having an expired license and shall be ineligible to practice. An expired license may be reinstated, at the discretion of the Board, as follows:
 - (1) Reinstatement petitions submitted within 120 days of the expiration date may be reinstated upon substantiation by the applicant of all renewal requirements set forth within this Act, along with the payment of any applicable fees, including a late fee to be determined by the Board;

Section 309. Licensure Renewal Requirements.

The AAVSB determined that inactive status was not necessary, however, the following language regarding inactive status is provided for reference:

- (a) Any Licensee who is in good standing with the Board and who has ceased the practice of veterinary medicine or veterinary technology may apply for inactive status. The Board, in its discretion, may place the Licensee on an inactive list and thereafter the inactive Licensee shall not practice veterinary medicine or veterinary technology, nor be required to pay the annual license renewal fee or required to earn Continuing Education credits.
- (b) Any inactive Licensee who desires to be reinstated or to resume the practice of veterinary medicine or veterinary technology may be reinstated within the discretion of the Board upon written application and the determination that the inactive Licensee has paid the required license renewal fee for the current year in which the application is filed; and that the Licensee earned the required Continuing Education credits in an appropriate timeframe as determined by the Board.

Section 310(a). Requirements for Reinstatement of an Expired License.

The term “expire” is used in this model. Some Jurisdictions use the term “lapse”. In the interest of furthering greater understanding of terms, the AAVSB recommends the use of expire when referring to the status of a license that is not renewed by the required date.

Model Law**Comments****Section 310. Requirements for Reinstatement of an Expired License. Cont'd.**

- (2) Reinstatement petitions submitted after 120 days after the expiration date but within two (2) years of such expiration date may be reinstated upon substantiation by the applicant of all renewal requirements set forth within this Act, including completion of all Continuing Education credits required to have been completed during the inactive status period, along with a renewal fee to be determined by the Board;
- (3) Reinstatement petitions submitted two years or more after the expiration date may be reinstated upon substantiation by the applicant of all eligibility requirements set forth in either Article III Section 302 or Section 307;
- (4) Under any circumstances, the Board may impose additional reasonable requirements deemed necessary to fulfill its public protection mission;
- (5) Furthermore, the Board may also consider extenuating circumstances of petitioners who can demonstrate hardship, so long as the Board maintains its public protection mission in considering such petitions.

Section 311. Registration of Veterinary Facilities

- (a) All facilities where veterinary medicine is being practiced shall be registered with the Board.
- (b) Facilities for the purpose of this section shall include a building or mobile unit. Mobile units shall be exempted from independent registration with the Board when they are operated from a building or facility that is registered with the Board, and the registration identifies and declares the use of the mobile unit.

Section 310. Requirements for Reinstatement of an Expired License. Cont'd.**Section 311. Registration of Veterinary Facilities**

Many states choose to regulate the practice of veterinary medicine by registering facilities with the Board. This is also known in some states as a facility or premise permit. A Veterinarian who registers to be responsible for the operation and management of the facility is known as the Veterinarian or Veterinarian Manager. Minimum standards of practice, recordkeeping, and sanitation, etc., are some of the guidelines defined by the Board, usually through rules, as well as a time for inspections and renewal of the

Model Law**Comments****Section 311. Registration of Veterinary Facilities. Cont'd.**

- (c) Each application to register a facility must identify the Veterinarian Manager who is responsible for the operation and management of the facility. The applicant must not have been convicted of a Felony, must not be currently on probation or the subject of any active professional disciplinary action taken by any public agency, and must not have violated any of the provisions of this Act.
- (d) The Board shall promulgate rules that determine the minimum standards for the facility, including guidelines for applicants, inspection, sanitation, etc.
- (e) The Board may cause the closure of a facility and impose a penalty against any Veterinarian Manager operating a facility in violation of this section or in violation of any of the rules of the Board.
- (f) An application for renewal of that registration shall be made_____. The Board may, as part of the renewal process, make necessary inquiries of the applicant, conduct an investigation or inspect the facility in order to determine if cause for disciplinary action exists.
- (g) Suspension or revocation of facility registration
 - (1) The Board may withhold, suspend or revoke the registration of a veterinary facility or assess a fine
 - (i) when it has been determined by the Board that the Veterinarian Manager has failed to meet all the minimum facility standards as provided for in the rules of this Act;

Section 311. Registration of Veterinary Facilities. Cont'd.

registration. The Veterinarian Manager is responsible for ensuring that all veterinary standards of care are met by the facility; failure to do so can result in the loss of registration, closure of the facility or other penalties. In some Jurisdictions, inspection is required before a new facility opens or if an application for a new Veterinarian Manager is received. Facility registration is particularly useful in states that permit corporate or non-veterinarian ownership of practices; some of these states permit the manager of the practice to be a non-veterinarian to allow for discipline or corrective action to be taken against a non-Licensee.

Boards may want to consider whether or not to place a limit on the number of facilities a Veterinarian can register to manage, or whether or not 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 states include standards of practice in the rules for registering a facility. California is an example of a state that has extensive minimum standards of practice in the regulations pertaining to veterinary premise inspection.

Model Law**Comments****Section 311. Registration of Veterinary Facilities.
Cont'd.**

- (ii) when the Veterinarian Manager set forth in the application ceases to be responsible for management of the registered facility and no substitution of the responsible Veterinarian Manager has been made by application
- (iii) when the Veterinarian Manager is currently on probation or the license to practice veterinary medicine has been revoked or suspended by the Board.

**Section 311. Registration of Veterinary Facilities.
Cont'd.**

Article IV

Discipline

Model Law**Comments****Article IV. Discipline.****Introductory Comment to Article IV.**

The enforcement power of the Boards is at the very heart of any practice act. In order to fulfill its responsibilities, the Board must have authority to discipline Persons or Licensees who violate the act or its rules, including the ability to prohibit these Persons from continuing to harm the public. The Board must be able to stop wrongdoers, discipline them, and where appropriate, guide and assist them in continued competence and/or re-education and rehabilitation.

This Act's disciplinary provisions were drafted with the purpose of granting the Board the widest possible scope within which to perform its disciplinary functions. The grounds for disciplinary actions were developed to ensure protection of the public while giving Boards the power to expand or adapt them to changing conditions. The penalties outlined under the Act give the Board the flexibility to tailor disciplinary actions to individual offenses.

Section 401. Grounds, Penalties, and Reinstatement.**Introductory Comment to 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 state. It is strongly recommended that Boards make public as much disciplinary action information as state law allows, and that all Boards participate in the AAVSB Veterinarian Information Verification Agency (VIVA), a national databank that allows Boards to review veterinary

Model Law**Comments****Section 401. Grounds, Penalties, and Reinstatement. Cont'd.**

- (a) The Board may refuse to issue or renew, or may suspend, revoke, censure, reprimand, restrict or limit the license or registration of or fine any Person or facility, whether or not licensed, pursuant to the Administrative Procedures Act or the procedures set forth in Section 402 herein below, upon one or more of the following grounds as determined by the Board:

- (1) Unprofessional conduct as determined by the Board;

Section 401. Grounds, Penalties, and Reinstatement. Cont'd.

licensure candidates for past disciplinary actions from other Jurisdictions.

Section 401(a).

This section must be examined in light of other applicable laws. Some Jurisdictions, for example, restrict the circumstances under which a license may be denied to an individual who has committed a Felony. Additionally, an individual who has been convicted of a Felony or an act of gross immorality and who has paid the debt to society has restored constitutional protections. These protections may curtail a strict application of Section 401(a) to this individual.

These potential issues make it essential for Boards to promulgate rules that make the grounds for disciplinary action specific, understandable, and reasonable. Boards must ensure that these rules are published for the benefit of all Licensees. Taking these steps will assure the Board of the authority to make effective and meaningful disciplinary actions that will not be overturned by the courts.

Section 401(a)(1).

Boards must be specific when defining the grounds for revoking or suspending a license. The term “unprofessional conduct” is particularly susceptible to judicial challenge for being unconstitutionally vague. Each offense included in this term must be capable of being understood with reasonable precision by the Persons regulated. If this standard is met, the Licensees will be able to conform their professional conduct accordingly, and Boards will be able to readily enforce this provision, and rely upon it during disciplinary proceedings. Other terms sometimes used in statutes include unethical, immoral, improper or dishonorable conduct. Generally, courts have recognized as appropriate the use of unprofessional conduct when challenged legally. See *Chastev v. Anderson*, 416 N.E.2d 247 (Il.1981); *Stephens v. Penn. State Bd. of Nursing*, 657 A.2d 71 (Pa. 1995).

Model Law**Comments****Section 401. Grounds, Penalties, and Reinstatement. Cont'd.**

- (2) Practicing outside the scope of practice authorized by this Act;
- (3) Conduct violative of any of the provisions of this Act or rules adopted pursuant to this Act, including the failure to cooperate with the Board in the inspection or investigative process within a reasonable time period;
- (4) Incapacity or impairment, for whatever reason, that prevents a Licensee from engaging in practice with reasonable skill, competence, and safety to the public;
- (5) Conviction of a Felony (as defined under state or federal law);
- (6) Any act involving moral turpitude or immorality;

Section 401. Grounds, Penalties, and Reinstatement. Cont'd.**Section 401(a)(3). Grounds, Penalties and Reinstatement.**

This subsection allows the Board to take disciplinary action against a violation of any portion of this Act. While not specifically enumerated in this subsection, many activities, such as failure to report under the mandatory reporting provisions in Article VI constitutes actionable conduct.

Section 401(a)(4). Grounds, Penalties and Reinstatement.

[See also Comment to Section 401(b) regarding participation in an impairment program.] This section does not identify specific impairments in order to allow for broad application and the potential for expansion. It is intended to cover incapacity and impairments due to drug and alcohol abuse, mental and physical health conditions, and others.

It is important to note that the authority of the Board to refuse to issue or renew a Licensee, as well as its ability to discipline a Licensee for various incapacities or impairments should not be limited by the ADA Amendments Act of 2008 (ADAAA). Board action must be based on the protection of the public—the ultimate goal of the practice act. The ADAAA is designed to provide opportunities to otherwise qualified individuals with disabilities. It does not mandate licensure where public protection might be compromised.

Section 401(a)(5). Grounds, Penalties and Reinstatement.

Boards must also be aware of how the definition of “Felony” may impact its actions. See Rothstein v. Dept. of Professional and Occupational Regulation, 397 So.2d 305 (App. Ct. Fla. 1981), where the Florida Felony definition differed from the federal definition.

Model Law**Comments****Section 401. Grounds, Penalties, and Reinstatement. Cont'd.**

- (7) Violations of the laws, rules and regulations of this state, any other state, or the federal government, pertaining to any aspect of the practice of veterinary medicine or veterinary technology;
- (8) Being found by the Board or any court of competent jurisdiction to have engaged in acts constituting cruelty or abuse of Animals;
- (9) Misrepresentation of a fact by an applicant or Licensee;
 - (i) In securing or attempting to secure the issuance or renewal of a license;
 - (ii) 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;
- (10) Fraud by a Licensee in connection with the practice of veterinary medicine or veterinary technology including engaging in improper or fraudulent billing practices;
- (11) Engaging in, or aiding and abetting any Person engaging in practice without a license, or falsely using the title of Veterinarian, or Veterinary Technician or a derivative thereof;

Section 401. Grounds, Penalties, and Reinstatement. Cont'd.

Model Law**Comments****Section 401. Grounds, Penalties, and Reinstatement. Cont'd.**

- (12) Failing to conform to accepted minimum standards of practice or failing to maintain a Veterinary Facility at accepted minimum standards for facilities;
- (13) 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;
- (14) (i) Conduct which violates the security of any examination materials, including, but not limited to:
- (a) removing from the examination room any Examination materials without authorization;
 - (b) the 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;
 - (d) paying or using professional or paid examination-takers for the purpose of taking or reconstructing any portion of the Examination;
 - (e) obtaining examination questions or other examination material, except by specific authorization either before, during or after an Examination;
 - (f) using any examination questions or materials which were improperly removed or taken from any Examination; or

Section 401. Grounds, Penalties, and Reinstatement. Cont'd.**Section 401(a)(12).**

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 sub-standard 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.

Model Law**Comments****Section 401. Grounds, Penalties, and Reinstatement. Cont'd.**

(g) selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered Examination;

(ii) Communicating with any other examinee during the administration of an Examination;

(iii) Copying answers from another examinee or permitting one's answers to be copied by another examinee;

(iv) Having in one's possession during the administration of the Examination any books, equipment, notes, written or printed materials, or data of any kind, other than the Examination materials distributed, or otherwise authorized to be in one's possession during the Examination; or

(v) Impersonating any examinee or having an impersonator take the Examination on one's behalf;

(15) Failure of a Licensee or applicant to report to the Board any information as required under Article VI of this Act; and

(16) Being the subject of a disciplinary sanction, adverse action, revocation, suspension, or surrender of a veterinary or veterinary technology license, facility registration or premise permit in another Jurisdiction or country, including the failure to report such adverse action to the Board.

Section 401. Grounds, Penalties, and Reinstatement. Cont'd.

Model Law**Comments****Section 401. Grounds, Penalties, and Reinstatement. Cont'd.**

- (b) The Board may defer action with regard to an impaired Licensee who voluntarily signs an agreement, in a form satisfactory to the Board, agreeing not to practice veterinary medicine or veterinary technology and to enter an approved treatment and monitoring program in accordance with rules duly promulgated by the Board, provided that this Section shall not apply to a Licensee who has been convicted of, pleads guilty to, or enters a plea of nolo contendere to a Felony or a Conviction relating to a controlled substance in a court of law of the United States or any other state, territory, or country or a Conviction related to sexual misconduct.

Section 401. Grounds, Penalties, and Reinstatement. Cont'd.**Introductory Comment to Section 401(b). Grounds, Penalties and Reinstatement.**

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

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

Veterinary Boards may wish to consider the following for rules/regulations relative to the impaired Licensee to specify the contractual expectations of individuals 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.

The AAVSB encourages Boards to explore options for the effective monitoring of impaired Licensees. Once the Board has identified an impaired Licensee, there

Model Law**Comments****Section 401. Grounds, Penalties, and Reinstatement. Cont'd.****Section 401. Grounds, Penalties, and Reinstatement. Cont'd.**

are many resources available to Boards that can assist in the monitoring and rehabilitation process.

- (2) The Board may require a Licensee to enter into an agreement which includes, but is not limited to, the following provisions:
- (i) Licensee agrees that the license shall be suspended or revoked indefinitely 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.

It is the intention of the AAVSB that the regulatory language of “treating professional” under section (2)(iii) above shall include supervisors and others involved in the treatment and monitoring program. Readers may also refer to Section 608, Immunity, within the Act.

- (3) The ability of an impaired Licensee to practice may be restored and charges dismissed when the Board is satisfied by the reports it

Model Law**Comments****Section 401. Grounds, Penalties, and Reinstatement. Cont'd.****Section 401. Grounds, Penalties, and Reinstatement. Cont'd.**

has received from the approved treatment program that the Licensee can resume practice without danger to the public.

(4) The impaired Licensee who has enrolled in an approved treatment and monitoring program and entered into an agreement with the Board in accordance with the _____ Veterinary Medicine and Veterinary Technology Practice Act shall have the license suspended or revoked but enforcement of this suspension or revocation shall be stayed by the length of time the Licensee remains in the program and makes satisfactory progress, complies with the terms of the agreement, and adheres to any limitations on the practice imposed by the Board to protect the public. Failure to enter into 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 shall activate an immediate investigation and disciplinary proceedings.

(5) Any Licensee who has substantial evidence that another Licensee has an active addictive disease for which the other Licensee is not receiving treatment under a program approved by the Board pursuant to an agreement entered into under this Section, is diverting a controlled substance, or is mentally or physically incompetent to carry out the duties of the license, shall make or cause to be made a report to the Board. Any Person who reports pursuant to this Section in good faith and without malice shall be immune from any liability arising from such reports. Failure to provide such a report within a reasonable time from receipt of knowledge may be considered grounds for disciplinary action against the Licensee so failing to report.

Model Law**Comments****Section 401. Grounds, Penalties, and Reinstatement. Cont'd.**

- (c) Subject to an order duly entered by the Board, any individual whose license to practice veterinary medicine or veterinary technology in this state has been suspended or restricted pursuant to this Act, whether voluntarily or by action of the Board, shall have the right, at reasonable intervals, to petition the Board for reinstatement of such license. Such petition shall be made in writing and in the form prescribed by the Board. Upon investigation and hearing, the Board may, in 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 in 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 the practice of veterinary medicine or veterinary technology.
- (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 which 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 ten (10) days after notice of such action.

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

A Licensee who is under investigation, or who has been charged with a violation of the _____ Veterinary Medicine and Veterinary Technology Practice Act may agree to voluntarily surrender his or her license. When this occurs, the Board should formally enter stipulated findings and an order describing the terms and conditions of the surrender, including any agreed-upon time limits. This important step establishes statutory grounds that will support any disciplinary action, and prevents a Licensee who has surrendered a license from applying for (or receiving) reinstatement within a time frame unacceptable to the Board. In the case of a Veterinarian, final adverse action by the Board also triggers a report to the AAVSB Veterinary Information Verification Agency (VIVA) to inform other Jurisdictions of the sanction. 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 which 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.

Model Law**Comments****Section 401. Grounds, Penalties, and Reinstatement. Cont'd.**

- (g) The Board is authorized to make public as much disciplinary information about Licensees as the law allows.

Section 402. Summary Suspension.

Notwithstanding any provisions of the state Administrative Procedures Act, the Board may, without a hearing, temporarily suspend a license or facility registration for not more than sixty (60) days if the Board finds that a Licensee is in violation of a law or rule that the Board is empowered to enforce, and if continued practice by the Licensee would create an imminent risk of harm to the public. The suspension shall take effect upon written notice to the Licensee specifying the statute or rule 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 ___ days thereafter. The Licensee shall be provided with at least ___ days notice effective from the date of issuance of any hearing held under this subsection.

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.

In many states, an Administrative Procedures Act determines the procedures that must be followed before disciplinary action can be taken. The Practice Act Model was drafted on the assumption that an Administrative Procedures Act is in effect.

Summary suspension as defined in this section describes an action that can be taken against a Licensee. Jurisdictions that permit the ownership or registration of veterinary practices by non-veterinarians are advised to develop separate language that enables them to enact the summary suspension of a veterinary facility registration, permit or license.

Article V

Confidentiality

Model Law**Comments****Article V. Confidentiality.****Introductory Comment to Article V.**

This section is intended to establish the 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 more narrow term that describes the legal relationship between Licensee and Client when a law mandates confidentiality.

This article is titled “Confidentiality” rather than “Privileged Communication” or “Confidentiality/Privileged Communication” because confidentiality provisions include privileged communications, and it is intended to give Boards the widest possible latitude.

Section 501. Confidential Communications and Exceptions.

- (a) No Licensee shall disclose any information acquired from persons consulting the Licensee in a professional capacity, except that which may be voluntarily disclosed under 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 communication as privileged;
 - (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;
 - (4) When a communication reveals the commission of, or intended commission of, a crime or harmful act or Animal abuse and such disclosure is

Section 501 (a)(2).

The AAVSB considered requiring “written” consent of the Client as a prerequisite to disclosure of information. After discussion, the written requirement was removed. However, the AAVSB encourages written consent where available and deemed appropriate by the Veterinarian.

Model Law**Comments****Section 501. Confidential Communications and Exceptions. Cont'd.**

judged necessary by the Licensee to protect any Person or Animal from a clear, imminent risk of serious mental or physical harm or injury, or to forestall a serious threat to the public safety;

- (5) When the Person waives the privilege by bringing any public charges against the Licensee;
 - (6) When, in the Licensee's professional judgment, there is reasonable cause to suspect that a Person or Animal has been or is being abused; or
 - (7) When the Person is a minor under the laws of this State and the information acquired by the Licensee provides a reason to suspect or indicates that such minor was the victim or subject of a crime, the Licensee may be required to testify in any judicial proceedings in which the commission of that crime is the subject of inquiry and when, after an in camera review of the information that the licensee acquired, the court determines that the interests of the minor in having the information held privileged are outweighed by the requirements of justice, the need to protect the public safety or the need to protect the minor.
- (b) Any Person having access to records or anyone who participates in providing veterinary medical services or who is supervised by a Veterinarian is similarly bound to regard all information and communications as confidential in accordance with the section.

Section 501. Confidential Communications and Exceptions. Cont'd.

Article VI

Mandatory Reporting

Model Law**Comments****Article VI. Mandatory Reporting.****Section 601. Responsibility to Report.**

A Licensee who has knowledge of any conduct by an applicant or a Licensee which may constitute grounds for disciplinary action under this Act or the rules of the Board or of any unlicensed practice under this Act, shall report the violation to the Board.

Section 602. Professional Societies or Associations.

A national, state or local professional society or association for Licensees shall forward to the Board any complaint received concerning the ethics or conduct of the practice which the Board regulates. The society or association shall forward a complaint to the Board upon receipt of the complaint. The society or association shall also report to the Board any disciplinary action taken against a member.

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, 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 not specifically delineated in this article, it is expected that institutions will report relevant disciplinary actions to the Board. Mandatory reporting requirements placed upon institutions are necessary to protect the public. However, it is likely that the Board does not maintain jurisdiction over such institutions, and, thus could not legally enforce any such requirements on these institutions.

Section 602. Professional Societies or Associations.

The intent of this section is to address conduct that constitutes grounds for discipline under the Act. This section is not intended to cover other conduct issues that may be addressed in the Code of Ethics of such a professional society or association.

Model Law**Comments****Section 603. Licensees and Applicants.**

- (a) Licensees and applicants shall report to the Board information related to the following conduct by an applicant or a Licensee:
- (1) Failure to make reports as required by this law;
 - (2) Impairment in the ability to practice by reason of illness, use of alcohol, drugs, or other chemicals, or as a result of any mental or physical condition;
 - (3) Fraudulent billing practices;
 - (4) Fraud in the licensure application process, examination process, or any other false statements made to the Board;
 - (5) Conviction of any Felony or any crime reasonably related to the practice of veterinary medicine or veterinary technology; and
 - (6) A violation of any Board order.
- (b) Licensees and applicants shall also report to the Board information on any other conduct by an applicant or a Licensee that constitutes grounds for disciplinary action under this Act or the rules of the Board.
- (c) Failure of a Licensee or applicant to report to the Board any information as required in subsection (a) or (b) above shall constitute grounds for discipline by the Board.

Section 603. Licensees and Applicants. Cont'd.

Model Law**Comments****Section 604. Reporting Other Licensed Professionals.**

A Licensee or applicant shall report to the applicable Board conduct by a licensed health professional which would, in the Licensee's or applicant's best judgment, constitute grounds for disciplinary action under the chapter governing the practice of the other licensed health professional and which is required by law to be reported to the applicable Board.

Section 605. Courts.

The court administrator of the district court or any other court of competent jurisdiction shall report to the Board any judgment or other determination of the court that adjudges or finds that an applicant or a Licensee is mentally ill, mentally incompetent, guilty of a Felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of any crime reasonably related to the practice of veterinary medicine or veterinary technology, or that appoints a guardian of the applicant or Licensee or commits an applicant or Licensee pursuant to applicable law.

Section 606. Self-Reporting.

An applicant or Licensee shall report to the Board any personal action that would require that a report be filed pursuant to this Act.

Section 607. Deadlines, Forms.

Reports required by this Act must be submitted not later than 30 days after the occurrence of the reportable event or transaction. The Board may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

Section 604. Reporting Other Licensed Professionals.

The AAVSB has determined that Licensees under this Act should report indiscretions to other Boards. Accordingly, the legislature mandates that other licensees shall report conduct which violates the provisions of another Practice Act. For instance, information of wrongful dispensing of a controlled substance by a pharmacist shall be reported to the Pharmacy Board. Similarly, the AAVSB feels strongly that other disciplines should have similar provisions in their Practice Act so that communication among regulatory Boards enhances the Board's ability to protect the public.

Model Law**Comments****Section 608. Immunity.**

Any person is immune from liability or prosecution for submitting in good faith a report under Article VI or for otherwise reporting, providing information, or testifying about violations or alleged violations of this Act. The identity of any Person that submits a report shall be confidential.

Article VII
Other

Model Law**Comments****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 Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Taylor Thompson, Bureau Assistant on behalf of Tom Ryan, Executive Director		2) Date When Request Submitted: 3/30/15 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Veterinary Examining Board			
4) Meeting Date: 4/29/15	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Supreme Court Decision Involving NC Dentistry Board	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
Taylor Thompson		3/30/15	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

1. The Department is aware that on February 25, 2015, the U.S. Supreme Court issued a decision in North Carolina State Board of Dental Examiners v. Federal Trade Commission.
2. The Department, while continuing to analyze this decision, has developed preliminary opinions and guidance to regulatory boards.
 - a. This decision should not affect regulatory boards who are acting within their regulatory authority. For example, when a regulatory board disciplines a credential holder for unprofessional conduct, such board action is within the acceptable parameters of the board's authority and should not trigger anti-trust issues.
 - b. The investigation and discipline of unlicensed practice should be left to the Department. This has been the Department's long-standing position and should not trigger anti-trust issues.
 - c. The Department is, and has been, aware of potential anti-trust issues concerning regulatory boards. As such, this decision is not a surprise.
 - d. The Department has consistently advised regulatory boards to act within their powers set out in the statutes. This advice remains the same following this decision.
 - e. The Department will continue to analyze the decision and to monitor discussions about the decision especially in areas with potential anti-trust implications such as unlicensed practice, scope of practice and advertising. The Department will update the boards on any important developments.