VETERINARY EXAMINING BOARD

CR 106 Board Room, 2811 Agriculture Drive, Madison, Wisconsin
Contact: Dr. Paul McGraw, DVM (608) 224-4884
April 18, 2018

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

9:00 A.M. OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Introductions

B. Approval of the Agenda

C. Approval of Board Meeting Minutes of
1. January 24, 2018
2. February 13, 2018

APPEARANCE – Department of Agriculture, Trade, and Consumer Protection (DATCP) Division of Animal Health: Dr. Paul McGraw, DVM; Office of the Secretary: Liz Kennebeck and Cheryl Daniels, DATCP Attorneys; Robert Van Lanen, Regulatory Specialist – Senior; Sally Ballweg, License/Permit Program Associate; Kelly Markor, Executive Staff Assistant; Introductions and Discussion.

D. Public Comments - *Each speaker is limited to five minutes or less, depending on the number of speakers. Each speaker must fill out and submit an appearance card to the Board clerk.*

E. Administrative Items
1. Department, Staff, and Program Updates
2. 2017 Renewal Cycle – Non Renewals/Compliance

F. American Association of Veterinary State Boards (AAVSB) Matters – Annual Meeting, September 13-15, 2018, Washington, DC – Consideration of Travel Request

G. Licensing/Exam Inquiries
1. Consider new draft VEB order language regarding CE fulfillment
2. Timing of CE cycle
3. CE – faculty licenses
4. CE eligibility - The Saskatoon Colostrum Co. Ltd.

H. Legislative/Administrative Rule Matters
1. VE 1 - Final Draft Rule to amend Wis. Admin. Code § VE 1.02 (9), relating to the definition of veterinary medical surgery; consideration of motion requesting the Governor's office return the rule to VEB

2. VE 7 – Final Draft Rule, Complementary, Alternative and Integrative Therapies; informational
3. VE 11 – Final Draft Rule to create permanent Wis. Admin. Code § VE 11, relating to a Veterinary Professional Assistance Procedure; informational

I. Future Meeting Dates and Times

1. Screening Committee
2. Next Board Meeting – July 25, 2018 (9:00 a.m.)

J. Future Agenda Items

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.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.).

K. Deliberation on Proposed Stipulations, Final Decisions and Orders

L. Review of Veterinary Examining Board Pending Cases Status Report as of April 6, 2018

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

M. Open Session Items Noticed Above not Completed in the Initial Open Session

N. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

O. Ratification of Licenses and Certificates

ADJOURNMENT

The Board may break for lunch sometime during the meeting and reconvene shortly thereafter.

January 24, 2018

VETERINARY EXAMINING BOARD

MEETING MINUTES

Wednesday, January 24, 2018

PRESENT: Philip Johnson, D.V.M., Robert Forbes, D.V.M., Lisa Weisensel Nesson, D.V.M., Bruce Berth, Sheldon Schall, Diane Dommer Martin, D.V.M, Dana Reimer C.V.T., Kevin Kreier, D.V.M.

STAFF: Department of Agriculture, Trade, and Consumer Protection (DATCP): Sheila Harsdorf, Secretary; Keith Ripp, Assistant Deputy Secretary; Liz Kennebeck and Cheryl Daniels, DATCP Attorneys; Matt Tompach, Administrative Policy Advisory; Sally Ballweg, License/Permit Program Associate; Robert Van Lanen, Regulatory Specialist – Senior; Kelly Markor, Executive Staff Assistant.

CALL TO ORDER

Philip Johnson, Chair, called the meeting to order at 9:00 am. A quorum of eight (8) members was confirmed.

INTRODUCTIONS

Secretary Sheila Harsdorf and Assistant Deputy Secretary Keith Ripp introduced themselves to members, discussed their roles at the department and offered their assistance to the Board.

APPROVAL OF THE AGENDA

MOTION: Robert Forbes moved, seconded by Sheldon Schall, to approve the Agenda. Motion carried unanimously.

APPROVAL OF THE BOARD MEETING MINUTES OF THE OCTOBER 25, 2017 MEETING

MOTION: Diane Dommer Martin moved, seconded by, Kevin Kreier to approve the Minutes from the October 25, 2017 meeting. Motion carried unanimously.

APPROVAL OF THE BOARD MEETING MINUTES OF THE NOVEMBER 2, 2017 MEETING

MOTION: Dana Reimer moved, seconded by, Robert Forbes to approve the Minutes from the November 2, 2017, Meeting. Motion carried unanimously.

APPROVAL OF THE BOARD MEETING MINUTES OF THE NOVEMBER 13, 2017 MEETING

MOTION: Robert Forbes moved, seconded by, Kevin Kreier to approve the Minutes from the November 13, 2017, Meeting. Motion carried unanimously.

APPROVAL OF THE BOARD MEETING MINUTES OF THE NOVEMBER 30, 2017 MEETING

MOTION: Sheldon Schall moved, seconded by, Diane Dommer Martin to approve the Minutes from the, November 30, 2017, Meeting. Motion carried unanimously.

PUBLIC COMMENTS

No Public Comments

ADMINISTRATIVE UPDATES

AMERICAN ASSOCIATION OF VETERINARY STATE BOARDS (AAVSB) MATTERS

The Board reviewed information regarding the process and deadlines for nominating candidates to leadership positions within AAVSB.

ELECTION OF OFFICERS

BOARD CHAIR

NOMINATION: Robert Forbes nominated Philip Johnson for the Office of Board Chair. Seconded by Dr. Dommer Martin.

Matt Tompach, Executive Director, called for nominations three (3) times.

Philip Johnson was elected as Chair by unanimous consent.

VICE CHAIR

NOMINATION: Philip Johnson nominated Robert Forbes for the Office of Vice Chair. Seconded by Kevin Kreier.

Matt Tompach, Executive Director, called for nominations three (3) times.

Robert Forbes was elected as Vice Chair by unanimous consent.

SECRETARY

NOMINATION: Robert Forbes nominated Diane Dommer Martin for the Office of Secretary. Seconded by Sheldon Schall.

Matt Tompach, Executive Director, called for nominations three (3) times.

Diane Dommer Martin was elected as Secretary by unanimous consent.

2018 ELECTION RESULTS	
Board Chair	Philip Johnson
Vice Chair	Robert Forbes
Secretary	Diane Dommer Martin

2018 LIAISON APPOINTMENTS	
Education and Exams Liaison	Lisa Weisensel Nesson *Alternate:* Sheldon Schall
Continuing Education Liaison	Philip Johnson *Alternate:* Sheldon Schall
Legislative Liaison	Bruce Berth *Alternate:* Kevin Kreier
Administrative Rules Liaison	Diane Dommer Martin *Alternate:* Kevin Kreier
Monitoring	Lisa Weisensel Nesson *Alternate:* Kevin Kreier
Screening Panel	Robert Forbes, Diane Dommer Martin, Bruce Berth, Dana Reimer and Kevin Kreier
Credentialing Panel	Lisa Weisensel Nesson, Diane Dommer Martin and Philip Johnson

MOTION: Lisa Weisensel Nesson moved, seconded by Bruce Berth to affirm the Chair's appointment of liaisons for 2018. Motion carried unanimously.

Sheldon Schall will serve on the screening committee for the January 24, 2018 Meeting.

DELEGATION MOTIONS

Delegated Authority – Urgent Matters

MOTION: Robert Forbes moved, seconded by Dana Reimer: In order to facilitate the completion of assignments between meetings, the Board delegates 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, to fill vacant appointment positions, where knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

Delegated Authority - Screening Panel

MOTION: Diane Dommer Martin moved, seconded by Kevin Kreier that the Board delegates authority to the Screening Panel to open cases for investigation or close cases inappropriate for further action. Motion carried unanimously.

MOTION: Bruce Berth moved, seconded by Kevin Kreier, that the Board delegates authority to the Screening Panel to consider questions related to scope of practice of veterinary medicine and veterinary technicians. The Screening Panel may choose to approve or reject a particular practice, or bring the matter to the full Board. Motion carried unanimously.

Delegated Authority - Credentialing Committee

MOTION: Robert Forbes moved, seconded by Diane Dommer Martin, that the Board delegates authority to the Credentialing Committee to address all issues related to credentialing matters, except potential denial decisions should be referred to the full Board for final determination. Motion carried unanimously.

MOTION: Bruce Berth moved, seconded by Kevin Kreier, that the Board delegates authority to the Credentialing Committee to employ a "passive review" process for background checks, whereby if no Committee member requests a Committee meeting on the materials within five (5) business days after receiving them, the application would be considered cleared to proceed through the process. Motion carried unanimously.

Delegated Authority - Document Signatures

MOTION: Dana Reimer moved, seconded by Diane Dommer Martin, that the Board delegates authority to the Chair to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair has the ability to delegate this signature authority to the Board's Executive Director for purposes of facilitating the completion of assignments during or between meetings.

Delegated Authority - Monitoring Liaison and Department Monitor

MOTION: Dana Reimer moved, seconded by Kevin Kreier to adopt the "Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor" document. Motion carried unanimously.

2017 RENEWAL CYCLE UPDATE

Matt Tompach, Executive Director, reported on the 2017 veterinary credential renewal cycle. To date, 5,353 holders renewed their credentials, and about 50 additional renewals are currently being processed. Staff will contact approximately 640 non-renewals to confirm that they may not practice veterinary medicine now that their credentials have expired. Matt Tompach recognized DATCP licensing specialist Sally Ballweg for her work during and planning for the renewal process, as well as her work with DATCP IT staff toward creating an online credential application. In spring of 2017, Matt Tompach and Sally Ballweg met with third-year UW Veterinary Medical School students and

advised them of the veterinary credential application process. Philip Johnson asked that staff continue that effort again this year.

LICENSING/ EXAM INQUIRIES

Liz Kennebeck spoke on the process by which respondents fulfill any requirements to complete continuing education (CE) that may be included in a Final Decision and Order (FDO). Currently, the standard language of an FDO implies the respondent must wait to fulfill that requirement until the order is signed by the Board, which may be 1-3 months after the respondent has signed it. Many Respondents are anxious to get started on completing the CE, but, due to the standard FDO language, risk not being credited for CE taken prior to the Board signing the Order.

The Board directed counsel to bring language for consideration at the April meeting that will allow CE to be taken within 90 days of the stipulation being signed by the respondent. However, there should also be cautionary language in the FDO that the Board may not accept the stipulation.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

Cheryl Daniels, board counsel, updated members on the status of VE 7 – Hearing Draft on Complementary, Alternative and Integrative Therapies, VE 11- Hearing Draft to create permanent Wis. Admin Code VE 11, relating to a Veterinary Professional Assistance Procedure and VE 1 – Final Draft.

SCOPE OF PRACTICE

At the October 25, 2017 VEB meeting, in response to a request from Jordan Lamb, representing WVMA, the Board directed counsel to review and provide guidance on state law relating to the release of rabies vaccination records to a municipality. In response, Cheryl Daniels prepared a memo for the January 24, 2018 meeting stating that municipalities had the right to require such records from veterinarians, provided the requirement is administered in compliance with state law, DATCP rules, and municipal ordnances.

REVIEW OF VEB POSITION STATEMENTS

Members discussed past VEB position statements on access to health care records. The Board reaffirmed that a person can request all health records for an animal once they are the owner and can provide proof of their ownership of the animal.

SCOPE OF PRACTICE

The Board reaffirmed that common non-veterinary practices, such as dew claw removal and docking tails, are considered veterinary surgery and shall always be performed in Wisconsin by a licensed veterinarian.

FUTURE MEETING DATES AND TIMES

The dates of February 28 and March 28 (9:00 a.m.) were set for the VEB Screening Committee.

The date for the next regular VEB meeting is April 18 (9:00) am at POSOB/DATCP in Boardroom. The April Screening Committee meeting will follow.

The date of February 13 (11:00 a.m.) was set for a Special Board conference call on VE 7 and VE 11. An agenda and call-in information will be emailed to members ahead of the call.

FUTURE AGENDA ITEMS

Members requested language on CE fulfillment VEB orders be presented for consideration at the April Board meeting.

CLOSED SESSION MOTION

MOTION: Robert Forbes moved seconded by Lisa Weisensel Nesson, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.). Philip Johnson read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Bruce Berth -yes; Diane Dommer Martin -yes; Robert Forbes -yes; Kevin Kreier -yes; Dana Reimer -yes; Sheldon Schall -yes; Lisa Weisensel Nesson -yes; Philip Johnson -yes; Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Robert Forbes moved, seconded by Diane Dommer Martin, to reconvene to open session. Motion carried unanimously. The Board reconvened at 11:15 a.m.

MOTION: Lisa Weisensel Nesson moved, seconded by Robert Forbes, to approve the veterinarian application of Laura Aasen, once all requirements are met. Motion carried unanimously.

MOTION: Diane Dommer Martin moved, seconded by Sheldon Schall, to accept the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Rande Blanchard - 17 VET 007, Kathryn Fox - 17 VET 016, Motion carried unanimously.

MOTION: Kevin Kreier moved, seconded by Dana Reimer, to return to full licensure Lavon Hettich - 16 VET 004; Darren Katzung - 16 VET 021; and Paul Lindstrom - 17 VET 021. Motion carried unanimously.

MOTION: Lisa Weisensel Nesson moved, seconded by Dana Reimer, to delegate ratification of examination results to DATCP staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: Kevin Kreier moved, seconded by Robert Forbes, to adjourn. Motion carried unanimously.

The meeting adjourned at 11:20 a.m.

February 13, 2018

VETERINARY EXAMINING BOARD

MEETING MINUTES

Tuesday, February 13, 2018

PRESENT: Philip Johnson, D.V.M., Robert Forbes, D.V.M., Kevin Kreier, D.V.M., Lisa Weisensel Nesson, D.V.M, Dana Reimer C.V.T. (Absent: Sheldon Schall, Diane Dommer Martin, D.V.M., Bruce Berth).

STAFF: Department of Agriculture, Trade, and Consumer Protection (DATCP): Cheryl Daniels, DATCP Attorney; Matt Tompach, Administrative Policy Advisor; Paul McGraw, D.V.M., Animal Health Administrator.

CALL TO ORDER

Philip Johnson, Chair, called the meeting to order at 11:00 a.m. A quorum of five (5) members was confirmed.

LEGISLATIVE/ ADMINISTRATIVE RULE MATTERS

VE 7 - Permanent Rule to amend Wis. Admin. Code § VE 7, relating to Complementary, Alternative and Integrative Therapies – Final Board approval

MOTION: Lisa Weisensel Nesson moved, seconded by Kevin Kreier, to give final Board approval to the permanent draft rule to amend Wis. Admin. Code § VE 7, relating to Complementary, Alternative and Integrative Therapies. Motion carried unanimously.

VE 11 – Permanent Rule to create Wis. Admin. Code § VE 11, relating to a Veterinary Professional Assistance Procedure – Final Board approval

MOTION: Kevin Kreier moved, seconded by Robert Forbes, to give final Board approval to the permanent draft rule to create Wis. Admin. Code § VE 11, relating to a Veterinary Professional Assistance Procedure. Motion carried unanimously.

VE 11 – Emergency Rule in effect, Wis. Admin. Code § VE 11, relating to a Veterinary Professional Assistance Program - Board approval to request extension

MOTION: Kevin Kreier moved, seconded by Lisa Weisensel Nesson, that the executive director sign and submit a letter requesting a 60-day extension of the emergency rule currently in effect to create Wis. Admin Code VE 11, relating to a Veterinary Professional Assistance Procedure. Motion carried unanimously.

ADJOURNMENT

MOTION: Robert Forbes moved, seconded by Lisa Weisensel Nesson, to adjourn. Motion carried unanimously.

The meeting adjourned at 11:35 a.m.

American Association of Veterinary State Boards (AAVSB) Matters – Annual Meeting, September 13-15, 2018, Washington, DC – Consideration of Travel Request

State of Wisconsin
Department of Agriculture, Trade and Consumer Protection

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Matt Tompach	April 2, 2018 Items will be considered late if submitted after 12:00 p.m. on the deadline date.

3) Name of Board, Committee, Council, Sections:

VEB

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
April 18, 2018	☒ Yes ☐ No	American Association of Veterinary State Boards (AAVSB) Matters – Annual Meeting, September 13-15, 2018, Washington, DC – Consideration of Travel Request

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes (Fill out Board Appearance Request) ☒ No	

10) Describe the issue and action that should be addressed:

Board will consider authorizing two members to attend the American Association of Veterinary State Boards (AAVSB) Annual Meeting on September 13-15, 2018 in Washington, DC and direct DATCP staff to prepare the travel request. AAVSB's Delegate Funding program has in past years covered travel costs for one voting Delegate and one Alternate Delegate per Member Board.

11) Authorization

Matt Tompach	**April 2, 2018**
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 Executive Director.
3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

Tompach, Matthew C - DATCP

From: Lainie Franklin <efranklin@aavsb.org>
Sent: Thursday, March 8, 2018 9:44 AM
To: Tompach, Matthew C - DATCP
Subject: 2018 AAVSB Annual Meeting

Dear Matthew,

Save The Dates for the 2018 AAVSB Annual Meeting!

Plan to attend the 2018 AAVSB Annual Meeting & Conference, at the Mayflower Hotel in Washington, DC, September 13-15, 2018.

The conference brings together Member Boards to collaborate, educate, network, and conduct business providing direction for the Association. The conference attracts approximately 200 attendees that includes Board Members, Board Executives, AAVSB Board of Directors, AAVSB Committee Members, AAVSB Staff, and invited guests.

Networking Event

This year, join your fellow regulators on the shores of the historic Potomac River Thursday evening for a dinner cruise aboard the Spirit of Washington!

What Did We Do Last Year in San Antonio?

In 2017, the AAVSB Annual Meeting was in San Antonio, Texas. We had a blast! Watch this 2017 highlight recap video to see what went down.

Don't Be A Stranger

Be sure to stay connected with the AAVSB on Facebook and Twitter to stay up-to-date on the news of **YOUR** association.

380 W 22nd Street, Suite 101, Kansas City, MO | 877.698.8482
www.aavsb.org

Consider new draft VEB order language regarding CE fulfillment

State of Wisconsin
Department of Agriculture, Trade and Consumer Protection

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Liz Kennebeck	January 25, 2018 Items will be considered late if submitted after 12:00 p.m. on the deadline date.

3) Name of Board, Committee, Council, Sections:

VEB

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
April 18, 2018	☒ Yes ☐ No	Licensing/Exam Inquiries Credit for CEs taken prior to the Board signing an Order

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes (Fill out Board Appearance Request) x No	

10) Describe the issue and action that should be addressed:

At the January meeting, the Board directed counsel to bring language for consideration at the April meeting that will allow CE to be taken within 90 days of the stipulation being signed by the respondent. However, there should also be cautionary language in the FDO that the Board may not accept the stipulation.

Many of our FDOs (Final Decision and Order) require Respondents to complete CEs. Oftentimes a Respondent signs a stipulation, agreeing to the terms, 1-3 months before the Order is signed by the Board. Many Respondents are anxious to get started on completing the missing CEs. Currently, because of the language of an FDO, (see below) a Respondent risks not being credited for CEs taken prior to the Board signing the Order.

19. Within three (3) months of the date of this Order, Respondent shall, at his own expense, take and successfully complete three (3) hours of continuing education on the topic of Record-keeping; two (2) hours of continuing education on the topic of Veterinary - Client Relationship; and, 4.6 additional credits to fulfill the 30 hours of CE for the 2014-2015 biennial renewal period.

11) Authorization

Matt Tompach — **March 28, 2018**

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.
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Timing of CE cycle

State of Wisconsin
Department of Agriculture, Trade and Consumer Protection

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Matt Tompach		2) Date When Request Submitted: April 2, 2018 Items will be considered late if submitted after 12:00 p.m. on the deadline date.
3) Name of Board, Committee, Council, Sections: VEB		
4) Meeting Date: April 18, 2018	5) Attachments: ☒ Yes ☐ No	6) How should the item be titled on the agenda page? Licensing/Exam Inquiries Consider new draft language regarding CE fulfillment in VEB orders Timing of CE cycle
7) Place Item in: ☒ Open Session ☐ Closed Session	8) Is an appearance before the Board being scheduled? ☐ Yes (Fill out Board Appearance Request) ☒ No	9) Name of Case Advisor(s), if required:

10) Describe the issue and action that should be addressed:

Board may consider question of whether CE classes must be taken during a credentialing cycle in order to be applied to the CE requirement of that cycle.

11) Authorization

Matt Tompach	**April 2, 2018**
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

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Tompach, Matthew C - DATCP

From: Tompach, Matthew C - DATCP
Sent: Wednesday, November 01, 2017 7:40 AM
To: 'Philip Johnson' <pjohnson6@charter.net>
Cc: Kennebeck, Helen E - DATCP (Liz) <Helen.Kennebeck@wisconsin.gov>
Subject: RE: when a new CE cycle begins

Thank you for your interpretation, Dr. Johnson. I will pass this information along to the tech association staffer.

Matthew Tompach
(608)224-5024
Matthew.Tompach@Wisconsin.gov

Please complete this brief survey to help us improve our customer service. Thank you for your feedback!

From: Philip Johnson [mailto:pjohnson6@charter.net]
Sent: Tuesday, October 31, 2017 7:18 PM
To: Tompach, Matthew C - DATCP <Matthew.Tompach@wisconsin.gov>
Subject: Re: when a new CE cycle begins

Matt,

I have had a little time to review this inquiry and study the statutes. I would tend to agree with your argument that the CE cycle begins after the license holder renews the credential. The holder is stating with each renewal that they have met their previous CE requirement and therefore any CE done after that point should be applied to the next license cycle. I do not see a lot of problems with this interpretation.

Hopefully this is enough input to take care of this inquiry.

Phil Johnson, DVM

Sent from my iPhone

On Oct 27, 2017, at 2:05 PM, Tompach, Matthew C - DATCP <Matthew.Tompach@wisconsin.gov> wrote:

Dr. Johnson,

I had a representative from the WI Veterinary Technician Association contact me about the timing of CE credits.

They have a couple techs who, after renewing their credentials this month, signed up and paid for CE that will occur in Dec. 2017. They want to count that CE toward the 2018-19 credentialing period.

I discussed this issue with our attorney Liz Kennebeck. She stated the CE rules and statute were "ambiguous" about whether CE classes had to be taken during 2018-19 in order to be applied toward that credentialing cycle.

I would argue that a new CE cycle begins once a credential holder has renewed for the next cycle; that holder is now listed in our online database as being credentialed through 2019.

To be clear, we are not talking about applying surplus CE hours accumulated BEFORE the renewal; only new CE taken AFTER the credential holder has renewed.

I'd appreciate your consideration of these issues as CE Liaison.

Matthew Tompach
Administrative Policy Advisor – Office of the Secretary
Wisconsin Department of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive
Madison, WI 53718
(608)224-5024
Matthew.Tompach@Wisconsin.gov

<Picture (Device Independent Bitmap) 1.jpg>

Please complete this brief survey to help us improve our customer service. Thank you for your feedback!

CE – faculty licenses

State of Wisconsin
Department of Agriculture, Trade and Consumer Protection

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Matt Tompach	April 2, 2018 Items will be considered late if submitted after 12:00 p.m. on the deadline date.

3) Name of Board, Committee, Council, Sections:

VEB

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
April 18, 2018	☒ Yes ☐ No	Licensing/Exam Inquiries CE – faculty licenses

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes (Fill out Board Appearance Request) ☒ No	

10) Describe the issue and action that should be addressed:

The Board may consider a motion to exempt veterinary faculty licenses from the 30-hour CE requirement that applies to veterinary license renewals every two years.

At its July 20, 2016 meeting, the Board passed a motion that applied the 30-hour CE requirement to faculty licenses.

However, the veterinary CE requirement specifically applies only to veterinary licenses that are renewed every two years; the veterinary faculty license is not on that two-year renewal cycle; it is valid for the duration of the faculty appointment, however long that may be.

Limited VEB staff resources are better spent than enforcing a dubious requirement for veterinary faculty to report to the Board, on a two-year basis, that which faculty members effectively do every day.

11) Authorization

Matt Tompach	March 30, 2018
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

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State of Wisconsin
Department of Agriculture, Trade and Consumer Protection

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Lauren U. Van Buren	07/08/2016 Items will be considered late if submitted after 12:00 p.m. on the deadline date.

3) Name of Board, Committee, Council, Sections:

Veterinary Examining Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
07/20/2016	☒ Yes ☐ No	Continuing education requirements for faculty licensees

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☒ Yes (Fill out Board Appearance Request) ☐ No	N/A

10) Describe the issue and action that should be addressed:

See attached memo.

11) Authorization

07/08/2016

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:
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DATE: July 8, 2016
TO: Veterinary Examining Board
FROM: DATCP, Office of Legal Counsel
SUBJECT: Continuing education requirements for faculty licensees

The Department has received a complaint against the holder of a special veterinarian faculty license. It was not clear to the enforcement staff if holders of those licenses are required to complete and report thirty hours of continuing education during the preceding two-year licensure period. The holders of these licenses are not required to renew every two years and there is no expiration date listed in the license system.

CURRENT REGULATORY SCHEME

Wis. Stat. § 89.02(7), defines "veterinarian" as "a practitioner of veterinary medicine who is duly licensed by the examining board." Wis. Stat § 89.06(2m)(a), empowers the examining board to issue a veterinary faculty license to an employee of a school of veterinary medicine which allows that license holder to practice veterinary medicine on privately owned animals within the scope of their employment at the school. Wis. Stat. § 89.06(2m)(c), explains that this license expires upon termination of the holder's employment at a school of veterinary medicine. Wis. Stat. §§ 89.062(1)&(2), set the veterinary license renewal date and allow renewal only if the veterinarian certifies completion of at least thirty hours of continuing education.

Taken together, these sections mean that a holder of a faculty veterinary license is a veterinarian as defined by the statute, that a veterinary license may not be renewed without continuing education but that the faculty veterinary license expires only upon the termination of their employment thus, no renewal requirement.

Wis. Admin. Code § VE 10.01, states the purpose of the rules in the chapter as governing "biennial continuing education, training and certification requirements for veterinarians." Wis. Admin. Code § VE 10.02(1), requires a veterinarian to complete at least 30 hours of continuing education in each biennial renewal period. Wis. Admin. Code § VE 10.02(8), requires every veterinarian to maintain continuing education records for five years and authorizes the board to audit those records for the preceding biennium.

Because subsections of the rules refer to the biennial renewal period for monitoring continuing education requirements, the rules do not appear to contemplate reporting requirements for licenses that do not have a renewal period.

QUESTIONS PRESENTED

1. Does the Board want holders of faculty licenses to complete and report continuing education?

2. Should the enforcement program be currently auditing and enforcing continuing education requirements for faculty licensees?

3. Would a rule revision be helpful?

CHAPTER 89

VETERINARY EXAMINING BOARD

Cross−reference: See also VE, Wis. adm. code.

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

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

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

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

(3d) "Department" means the department of agriculture, trade and consumer protection.

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

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

(4) "Examining board" means the veterinary examining board.

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

(4m) "Food−producing animal" means an animal that is raised to produce food for human consumption.

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

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

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

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

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

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

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

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

(b) The veterinarian has sufficient knowledge of the patient to initiate a general or preliminary diagnosis of the medical condition of the patient because the veterinarian has recently examined the patient or has made medically appropriate and timely visits to the premises on which the patient is kept.

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

(9) "Veterinary drug" means any of the following:

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

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

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

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

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

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

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

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

History: 1975 c. 309; 1983 a. 189; 1987 a. 39; 1989 a. 279; 1991 a. 306; 1993 a. 213; 1995 a. 321; 1997 a. 27; 2015 a. 55 s. 2597, 4491; Stats. 2015 s. 89.02; 2015 a. 196.

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

89.03 Rules. (1) The examining board shall promulgate rules, within the limits of the definition under s. 89.02 (6), establishing the scope of practice permitted for veterinarians and veterinary technicians and shall review the rules at least once every 5 years to determine whether they are consistent with current practice. The examining board may promulgate rules relating to licensure qualifications, denial of a license, certification, or temporary permit, unprofessional conduct, and disciplinary proceedings.

(2) The examining board shall promulgate rules requiring training and continuing education sufficient to assure competency of veterinarians and veterinary technicians in the practice

of veterinary medicine, except that the board may not require training or continuing education concerning the use, handling, distribution, and disposal of pesticides other than for disciplinary purposes.

History: 1987 a. 39; 1989 a. 279; 1995 a. 321; 2003 a. 103; 2009 a. 139; 2015 a. 55 s. 4492; Stats. 2015 s. 89.03.

Cross−reference: See also VE, Wis. adm. code.

89.04 Violations. The chairperson of the examining board shall institute actions for violations of this chapter by any person and for violations of ch. 450 or 961 by veterinarians. The district attorney of the county in which the offense is committed shall promptly prosecute any such violation upon being informed thereof, from any source.

History: 1985 a. 146; 1993 a. 184; 1995 a. 448; 2015 a. 55 s. 4493; Stats. 2015 s. 89.04.

89.05 Practice; penalties. (1) Except as provided under sub. (2) and s. 257.03, no person may offer to practice, advertise to practice or practice veterinary medicine, or use, in connection with his or her name, any title or description which may convey the impression that he or she is a veterinarian, without a license or temporary permit from the examining board. For purposes of this subsection, a person who makes extra−label use of a drug on an animal without a prescription or in any manner not authorized by that prescription is considered to be practicing veterinary medicine.

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

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

(b) Castrating male livestock, as defined in s. 95.68 (1) (d) or for dehorning or branding animals.

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

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

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

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

(g) Employees of a school of veterinary medicine in this state who practice veterinary medicine on privately owned animals only as a part of their employment and who are licensed under s. 89.06 (2m).

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

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

History: 1975 c. 309; 1977 c. 418; 1979 c. 337; 1981 c. 125; 1987 a. 39; 1991 a. 306; 1995 a. 321; 2005 a. 96, 237; 2009 a. 42; 2015 a. 55 s. 4494; Stats. 2015 s. 89.05.

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

89.06 Licensure. (1) Except as provided under ss. 89.072 and 89.073, veterinary licenses shall be issued only to persons who successfully pass an examination conducted by the examining board and pay the fee established under s. 89.063. An applicant for an initial license shall be a graduate of a veterinary college that has been approved by the examining board or have successfully completed either the educational commission for foreign veterinary graduates certification program of the American Veterinary Medical Association or the program for the assessment of veterinary education equivalence offered by the American Association of Veterinary State Boards. Persons who qualify for examination may be granted temporary permits to engage in the practice of veterinary medicine in the employment and under the supervision of a veterinarian until the results of the next examination conducted by the examining board are available. In case of failure at any examination, the applicant shall have the privilege of taking subsequent examinations, upon the payment of another fee for each examination.

(2m) (a) Upon application, the examining board may issue a veterinary faculty license to an employee of a school of veterinary medicine in this state who has received the degree of doctor of veterinary medicine from a veterinary college approved by the examining board or if the examining board determines that the person possesses substantially equivalent qualifications. A person holding a veterinary faculty license may practice veterinary medicine on privately owned animals only within the scope of the person's employment at the school.

(b) Upon application, the examining board may grant a veterinary postgraduate training permit to a person undertaking intern or resident training at a school of veterinary medicine in this state. The only purpose of the veterinary postgraduate training permit is to provide opportunities in this state for the postgraduate education of persons who have received the degree of doctor of veterinary medicine or an equivalent degree but who have not yet met the requirements for licensure in this state. Issuance of a postgraduate training permit does not modify in any respect the requirements for licensure to practice veterinary medicine in this state, and a permit holder may practice veterinary medicine on privately owned animals only within the scope of the permit holder's internship or residency program. Violation of this restriction or of any applicable provision of this chapter constitutes cause for revocation of the permit.

(c) A license issued under this subsection expires upon termination of the licensee's employment at a school of veterinary medicine in this state. A postgraduate training permit expires upon termination of the permit holder's internship or residency program.

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

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

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

History: 1971 c. 213 s. 5; 1975 c. 309; 1977 c. 29, 418; 1979 c. 34 s. 2102 (58) (b); 1981 c. 125; 1985 a. 182 s. 57; 1987 a. 39; 1991 a. 39; 1995 a. 321; 2001 a. 76; 2003 a. 103; 2009 a. 396; 2015 a. 55 s. 4495; Stats. 2015 s. 89.06; 2015 a. 179; s. 35.17 correction in (1).

Cross−reference: See also chs. VE 3, 4, 5, 6, 8, and 10, Wis. adm. code.

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

89.062 Renewal; continuing education. (1) RENEWAL. The renewal date for veterinary licenses and veterinary technician certifications is December 15 of each odd−numbered year, and the renewal fees for such licenses and certifications are determined by the department under s. 89.063.

(2) CONTINUING EDUCATION. (a) Except as provided in sub. (3), 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.

(b) Except as provided in sub. (3), 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.

(c) If any complaint is made against a veterinarian or veterinary technician, the examining board may require the veterinarian or veterinary technician to submit proof of the continuing education programs or courses that he or she has completed during the preceding 2−year licensure or certification period.

(3) EXCEPTIONS. (a) Subsection (2) (a) and (b) does not apply to an applicant who applies to renew a license or certification that expires on the first expiration date after initial issuance of the license or certification.

(b) The examining board may waive the requirements of sub. (2) (a) or (b) if it finds that exceptional circumstances, such as prolonged illness, disability, or other similar circumstances, have prevented an applicant from meeting the requirements.

History: 2003 a. 103 ss. 2, 4; 2007 a. 20; 2015 a. 55 s. 4496; Stats. 2015 s. 89.062.

89.063 Fees. The department shall determine by rule the fees for each initial license, certification, and permit issued under ss. 89.06, 89.072, and 89.073, and, if applicable, for renewal of the license, certification, or permit, including late fees, based on the department's administrative and enforcement costs under this chapter. The department shall notify the holder of each such license, certification, or permit of any fee adjustment under this subsection that affects that license, certification, or permit holder.

History: 2015 a. 55, 179.

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

(2) The examining board may require passage of a nationally recognized examination if the examination meets basic standards of objectivity. The examining board may administer a state written examination in elements of practice that are not covered in a national examination. The examining board may administer a practical or oral examination if such an examination tests knowledge and skills that cannot be measured or tested in a written examination.

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

History: 1987 a. 39; 2015 a. 55 s. 4497; Stats. 2015 s. 89.065.
Cross−reference: See also ch. VE 2, Wis. adm. code.

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

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

1. The name and address of the veterinarian and, if the prescription is a written order, the signature of the veterinarian.

2. The name and address of the client.

3. The species and identity of the patient for which the prescription is issued.

4. The name, strength and quantity of the drug prescribed.

5. The date on which the prescription is issued.

6. The directions for administering the drug.

7. If the patient is a food−producing animal, the withdrawal time for the veterinary drug.

8. If the prescription authorizes extra−label use, the manner in which the client may use the drug.

9. Any cautionary statements required by law.

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

1. Prescribe for or dispense to a client a veterinary prescription drug or a drug for extra−label use without personally examining the patient unless a veterinary−client−patient relationship exists between the veterinarian, client and patient and the veterinarian determines that the client has sufficient knowledge to administer the drug properly.

2. Prescribe or dispense a veterinary prescription drug to a client unless the veterinarian indicates in the appropriate records described under sub. (3), within 72 hours after the prescription is issued or the drug is dispensed, that the prescription has been issued or that the drug has been dispensed.

3. Prescribe a drug to a client for extra−label use on a patient unless all of the following apply:

a. A veterinary−client−patient relationship exists between the veterinarian, client and patient and the veterinarian has made a careful medical diagnosis of the condition of the patient within the context of that veterinarian−client−patient relationship.

b. The veterinarian determines that there is no drug that is marketed specifically to treat the patient's diagnosed condition, or determines that all of the drugs that are marketed for that purpose are clinically ineffective.

c. The veterinarian recommends procedures for the client to follow to ensure that the identity of the patient will be maintained.

d. If the patient is a food−producing animal, the veterinarian prescribes a sufficient time period for drug withdrawal before the food from the patient may be marketed.

4. Transmit a prescription electronically unless the client approves the transmission and the prescription is transmitted to a pharmacist or veterinarian designated by the client.

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

(3) PRESCRIPTION RECORDS. A veterinarian shall maintain complete records of each veterinary prescription drug that the veterinarian receives, prescribes, dispenses or administers, and of each prescription issued by the veterinarian that authorizes extra−label use. Records of each veterinary prescription drug shall include the name of each veterinary prescription drug that is received, the name and address of the person from whom the drug is received and the date and quantity received, the name and address of the person to whom the drug is dispensed and the date and quantity dispensed and, if the veterinarian prescribes or administers the drug, the information specified in sub. (1) (b).

Records of each prescription authorizing extra−label use shall include the information specified in sub. (1) (b). A veterinarian shall maintain records of each veterinary prescription drug under this subsection for not less than 3 years after the date on which the veterinarian prescribes, dispenses or administers the drug or extra−label use.

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

1. Inspect the premises on which the person possesses, prescribes, dispenses, labels or administers veterinary drugs.

2. Inspect pertinent records, equipment, materials, containers or facilities that are relevant to determining whether the person is violating or has violated this section.

3. Collect relevant samples of veterinary drugs.

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

History: 1991 a. 306; 1997 a. 27; 2015 a. 55 s. 4498; Stats. 2015 s. 89.068.

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

(a) Making any materially false statement or giving any materially false information in connection with an application for a license or for renewal or reinstatement of a license or in making a report to the examining board.

(b) Violating this chapter or any federal or state statute or rule that substantially relates to the practice of veterinary medicine.

(c) Practicing veterinary medicine while the person's ability to practice is impaired by alcohol or other drugs or physical or mental disability or disease.

(d) Engaging in false, misleading or deceptive advertising.

(e) Making a substantial misrepresentation in the course of practice which is relied upon by a client.

(f) Engaging in conduct in the practice of veterinary medicine which evidences a lack of knowledge or ability to apply professional principles or skills.

(fm) Handling, distributing, using or disposing of pesticides in violation of ss. 94.67 to 94.71 or the rules promulgated under ss. 94.67 to 94.71.

(g) Obtaining or attempting to obtain compensation by fraud or deceit.

(h) Violating any order of the examining board.

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

(a) Engaged in unprofessional conduct.

(b) Been adjudicated mentally incompetent by a court.

(c) Been found guilty of an offense the circumstances of which substantially relate to the practice of veterinary medicine.

(3) In addition to or in lieu of a reprimand or denial, limitation, suspension, or revocation of a license, certification, or permit under sub. (2), the examining board may assess against the applicant for or the holder of the license, certification, or permit a forfeiture of not more than $5,000 for each violation of s. 89.068.

History: 1987 a. 39; 1989 a. 279; 1991 a. 306; 2015 a. 55 s. 4499; Stats. 2015 s. 89.07.

Cross−reference: See also ch. VE 7 and 9, Wis. adm. code.

89.071 Administrative warnings. (1) If the examining board determines during an investigation of a complaint against a person holding a license, certification, or permit issued under s. 89.06, 89.072, or 89.073 that there is evidence that the credential holder committed misconduct, the examining board may close the investigation by issuing an administrative warning to the credential holder if the examining board determines that no further disciplinary action is warranted, the complaint involves a first occurrence of a minor violation, and the issuance of an administrative warning adequately protects the public.

(2) A credential holder may obtain review of an administrative warning through a personal appearance before the examining board.

(3) (a) An administrative warning does not constitute an adjudication of guilt or the imposition of discipline and, except as provided in par. (b), may not be used as evidence that the credential holder is guilty of the alleged misconduct.

(b) If the examining board receives a subsequent complaint of misconduct by a credential holder against whom the examining board issued an administrative warning, the examining board may reopen the matter that gave rise to the administrative warning and commence disciplinary proceedings against the credential holder, and the administrative warning may be used as evidence in a subsequent disciplinary proceeding that the credential holder had actual notice that the misconduct that was the basis for the administrative warning was contrary to law.

(4) The record that an administrative warning was issued shall be a public record. The contents of the administrative warning shall be private and confidential.

History: 2015 a. 179.

89.0715 Assessment of costs. (1) In this section, "costs of the proceeding" means all of the following:

(a) Compensation and reasonable expenses of hearing examiners and prosecuting attorneys for the department and examining board.

(b) A reasonable disbursement for the service of process or other papers.

(c) Amounts actually paid out for certified copies of records in any public office and for postage, telephoning, adverse examinations and depositions, copies, expert witness fees, and witness fees and expenses.

(d) Compensation and reasonable expenses of experts and investigators.

(e) Compensation and reasonable expenses of a reporter for recording and transcribing testimony.

(2) In any disciplinary proceeding against a holder of a license, certification, or permit issued under s. 89.06, 89.072, or 89.073 in which the examining board orders suspension, limitation, or revocation of the credential or reprimands the credential holder, the examining board may, in addition to imposing discipline, assess all or part of the costs of the proceeding against the credential holder. Costs assessed under this subsection are payable to the department. Interest shall accrue on costs assessed under this subsection at a rate of 12 percent per year beginning on the date that payment of the costs are due as ordered by the examining board. Upon the request of the department, the department of justice may commence an action to recover costs assessed under this subsection and any accrued interest.

(3) In addition to any other discipline imposed, if the examining board assesses costs of the proceeding to a credential holder under sub. (2), the examining board may not restore, renew, or otherwise issue any credential to the holder until the holder has made payment to the department under sub. (2) in the full amount assessed, together with all accrued interest.

History: 2015 a. 179.

89.072 Licensees of other jurisdictions. (1) Upon application and payment of the fee established under s. 89.063, the examining board may issue a license to practice veterinary medicine to any person licensed to practice veterinary medicine in another state or territory of the United States or in another country if the applicant is not currently under investigation and has never been disciplined by the licensing authority in the other

state, territory or country, has not been found guilty of a crime the circumstances of which are substantially related to the practice of veterinary medicine, is not currently a party in pending litigation in which it is alleged that the applicant is liable for damages for acts committed in the course of practice and has never been found liable for damages for acts committed in the course of practice which evidenced a lack of ability or fitness to practice.

(2) Upon application and payment of the fee established under s. 89.063, the examining board may issue a temporary consulting permit to practice veterinary medicine in this state for up to 60 days per year to any nonresident licensed to practice veterinary medicine in another state or territory of the United States or in another country.

History: 1987 a. 39; 2015 a. 55 s. 4500; Stats. 2015 s. 89.072.

89.073 Temporary reciprocal credentials for the spouses of service members. (1) In this section, "service member" means a member of the U.S. armed forces, a reserve unit of the U.S. armed forces, or the national guard of any state.

(2) The examining board shall grant a temporary license, certification, or permit specified under s. 89.06 to an individual who the examining board determines meets all of the following requirements:

(a) The individual applies for a temporary credential under this section on a form prescribed by the examining board.

(b) The individual is the spouse of a service member and the spouse and service member temporarily reside in this state as a result of the service member's service in the U.S. armed forces, a reserve unit of the U.S. armed forces, or the national guard of any state.

(c) The individual holds a credential that was granted by a governmental authority in a jurisdiction outside this state that qualifies the individual to perform the acts authorized under the appropriate credential specified under s. 89.06.

(d) The individual pays the fee established under s. 89.063.

(e) The individual meets all other requirements established by the examining board by rule.

(3) A temporary credential granted under this section expires 180 days after the date the examining board issues it unless, upon application by the holder of the credential, the examining board extends the credential.

History: 2015 a. 179.

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

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

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

History: 1987 a. 39; 2015 a. 55 s. 4501; Stats. 2015 s. 89.075.

89.078 Background investigations. (1) The examining board may conduct an investigation to determine whether an applicant for a license, certification, or permit issued under s. 89.06, 89.072, or 89.073 satisfies any of the eligibility requirements specified for the license, certification, or permit, including, subject to ss. 111.321, 111.322, and 111.335, whether the applicant does not have an arrest or conviction record. In conducting an investigation under this subsection, the examining board may require an applicant to provide any information that is necessary for the investigation.

(2) A person holding a license, certification, or permit issued under s. 89.06, 89.072, or 89.073 who is convicted of a felony or misdemeanor anywhere shall send a notice of the conviction by 1st class mail to the examining board within 48 hours after the entry of the judgment of conviction. The examining board shall by rule determine what information and documentation the person holding the credential shall include with the written notice.

(3) The examining board may investigate whether an applicant for or holder of a license, certification, or permit issued under s. 89.06, 89.072, or 89.073 has been charged with or convicted of a crime.

History: 2015 a. 55, 179.

89.079 Unauthorized practice. (1) The department may conduct investigations, hold hearings, and make findings as to whether a person has engaged in a practice or used a title without a credential required under this chapter.

(2) If, after holding a public hearing, the department determines that a person has engaged in a practice or used a title without a required credential, the department may issue a special order enjoining the person from continuing the practice or use of the title.

(3) In lieu of holding a public hearing, if the department has reason to believe that a person has engaged in a practice or used a title without a required credential, the department may petition the circuit court for a temporary restraining order or an injunction as provided in ch. 813.

(4) (a) Any person who violates a special order issued under sub. (2) may be required to forfeit not more than $10,000 for each offense. Each day of continued violation constitutes a separate offense. The attorney general or any district attorney may commence an action in the name of the state to recover a forfeiture under this paragraph.

(b) Any person who violates a temporary restraining order or an injunction issued by a court upon a petition under sub. (3) may be fined not less than $25 nor more than $5,000 or imprisoned for not more than one year in the county jail or both.

History: 2015 a. 55.

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

History: 1987 a. 39; 2015 a. 55 s. 4502; Stats. 2015 s. 89.08.

Chapter VE 10

CONTINUING VETERINARY EDUCATION FOR VETERINARIANS AND VETERINARY TECHNICIANS

VE 10.01 Authority and purpose. The rules in this chapter are adopted by the veterinary examining board pursuant to the authority delegated by ss. 15.08 (5), 89.03 (1), 89.03 (2), 89.07 (1) (fm), and 227.11 (2), Stats., and shall govern the biennial continuing education, training and certification requirements for veterinarians and veterinary technicians.

History: Cr. Register, February, 1992, No. 434, eff. 3−1−92; am. Register, December, 1998, No. 516, eff. 1−1−99; CR 04−125: am. Register August 2005 No. 596, eff. 9−1−05; correction made under s. 13.92 (4) (b) 7., Stats., Register October 2015 No. 718.

VE 10.02 Continuing education. (1) (a) Except as provided in subs. (3) and (4), a veterinarian shall complete at least 30 hours of continuing education pertinent to veterinary medicine in each biennial renewal period. The 30 hours of continuing education shall include all of the following:

2. At least 25 hours of continuing education that relates to scientific topics pertinent to veterinary medicine.

(b) All 30 continuing education hours in this subsection shall be documented. A minimum of 25 hours of continuing education shall be documented by an approved continuing education provider.

(c) A continuing education hour shall consist of 50 minutes of contact time.

(2) (a) Except as provided in subs. (3) and (4), a veterinary technician shall complete at least 15 hours of continuing education pertinent to veterinary medicine or veterinary technology in each biennial renewal period. The 15 hours of continuing education shall include all of the following:

2. At least 10 hours of continuing education that relates to scientific topics pertinent to veterinary medicine.

(b) All 15 continuing education hours required in this subsection shall be documented. A minimum of 12 hours of continuing education shall be documented by an approved continuing education provider.

(c) A continuing education hour shall consist of 50 minutes of contact time.

Note: A list of approved program providers is contained in s. VE 10.03 (4).

(3) Subsections (1) and (2) do not apply to an applicant who applies to renew a license or certificate that expires on the first expiration date after initial issuance of the license or certificate.

(4) The board may waive the requirements under subs. (1) and (2) if it finds that exceptional circumstances, such as prolonged illness, disability, or other similar circumstances, have prevented an applicant from meeting the requirements.

(5) Continuing education hours shall be completed during the preceding 2−year licensure or certification period.

(6) To obtain credit for completion of continuing education hours, a licensee or certificate holder shall, at the time of each renewal, sign a statement certifying that he or she has completed, during the preceding 2−year licensure or certification period, the continuing education programs required under sub. (1) or (2), as appropriate.

(7) A veterinarian or veterinary technician who fails to complete the continuing education requirements by the renewal date shall not practice as a veterinarian or veterinary technician, as appropriate, until his or her license or certificate is renewed.

(8) For auditing purposes, every veterinarian and veterinary technician shall maintain records of continuing education hours for at least 5 years from the date the certification statement required under sub. (6) is signed. The board may audit for compliance by requiring a veterinarian or veterinary technician to submit evidence of compliance to the board for the biennium immediately preceding the biennium in which the audit is performed. Documentation of completion of continuing education hours shall include one of the following:

(a) A certificate of attendance from an approved course provider.

(b) Complete references from journal articles read.

(c) A grade report or transcript from an accredited college or university.

(d) A copy of a published work authored or co−authored by the licensee or certificate holder.

(e) A copy of a meeting syllabus, announcement, abstract or proceeding for a presentation.

(f) A signed document from an internship or residency institution certifying enrollment in a program.

History: Cr. Register, February, 1992, No. 434, eff. 3−1−92.; am. Register, December, 1998, No. 516, eff. 1−1−99; CR 04−125: r. and recr. Register August 2005 No. 596, eff. 9−1−05; CR 12−052: r. (1) (a) 1., (2) (a) 1. Register September 2013 No. 693, eff. 10−1−13.

VE 10.03 Continuing education programs and courses. (1) CRITERIA FOR PROGRAM AND COURSE APPROVAL. To be approved, a continuing education program or course shall meet the following criteria:

(a) The subject matter of the program or course shall be pertinent to veterinary medicine or veterinary technology.

(b) The program or course sponsor agrees to record registration and furnish a certificate of attendance to each participant.

(2) UNRELATED SUBJECT MATTER. If a continuing education course includes subject matter that is not pertinent to veterinary medicine or veterinary technology, only those portions of the course that relate to veterinary medicine or veterinary technology will qualify as continuing education under this chapter.

(3) MODALITIES AND METHODS OF DELIVERY. Modalities and methods of delivery of continuing education programs acceptable to the board include one or more of the following:

(a) Attendance at a scientific workshop, seminar, or laboratory demonstration pertinent to veterinary medicine or veterinary technology.

(c) Enrollment in graduate or other college level courses pertinent to veterinary medicine or veterinary technology. Credit for qualified courses will be approved on the basis of multiplying each college credit hour by 10.

(d) Enrollment in an internship, residency or certification program approved by a veterinary specialty organization recognized by the AVMA or in an AVMA accredited veterinary school.

(e) Authorship or co−authorship of a published work, such as review articles, abstracts, presentations, proceedings, book chap-

ters, and web−based continuing education materials shall be approved for 5 hours each.

(f) A peer reviewed publication shall be approved for 5 hours.

(g) Development and presentation of research findings, scientific workshops, seminars or laboratory demonstrations pertinent to veterinary medicine or veterinary technology shall be approved for 5 contact hours each.

(h) Up to 15 hours per biennium for veterinarians and up to 8 hours per biennium for veterinary technicians shall be granted for a combination of continuing education hours completed under pars. (e) to (g), provided the continuing education is published or presented under the auspices of a provider approved under sub. (4).

(j) On−line, video, audio, correspondence courses, or other interactive distance learning courses pertinent to veterinary medicine or veterinary technology, or to employment as a veterinarian or veterinary technician, as appropriate.

(4) APPROVED PROGRAM PROVIDERS. Subject to compliance with the requirements set forth in subs. (1) to (3), the board shall approve attendance at and completion of one or more continuing education programs approved by any one of the following approved program providers as fulfilling the continuing education hours required under this chapter:

(a) A national, regional, state, or local veterinary medical or veterinary technician association.

(b) A federal or state agency.

(c) An accredited college or university.

(d) An association listed in the AVMA or the National Association of Veterinary Technicians in America directory.

(e) An AVMA accredited veterinary school or veterinary technician program.

(f) A program approved by the American Association of Veterinary State Boards through its Registry of Approved Continuing Education approval program.

(g) A foreign veterinary medical or veterinary technician association, an accredited college or university, or a governmental agency that is, as determined by the board, comparable to a program provider listed under pars. (a) to (f).

History: Cr. Register, February, 1992, No. 434, eff. 3−1−92; am. Register, December, 1998, No 516, eff. 1−1−99; CR 04−125: r. and recr. Register August 2005 No. 596, eff. 9−1−05; CR 07−051: cr. (4) (g) Register October 2008 No. 634, eff. 11−1−08; **CR 15−062: r. (3) (b), (i) Register March 2016 No. 723, eff. 4−1−16.**

VETERINARY EXAMININING BOARD
MEETING MINUTES
July 20, 2016

PRESENT: Bruce Berth, Diane Dommer Martin, D.V.M., Philip Johnson, D.V.M., Dana Reimer, Sheldon Schall; Neil Wiseley, D.V.M. (Absent: Robert Forbes, D.V.M., Lisa Weisensel Nesson, D.V.M.)

STAFF: Department of Agriculture, Trade, and Consumer Protection (DATCP): Lauren Van Buren and Cheryl Daniels, DATCP attorneys; Matt Tompach, Administrative Policy Advisor; Kelly Markor, Executive Staff Assistant; Kathryn Young, Program Assistant Supervisor, Sally Ballweg, License/Permit Program Associate; Michael Malovich, License/Permit Program Associate LTE; Laurie Schammel, telecommunications.

CALL TO ORDER

Philip Johnson, Chair, called the meeting to order at 9:03 am. A quorum of six (6) members was confirmed.

INTRODUCTIONS

Matt Tompach introduced VEB licensing staff Kathryn Young, Sally Ballweg, and Michael Malovich to the Veterinary Examining Board members; Lauren Van Buren introduced Joel Witt, DATCP legal intern.

APPROVAL OF THE AGENDA

MOTION: Sheldon Schall moved, seconded by Dana Reimer, to approve the agenda. Motion carried unanimously.

APPROVAL THE MINUTES

Approval of Board Meeting Minutes of June 13, 2016

MOTION: Neil Wiseley moved, seconded by Bruce Berth, to approve the June 13, 2016 minutes. Motion carried unanimously.

Approval of Board Meeting Minutes of April 27, 2016.

MOTION: Diane Dommer Martin moved, seconded by Sheldon Schall, to approve the April 27, 2016 minutes as amended. Motion carried unanimously.

ADMINISTRATIVE UPDATES

1. Determining VTNE Exam Eligibility

   Matt Tompach updated members on the process. Also discussed exam window and its timeframe.

2. Professional Assistance Program (PAP)

   Cheryl Daniels discussed the Wisconsin Veterinary Medical Association (WVMA) Professional Assistance Program (PAP) for veterinarians and veterinary technicians. Techs.

MOTION: Neil Wiseley moved, seconded by Bruce Berth, to support developing statutory language for a PAP. Motion carried unanimously.

3. Jacquelyn Kieler, DVM, 13 VET 033

   Cheryl Daniels updated members on the status of the case.

AMERICAN ASSOCIATION OF VETERINARY STATE BOARDS (AAVSB) ANNUAL MEETING

1. Update on Travel Authorizations

   Travel authorizations have been approved by the Secretary.

2. Expansion of Delegate Funding Program

   AAVSB will now pay expenses for two members from each state board to attend the annual meeting September 22-24.

3. Annual Meeting Resolution

   The meeting will have a resolution providing more flexibility on the timing of the annual meeting.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

1. Licensure to Work in State Diagnostic Lab – Bochsler Letter

MOTION: Diane Dommer Martin moved, seconded by Neil Wiseley, to direct staff to respond to the letter of May 11, 2016 from Dr. Philip Boschler regarding licensure to work in the state diagnostic lab. Motion carried unanimously.

2. Continuing Education Requirements for Faculty Licensees

MOTION: Neil Wiseley moved, seconded by Bruce Berth, to affirm the interpretation that continuing education requirements for licensed veterinarians continues to apply

to holders of faculty veterinary licenses. Motion carried (Sheldon Schall opposed).

Members also discussed differences between the faculty and post graduate training credentials.

MOTION: Diane Dommer Martin moved, seconded by Bruce Berth, to direct staff to develop language to communicate with holders of faculty veterinary licenses to advise them of continuing education requirements. Motion carried unanimously.

3. Rulemaking Update – VE 1 and 7 Statement of Scope

Cheryl Daniels discussed the approval of the scope statement of VE 1 and VE 7, along with the rule-making process.

MOTION: Sheldon Schall moved, seconded by Dana Reimer, to post for public comment the language of VEB 1, including changes in exception language for surgery, before the economic impact analysis statement. Motion carried unanimously.

MOTION: Dana Reimer moved, seconded by Sheldon Schall, to approve the formation of a VEB Rulemaking Advisory Committee. Motion carried unanimously.

EXAM INQUIRIES

1. Esther Maia

MOTION: Dr. Wiseley moved, seconded by Dana Reimer, to qualify Esther Maia to take the VTNE based on her experience and education. Motion carried unanimously.

SCOPE OF PRACTICE

1. Informed Consent Video for Spay/Neuter Procedures

MOTION: Sheldon Schall moved, seconded by Bruce Berth, that an on-line video with a follow-up "quiz" does not satisfy the requirements of the informed consent rule. Motion carried unanimously.

2. Update: Unlicensed Practice Cases

Lauren Van Buren updated Board members on the status of unlicensed practice cases.

3. Scope of Practice Question – AI and Pregnancy Diagnosis

MOTION: Diane Dommer Martin moved, seconded by Neil Wiseley, to reaffirm that under 89.05 (2)(a), the practice of AI can be conducted by a lay person for any livestock species such as cattle, equine, ovine, caprine. Motion carried unanimously.

MOTION: Dana Reimer moved, seconded by Sheldon Schall, to reaffirm that under 89.05 (2)(a), the practice of pregnancy diagnosis including ultrasound cannot be conducted by a lay person for any livestock species such as cattle, equine, ovine, caprine. Motion carried unanimously.

FUTURE MEETING DATES

1. Screening Committee
   August –8/31
   September- 9/28
   October 26, 2016 (immediately following Board Meeting)

2. Full Board Meeting – October 26, 2016 (9:00 a.m.)

FUTURE AGENDA ITEMS

Philip Johnson requested an update on telemedicine issues.

PUBLIC COMMENTS

Jordan Lamb of WVMA commented on rule-making for VE 1 and 7.
Kim Pokorny of WVMA commented on clarification for who may perform pregnancy diagnoses.

CLOSED SESSION

MOTION: Sheldon Schall moved, seconded by Dana Reimer, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.). Philip Johnson read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Dana Reimer-yes; Diane Dommer Martin-yes; Philip Johnson-yes; Neil Wiseley-yes; Sheldon Schall-yes; Bruce

Berth-yes; Motion carried unanimously. The Board went into closed session at 12:05 pm

1. 16 VET 004 L.H., D.V.M.

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

MOTION: Bruce Berth moved, seconded by Sheldon Schall, to reconvene in open session at 12:25 p.m. Motion carried unanimously.

MOTION: Bruce Berth moved, seconded by Neil Wiseley, to accept the stipulation and enter final decision and order regarding case number 16 VET 004 L.H., D.V.M. LH. Motion carried unanimously.

MOTION: Diane Dommer Martin moved, seconded Dana Reimer, to delegate ratification of examination results to DATCP staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: Dana Reimer moved, seconded by Sheldon Schall, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:33 p.m.

CE eligibility - The Saskatoon Colostrum Co. Ltd.

State of Wisconsin
Department of Agriculture, Trade and Consumer Protection

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Matt Tompach	April 6, 2018 Items will be considered late if submitted after 12:00 p.m. on the deadline date.

3) Name of Board, Committee, Council, Sections:

VEB

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
April 18, 2018	☒ Yes ☐ No	Licensing/Exam Inquiries Consider CE eligibility - The Saskatoon Colostrum Co. Ltd.

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes (Fill out Board Appearance Request) ☒ No	

10) Describe the issue and action that should be addressed:

Board may consider CE eligibility for program put on by The Saskatoon Colostrum Co. Ltd.

11) Authorization

Matt Tompach	April 6, 2018
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 Executive Director.
3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

Colostrum - Day One and Post Day One Use
April 9, 5:00 p.m.

Dr. Michael Nagorske, DVM, B.Sc
Director of Veterinary Technical Services & Research, SCCL

Discussion Points

- The importance of failure of passive transfer in the neonate
- Testing for failure of passive transfer with Radial immunodiffusion and total proteins
- The explanation of colostrum supplements and replacers, the differences and how each can be used for complete replacement of maternal colostrum
- Gut development in the postnatal period and layers of the gastrointestinal tract: microbial layer, chemical layer, physical barrier, immunological barrier
- Gut development in relation to the pathophysiology of gastrointestinal disease
- The importance of transition milk for supporting the gastrointestinal tract and mitigating gastrointestinal disease
- The components of colostrum and how colostrum replacer derived completely from maternal colostrum can mimic transition milk
- Research studies showing the use of a colostrum replacer to mimic transition milk and the mitigation of respiratory disease, gastrointestinal disease, clinical depression and navel infections

midwest veterinary supply

SCCL
SCIENCE ◆ NATURE ◆ CARE

1. VE 1 - Final Draft Rule to amend Wis. Admin. Code § VE 1.02 (9), relating to the definition of veterinary medical surgery; consideration of motion requesting the Governor’s office return the rule to VEB

State of Wisconsin
Department of Agriculture, Trade and Consumer Protection

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Matt Tompach	March 29, 2018 Items will be considered late if submitted after 12:00 p.m. on the deadline date.

3) Name of Board, Committee, Council, Sections:

VEB

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
April 18, 2018	☒ Yes ☐ No	VE 1 - Final Draft Rule to amend Wis. Admin. Code § VE 1.02 (9), relating to the definition of veterinary medical surgery; consideration of motion requesting the Governor's office return the rule to VEB

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes (Fill out Board Appearance Request) ☒ No	

10) Describe the issue and action that should be addressed:

The Board may consider a motion requesting the Governor's office return the VE 1 final draft rule to the VEB for possible revisions.

11) Authorization

Matt Tompach	March 29, 2018
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 Executive Director.
3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

VE 1 (Definitions and Authority)

1. Plain Language Summary

Problem: Currently, in Wis. Adm. Code § VE 1.02(9), the definition of surgery for veterinary medical practice is as follows:

> "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. 89.05(2), Stats. Surgery does not include giving injections or simple dental extractions that require minor manipulation and minimal elevation.

In limiting the definition of surgery only to procedures that are for therapeutic purposes, the Veterinary Examining Board (VEB) has been made aware that the current definition of surgery creates uncertainty for the veterinary profession, particularly as to whether surgeries for other purposes, including reproduction and cosmetic changes, are included under the purview of Wis. Admin. Code § VE 1.02(9).

Solution: An alteration to the definition of surgery will clarify the practice of veterinarian medicine for veterinarians and the public. Since surgical procedures include a number of broader purposes besides just therapeutic, an improved definition of surgery will provide clarity, consistency, and certainty.

In modifying the definition, the new definition will include some additional veterinary procedures. However, the rule's definition of surgery will also clarify that some procedures are outside the purview of surgery, and further, that some procedures are all together outside the scope of practice for veterinary medicine. For these procedures outside the scope of veterinary medicine, people will not be required to obtain a license, as that term is defined in Wis. Admin. Code § VE 1.02(6).

Finally, the rule clarifies that some procedures, not falling within the definition of surgery, do still remain within the practice of veterinary medicine. Included in Wis. Admin. Code § VE 7.02(4), additional veterinary medical acts, not considered surgery but still within the practice of veterinary medicine, are practices which a veterinarian may delegate to certified veterinary technicians ("CVT"), so long as the CVT remains under the direct supervision of the veterinarian, personally present on the premises as these services are provided.

2. Stakeholder Outreach

The VEB gathered input from a number of stakeholders at the initial hearing, in VEB meetings, by letter, and through e-mail correspondence. The VEB engaged in a continuing process of revising the definition of surgery, as more information was collected and the VEB heard from additional stakeholders. Please see the attached list of citizens providing commentary, as well as their feedback concerning various issues and the VEB's responses. The VEB has also included those letters and e-mails as attachments.

3. How and Why was the Rule Process Initiated?

The Wisconsin Veterinary Medical Association ("WVMA") requested the VEB to initiate this rule revision because of stakeholder concern over ambiguities and a lack of clarity and certainty pertaining to the definition of veterinary practices, particularly regarding the definition of "surgery" for veterinary medicine.

4. Is this rule connected to an emergency rule?
No.

5. Is there a deadline?
The only deadline would be the VEB's preference to refer the rule to the Legislature before the end of the 2017-18 Legislative session, scheduled for March 22, 2018, so that, if approved by the Legislature, the rule would be effective in 2018.

6. What happens if the deadline is not met?
Without the rule, these procedures, while still considered a practice of veterinary medicine, would not be clearly within the definition of "surgery", leaving veterinarians uncertain as to which practices and procedures fall under the jurisdiction of the VEB. Absent the clarifications contained in the proposed rule, veterinarians would remain without clear authority when delegating certain practices to certified veterinary technicians. The proposed rule will facilitate the best use of the veterinarian's skills and those of his or her staff in a practice.

Comments from Stakeholders

Hearing on November 30, 2016

1. Dr. John Borzillo, DVM, Central Wisconsin Ag Services, submitted written and oral testimony expressing concern that the definition of "surgery" might implicate practices performed by livestock owners, who might be suturing the skin of their animals in an emergency situation or who provide intravenous injections and IVs to their own animals. He was unsure whether clarifying that "surgery" included reproductive and cosmetic, as well as therapeutic procedures, would be necessary. However, Dr. Borzillo also spoke to the need to clarify procedures, particularly in the reproductive area and other issues that occur in the practice of livestock veterinary medicine, that should not be considered the practice of veterinary medicine. **(Comment attached)**

   Response – The VEB believes that, as to the issue of veterinary practices, the proposed rule provides a clear demarcation between those surgical procedures that may be delegated by a veterinarian to a certified veterinary technician (CVT) under the direct supervision of a veterinarian while personally present on the premises, and those surgical procedures that are required to be performed by a veterinarian. The proposed rule also provides clarity about those procedures that are not to be considered surgical because the procedures are outside the scope of the practice of veterinary medicine, either by statute or the long-standing interpretation of the veterinary medical community.

   The proposed rule does not address issues already granted by Legislative statutory authority nor any considerations which might arguably clarify the definition of the "practice of veterinary medicine" as it is defined in Wis. Stat. § 89.02(6). This includes those practices that would not otherwise be required to be performed by a licensed veterinarian, pursuant to Wis. Stat. § 89.05, but now are required to be, such as pregnancy examinations as articulated in Wis. Stat. § 89.05(2)(a).

2. The WVMA, through Attorney Jordan Lamb, submitted written and oral testimony supporting the changes to the definition of "surgery" to clarify that "cosmetic" or "reproductive" veterinary surgery procedures are veterinary surgery. Attorney Lamb maintained that there should be clear demarcation as to procedures that may be performed by a veterinarian and those that may be delegated to a CVT. In addition, the WVMA suggested a few additional items, such as tattooing and

the insertion of ear tags, which should be included as items not considered "surgery" because these procedures do not involve the practice of veterinary medicine. **(Comment attached)**

Response – The VEB amended the rule to include the additional items listed by the WVMA as exempt from the "surgery" rule because these procedures are not considered the practice of veterinary medicine.

3. Dr. Gregg BeVier, DVM, and chief operating officer of Sexing Technologies, generally spoke of the changes in the livestock industry that rules, such as the one proposed by the VEB, do not keep pace with. Sexing Technologies, an Assisted Reproductive Techniques ("ART") provider with facilities in Wisconsin, believes that the VEB should facilitate the advancement of the most efficient technologies, especially as to livestock veterinary practices, and not try to use rules to hamper that effort.

   Response – The VEB considered these issues in depth, but, after receiving feedback from a variety of Wisconsin veterinarians, decided that these services are definitely within the scope of the practice of veterinary medicine. These items fall within the statutory definition of the "practice of veterinary medicine." The VEB believes that clarification of the definition, in rule, is a transparent method to give certainty to licensees.

Written Comments Received during VE 1 Revising process Before July 26, 2017 VEB meeting

4. On March 7, 2017, the VEB received an e-mail from CVT Teri Raffel, an instructor in the Madison College CVT program. She commented that euthanasia by injection should not be considered surgery because it was not considered a practice of veterinary medicine. In addition, there were other surgical-type procedures, including arterial, as well as IV catheterization, purse string and butterfly sutures, and fine needle aspirate of a mass that were currently being performed by CVTs and should be included in the list of delegable tasks. **(Comment attached)**

   Response – The VEB agreed that these items should all be made a part of the rule.

5. On April 7, 2017, Dr. Gregg BeVier of Sexing Technologies wrote a letter to the VEB re-iterating his position that the rule draft under consideration at that time would broaden the current definition of veterinary medical surgery to include numerous ART procedures, currently performed by certified veterinary technicians at their facilities, that would need to be performed by veterinarians, whom are difficult to recruit and need to be paid more. **(Comment attached)**

   Response – The VEB, at its April 26, 2017 meeting felt that it could not make an informed decision on whether these ART procedures needed to be performed by a certified veterinary technician or a veterinarian, so the VEB scheduled an additional hearing for its July 26, 2017 meeting.

July 26, 2017 VEB Meeting

6. At the April 26, 2017 full VEB Board meeting, members agreed to allow oral testimony at the July meeting regarding the Board's decision to deny an exemption for bovine embryo transfer under the

definition of "surgery" from Wis. Admin. Code § VE 1.02(9). The VEB proceeded, pursuant to Wis. Stat. § 227.18(3), to enable stakeholders to express their sentiments directly to the Board, as a quorum of the Board was not present at the Nov. 30, 2016 public hearing on the rule when an objection was made. Because Dr. Greg BeVier and Sexing Technologies listed their objection to the rule at the hearing and in writing, the Board invited them to present their views before the entire Board, as well as experts identified by Wisconsin Veterinary Medical Association (WVMA), proponents of the proposed rule, to speak on this issue.

Dr. BeVier and Michelle Kussow, representing Sexing Technologies, appeared before the Board in favor of a bovine embryo transfer exemption. Dr. Jon Schmidt of Trans-Ova Genetics and Jordan Lamb of WVMA appeared to testify on an exemption.

Response – The Board directed its Board Attorney, DATCP Assistant Legal Counsel Cheryl Daniels, to draft possible rule language for consideration at the October meeting. The drafting of this language stated that the piercing of reproductive tissues for the performance of reproductive technologies, including amniocentesis, embryo collection and transfer, follicular aspiration, and transvaginal oocyte collection and recovery, would be an activity exempt from the definition of "surgery" but still considered within the scope of the practice of veterinary medicine, a procedure which could be delegated to a certified veterinary technician under the direct supervision of a licensed veterinarian.

Written Comments Prior to October 25, 2017 VEB Meeting

7. Prior to the meeting, several individuals wrote e-mails and letters attached to e-mails. All of these e-mails and letters expressed opposition to the draft VE 1 that would allow ART techniques to be performed by certified veterinary technicians. The commenters felt strongly that, for the health and welfare of the animals involved, these were generally techniques that required the skills of veterinarians.
   (All Comments attached)

   a. Dr. Robert Rowe, DVM, of Verona, WI on October 18th. Dr. Rowe acknowledged that ART techniques are almost all non-surgical, but Dr. Rowe indicated that the skills needed to perform ART techniques are of a nature and skill which require they be performed by a veterinarian for the health and safety of the animals involved.
   b. Dr. John Schneller, DVM, of Thousand Hills Embryo Transfer in Plain, WI on October 20th.
   c. Dr. Chester Rawson, DVM, from Markesan, Wisconsin on October 22nd.
   d. Dr. David Duxbury, DVM, of Midwest Embryo Transfer Service, LLC, in Osceola, WI, on October 22nd.
   e. Dr. Robert Steiner, DVM, of Lodi, Wisconsin on October 22nd.
   f. Dr. Byron Williams, DVM, of EmQuest ET Service in Plymouth, Wisconsin, on October 23rd.
   g. Dr. Dagmara Schroeder, DVM, of Stateline Veterinary Service in Darien, Wisconsin on October 23rd.

h. Mitch Breunig, dairy producer for Mystic Valley Dairy, LLC, in Sauk City, Wisconsin on October 23rd.
i. Dr. John Prososki, DVM, VP of the American Embryo Transfer Association, of Wittenburg Embryo Transfer in Wittenburg, Wisconsin on October 23rd.
j. Gary Janssen, dairy producer for Illinois-based Golden Oaks Farm but using a Wisconsin ET company, on October 23rd.
k. Tom Kestell, dairy producer for Ever-Green-View Farms in Waldo, Wisconsin, on October 23rd.
l. Dr. Greg Schueller, DVM, of Sunshine Genetics in Whitewater, Wisconsin, on October 23rd.
m. Dr. Scott Armbruster, DVM, of Paradocs Embryo Transfer, Inc. in Green Bay, WI, on October 24th.
n. Dr. Dan Gander, DVM, of Stateline Veterinary Service in Darien, Wisconsin, on October 24th.
o. Dr. Brent Beck, DVM, Beck Embryo Transfer LLC of Cashton, Wisconsin, on October 25th.
p. Dr. Ashley Swenson, DVM, of Midwest Embryo Transfer in Osceola, Wisconsin on October 25th.

October 25, 2017 VEB Meeting

8. At this VEB meeting, several additional comments were made concerning the draft VE 1 proposed provision that would allow ART techniques to be performed by certified veterinary technicians.

   a. Jordan Lamb, representing the WVMA, stated that although the WVMA would not oppose a change to the administrative code that would allow delegation of <u>certain</u> ART to Wisconsin licensed veterinary technicians who are acting under the direct supervision of a Wisconsin licensed veterinarian who is on the premises with the veterinary technician, the WVMA did request the following amendments be made:

      VE 1.02 (9)(b) 7: "7. Performing assisted reproductive technologies on <u>livestock</u>, including amniocentesis <u>limited to</u>, embryo collection and transfer, follicular aspiration, and transvaginal oocyte collection and recovery.

      VE 7.02 (4) (h): "(h) Performing assisted reproductive technologies <u>on livestock</u>, including amniocentesis <u>limited to</u>, embryo collection and transfer, follicular aspiration, and transvaginal oocyte collection and recovery. **(Comment attached)**

   b. Dr. Greg Schueller, DVM, representing Sunshine Genetics and the American Embryo Transfer Association, discussed VE 1 and VE 7 – Final Draft to amend Wis. Admin. Code § VE 1.02 (9), relating to the definition of veterinary medical surgery and VE 7.02 (4), relating to delegation of veterinary medical acts. Dr. Schueller expressed strong opposition to the regulation and advised that when he talked to a farmer from Oklahoma, a state which currently does not require veterinarians to complete embryo transfers, the reason for the difference in the rule was due to a lack a veterinarians. However, that is not the case in Wisconsin. He also advised that it is very difficult to know what is happening inside of the animals.

   c. Dr. Harry Momont, DVM, representing the School of Veterinary Medicine at the University of Wisconsin at Madison as the Chief of Services for the Large Animal Hospital. He advised that the clinical training program for UW deals with these ART issues and that there is a fear that these changes will discourage people from entering this practice of veterinary medicine. Dr. Phillip Johnson inquired about foreign students who are receiving their credentials from the United States.

d. Craig Carncross, representing his farm as a dairy producer, regarding the proposed changes to IVF work. He expressed his opposition to the changes to the rule. VEB member, Dr. Robert Forbes, discussed the role of the VEB to protect the public.

e. VEB Chair, Dr. Phillip Johnson, requested additional information from Dr. Schueller. He advised that these procedures are currently almost exclusively non-surgical. Amniocentesis is not performed, and veterinarians are available to hire by practices performing ART.

Response – The VEB discussed all of the testimony and stakeholder input that has served to clarify these issues. The VEB recognized that several livestock operator consumers of these services also opposed allowing a blanket exemption for ART procedures to be performed by CVTs.

The VEB voted unanimously to strike the proposed Wis. Admin. Code § VE 1.02 (9) in its entirety, because the assisted reproductive techniques are not surgical procedures. In addition, the VEB amended Wis. Admin. Code § VE 7.02(4) to include "Performing embryo implantation on livestock" as the sole ART that may be performed by a certified veterinary technician under the direct supervision of a veterinarian while personally present on the premises.

VE 1 Comments

Testimony for Dr. John Borzillo, DVM, Central Wisconsin Ag Services
Veterinary Examining Board Hearing
Proposed Rulemaking Relating to the Definition of Veterinary Medical Surgery
November 30, 2016

Good afternoon. My name is Dr. John Borzillo and I am a licensed veterinarian with Central Wisconsin Ag Services, a veterinary practice headquartered in Alma Center, Wisconsin. Central Wisconsin Ag Services or "CWAS" employs three full-time veterinarians and provides large animal veterinary services to 75 customers and approximately 55,000 animals. Our practice has a geographical reach of Trempealeau County to the West and Kewaunee County to the East. CWAS prides itself on its relationship with its customers and I, along with my colleagues, see ourselves as essential *partners* in ensuring the *health* of the animals on each and every farm operation that we provide veterinary services to.

I'm here today, on behalf of CWAS, to voice our concerns regarding the proposed rulemaking to expand the definition of veterinary medical surgery. I have brought a copy of my testimony that I will leave with the Hearing Examiner. I will offer comments on the revised definition of "surgery" and the need for additional clarity regarding intravenous injections. In addition, I will comment on other practices that have not yet been addressed by the VEB that should be specifically excluded from the definition of the practice of veterinary medicine. Above all, my comments are focused on the health and welfare of the animals that I and my colleagues see each and every day. To that end, I firmly believe that VEB's regulations need to be updated to reflect the modern dairy industry, with a more direct focus on animal health/welfare and the safety of our food supply.

Currently, in s. VE 1.02(9), Wis. Admin. Code, the definition of "surgery" for veterinary medical practice is limited to procedures that are for therapeutic purposes. The VEB's position is that by referencing "therapeutic purposes" there is some uncertainty regarding surgeries for other purposes, including for reproduction and cosmetic changes. The proposed rule would strike the term "therapeutic" and specify that any veterinary medical procedure in which the skin or tissue of the patient is penetrated or severed is considered a "surgery" and, as a result, would need to be performed by a licensed veterinarian unless specifically exempted. One such exemption makes clear that giving an injection does not quality as a "surgery."

CWAS is concerned the proposed rulemaking would broaden the definition of "surgery" to potentially incorporate techniques that dairy farm owners and operators, non-veterinarians, perform on a daily basis statewide. For example, farm owners and operators who are non-veterinarians will often manage the reduction of a uterine prolapse and, at the end of that procedure, place a retaining suture to ensure the prolapse does not reoccur. The proposed rulemaking would make the placement of a retaining suture the improper practice of veterinary medicine if done by a non-veterinarian. However, the most important thing is that the animal's health and welfare is immediately addressed and that often means the best thing for the animal is that on-site herd manager reduce the uterine prolapse and place the retaining suture. It is critical that the VEB's rulemaking make the health/welfare of animals a top priority and the proposed revisions could have the unintended consequence of having the opposite impact.

Par. 1 Comment

Similarly, the VEB's background memo provides no details regarding the types of reproductive and cosmetic change surgeries that are occurring without veterinary oversight, nor is there any indication that these actions are occurring with any frequency. Moreover, there is no information that the lack of clarity regarding the definition of "surgery" has resulted in any negative impact to the health and/or wellness of animals. It would appear this is a solution in search of a problem.

Since the VEB has decided to pursue this rulemaking effort, I would like to comment on the lack of clarity surrounding an "exemption" to the definition of "surgery." It is common for farm owners and operators to intravenously administer medication to their animals. It is not clear from the exemption for "giving injections" in the proposed VE 1.02(9)(c) that the term "injection" would include those injections given intravenously via indwelling intravenous (IV) catheter. Because the placement of an IV catheter may be considered a "surgical implant", it should be clear that placement of an IV catheter can be performed by non-veterinarians. Therefore, I would recommend that the proposed VE 1.02(9)(c) be modified to clearly exempt the placement of an IV catheter in addition to intravenous administration of medication from the definition of a "surgery."

Regarding the bigger issue of animal health and welfare, the proposed rulemaking misses the mark on updating the definition of the practice of veterinary medicine to exclude practices that are performed by non-veterinarians and that *really* matter to the health and wellness of animals.

For example, farm owners and managers should have the ability to utilize their own ultrasound equipment and perform pregnancy and reproductive health ultrasounds on their own herd. This practice should clearly be excluded from the definition of the "practice of veterinary medicine." A veterinary degree is not necessary to safely perform an ultrasound, nor is a veterinary degree necessary to interpret all ultrasound images. It is to an animal's benefit to have regular ultrasound check-ups and routine ultrasound examinations are much more economically feasible if done by a trained herd manager or herd reproduction specialist. Any resistance to the idea of allowing farm owners and managers to perform ultrasounds on their own herd is purely protectionist in nature. I firmly believe that the veterinary profession should be more focused on providing value to its clients instead of figuring out ways to restrict their clients from performing procedures like an ultrasound examination.

Another example of a procedure that many farm owners and managers perform on animals in their own herd is a "toggle procedure." This procedure, which could either be a "roll and toggle" or a "roll and tack", is used to address a displaced abomasum with only two stitches inserted through a cow's abdominal cavity. Herdsmen and women throughout the country are doing this procedure without veterinary oversight and the procedure should be excluded from the definition of a "surgery." I would much rather be in the position of teaching someone how to correctly perform a toggle procedure, than be forced to ignore the fact that these practices are being performed by non-veterinarians in order to avoid any sort of regulatory enforcement issue.

It is shortsighted for the VEB to expand the definition of the "practice of veterinary medicine", thereby including more and more procedures that require veterinary involvement, without a specific animal health/welfare rationale. Proceeding down this path could result in reduced

timeliness of veterinary care (due to an increase in the need for veterinarians to perform activities that fit within an expanded definition of veterinary care), an increase in costs to the farm community and an overall reduction in animal health/welfare. Again, I would rather be in a position to partner with my clients so they are in the best position to address their herd's health and welfare themselves, rather than having to ignore the practices that are being performed by non-veterinarians without the knowledge, oversight and guidance of a licensed veterinarian. Wisconsin's veterinary profession should be focused on protecting animal health and the safety the food supply – and less focused on overly protectionist regulations intended to advance the veterinary industry's business interests at the cost of providing service and value to its customers. To that end, I would ask that VEB consider the necessary statutory amendments and/or rulemaking that would add specific exemptions to the definition of the "practice of veterinary medicine" so farm owners and managers are able to clearly perform practices such as the ones identified above without the risk of regulatory enforcement.

DeWitt
Ross & Stevens S.C. Law Firm

Please respond to: Capitol Square Office
Email: jkl@dewittross.com
Direct: 608-252-9358

November 30, 2016

VIA HAND DELIVERY

Ms. Cheryl Daniels, Board Legal Counsel
Veterinary Examining Board
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911

RE: Wisconsin Veterinary Medical Association Comments in Support of Proposed Changes to Wis. Admin. Code § VE 1.02 – CR 16-068

Dear Ms. Daniels:

On behalf of the Wisconsin Veterinary Medical Association ("WVMA"), I am writing to support the proposed changes to Wis. Admin. Code § VE 1.02 contained in CR 16-068 regarding the definition of veterinary medical surgery.

The WVMA had requested that the Veterinary Examining Board ("VEB") clarify the definition of "surgery" in VE § 1.02(9) so that it would encompass all surgical procedures, including cosmetic and reproductive surgical procedures. This request was made because, under current law, the definition of "surgery" is limited to procedures for "therapeutic purposes." *See* Wis. Admin. Code VE § 1.02(9) (2015). Therefore, the definition in current VE § 1.02(9) does not include surgical procedures that may be classified as "cosmetic" or "reproductive." These could include procedures such as spaying and neutering, ear cropping, and reproductive medical procedures (*e.g.*, in vitro fertilization). However, we strongly believe that these procedures are veterinary surgery and should be regulated as such.

The proposed revisions to the definition of "surgery" in VE 1.02(9) will correct this confusion. We understand and further support the exemption of the activities identified in Wis. Stat. § 89.05(2), simple dental extractions, giving injections and the subcutaneous insertion of a microchip that is used to identify and animal from the definition of surgery in this rule revision.

Par. 2 Comment

We note that the draft rule includes an exception from the definition of surgery for the "[s]ubcutaneous insertion of a microchip intended to be used to identify an animal." This is an important exclusion that we support. However, we further request that the VEB ensure that other mechanisms used to identify animals, including tattooing or the insertion of ear tags, is either excluded under this rule or is determined to fall under the provisions of Wis. Stat. § 89.05(2) related to branding animals.

In summary, we believe that the proposed amendment to VE 1.02 will bring much needed clarity and regulatory certainty to Wisconsin veterinarians.

Thank you for your consideration. 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 email only*)

Daniels, Cheryl F - DATCP

From: Teri Raffel <raffelteri@gmail.com>
Sent: Tuesday, March 07, 2017 1:01 PM
To: Daniels, Cheryl F - DATCP
Subject: Re: Euthanasia

Great! From the things on the exclusion list, it looks like they were trying to identify commonly performed procedures that involve the puncture of the skin. The modification to the definition looks like they are going to have it read "...procedures that are only for therapeutic purposes," - which I interpret to include sample collection (which would cover cystocentesis), vaccination administration, injectable medication administration, etc. However, on the list of excluded procedures there were a few that I thought of that are commonly done by CVTs that should be included:

1. In addition to IV catheterization, arterial catheterization should be included. In equine anesthesia and in advanced canine anesthesia, arterial lines are a common monitoring practice and are placed by CVTs.

2. Purse string sutures around the anus prior to perianal surgery are commonly placed by CVTs as part of the patient prep process.

3. Butterfly sutures placed to secure urinary catheters or jugular catheters are routinely placed by CVTs. Perhaps this is considered included in the "therapeutic purposes", but I fear if not specified will be the base for many questions.

4. Performing a fine needles aspirate of a mass. This is a required psychomotor skill on the AVMA Essential Skills list, but again maybe covered under the umbrella of "therapeutic purposes".

That's all I can think of right now, but please feel free to contact me if you need any further information, clarification or explanation! Thank you!!

"Don't be afraid your life will end: be afraid that it will never begin" Grace Hansen

Teri Raffel, CVT, VTS (Surgery)
AVTE Director at Large
raffelteri@gmail.com

On Tue, Mar 7, 2017 at 12:21 PM, Daniels, Cheryl F - DATCP <Cheryl.Daniels@wisconsin.gov> wrote:

> This is not part of the charge of the committee and the Board hopes to wrap things up in April so any thoughts you have, please let me know as soon as you can. Cheryl
>
> Cheryl Furstace Daniels
>
> Assistant Legal Counsel – Office of the Secretary

Par. 4 Comment

Board Counsel – Wisconsin Veterinary Examining Board

Board Counsel – Wisconsin Livestock Facility Siting Review Board

Wisconsin Department of Agriculture, Trade and Consumer Protection

608-224-5026

cheryl.daniels@wisconsin.gov

Please complete this brief survey to help us improve our customer service. Thank you for your feedback!

From: Teri Raffel [mailto:raffelteri@gmail.com]
Sent: Tuesday, March 07, 2017 12:20 PM
To: Daniels, Cheryl F - DATCP
Subject: RE: Euthanasia

Cheryl- Thank you so much for your prompt response! I will share this info with the people that were asking. On the note of having the surgery definition rule still open.....do you know how long that will remain open for discussion/modification? I was reading the minutes form the Jan meeting and saw the list of exclusions that were proposed and felt there were some items overlooked.... in addition to the euthanasia topic just discussed. Will the VEB Rules Committee be addressing this rule? If so, I can hold onto my comments/concerns until we meet. If this rule is not going to be part of our charge, please let me know and I can relay my thoughts to you. thank you!!!

Teri Raffel, CVT,VTS(Surgery)

On Mar 7, 2017 8:43 AM, "Daniels, Cheryl F - DATCP" <Cheryl.Daniels@wisconsin.gov> wrote:

> Teri,

You brought up a very timely issue, without even knowing it! I knew that euthanasia is practiced by non-vets but I also couldn't find any reference to it in Wis. Stat. ch. 89 or the VE rules. So, I consulted with Dr. Yvonne Bellay, DVM, in the Department and Yvonne explained that the Board had made a determination, quite a while ago, that euthanasia is not considered the practice of veterinary medicine. However, that determination was never made explicit in the rules.

Right now, the Board still has the surgery rule open that amends the definition of surgery in the practice of veterinary medicine, and excludes certain practices, even though they involve the penetration of the skin, which is part of the definition. The Board requested at the last Board meeting, that some practices, such as ear tag/tattoo/microchip placement, be explicitly excluded as not a practice of veterinary medicine. I'm going to suggest to the Board that, while this rule amendment is open, it would be a good idea for their determination about euthanasia by injection also not being surgery, because it is not the practice of veterinary medicine, be explicitly placed in the rule.

I appreciate your timely question.

Cheryl

Cheryl Furstace Daniels

Assistant Legal Counsel – Office of the Secretary

Board Counsel – Wisconsin Veterinary Examining Board

Board Counsel – Wisconsin Livestock Facility Siting Review Board

Wisconsin Department of Agriculture, Trade and Consumer Protection

608-224-5026

cheryl.daniels@wisconsin.gov

From: Teri Raffel [mailto:raffelteri@gmail.com]
Sent: Monday, March 06, 2017 3:58 PM
To: Daniels, Cheryl F - DATCP
Subject: Euthanasia

Hi Cheryl! I have been looking through the Admin. code and the statutes to see if I can find it written anywhere, who is permitted to perform euthanasia on animals. I know that the DVM must purchase the drug, however we are trying to figure out if a CVT is allowed to administer the solution. I say yes, as it would be under the direct supervision of a DVM, but I am trying to find it written somewhere. I have even looked int he Uniform Controlled Substance Act (Ch. 961) and am coming up empty handed! Can you point me in the right direction of where to look? I don't mind the search, I just literally feel like it is like looking for a needle in a haystack! Thank you!!

"Don't be afraid your life will end: be afraid that it will never begin" Grace Hansen

Teri Raffel, CVT, VTS (Surgery)

AVTE Director at Large

raffelteri@gmail.com

STgenetics™

A World Leader in
Sexed Semen and Embryos
for the Livestock Industry

April 7, 2017

Cheryl Furstace Daniels, Board Counsel
Wisconsin Veterinary Examining Board
Wisconsin Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708

VIA EMAIL: cheryl.daniels@wisconsin.gov

Dear Ms. Daniels:

I am writing on behalf of Sexing Technologies (ST) in opposition to CR 16-068, which would broaden the current definition of veterinary medical surgery to include numerous procedures currently performed by a certified veterinary technician as well as expand the technician duties for a licensed veterinarian. The proposed rule will have a significant economic impact on Sexing Technologies, our customers in the farming community and ultimately Wisconsin's agricultural industry.

Sexing Technologies provides livestock reproduction and other services for cattle, horses, deer and swine. The majority of these services are performed on company owned or contract animals. We currently have 180 employees in Wisconsin and have laboratories in Westby, Fond du Lac, Oakfield, Kewaskum and DeForest. ST employs Assisted Reproductive Techniques (ART) aimed at improving agricultural populations. Many of the ART procedures are currently performed in Wisconsin and other states by highly trained and certified veterinary technicians under the direct and indirect supervision of a licensed veterinarian.

At the April meeting of the Veterinary Examining Board (VEB), it is our understanding that the Board will be taking a final vote on CR 16-068, which will prevent certified veterinary technicians from performing specific techniques such as bovine embryo transfer, bovine follicular aspiration and bovine amniocentesis. It is our hope that the Board will fully consider the broad negative implications of this measure and vote NO on CR 16-068.

In Wisconsin, veterinary technicians have been performing ART techniques under the direct supervision of veterinarians since 1975. The technologies in our field have improved drastically, and the interactions with animals are less invasive than when originally approved four decades ago. CR 16-068 will have a significant negative impact on our company and the agricultural industry in Wisconsin.

Par. 5 Comment

Office: 936.870.3960 • Fax: 936.870.3963 • 22575 State Hwy 6 South • Navasota, TX 77868
www.STgen.com

Sexing Technologies has made a substantial investment in Wisconsin, operating five laboratories with a multi-million dollar economic footprint. Sexing Technologies has made this investment based on our current operating procedures and cost-benefit analysis, and the passage of CR 16-068 will negate the economic basis for this decision requiring ST to move operations to another state.

For the agricultural community, the proposed rule will also have a significant negative impact. Our goal at ST is to keep costs down for our customers and ensure high quality animals. Reproductive inefficiency is one of the most important causes of economic losses, and our services are essential to improving rural economies by increasing overall numbers and breeds of the correct gender.

Furthermore, this rule is a barrier to opportunity for veterinary technicians and erodes high level training and certifications in the field of ART currently employed by qualified veterinary technicians. In Wisconsin, veterinary technicians are certified by the VEB to work under the direct supervision of a licensed veterinarian, and ST provides additional training in biotechnologies and other specialties specific to our business. Mandating that these procedures are performed by a veterinarian does nothing more than add unnecessary and additional costs to operations, not to mention the difficulty and unwillingness of veterinarians to comply. Specifically for ST, this rule will require us to replace many veterinary technicians with veterinarians, with an increased cost of more than $100,000 each in salary and benefits.

Wisconsin, like most states, has a shortage of veterinarians, specifically large animal and food veterinarians. In addition to the difficulty in finding veterinarians to occupy these positions, they lack the additional and specialized training and knowledge that comes with ART. We believe that the veterinarian should have oversight on these procedures as they require the use of certain drugs requiring veterinary oversight. We believe that the role of the veterinarian can be leveraged over numerous technicians and thus utilize the professional nature associated with the DVM degree in a better way. The human health profession has been a leader in utilizing para-professionals and certified staff to perform numerous procedures on people. The veterinary profession has lagged in this strategic direction. The changes proposed in CR 16-068 will only further isolate the profession from working with para-professionals.

This is a solution seeking a problem. This restriction will eliminate working opportunities for veterinary technicians, place increased costs on the agriculture industry and ultimately consumers and lacks scientific justification. Furthermore, passage of this rule will require ST to move our Wisconsin operations to another State so that we can continue providing our services

with the least amount of regulation and lowest costs. It is our hope that the VEB will consider the ramifications and implications of this far-reaching rule and vote NO on CR 16-068 on April 26th.

Sincerely,

Dr. Gregg BeVier, COO
Sexing Technologies

cc: VEB Board
Secretary Ben Brancel, DATCP
Senate Agriculture Committee Members
Assembly Agriculture Committee Members
JCRAR Committee Members
WVMA

Daniels, Cheryl F - DATCP

From: drbobvrs@chorus.net
Sent: Wednesday, October 18, 2017 1:38 PM
To: pjohnson6@charter.net; rtforbes@gmail.com; dr.dommer@cqvet.com; lnesson@irongateequine.com; kkreier@badgervet.com; Daniels, Cheryl F - DATCP
Subject: Fwd: Practice Act

----- Forwarded Message -----
From: drbobvrs@chorus.net
To: pjohnson6@charter.net, rtforbes@gmail.com, dr dommer <dr.dommer@cqvet.com>, lnesson@irongateequine.com, kkreier@badgervet.com, Cheryl Daniels <Cheryl.Daniels@wisconsin.gov>
Sent: Wed, 18 Oct 2017 14:30:28 -0400 (EDT)
Subject: Practice Act

Colleagues, I have read with frustration and anxiety the proposed edition of the Vet Practice Act. I had supposed that this new practice act would finally define all the procedures we utilize in assisted reproductive technologies (nonsurgical embryo collection, nonsurgical embryo transfer, OPU, etc) as "the practice of veterinary medicine" and you have deemed it just the opposite!! Do you not understand all the knowledge of physiology, endocrinogy, anatomy and anesthesiology necessary to successfully accomplish ET? No, we do not use a scalpel in any of our procedures. It appears to me that you equate the scalpel with "Veterinary Medicine". I know that we have modeled vet med after human med, but think of the noble internal medicine doc. They don' t use scalpels, and yet their work is covered under their practice act. My article on successful non surgical recovery and transfer of bovine embryos in1976 initiated the embryo transfer industry we know today. One of the untold stories of my career involved the attempted nonsurgical recoveries from extremely valuable imported beef animals which had been subjected to surgical recovery techniques (yes, with a scalpel). We attempted recoveries from 20 donors with extreme adhesions. Most failed completely, but after 2 full days we harvested only 4 embryos!! What a collosal failure!! Lastly, I remind you that if a veterinarian commits malpractice, there is described sequence to discipline him. If a technicion commits malpractice, what are the consequences? I implore you to make these technologies the practice of veterinary medicine. Respectfully submitted, Robert F. Rowe, DVM, PhD, 7524 Fallen Oak Drive, Verona, Wisconsin 53593, phone 608-516-1940.

Par. 7 á. Comment

Daniels, Cheryl F - DATCP

From: John Schneller <jrschneller@yahoo.com>
Sent: Friday, October 20, 2017 3:18 PM
To: Daniels, Cheryl F - DATCP
Subject: VEB rule changes under VE 7.02(4)

Dear Ms Daniels,
Concerning rules change in VE 7.02(4)

I would like to thank you for your work with the Veterinary Examining Board. I have been made aware of dramatic changes proposed to procedures formerly treated as veterinary medical procedures. I have sent these concerns to the veterinarians on the committee. Please forward these concerns on to the others on the committee.

I have been a Wisconsin veterinarian for 38 years and have worked for the past 36 years developing the skills to serve our clients in the field of embryo transfer. My clientele includes prominent dairy and beef producers in Wisconsin and Iowa, and together we have produced bulls and donor cows that most in the industry recognize. Through mandated CE, I continue to study and learn.

Concern: I urge you to consider and research the scope of "assisted reproductive technologies". I realize that technical skills can be learned and repeated by individuals with less training, but I am amazed that "assisted reproductive technologies" is listed as a single entity in the proposed regulations. Nonsurgical transfer of an embryo is not the same as an embryo collection, which is not the same as invasive transvaginal procedures, which is not the same as laparoscopic oocyte retrievals from 2 to 3 month old calves. This is not the limit of procedures currently done and being further developed.

I understand that there is a significant stakeholder in the state that is encouraging the proposed wording change to the regulations, but I would point out that even this business has chosen to hire veterinarians trained in other countries to fill the roles that would soon be defined as certified veterinary technicians in our state. This would appear to be evidence that they recognize who has the qualifications to safely complete these procedures, even as they ask us to ignore it.

Concern: While I have always been held responsible for my patients, the proposed reclassification opens up professional, liability, and animal welfare questions.
Several years ago I reported an incident to the VEB that involved a non-DVM who had done a superovulation and collection on a donor cow owned by another producer, resulting in injuries that made the cow ill and reproductively unsound. I was told this was not under jurisdiction of the VEB as the individual was not a licensed DVM. The animal was culled, the client had a loss, and the offending non-DVM felt no repercussions.

Concern: Direct supervision by a DVM, as listed in the Plain Language Analysis section, appears vulnerable to interpretation (and drift) concerning skills, proximity, and effectiveness; as compared to a procedure completed by a DVM.

I love the state of Wisconsin and I appreciate the healthy industry that generations of producers and veterinarians—both on the local and regulatory level—have created. That is why I have invested in the industry, and why other businesses have come. This is an industry with thousands of stakeholders. I urge you to reconsider this dramatic reclassification of this broad range of procedures.

Respectfully Yours,
John Schneller DVM
Thousand Hills Embryo Transfer
thousandhillset@gmail.com

Par. 7 b. Comment

Daniels, Cheryl F - DATCP

From: Chester Rawson <crawson@altagenetics.com>
Sent: Sunday, October 22, 2017 4:57 PM
To: pjohnson6@charter.net; rtforbes@gmail.com; dr.dommer@cgvet.com; lnesson@irongateequine.com; kkreier@badgervet.com
Cc: Daniels, Cheryl F - DATCP
Subject: ART / Veterinary Practice Act
Attachments: Reasons to consider why Assisted Reproductive Technologies.docx

Dear members of the VEB,

As a veterinarian that has practiced veterinary medicine in Wisconsin for 35 years and worked nationally and internationally as a reproductive specialist for a major genetics firm for 13 years, I would like to speak in favor of leaving all Assisted Reproductive Technologies (ART) in our Wisconsin practice act and considered as the "practice of veterinary medicine". Please see the attached file for some of my reasons.

Thank you for your deliberation,

Chet Rawson, DVM, Diplomate American College of Theriogenologists
W1951 County Road K
Markesan, WI 53946
Cell – 563-542-0298
Email – crawson@altagenetics.com

Por. 7.c. Comment

Reasons to consider why Assisted Reproductive Technologies (ART) should continue to be defined as the practice of veterinary medicine in Wisconsin:

Veterinarians, not licensed technicians, have the education and knowledge to recognize and deal with unusual events or consequences of ART procedures. Mention course work and CE and education differences.
Negative consequences that can and do occur with these invasive procedures:
Abortion of a valuable fetus
Life threatening hemorrhage
Peritonitis, adhesions of internal organs and tissues
Permanent loss of future reproductive ability
Injuries following epidural anesthesia

Veterinarians understand the public's expectations concerning animal welfare. Comfortable restraint. Prevent pain and discomfort. Sedation with prescription drugs sometimes is necessary. Adequate anesthesia for procedures including laparoscopic procedures with prescription drugs. High producing dairy cows have unique physiological responses to superovulatory drugs. Only veterinarians have the knowledge and education to handle these situations to prevent health problems for the donor cow.
Only veterinarians understand the important principles of sterility and sanitation.
Because of intense selection and competition, younger heifers with small reproductive tracts make it more difficult to do these procedures. Very young calves are now being collected more frequently with laparoscopic surgical methods to recover their Genetics early. Greater risk of a negative event to occur.

The embryo technology business began in the late 1970's in Wisconsin on a commercial basis. Following the advent of embryo cryopreservation, export markets were developed by our ET veterinarians, which have grown exponentially for decades. This income has assisted many Dairy and beef producers in our state. This technology has been responsible for the rapid genetic progress that is envied by the rest of the world. Genetic companies from other countries continue to see Wisconsin as their best source of high quality disease-free embryos that are produced by our Embryo technology veterinary businesses. Millions of dollars of Wisconsin agricultural income provided by the ET industry was here long before the Sexing Technologies Company was born. None of it has ever been in the hands of a certified technician.
Our ET veterinarians are members of the AETA where they get continuing education specific to our specialty so that we can continue to provide our clients with new, safe, and profitable technology.

Embryo exports require an understanding and the following of specific health protocols, and a relationship with USDA APHIS Veterinarians

Daniels, Cheryl F - DATCP

From: David Duxbury <dbduxbury@gmail.com>
Sent: Sunday, October 22, 2017 6:10 PM
To: Daniels, Cheryl F - DATCP
Cc: pjohnson6@charter.net; rtforbes@gmail.com; dr.dommer@cgvet.com; lnesson@irongateequine.com; kkreier@badgervet.com
Subject: comments on proposal to amend VE 1.02(9) & VE 7.02(4)
Attachments: VEB comments on proposed rule changes.docx

Dear Ms. Daniels:

I am attaching my comments regarding the changes being considered by the Veterinary Examining Board at its meeting this week. It is my hope that they will be considered by the board and that they will be helpful.

Sincerely Yours,

David B Duxbury DVM, MPA

--
David B Duxbury DVM, MPA
Midwest Embryo Transfer Service, LLC
493 Simmon Drive, Suite 4
Osceola, WI 54020
Cell#: 715-377-2900

Par. 7 d. Comment

David Duxbury DVM, MPA

Midwest Embryo Transfer Service LLC

493 Simmon Dr., Suite 4

Osceola, WI 54020

Cheryl Daniels, Board Counsel

Veterinary Examining Board

c/o Department of Agriculture, Trade and Consumer Protection

P.O. Box 8911

Madison, WI 53708-8911

October 22, 2017

Dear Members of the Wisconsin Veterinary Examining Board:

I am writing to comment on the proposed Veterinary Practice Act rule changes regarding surgery and procedures that may be performed by certified veterinary technicians.

I am a licensed veterinarian working for Midwest Embryo Transfer Service LLC, an embryo transfer practice in Osceola, Wi. This is a company which I founded in 1989. My work has been dedicated to assisted reproductive technologies in cattle since the middle 1980's, serving clients in Wisconsin and Minnesota. I am licensed to practice veterinary medicine in both states. I have been a member of the American Embryo Transfer Association (AETA) since 1984. I served on the AETA Board of Directors from 2004 to 2008, and as its president in 2007. I am currently chair of the AETA Government Liaison Committee, which provides industry feedback and support to USDA/APHIS National Import Export Services on matters involving the international export of embryos and germplasm from the United States.

Comments on amendments to VE 1.02(9)(a): 4. Euthanasia by injection.

1. Euthanasia by injection in veterinary medicine requires a diagnosis by a veterinarian that ending the life of the animal, or animals, is the best course of action based on the finding of medical facts in the case. Often euthanasia is determined to be the most humane course of action based on the animal's medical condition and prognosis.
2. The products used for euthanasia are normally restricted to use by a licensed veterinarian as DEA Schedule II drugs[1]. Many require a DEA number for purchase and must be kept safely

[1] https://www.deadiversion.usdoj.gov/schedules/

(locked) in a veterinary business. Often the use of these products must be recorded by dose client/patient and volume.

3. I recommend that this procedure should be considered the practice of veterinary medicine. I believe that federal law may apply here.

Comments on amendments to VE 1.02(9)(b): Items 1 through 6.

1. These change recommendations make sense in the way they relate to current veterinary practice. Each involves the per-cutaneous approach to a veterinary procedure that may be clearly observed by a veterinarian while being performed by a licensed, certified veterinary technician.
2. Risks to the patient in these procedures are small, and with normal care, should not result in infection, loss of function or loss of life of the patient. These procedures are normally performed on small, or companion animals, in a clinic setting where a clean environment is easily maintained, further reducing the risk to the patient. Also, humane approaches may be maintained and verified, which is important to the public and consumers.

Comments on amendments to VE 1.02(9)(b): Item 7. Performing assisted reproductive technologies, including amniocentesis, embryo collection and transfer, follicular aspiration, and transvaginal oocyte collection and recovery.

1. This amendment, unlike those described in 1 through 6, involves procedures which require penetration of a patient's pelvic organs or abdominal organs, either through the vagina or vaginal wall, through an abdominal incision for a visual approach or through an abdominal incision using laparoscopic techniques. Depending on the species involved, these procedures may require the use of sedation or general anesthesia. Many require epidural anesthesia. Approaches/techniques vary by age and species.
2. These procedures require medical expertise and a clear understanding of the abdominal and reproductive anatomy and functions of the species involved. Having been involved in this field of medicine for more than 30 years, it is clear to me that the knowledge required to carry out these procedures safely, humanely and productively for the client, requires a veterinary medical education and advanced training in the various techniques. In each case the veterinarian must make a diagnosis, distinguishing normal from abnormal, in making the decision to proceed.
3. Negative outcomes from these procedures, since they involve internal and pelvic organs as well as pregnancies, may, and all too often do, result in abortion, pelvic or abdominal infection, abdominal or pelvic adhesions, sterility, or death of the patient from infection or a lacerated blood vessel. Young animals may be particularly vulnerable, in my opinion.
4. Many small businesses will be impacted by this change. In the section entitled **Summary of Factual Data and Analytical Methodologies,** it is indicated that the rule changes were developed after consulting with veterinary medical groups and a stakeholder who voiced an objection. The American Embryo Transfer Association (AETA) membership includes numerous stakeholders that will be impacted by this rule change. The AETA has a practitioner certification program which tests and identifies member veterinarians who have shown that they are

accomplished in each of these assisted reproductive technologies.[2] Wisconsin has at least 27 AETA certified veterinarians working in veterinary practices around the state that routinely use the procedures described in **item 7.** While many of these practices employ technicians, they rely on veterinarians to perform these procedures. If practices from neighboring states which work for clients in Wisconsin are included, many more stakeholders and small businesses will be impacted. Wisconsin is recognized as a leader in this field, largely because of the number of AETA certified practitioners in the state. (The Veterinary Examining Board meeting being held Wednesday, October 25, unfortunately coincides with the National Convention of the AETA. Most AETA members will be at that meeting, which begins Thursday in Orlando Florida.)

5. Many countries which import embryos from the U.S. require that AETA certified veterinarians perform the work. Senior veterinary staff at the National Import Export Services provide lists of AETA certified practitioners to many countries to identify qualified veterinarians for handling embryos for export. This includes IVF and in-vivo embryos, and oocytes. The language change recommended in item 7 may impact relationships between the state of Wisconsin and countries importing Wisconsin agricultural animal embryos or oocytes.
6. The impact on clients, animal owners, may be negative. Many of the clients we work for have valuable animals, in terms of emotional value and in terms of real economic value. When veterinarians perform these procedures, that value is usually protected by malpractice insurance. This may not be the case when performed by a technician. Poor outcomes often translate to significant economic loss.
7. Neighboring states, while they do not list assisted reproductive technologies specifically in the language of their practice acts, may restrict these procedures to the practice of medicine in the interpretation and implementation of that policy.
8. Based on these issues related to veterinary Assisted Reproductive Technologies, I recommend that this language not be included in the amendments.

Sincerely,

David B. Duxbury DVM, MPA

Addendum A.

[2] See List of Certified Practitioners in Addendum.

101328	Dr. Tyler Dohlman	Iowa State University	1809 Sout	2412 Lloyd	Ames	IA
53172	Dr. Patrick E. Phillips, DVM	Iowa State University	2434 Lloyd	College of	Ames	IA
97516	Dr. Travis J Hargens	AMVC Audubon Manning Vete	1797 190th St		Audubon	IA
77082	Dr. Caitlin Wiley	Iowa State University	1114 Giddings St		Kelley	IA
95664	Dr. Jason R. Hall, DVM	Summit Veterinary Services	2124 W Summit St		Winterset	IA
79847	Dr. Nicole Knaack, DVM	Nicole Knaack Embryo Service	532 2nd St		Traer	IA
47289	Dr. Michael L Pugh, DVM	Westwood Embryo Services, In	1760 Dakota Ave		Waverly	IA
122408	Dr. Ryan Fairbairn	Trans Ova Genetics	1506C 30th Ave		Rock Valle	IA
76445	Cody Bailey, PhD	Trans Ova Genetics	2938 380th St		Sioux Cen	IA
59770	Dr. Travis L. White, DVM	Trans Ova Genetics	2938 380th St		Sioux Cen	IA
83352	Dr. Matthew Bartlett, DVM	Trans Ova	2938 380th St		Sioux Cen	IA
63452	Jon R. Schmidt, DVM	Trans Ova Genetics	2938 380th St		Sioux Cen	IA
47644	Dr. Paul V Van Roekel, DVM	Trans Ova Genetics	2938 380th St		Sioux Cen	IA
48100	Dr. Vincent Collison, DVM	Collison Embryo	1010 N Hancock St		Lake City	IA
112528	Dr. Peter R Schmitt, DVM	Trans Ova Genetics	12066 Tyra Ln		Dubuque	IA
47771	Dr. Donald W. Yanda, DVM	Maquoketa Embryos LLC	147 Jacobsen Dr		Maquoket	IA
20451	Justin Helgerson, DVM	DRIVEN Embryo Services LLC	1277 State Hwy 9		Decorah	IA
64267	Dr. David Gibbs, DVM	Postville Veterinary Clinic	1164 Ludlow Rd		Waukon	IA
47739	Byron W. Williams, DVM	EmQuest ET Service	710 Easter	PO Box 50	Plymouth	WI
63638	Kent R. Bindl, DVM	Dairy Doctors Veterinary Servic	1020 S Pleasant View		Plymouth	WI
48622	Chris Keim, DVM	Sunshine Genetics, Inc.	W7782 US Hwy 12		Whitewat	WI
47439	Dr. Greg G. Schueller, DVM	Sunshine Genetics	W7782 US Hwy 12		Whitewat	WI
53038	Dr. Daniel Hornickel, DVM	Sunshine Genetics Inc	W7782 US Hwy 12		Whitewat	WI
107473	Dr. Daniel C. Gander, DVM	Stateline Veterinary Service	8831 East Wyman Dr		Clinton	WI
53093	Dr. John R. Schneller, DVM	Thousand Hills Embryo Transfe	2280 Survey Rd		Dodgevill	WI
56367	Rick Faber, DVM	Reprovider, LLC	2007 Excalibur Dr		Janesville	WI
26797	Dr. Nate Dorshorst, DVM	GenOvations Inc.	N2877 Smith Rd		Lodi	WI
99828	Robert Steiner, DVM	Lodi Veterinary Care	705 N Main St		Lodi	WI
53040	Michael C. Kieler, DVM	Thousand Hills Embryo Transfe	E4568A County Rd B		Spring Gre	WI
53126	Dr. Robert F Rowe, DVM	Veterinary Reproductive Speci	7524 Fallen Oak Dr		Verona	WI
67717	Tod L Brancel, DVM	Trans Ova Genetics	W7842 State Rd 23		Endeavor	WI
48833	Dr. Stephen P Malin, DVM	Malin Embryo Transfer	95 S Harris Ave Ste 2(		Waupun	WI
104048	Dr. Abigail Wirt	Malin Embryo Transfer	95 S Harris Ave		Waupun	WI
48228	Dr. David B. Duxbury, DVM	Midwest Embryo Transfer Servi	493 Simm	Ste 4	Osceola	WI
48580	Marvin J. Johnson, DVM	Roberts Veterinary Service	PO Box 99	108 West I	Roberts	WI
50760	Lyle J. Holschbach, DVM	Veterinary Associates	19922 US Hwy 10		Reedsville	WI
47866	Scott W. Armbrust, DVM	Paradocs Embryo Transfer Inc	117 Packerland Dr		Green Bay	WI
47287	John C. Prososki, DVM	Wittenberg Embryo Transfer SC	2113 Fust Ln		Wausau	WI
92543	Waylon R. Fischer, DVM	Northern Lakes Veterinary Sup	419 Brewster Ct		Edgar	WI
20411	Dr. Matthew Dorshorst, DVM	Origin Reproductive Services LL	8371 Mill Creek Dr		Marshfiel	WI
53062	Dr. Brent E Beck, DVM	Beck Embryo Transfer LLC	S493 Nilsestuen Rd		Cashton	WI
100098	Dr. Andrew Dietsche	Buchner Embryo Transfer Servi	N12895 970th St		Bloomer	WI
48016	Dr. Eugene C. Buchner, DVM	Buchner Embryo Transfer Servi	N226 State Hwy 40		New Aubu	WI
94639	Dr. Steve Cove, DVM	Valley Veterinary Clinic	W4217 Del Rose Ln		Appleton	WI
53039	Mr. Scott E Allenstein, DVM	SEGGA ET SC	306 S Pine	PO Box 29	Weyauwe	WI
47760	Charles Wray, DVM	Portland Prairie Embryo Service	11636 Snake Point Dr		Caledonia	MN
53099	Kory Bigalk, DVM	Diamond K Genetics, PLC	50 2nd Ave NW		Plainview	MN
53235	Dr. Scott D Josephson, DVM	Tri County Veterinary Clinic LLC	201 1st St W		Taunton	MN

Daniels, Cheryl F - DATCP

From: Robert Steiner <drsteiner@lodivet.com>
Sent: Sunday, October 22, 2017 1:57 PM
To: pjohnson6@charter.net; dr.dommer@cgvet.com; lnesson@irongateequine.com; Daniels, Cheryl F - DATCP; rtforbes@gmail.com; kkreier@badgervet.com
Subject: proposed changes

I have become aware of the changes you are considering to the practice act regarding reproductive procedures and think it would be a mistake to do this.
I have been involved in advanced repro technologies over the last 5 years and I can tell you that these procedures are not easy and the potential for great harm to the animals is extremely plausible. **In fact I've seen this at a local ET facility that typically uses non-veterinary personnel** for aspirations/embryo collections. Young heifers are often utilized for advanced repro procedures to "speed up the cycle" of genetic progress but they can be seriously damaged in the process. I've seen numerous animals with severe rectal damage some suffering from peritonitis as well. I can't say that damage couldn't be caused by a veterinarian but we are much more aware of the risks and much more concerned about the subsequent treatment and outcome of the affected animal.
This is a serious animal welfare concern.

Today's consumer does not tolerate this type of treatment and nor should they. That's why we no longer allow down cows to enter the food supply and have farm audits to verify the condition and treatment of food animals. This has the makings of a black eye for our industry at a time when we can't afford any more duress.
Certainly it will hurt our business as we have 3 veterinarians that are involved in doing advanced repro work, the bigger hurt will likely be to our veterinary and livestock industries which are so critical to the economic success of our state.

Pr. 7.e. Comment

Please reconsider your proposal and do what's best for farms, animals, veterinarians and most important - consumers. **Please don't allow advanced repro technologies to be used by lay personnel.**
Thank you

Bob Steiner,DVM
608-576-9513

Lodi Veterinary Care
CLINIC · MOBILE · EMERGENCY

Daniels, Cheryl F - DATCP

From: Emquest <emquest@excel.net>
Sent: Monday, October 23, 2017 8:21 AM
To: pjohnson6@charter.net; rtforbes@gmail.com; dr.dommer@cgvet.com; lnesson@irongateequine.com; kkreier@badgervet.com; Daniels, Cheryl F - DATCP
Cc: 'Chris Keim'
Subject: PROPOSED ORDER OF THE WISCONSIN VETERINARY EXAMINING BOARD ADOPTING RULES (VEB Docket No. 16-VER-1, Rules Clearinghouse No. 16-068)

Dear Wisconsin Veterinary Examining Board Members,

With regards to **PROPOSED ORDER OF THE WISCONSIN VETERINARY EXAMINING BOARD ADOPTING RULES (VEB Docket No. 16-VER-1, Rules Clearinghouse No. 16-068)**, the Veterinary Examining Board (VEB) should not make the changes they are now considering. To suggest that "suturing of tubes and catheters" is equivalent to "performing assisted reproductive technologies..." seems whimsical at best. The VEB owes the veterinary profession a clear explanation of their policy for making these important decisions. Until their policy is established, then explained to and supported by the veterinary profession, the VEB should reiterate that the assisted reproductive technologies (ARTs) as listed in the proposed rule changes are surgeries and are to be performed by veterinarians.

Wisconsin Statutes, VEB, Chapter 89, 89.05, (2), d. allow for certified veterinary technicians working under the supervision of a veterinarian. That is okay. However, searching led me to https://docs.legis.wisconsin.gov/code/admin_code/ve/9 which defines prohibited acts for certified veterinary technicians as 'performing surgery'. See VE 9.01, (3).

The rule changes ('to amend...' and 'to create...') now being considered by the VEB define 'surgery' as any procedure in which the skin or tissue of the patient is penetrated ...VE 1.02, (9). By the VEB's own definition, all of the ARTs listed the proposed rule changes are surgeries. The ART surgeries are difficult, delicate and dangerous. They rightfully ought to be performed only by veterinarians with knowledge, training and experience to be effective and safe.

The ART services are utilized by our most progressive clients and performed on their most valuable cows, the patients. At a time when animal rights activists are seeking to undermine the veterinary, client and patient (VCP) relationships, veterinarians should be doing the ART surgeries. At a time when consumers are increasingly concerned about humane treatment of animals, veterinarians should be doing the ART surgeries. At a time when new veterinary graduates are struggling to repay their student debts, and when veterinary services are already limited in some rural areas, the VEB ought to be keeping surgeries in the hands of the veterinarians.

There is no good reason to defer the responsibility for these ART surgeries to technicians. The request for these changes has been initiated by a large for-profit corporation and I suspect that the entity which will benefit most from the changes will be a large for-profit corporation. Please consider what veterinary services the large for-profit corporation will ask the VEB to concede next time. Where is the line going to be drawn? If the VEB is willing to let large corporation(s) cherry pick from the basket of veterinary services, then the balance of the VCP relationship in our communities will be threatened.

Since 1994, my veterinary practice has been limited to bovine reproduction and embryo transfer technology. My clients have achieved some of the highest herd averages in the nation and their cows have set many state and national production records. Professionally, I served on the American Embryo Transfer Association (AETA) Board of Directors, and was AETA president in 2008. I also served as chairman of the AETA cooperator committee for international market development for many years. I can assure you that foreign buyers and governments place great importance on the role of veterinarians in embryo production and handling.

Par. 7 f. Comment

Thank you for your consideration of my comments. Please do NOT vote to approve the proposed changes as they are presently written regarding "performing assisted reproductive technologies".

Byron W. Williams, DVM

EmQuest ET Service
Byron W. Williams, DVM
710 Eastern Avenue, Unit #2
P.O. Box 504
Plymouth, WI 53073
Cell: (920) 946-2229
Office: (920) 892-6878
Fax: (920) 893-8083
Email: emquest@excel.net

Daniels, Cheryl F - DATCP

From: Dagmara Lukaszek <dagmaraluk@gmail.com>
Sent: Monday, October 23, 2017 10:20 PM
To: Daniels, Cheryl F - DATCP
Subject: Letter Concerning VEB Amendment
Attachments: VEB.pdf

Cheryl Daniels,

Attached is a letter voicing my concerns regarding the proposed changes. I appreciate you considering my input.

Dagmara Schroeder, DVM

Par. 7.g. Comment

To the Veterinary Examining Board,

I am writing you all today to express my concern for the recent proposition to amend the definition of surgery by the Veterinary Examining Board. I am a 2015 graduate of the University of Illinois and currently practice at Stateline Veterinary Service in southern Wisconsin working with food animals, mainly cattle. I have spent two years in practice focused on assistive reproductive technologies and will sit for the AETA certification exam this upcoming week. The AETA certification program aims to create high standards within the embryo transfer industry, ensuring that the certified practitioners uphold these standards and provide optimal service to our clients, as well as optimal care to our patients. Bovine reproduction and embryo transfer is a field I am proud to be a part of, and I look forward to building a career with these technologies for years to come. I am very concerned with the proposed changes to the Veterinary Examining Board's definitions of surgery, and who can perform these procedures. On the list of added procedures is performing ART, which if this statute is changed, will be performed by technicians. If this change goes through, I believe that there will be a great detriment to not only animal health, but also to young practitioners such as myself.

Veterinarians have knowledge and expertise unique in the agricultural field, especially when applied to ART. We train for years to learn the precise anatomy of the reproductive tract and learn how to handle these delicate organs. Procedures such as follicle aspiration and dominant follicle reductions are extremely invasive procedures which carry many risks and complications. These include damage to the ovaries and reproductive tract of the animal (infections and adhesions leading to lost fertility in the future); severe hemorrhage associated with major ovarian vessels; abortion of a fetus; and pain or injury to the cow herself. These procedures are not akin to a fine needle aspiration of a subcutaneous mass, or the suturing of a catheter; they require skill and knowledge that is best left to a veterinarian. Allowing technicians to perform these procedures does no justice to the animals subjected; it is impossible to know what is going on inside of an animal simply by watching the procedure – having a veterinarian supervising chute side would not be of benefit.

Also at stake is my future career. As a veterinarian who is just starting out in the field of bovine ART, the negative economic impact associated with this statute change is upsetting. Instead of paying fair wages to a veterinarian, large corporations can employ a technician to serve their needs and cut out a veterinarian in this role. This decision would affect not only those working for companies for whom this would be convenient, but also the ET veterinary community at large. Impacted the most would be young veterinarians such as myself, who are struggling with balancing staggering student debt with an adult life. It is difficult to be appealing to a clinic or company when a technician can be hired at a fraction of the cost of veterinary wages. In a rural area it is a struggle to find food animal veterinarians. A decision like this will only help to dissuade young veterinarians from entering a rural food animal practice, worrying that our jobs can be easily replaced at whim.

I would hope the VEB would feel ethically obliged to promote jobs and career longevity for new veterinarians, not reduce the procedures that we can potentially perform to generate an income. Assisted reproductive technologies are best left in the hands of trained veterinarians. It is what would be best for our profession, and the animals that we work with.

Dagmara Schroeder, DVM

Daniels, Cheryl F - DATCP

From:	Mitch Breunig <mysticvalley336@gmail.com>
Sent:	Monday, October 23, 2017 8:17 AM
To:	pjohnson6@charter.net; rtforbes@gmail.com; dr.dommer@cgvet.com; lnesson@irongateequine.com; kkreier@badgervet.com
Cc:	Daniels, Cheryl F - DATCP
Subject:	Surgery definition

Dear Members of the Wisconsin Veterinary Examining Board,

I am a dairy farmer in Sauk City Wisconsin. I have recently been made aware of a change to the definition of surgery being proposed in Wisconsin. One of the new changes will allow advanced reproduction to be performed by certified technicians, as opposed to a licensed veterinarian. Having a non-veterinarian cannot and should not ever replace a licensed veterinarian in such things as oocyte retrieval. A Supervising person can not know what another person is actually doing with their hand, catheter, or aspirating needle within the cow or heifer.

Negative consequences can occur and do occur on these invasive procedures. Some of these would be abortion of a valuable fetus, life threatening hemorrhage, peritonitis, adhesions of internal organs and tissues, permanent loss of future reproductive ability and injuries following epidural anaesthesia. All of these would be considered an ANIMAL WELFARE issue. As veterinarians you take an oath to do no harm. Making this change would be in direct conflict with that oath.

Today's consumers will continue to drive agriculture and the inclusion of the veterinary profession through a VCPR is of the utmost importance. Veterinarians understand the public's expectations concerning animal welfare, if we begin to blur the line where will it stop. Will the technicians do C-sections and DA surgeries as well in the future. When we look to Europe, they require a Veterinarian to administer all treatments, while this is not a road we need to be on, it does show how important the veterinarian is viewed by them. Programs like Food Armour allow farmers and their veterinarian of record to work closely to develop the best possible outcomes for both the farm and the animal.

Wisconsin is a leader in many things, and we are looked by the rest of the country. We have a robust genetic industry that is the envy of the rest of world. One of the reasons this is the case is the strict regulations that govern how embryos are collected, frozen and shipped worldwide. If we lower our standards the quality of the product our customers value could be diminished. However, that is not as important as the potential animal welfare issue that could come about as you relax your standards as to how and by whom these procedures are allowed to be provided. Please reconsider your upcoming changes or at the very least allow more engagement from stakeholders before the final rule is approved without thorough debate.

Mitch Breunig

Mitch Breunig
Mystic Valley Dairy, LLC
8667 County Rd V
Sauk City, WI 53583

Par. 7. h. Comment

608-963-6819

aniels, Cheryl F - DATCP

From: Linda Prososki <jlprososki@gmail.com>
Sent: Monday, October 23, 2017 9:00 AM
To: pjohnson6@charter.net; rtforbes@gmail.com; dr.dommer@cgvet.com; lnesson@irongateequine.com; kkreier@badgervet.com; Daniels, Cheryl F - DATCP
Subject: Proposed VEB Statute (please forward to all members)

Dear Members of the Veterinary Examining Board,

I am addressing the board concerning the proposed change to the current rule allowing certified veterinary technicians to perform assisted reproductive technologies. I believe that these technologies are the practice of veterinary medicine and should remain in the hands of the licensed veterinarian. These technologies include the use of prescription products, anesthesia, and transvaginal procedures which require advanced education and training. Comparing assisted reproductive technologies to small animal certified technician procedures demonstrates a lack of understanding of the embryo transfer/in vitro fertilization process and practice. Does "aspiration of a mass" include ultrasound guided biopsy of the liver for a small animal technician? Ultrasound guided transvaginal aspiration of the oocyte takes advanced knowledge and skill as does liver biopsy, they are advanced medical procedures.

Please consider the effect of this proposed change on our profession. How can we recruit the best and the brightest to our profession? How can we require them to meet the rigorous education requirements of undergraduate study, veterinary school, pass state and national boards and not protect their practice rights? With the financial investment to become a veterinarian that now enters into the hundreds of thousands for many students it does not seem prudent to dissolve the rule of practice to allow non-skilled persons to practice what was previously veterinary medicine. There are already challenges recruiting veterinarians into food animal related practice, this devaluation of the food animal veterinarian would further exasperate that problem. My son is a veterinarian who graduated from the University of Wisconsin School of Veterinary Medicine in 2016 and my son-in-law will be graduating from the same program in 2018. We are all concerned with the future of veterinary medicine.

I understand that this proposal is being initiated by a threat from a for-profit AI company threatening to leave the state. This company is concerned about their profit and presumably trying to avoid paying fair wages for veterinary expertise. This proposed change not only affects animals in a controlled, large company herd. It also affects animals on dairy farms providing milk to consumers as well. When I graduated from veterinary school, I recited the Veterinary Oath. Part of the oath requires me to use my scientific knowledge and skills for the benefit of society through the protection of animal health and welfare and the prevention and relief of animal suffering. I particularly take the protection of animal health and welfare to be absolutely important to all veterinarians including those providing animal reproductive technologies. The oath also requires the promotion of public health. We need food animal practitioners to promote public health through their knowledge, understanding and their veterinary medical skills

I am concerned about not only the veterinarians of Wisconsin, but also the dairy industry itself, as I am also a dairy farmer. We have produced 10 bulls that are in active AI and have exported embryos all over the world. I understand how volatile the dairy industry is at this time. Within the last two years, our milk processor no longer accepts milk from farms that use BST, farms that dock tails, and requires an annual audit of our farm for humane treatment of our animals. These requirements are not required by law, but are being demanded by consumers. Consumers want the best care and humane treatment of farm animals. Assisted reproductive techniques are not minor, simple procedures. Prescription drugs are used, epidural anesthetic is required etc..., and complications can occur. Would consumers accept this advanced procedure being done to animals by a technician rather than a doctor of veterinary medicine as humane and in the best interest of the animal? Negative publicity would be devastating to the Wisconsin dairy industry.

Par. 7. i. Comment

I will continue to practice my profession conscientiously, with dignity and in keeping with the principles of veterinary medical ethics as I swore to do in the the veterinary oath. I plan to continue to produce milk for consumers meeting and exceeding the requirements of the animal welfare audit required by our processor. The animals on our dairy farm will have medical procedures performed by a veterinarian licensed in the state of Wisconsin . We as veterinarians should be in the forefront of animal welfare rather than being reactive to the consumer's concerns. The risk to the veterinary profession and the dairy industry far outweighs the motivation of corporations attempting to change our practice act in the interest of cutting cost to increase their profits.

Before making a decision on this proposed change, every board member needs to fully understand this technology. You are making a decision that will impact my profession and the industry we serve.

Dr. John Prososki
Ohio State University, Class of 1986
Vice-President American Embryo Transfer Association
President/Owner Wittenberg Embryo Transfer

Daniels, Cheryl F - DATCP

From: Janssen, Gary (Golden Oaks) <GJanssen@crown-chicago.com>
Sent: Monday, October 23, 2017 1:47 PM
To: Chris Keim
Cc: rtforbes@gmail.com; dr.dommer@cgvet.com; lnesson@irongateequine.com; kkreier@badgervet.com; Daniels, Cheryl F - DATCP; pjohnson6@charter.net
Subject: Proposed practice act changes

Dear Members of the Veterinary Exam Board,

I am Gary Janssen. I have worked many years for Golden Oaks, an internationally recognized Holstein herd in Illinois. This business has been using traditional embryo and IVF technology for at least 25 years. We choose to bring our best cows and heifers to a Wisconsin ET company for these procedures. We are able to market our genetics worldwide and improve the genetic makeup of our herd through this embryo technology. All four of the veterinarians we have worked with have provided outstanding results (good numbers of high quality embryos that produce healthy calves at birth for us). This company has never employed a non-veterinarian to do this work on embryo or oocyte donors. We would never jeopardize the health of our valuable cattle and allow someone other than an AETA certified veterinarian to do this work for us.

Sincerely,
Gary Janssen
Golden Oaks Farm

Par. 7 j. Comment

Daniels, Cheryl F - DATCP

From: Tom Kestell <tkestell66@gmail.com>
Sent: Monday, October 23, 2017 4:41 PM
To: Emquest; Paradocs Embryo Transfer; pjohnson6@charter.net; rtforbes@gmail.com; dr.dommer@cgvet.com; kkreier@badgervet.com; Daniels, Cheryl F - DATCP; lnesson@irongateequine.com
Subject: Vet Examining
Attachments: Vet Examining Board 10-23-17.docx

To Whom It May Concern,

I have written a few of my thoughts regarding the Docket No. 16-VER-1, Rules Clearinghouse No. 16-068.

Please feel free to contact me directly if you have any questions.

Thank you for your time and consideration.

Tom Kestell

Par. 7 k. Comment

EVER-GREEN-VIEW FARMS

Dear Wisconsin Veterinary Examining Board Members,

With regards to PROPOSED ORDER OF THE WISCONSIN VETERINARY EXAMINING BOARD ADOPTING RULES (VEB Docket No. 16-VER-1, Rules Clearinghouse No. 16-068), the Veterinary Examining Board (VEB) should not make the changes they are now considering.

I will introduce myself briefly so that you have some idea of my background and qualifications to comment on this matter. My name is Tom Kestell from Waldo, Wisconsin. Ever-Green-View Farms has been in the export of embryos for over 30 years internationally and domestically. We have based our business model on the simple statement: "Never promise more than you can deliver and always deliver more than you promise." We have spent a lifetime developing a reputation for quality, dependable and accurate genetics to supply the needs of the world. We have done this in conjunction with our ET veterinarian, Dr. Byron Williams and with international shipping assistance with Dr. Scott Armbrust. I hold these two professional ET specialists in high regard. I value their expertise and rely on their console and guidance.

Our farm has received the Governor's Export Award three times with the assistance of these ET specialists. In 2017, our farm received the Dairy Shrine National Distinguished Breeder Award. We have been involved at a very high level of exporting embryos around the world for many years. Our business has been built on quality work by licensed veterinarians and AETA Certified veterinarians. I have witnessed firsthand both the results of proper ET programs and the results of poorly supervised programs. Technicians who are not properly trained and supervised will only lower the high quality standards that have been maintained for many years. I have witnessed firsthand as an example of ST's very unorganized and chaotic approach to the ET business. They seem to be more interested in promising big results and delivering either nothing or very poor quality work. We only will get one chance in many markets to do things right. Our customers around the world who have trusted us (the USA) depend on us to maintain our standards. If we are going to lower the standards we need to inform our customers so that they can anticipate the lower quality product they will get. Many people, including myself, have spent a lifetime building markets and having satisfied customers. We go so far as to supply ET technicians to transfer embryos in countries like Russia and Pakistan. A lifetime of work can quickly be undone by cutting corners and only thinking of a short term bottom line.

I truly feel that if standards are going to be lowered to satisfy a few self involved individual ET firms that it should be the responsibility of the State of Wisconsin and the United States to warn our customers that these changes are coming. Self regulation does not work and relying on the dubious honesty of a firm like ST is only courting disaster. If you would like to talk with me I would be willing to talk at any time to share many experiences I have had with unqualified ET personal. Let's stick to what works. It's easier to keep our reputation than to try and regain it.

Thank you for your time and consideration.

Respectfully,

Tom Kestell
Ever-Green-View Farms
920-946-8093

Daniels, Cheryl F - DATCP

From: greg@sunshinegenetics.com
Sent: Monday, October 23, 2017 9:53 PM
To: Philip Johnson; Robert Forbes; Diane Dommer; Lisa Nesson; Kevin Kreier
Cc: Daniels, Cheryl F - DATCP
Subject: VEB Practice Act Amendments
Attachments: VEB Letter 10.17.docx

Members of the Veterinary Examining Board,

As a colleague, Embryo Transfer veterinarian, and small businessman, I really am struggling with the possibility of the proposal being passed this Wednesday. I have attempted to put my thoughts into words in the attached document as well as pasted below. I hope to see each of you at the meeting this coming Wednesday morning so that I can gain a better understanding for the reasoning behind the proposed changes. I understand that there are 3 non veterinarians on the board as well and I would appreciate you forwarding this to them as I do not have their email addresses.

Thank you for taking the time to read my document.

Greg Schueller DVM

Sunshine Genetics is a donor housing facility located in Whitewater, WI. This business, owned by myself, a licensed, accredited and AETA certified veterinarian, is home to around 200 cattle owned by clients from all around the world. These cattle are elite genetic embryo donors which we perform embryo collections as well as trans vaginal oocyte collections and recovery procedures every day. Currently, we have 2 licensed veterinarians and 5 full time staff managing the animals and doing administrative work. We do utilize a laboratory technician, but she does not perform any procedures on animals. Before joining Sunshine Genetics in 2009, I was in a mixed animal veterinary practice in Hazel Green WI, where I focused on dairy reproduction and embryo transfer procedures. I have seen a lot of change in veterinary medicine from the time of my graduation in 1991 until now. The most significant change which I've observed in food animal practice has been the consolidation of animals and increase in herd size. While there are many positives that have come from this growth, there has been some negative effects which were probably unpredicted and unforeseen 20-30 years ago. I would like to familiarize you as an examining board to what I predict might be the unforeseen effect of allowing technicians to perform embryo transfer procedures.

In 2016, I personally performed over 1100 OPU procedures on client owned cattle. I can tell you that doing this sort of volume does train your brain to be able to do the procedure while carrying on a conversation with the client about other things, perhaps weather, sports, or more likely reproductive protocols, calf health and management, mastitis treatment protocols, and other topics typically discussed between a veterinarian and the client. If a technician is performing Ovum Pick Up (OPU) and a client who has brought in a donor for OPU begins a conversation on calf health, it is likely that the technician will begin giving input on disease management and dare I say give recommendations for treatment. As we continue to delegate more and more tasks to technicians, a new norm is established and now it is ok for a technician to perform procedures when the veterinarian is not in the room at the same time. Maybe next month the veterinarian will not even be on site, but will be a short drive away, and in a year, the veterinarian could be 500 miles away but available by phone in case something goes wrong. Gradually, we will be drifting away from the practice act as you have written it and it appears are ready to endorse this week.

How will you, the VEB, discipline a veterinary technician who is working on client owned cattle without veterinary supervision? I know of at least one instance where a non-veterinarian doing embryo transfer procedures in Wisconsin,

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was sent a cease and desist letter and he continued providing embryo transfer services and marketing his services directly to clients and is still doing so today. Your power is in the ability to remove or suspend the veterinarians license. If that individual has no veterinary license, the only thing that might happen is that the case be passed on to the district attorney who is very unlikely to hear the case as they are bottlenecked with cases of heroine addicts and other serious offenses. I believe that passing these amendments further opens the door to technicians working on client owned animals without veterinary supervision, maybe not this year or next and maybe not while you are on the examining board, but it is a likely result of your actions. Allowing technicians to perform embryo transfer procedure under the direct supervision of a veterinarian gives the technician an opportunity to hone skills and perform procedures that they potentially will use to market themselves directly to clients without veterinary supervision. **The other procedures listed under Section 1, VE 1.02 (9) b are techniques used in other procedures, for example, an IV catheter being inserted prior to a spay. The ET procedures are comprehensive procedures. The equivalent to fine needle aspirate or placement of intravenous catheter would be administering an epidural as a part of the embryo transfer procedure, not have them perform the entire procedure. How could the embryo transfer component possibly have slipped into this proposal. I feel that the entire ET industry is due an explanation of how it has got to this point. I intend to be at your meeting this Wednesday so that you can explain this to me in person.** The annual meeting of the American Embryo Transfer Association begins this Thursday and I am sure that all attendees there will be anxious to hear the explanation as well.

I strongly encourage you, the examining board, to not allow embryo transfer procedures to be performed by technicians. I do not say this for personal gain or control, as if you amend the practice act in this way, it would allow me to hire a technician over another veterinarian at probably half the cost. However, it is ethically and professionally the wrong thing to do. This proposal is all about cost savings measures being implemented on the highest genetic cattle.

You have a major task ahead of you with the proposed changes to the practice act and I thank you for the time and efforts that you put in to educating yourselves about procedures involved in embryo transfer in cattle. A couple of years ago, I was asked if I would consider being on the examining board, but declined due to the busyness of my life with running our business and having 3 daughters still at home. I do appreciate the time and energy that you put into your position and your taking the time to educate yourselves on the impact of your decisions for our profession and ultimately for the animals under our care. If for some reason you have not personally seen an embryo collection, transfer, or OPU procedure, I would challenge you to at least table this vote until you are able to see this. It is significantly more technical than catheter placement or a fine needle aspiration procedure. Sunshine Genetics is less than an hour from Madison and I would welcome you to visit to see procedures and educate yourselves further on the procedures we perform.
Regards,

Greg Schueller DVM
Sunshine Genetics
W7782 US Hwy 12
Whitewater, WI 53190
Greg@sunshinegenetics.com
920-650-5005 cell

Daniels, Cheryl F - DATCP

From:	Scott Armbrust <swarmbrust@gmail.com>
Sent:	Tuesday, October 24, 2017 5:34 PM
To:	pjohnson6@charter.net; rtforbes@gmail.com; dr.dommer@cgvet.com; lnesson@irongateequine.com; kkreier@badgervet.com
Cc:	Daniels, Cheryl F - DATCP
Subject:	Fwd: Letter-done

Dear Members of the Wisconsin Veterinary Examining Board,

I am strongly opposing the rules change (Docket No 16-VER-1, Rules Clearinghouse No. 16-068) allowing ET and ART procedures to be done by veterinary technicians or any person not a licensed veterinarian in the state of Wisconsin.

With a 100% embryo transfer practice I have been serving Wisconsin as a licensed and accredited veterinarian for 42 years. My business, Paradocs Embryo Transfer, Inc., has been a Wisconsin corporation since 1982. It's mission, to deliver the best quality embryo transfer service as well as develop worldwide markets for US genetics with strong emphasis on Wisconsin sourced embryos. I have trained licensed **veterinarians** from Germany, the Netherlands, India, China, Brazil and Japan. Most of all we have promoted Wisconsin embryos as some of the best and highest quality embryos available on the world market.

The last 3 years our office in Green Bay Wisconsin has exported and coordinated shipping an average of 5000 embryos per year totaling an annual value of $5,000,000. A great deal of this revenue was income to Wisconsin breeders and dairymen exporting embryos to markets in Japan, China and Germany. Our business only exports or sources from AETA certified veterinarians as we are very quality conscious and only export the best to our worldwide clients. Paradocs Embryo Transfer, Inc. is a past recipient of the Wisconsin Governor's Export Achievement Award in Agriculture for Service Exporter.

I have worked closely with the Wisconsin Department of Agriculture, the US Livestock Genetics and Export Association and the USDA-APHIS-VS to promote and develop markets for US embryos. All parties are extremely quality conscious and are convinced that licensed veterinarians are needed to control strict quality and health standards to export embryos from the US. Any chance of an inferior product would open the doors for our Canadian, European, and Australian competitors on the world marketplace. Quality is our best marketing point both with product origin and genetics.

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Embryo transfer takes a considerable amount of skill and expertise. Not every cattle veterinarian has been successful at ET and many have given up for lack of results, particularly those expected by our cattle breeders in Wisconsin. ET veterinarians who do embryos on a daily basis have developed very high success rates with fresh and frozen embryos. The same success has been accomplished and expected by our international clients and colleagues. Iowa State University and Tufts Veterinary Schools both have active Embryo Transfer teaching practices and consider it a valuable tool in the practice of veterinary medicine. Both schools encourage their future large animal veterinarians to become proficient in ET as a practice asset. This rule change could also impact the equine ET industry which is growing every year.

Veterinarians provide liability insurance as licensed practitioners working with the most valuable cattle and horses in Wisconsin if there is a problem with the ET collection or aspiration. Many of the donor animals currently collected for ET or IVF are valued in the six figures $$. I find it interesting that several of the A-I companies utilize only professional ET veterinarians for their IVF and ET services. A Wisconsin A-I company recently purchased 4 Holstein high genomic heifers at public auction for a total of more than $1;000,000.

To allow veterinary technicians to legally do ET and ART, even under the guidance of a veterinarian, is a step backwards for all we have built in the ET industry for the past 40 years.

Most of all, I am concerned with the image of animal welfare with the change of statutes. The dairy industry in Wisconsin is a $42 Billion industry and we cannot take any chances with the Wisconsin dairy industry's image regarding safety of the product and animal welfare. The US consumer is demanding more quality every year. I have seen this evolution in Europe over the past two decades and our consumer is well aware of the production management practices in agriculture. Our consumer wants a product from farms guaranteeing of highest quality produced under the most ethical and professional conditions. Every procedure done in agriculture production is scrutinized by active animal welfare groups. Licensed veterinarians are the safeguard to Wisconsin's dairy and cattle industry.

Embryo transfer and ART (IVF) have always been considered the equivalent of a surgical procedure with the skill and expertise required. It has always been my opinion that the Examining Board's duties are to protect the public and to regulate veterinarian's professional practice. Every member should be fully aware of the technology before affecting the profession and the industry we serve and care about.

Sincerely,

Scott W. Armbrust, DVM

Wisconsin License #1438

Past President American Embryo Transfer Association

Past Chair and member of the AETA Export Cooperator Committee

Member of the Iowa State College of Veterinary Medicine Dean's Advisory Council

Nationally recognized cattle breeder and co-owner of World Dairy Expo Supreme Champion Cow: Frosty

Daniels, Cheryl F - DATCP

From:	Daniel Gander <dcgander@gmail.com>
Sent:	Tuesday, October 24, 2017 6:15 PM
To:	pjohnson6@charter.net; rtforbes@gmail.com; dr.dommer@cgvet.com; lnesson@irongateequine.com; kkreier@badgervet.com; Daniels, Cheryl F - DATCP
Subject:	Concerns for the VEB regarding proposed changes to the practice act
Attachments:	Concerns for the Veterinary Examining Board.pdf

Veterinary Examining Board Members,

Please see the attached letter concerning my perspective on the proposed amendments to the veterinary practice act. Thank you in advance for your time and consideration.

Sincerely,

Dan Gander DVM
Stateline Veterinary Service
Darien, WI

Par. 7 n. Comment

To the Veterinary Examining Board,

I am a 2010 graduate of the University of Wisconsin- School of Veterinary Medicine. Currently, I am a partner at Stateline Veterinary Service in Darien, WI. I began providing embryo transfer services for the producers within our practice in the spring of 2012. At that time, service included conventional flush and transferring fresh and frozen in vivo and in vitro derived embryos. There was an established demand for these services provided by both Sunshine Genetics in Whitewater, WI and by local non-veterinarians. The demand expressed to us by our producers was that they were looking for the ET service to be provided by someone they had a relationship with and understood their goals to most appropriately utilize the technology. We have been able to provide a quality service at a reasonable price, though our producers may argue the pricing.

In the spring of 2015, our producers began to show more interest in IVF technology. In vitro Fertilization was becoming an accessible technology with marked advantages and competitive results. Once the decision was made to pursue offering this service to our producers, we began working with Boviteq. Unlike some of the other commercial laboratories in the US, Boviteq exclusively provides the laboratory service to OPU veterinarians with whom they set up partnerships. Boviteq provides stimulation protocols, technical support and tracks performance to ensure veterinary partners are meeting the quality standards synonymous with the Boviteq name. Boviteq's training protocols are extensive. Our team took a weeklong trip to Boviteq headquarters where we were submerged in OPU training. We then performed 120 OPUs before we were allowed to begin the validation process. We collected under the supervision of an expert at Boviteq to ensure appropriate collection technique was followed. Collection results and embryo development were monitored closely, but, through this entire process, cleanliness and collection technique were stressed as primary concerns.

Transvaginal Oocyte Retrieval (TVOR) or Ovum Pick-Up (OPU) is a surgical procedure. At our practice, we perform a presurgical sterilization technique using Virkon that is then rinsed with sterile saline a number of times before collection. A stimulated ovary is palpated transrectally and brought to the vaginal wall. At the same time, an ultrasound with a needle guide is passed vaginally and pressed against the vaginal wall and the restrained ovary. The ovary is manipulated and then stabilized as a needle attached to tubing leading to a collection chamber is vacuum pump powered to delicately aspirate each follicle individually. Restraint, both physical and chemical, is important because the needle can do significant damage inside a restless donor. Complications from the OPU procedure are rare, but can be severe. These include pelvic and abdominal peritonitis, severe hemorrhage, and adhesion formation between the pelvic and abdominal organs leading to reproductive, digestive and urinary system failure. We veterinarians are thoroughly trained in the diagnostic process. Signs of these disease processes must be detected early to limit severity of pathology and preserve donor health. Often times, the first signs are observed during collection. They are palpated and identified during the OPU process. These observations are vital to the prompt treatment necessary to preserve the health and potentially save the life of the donor.

The use of this technology is in its infancy in the industry. This is an important time in establishing the reputation of this technology to both our producers and the increasingly more knowledgeable and influential general public. Allowing non-veterinarians to determine the reputation and perception of this surgical procedure would do our producers a disservice. As margins continue to drop in the beef and dairy industry, we need every tool to help keep our farms competitive in productivity and profitability.

As a veterinarian in this field of practice, I am writing with the purpose of protecting the cow, the technology and our producers. I do not think it is in the best interest of any of these parties for non-

veterinarians to perform this procedure and it is not responsible for the VEB to allow this technology to slip through our hands. Because of the benefits of IVF technology to our producers and the speculation of growth in our practice, we will have 3 veterinarians trained and certified to provide this procedure within the year.

Regardless of the VEBs decision to allow technicians to perform this surgical procedure, as a practice, we feel the highly technical nature of the procedure requires a veterinarian's expertise to responsibly perform. Our business does not feel threatened by a company that allows technicians to perform OPU. In fact, we feel quite the opposite. That being said, as veterinarians, we have the responsibility of protecting the animal. I hope you consider this when making your decision.

Dan Gander, DVM

Stateline Veterinary Service

Darien, WI

608/921-6722

Daniels, Cheryl F - DATCP

From: Brent & Tara Beck <btbeck@centurytel.net>
Sent: Wednesday, October 25, 2017 5:21 AM
To: pjohnson6@charter.net; rtforbes@gmail.com; dr.dommer@cgvet.com; lnesson@irongateequine.com; kkreier@badgervet.com
Cc: Daniels, Cheryl F - DATCP
Subject: Letter to VEB regarding propose changes to the practice act
Attachments: LETTER TO VEB 17OC25.pdf

To The Veterinary Examining Board,
See the attachment for a letter regarding propose changes to the practice act.
Thanks,
Brent E. Beck, DVM
S493 Nilsestuen Road
Cashton, WI 54619
608-487-3162 cell

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Beck Embryo Transfer LLC

S493 Nilsestuen Road, Cashton, WI 54619
Phone: (608) 654-5116 Fax: (608) 654-5116
Mobile: (608) 487-3162
Email: btbeck@centurytel.net
Brent E. Beck, DVM

October 25, 2017

To Veterinary Examining Board,

I'm writing in regards to the upcoming topic being presented at VEB meeting, specifically a proposal to amend the current rule spelled out under VE9.01. As I understand, the changes would make it possible and allow non-veterinarians to perform procedures currently protected in the state of Wisconsin under our practice act.

I'm unclear why these changes are being considered, especially by a board of colleagues who I feel should be protecting the interests of fellow veterinarians and our profession. The necessity of a rule change to allow techniques to perform these procedures is unnecessary and unfounded. These procedures are being performed around the state by highly skilled licensed veterinarians who have six to eight years of time invested in a DVM degree, the cost of education, annual CEC credits, state certification and many of who have special training in these procedures. These qualifications have helped make Wisconsin a leader in the export of bovine embryos around the world.

It also seems quite irresponsible that at a time when food safety and animal welfare are of utmost importance to the general public that we as a profession would allow the addition of unqualified individuals to begin performing surgical procedures that are adequately being provided to our dairy producers around the state.

As I understand this issue, one large company is advocating for these changes. Presently there are at least three reputable IVF labs that provide this service using licensed veterinarians who provide an excellent service and product.

Would also mention the purpose of our practice act is not only to protect currently practicing veterinarians but also the future veterinarians aspiring to practice in our state. I fear a company selecting a specific veterinary procedure which it feels it can profit from will greatly undermine rural practices. Many states have struggled to fill theses rural positions, with some states subsidizing student loans in an attempt to attract young qualified veterinarians to these areas. We should protect the clinical veterinarians with a practice act that keeps unqualified individuals from selecting curtain procedures that will be a detriment to our rural veterinary practices. These unqualified individuals will not be the ones providing volunteer services at our county fairs, speaking to FFA classes, presenting an embryo transfer demonstration to local 4-H clubs or going on a midnight OB for a local dairy producer.

I would also like to ask the individuals on the board who are in favor of this policy change how policing of the "under the supervision of a veterinarian" will be carried out. As practicing veterinarian for 29 years, 20 years providing embryo transfer services and past owner of a six person veterinary clinic, I feel strongly the board should not adopt this policy, which would hinder the advancement of our dairy industry and the veterinarians that serve it.

Brent E. Beck, DVM

Brent E. Beck, DVM

Daniels, Cheryl F - DATCP

From: Ashley Swenson <swens698@umn.edu>
Sent: Wednesday, October 25, 2017 7:48 AM
To: Daniels, Cheryl F - DATCP
Subject: VEB: comments on proposal to amend VE 1.02(9) & VE 7.02(4)
Attachments: VEB Recommendations.pdf

Dear Cheryl,

Attached you will find my comments regarding the proposed amend and addition of VE 1.02(9) and VE 7.02(4).

Regards,

Ashley Swenson

--
****
Ashley E. Swenson, DVM
Midwest Embryo Transfer Service
aekswenson@gmail.com
507-241-0544

Providing Wisconsin and Minnesota with complete Embryo Transfer services! Call to schedule an ET or IVF session today.
www.midwestembryotransfer.com
Office: 715-268-9900

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Midwest Embryo Transfer Service

Wi Phone: 715-268-9900
MN Phone: 952-737-9028
Fax: 715-294-4994
email: nancy@midwestembryotransfer.com

www.midwestembryotransfer.com

Ashley E.K. Swenson D.V.M.
David B. Duxbury, D.V.M.
493 Simmon Dr, Suite 4
Osceola, WI 54020

October 25, 2017

Dear Veterinary Examining Board members,

My name is Dr. Ashley Swenson, 2016 graduate from the University of Minnesota's College of Veterinary Medicine. As of June 01, 2016, I became the proud owner of Midwest Embryo Transfer Service, LLC. The practice consists of Dr. David Duxbury, a veterinary technician, and myself. We have nearly 30 years of combined assisted reproductive technology experience. As an accredited, licensed practitioner in the state of Wisconsin and an AETA Certified Embryo Transfer Practitioner, I have concerns related to the newly proposed changes:

> *"...to amend Wisconsin VEB Statue 1.02 (9) and to create VE 7.02 (4); relating to the definition of veterinary medical surgery and delegation of veterinary medical acts, and affecting small business."*

In a world of ever changing consumer concerns, veterinarians provide the standards of practice, as it pertains to animal health and well-being. In regards to Section 1 VE 1.02 (9)(b)(7), to perform these procedures atraumatically, a caudal epidural is required. Removing this from the definition of a surgical procedure may adversely diminish the risk-assessment involved including the risk of infection, ataxia, and/or recumbency and subsequent hindlimb injury.

The manipulations required to perform the procedures outlined in Section 1 VE 1.02 (9)(b)(7) are done blindly; these are tactile skills not all individuals possess. Even an experienced, licensed practitioner cannot passively assess where a non-veterinarian is precisely inserting a needle, catheter, or transfer sheath within the vagina, uterus, and ovary. An education in veterinary medicine provides the skill set and knowledge needed to understand atraumatic tissue handling and assess the anatomic location of the surgical site.

Again, removing these procedures from the definition of a surgical procedure may adversely diminish the risk-assessment involved, including the risk of but not limited to:

- peritonitis,
- adhesions of the cervix, uterine horns and/or ovaries and subsequent inability to collect embryos, oocytes or maintain pregnancy to term,
- hemorrhage and/or
- death.

Additionally, the vast majority of these procedures are performed on animals of high value. An increasing population of these animals is valued at +$10,000 with outliers reaching 10-100X that value. Not to mention the potential loss of these genetics if permanent damage to the reproductive tract or death were to occur.

As veterinarians, it is our ethical and legal responsibility to ensure reproductive tract damage or life-threatening injuries are recognized immediately and to ensure proper action to correct these errors is not delayed.

For the well-being of the patients and clients, as well as the publics' perception of food animal medicine, it is my recommendation that the board strike Section 1 VE 1.02(9) (b) (7) from the proposition to the Wisconsin Administration Code. Additionally, it is my recommendation that the board add guidelines to enforce Section 2 VE 7.02 (4) (h) under the statue 89.05 sub. (3) and statue 89.07 sub. (3), which respectively state:

> ***89.05 sub. (3)*** *Any person violating this section may for the first offense be fined not more than $1,000, and for any 2nd offense within 3 years be fined not more than $3,000.*
>
> ***89.07 sub. (3)*** *in addition to or in lieu of a reprimand or denial, limitation, suspension, or revocation of a license, certification, or permit under sub. (2), the examining board may assess against the applicant for or the holder of the license, certification, or permit a forfeiture of not more than $5,000 for each violation of s. 89.068.*

Thank you for your time and consideration.

Respectfully,

Ashley Swenson

Ashley Swenson, DVM

DeWitt
Ross & Stevens s.c. Law Firm

Please respond to: Capitol Square Office
Direct line: 608-252-9358
Email: jkl@dewittross.com

October 25, 2017

Wisconsin Veterinary Examining Board
Dept. of Agriculture, Trade and Consumer Protection
PO Box 8911
Madison, WI 53708-8911

VIA HAND DELIVERY

RE: Proposed Change to VE 1.02 (9) and VE 7.02 (4) – Related to the Definition of Surgery and the Delegation of Veterinary Acts

Dear VEB Members:

I am writing on behalf of my client, the Wisconsin Veterinary Medical Association (WVMA), to express our concerns with the proposed revisions to Wis. Admin. Code §§ VE 1.02 (9) and 7.02 (4), specifically related to the provision that would allow the delegation of certain assisted reproductive technologies to certified veterinary technicians.

Importantly, the members of the WVMA strongly believe that all assisted reproductive technologies (ART) constitute the practice of veterinary medicine.

However, our membership would not oppose a change to the administrative code that would allow delegation of certain ART to *Wisconsin licensed veterinary technicians who are acting under the direct supervision of a Wisconsin licensed veterinarian who is on the premises (i.e., in the same room or adjacent room) with the veterinary technician.*

As such, we do not support the proposed changes to Wis. Admin. Code §§ VE 1.02 (9) and 7.02 (4) related to ART, as presented to you today for your consideration.

Rather, we request that the following amendments be made:

> VE 1.02 (9) (b) 7.: "7. Performing assisted reproductive technologies **on livestock, ~~including amniocentesis~~ limited to**, embryo collection and transfer, follicular aspiration, and transvaginal oocyte collection and recovery."
>
> VE 7.02 (4) (h): "(h) Performing assisted reproductive technologies **on livestock, ~~including amniocentesis~~ limited to**, embryo collection and

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transfer, follicular aspiration, and transvaginal oocyte collection and recovery."

If the above-noted changes were made to this proposed administrative rule, the WVMA would not oppose this rule change.

Very truly yours,

DeWitt Ross & Stevens s.c.

Jordan K. Lamb

JKL:jkl

cc. Kim Brown Pokorny, Executive Director, Wisconsin Veterinary Medical Association

VEB Docket No. 16-VER-1 **Final Draft**
Rules Clearinghouse No. 16-068 **November 16, 2017**

PROPOSED ORDER
OF THE WISCONSIN VETERINARY EXAMINING BOARD
ADOPTING RULES

The Wisconsin veterinary examining board hereby proposes the following rule ***to amend*** VE 1.02 (9) and ***to create*** VE 7.02(4); ***relating to*** the definition of veterinary medical surgery and the delegation of veterinary medical acts, and affecting small business.

Analysis Prepared by the Veterinary Examining Board

The Wisconsin Veterinary Examining Board (VEB) proposes a rule revision in ch. VE 1, Wis. Adm. Code, to broaden the definition of surgery removing the limitation in s. VE 1.02 (9), Wis. Adm. Code, to procedures that are for therapeutic purposes, and also specifying additional procedures exempted from the definition. In addition, the VEB proposes a rule revision in s. VE 7.02(4), Wis. Adm. Code, to include those additional exemptions added to the definition, which are still within the practice of veterinary medicine, as services a veterinarian may delegate to be provided by a certified veterinary technician ("CVT"), so long as the CVT is under the direct supervision of the veterinarian when the veterinarian is personally present on the premises where the services are provided.

Statutes Interpreted

Statute Interpreted: ss. 89.02 (6) and 89.05 (1), Stats.

Statutory Authority

Statutory Authority: s. 89.03 (1) and 227.11, Stats.

Explanation of Statutory Authority

The VEB has specific authority, under the provisions cited above, to adopt rules establishing the scope of practice permitted for veterinarians

Related Statutes and Rules

The VEB administers ch. 89, Stats., as well as the administrative rules in VE 1-10, Wis. Adm. Code, and in the administration of these statute and rules, VEB may issue administrative orders imposing discipline for unprofessional conduct related to the practice of veterinary medicine, including issuing an administrative warning to, or reprimanding, any person holding a veterinary medical license, or denying, revoking, suspending, limiting, the person's license, as specified by statute.

Plain Language Analysis

Currently, in s. VE 1.02 (9), Wis. Adm. Code, the definition of surgery, for veterinary medical practice, is limited to procedures that are for therapeutic purposes. This leaves uncertainty for the profession and the VEB, as to whether surgeries for other purposes, including reproduction and cosmetic changes, are included. A change to the definition is important to clarify that surgical procedures are broader than for therapeutic purposes, only, but also specifying additional procedures not considered surgery. The rule clarifies that some procedures not considered surgery also do not fall within the definition of the practice of veterinary medicine, under s. VE 1.02(6). Additionally, the rule clarifies that other procedures, not falling within the definition of surgery, remain within the practice of veterinary medicine. Finally, in s. VE 7.02(4), the rule creates additional veterinary medical acts, not considered surgery but still within the practice of veterinary medicine, that a veterinary may delegate to a certified veterinary technicians ("CVT"), so long as the CVT is under the direct supervision of the veterinarian when the veterinarian is personally present on the premises where the services are provided.

Summary of, and Comparison with Existing or Proposed Federal Statutes and Regulations

There are no federal regulations governing the practice of veterinary medical surgeries.

Comparison with Rules in Adjacent States

None of the surrounding states of Illinois, Indiana, Iowa, Michigan or Minnesota, have their own definition of surgery for the purpose of practicing veterinary medicine. Illinois does include animal reproductive services in the definition of the practice of veterinary medicine. Iowa does include cosmetic surgery in the practice of the veterinary medicine definition.

Summary of Factual Data and Analytical Methodologies

This rule was developed after consultation with veterinary medical groups and looking at other state rules related to veterinary surgery. After hearing, there was an objection to the rule from a stakeholder, who was concerned about the effect on its business operations involving assisted reproductive techniques and its use of certified veterinary technicians, instead of veterinarians, to perform these techniques. The VEB exercised its jurisdiction, pursuant to s. 227.18(3), Stats., to hear arguments before the entire VEB, at a regularly scheduled meeting. The VEB listened to the presenters and made certain changes to the rule, based upon the presentations. However, after changes were made, many additional stakeholders presented their concerns with the proposed change that would accommodate this particular stakeholder's business model using , in writing and at a VEB meeting, and the draft was further modified.

Analysis and Supporting Documents Used to Determine Effect on Small Business

Discussions with stakeholder groups were considered as to the effect of the proposed rule on small business. Comments from attendees at hearings were also carefully considered. The VEB also held an additional hearing, pursuant to s. 227.18(3), Stats., to consider objections to the rule. The VEB directed staff to make changes, based upon the presentations at the hearing. However, after changes were made, many small business stakeholders presented their concerns, in writing and at a VEB meeting, and the draft was further modified.

Effect on Small Business

This rule change is anticipated to have an effect on small business, as many veterinary practices that will be subject to this definition change, are small businesses. To the extent that the proposed rule will clarify what is excluded from the practice of veterinary medicine, as well as what is included in the practice but can be delegated, this may have a positive impact in giving certainty to veterinarians concerning the regulation of surgery for reproductive, cosmetic and other purposes that do not fall clearly within the notion of "therapeutic". The rule does include several additional procedures that a veterinarian may delegate to a certified veterinary technician, under the direct supervision of the veterinarian while personally present on the premises, in order to facilitate the best use of the veterinarian's skills and those of his or her staff in a practice. This will also ensure all persons, who are subject to these rules, are on notice as to practice conduct falling within the VEB's jurisdiction.

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

VEB Contact
Where and When Comments May Be Submitted

Questions and comments related to this this rule may be directed to:

Cheryl Daniels, Board Counsel
Veterinary Examining Board
c/o Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
Telephone: (608) 224-5026 E-Mail: Cheryl.Daniels@Wisconsin.gov

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SECTION 1. VE 1.02(9) is amended to read:

(9) "Surgery" means any procedure in which the skin or tissue of the patient is penetrated or severed ~~for therapeutic purposes~~, ~~except for~~ but does not include any of the following: ~~activities~~ ~~identified in s. 89.05 (2). Surgery does not include giving injections or simple dental extractions that require minor manipulation and minimal elevation.~~

(a) Activities not considered the practice of veterinary medicine, as follows.

1. Activities identified in s. 89.05(2) (a) and (b), Stats.

2. Subcutaneous insertion of a microchip intended to be used to identify an animal.

3. Ear tag or tattoo placement intended to be used to identify an animal.

4. Euthanasia by injection.

(b) Activities considered the practice of veterinary medicine, but may be delegated to a certified veterinary technician, as specified in s. VE 7.02(4), as follows.

1. Simple dental extractions that require minor manipulation and minimal elevation.

2. Administration of injections, including local and general anesthesia.

3. Sample collection via a cystocentesis procedure.

4. Placement of intravenous and arterial catheters.

5. Suturing of tubes and catheters.

6. Fine needle aspirate of a mass.

SECTION 2. VE 7.02(4) (d)-(g) are created to read:

(d) Sample collection via a cystocentesis procedure.

(e) Placement of intravenous and arterial catheters.

(f) Suturing of tubes and catheters.

(g) Fine needle aspirate of a mass.

(h) Performing embryo implantation on livestock.

SECTION 3. EFFECTIVE DATE AND INITIAL APPLICABILITY. This rule takes effect on the first day of the month following publication in the Wisconsin administrative register, as provided under s. 227.22(2)(intro.).

Dated this _____day of _____, 2017.

VETERINARY EXAMINING BOARD

By _____

Member of the Board

Wisconsin Veterinary Examining Board

Regulatory Flexibility Analysis

Rule Subject: **Authority and Definitions**
Adm. Code Reference: **VE 1**
Rules Clearinghouse #: **16-068**
DATCP Docket #: **16-VER-1**

Rule Summary

The Wisconsin Veterinary Examining Board (VEB) proposes a rule revision in ch. VE 1, Wis. Adm. Code, to broaden the definition of surgery removing the limitation in s. VE 1.02 (9), Wis. Adm. Code, to procedures that are for therapeutic purposes, and also specifying additional procedures exempted from the definition. In addition, the VEB proposes a rule revision in s. VE 7.02(4), Wis. Adm. Code, to include those additional exemptions added to the definition, which are still within the practice of veterinary medicine, as services a veterinarian may delegate to be provided by a certified veterinary technician, so long as the CVT is under the direct supervision of the veterinarian when the veterinarian is personally present on the premises where the services are provided.

Currently, in s. VE 1.02 (9), Wis. Adm. Code, the definition of surgery, for veterinary medical practice, is limited to procedures that are for therapeutic purposes. This leaves uncertainty for the profession and the VEB, as to whether surgeries for other purposes, including reproduction and cosmetic changes, are included. A change to the definition is important to clarify that surgical procedures are broader than for therapeutic purposes, only, but also specifying additional procedures not considered surgery. The rule clarifies that some procedures not considered surgery also do not fall within the definition of the practice of veterinary medicine, under s. VE 1.02(6). Additionally, the rule clarifies that other procedures, not falling within the definition of surgery, remain within the practice of veterinary medicine. Finally, in s. VE 7.02(4), the rule creates additional veterinary medical acts, not considered surgery but still within the practice of veterinary medicine, that a veterinary may delegate to a certified veterinary technicians ("CVT"), so long as the CVT is under the direct supervision of the veterinarian when the veterinarian is personally present on the premises where the services are provided.

Small Businesses Affected

This rule change is anticipated to have an effect on small business, as many veterinary practices that will be subject to this definition change, are small businesses. To the extent that the proposed rule will clarify what is excluded from the practice of veterinary medicine, as well as what is included in the practice but can be delegated, this may have a positive impact in giving certainty to veterinarians concerning the regulation of surgery for reproductive, cosmetic and other purposes that do not fall clearly within the notion of

"therapeutic". This will also ensure all persons, who are subject to these rules, are on notice as to practice conduct falling within the VEB's jurisdiction.

Reporting, Bookkeeping and other Procedures

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

Professional Skills Required

The proposed rule does not require any new professional skills.

Accommodation for Small Business

While this rule change is anticipated to have an effect on small business, as many veterinary practices are small business, it is anticipated that the effect will be positive in giving more certainty to veterinarians as to clarifying what is considered veterinary surgery. However, the rule does include several additional procedures that a veterinarian may delegate to a certified veterinary technician, under the direct supervision of the veterinarian while personally present on the premises, in order to facilitate the best use of the veterinarian and his or her staff in a practice. These, however, will be available to all veterinary practices, so no accommodations are required for small veterinary practices.

Conclusion

The provisions in this proposed rule will benefit those affected clarify that veterinary surgical procedures are broader than just for therapeutic purposes, but also specifying additional procedures not considered surgery. This will ensure all persons, who are subject to these rules, are on notice as to practice conduct falling within the VEB's jurisdiction.

This rule will not have a significant adverse effect on "small business" and is not subject to the delayed "small business" effective date provided in s. 227.22(2)(e), Stats.

Dated this 16th day of November, 2017.

STATE OF WISCONSIN
VETERINARY EXAMINING BOARD

By Cheryl Furstace Daniels
Cheryl Furstace Daniels
VEB Legal Counsel

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☐ Original ☒ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number
VE 1, Authority and Definitions and VE 7, Standards of Practice and Unprofessional Conduct for Veterinarians

3. Subject
Amending definition of surgery and exemptions

4. Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule
☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy ☒ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☒ Small Businesses **(if checked, complete Attachment A)**

8. Would Implementation and Compliance Costs Be Greater Than $20 million?
☐ Yes ☒ No

9. Policy Problem Addressed by the Rule
The Veterinary Examining Board ("VEB") administers ch. 89, Stats., as well as the administrative rules in VE 1-10, Wis. Adm. Code. Currently, in s. VE 1.02 (9), Wis. Adm. Code, the definition of surgery, for veterinary medical practice, is limited to procedures that are for therapeutic purposes. This leaves uncertainty for the profession and the VEB, as to whether surgeries for other purposes, including reproduction and cosmetic changes, are included. In addition, with changes to the definition of surgery, s. VE 7.02(4), Wis. Adm. Code, requires additions to veterinary medical acts that may be delegated by a veterinarian to a certified veterinary technician

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.
This proposed rule change is anticipated to affect all licensed veterinarians. This rule change is anticipated to have an effect on small business, as many veterinarian practices that will be subject to this definition change, are small businesses.

11. Identify the local governmental units that participated in the development of this EIA.
Local governmental units are not impacted by this rule and did not participate in development of this EIA.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)
The proposed rule makes minor changes to current rules and is expected to have no economic and fiscal impact.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
A change to the definition is important to clarify that surgical procedures are broader than for therapeutic purposes, only, but also specifying additional procedures not considered surgery and additional veterinary medical acts that may be delegated by a veterinarian to a certified veterinary technician. The rule does include several additional procedures that a veterinarian may delegate to a certified veterinary technician, under the direct supervision of the veterinarian while personally present on the premises, in order to facilitate the best use of the veterinarian and his or her staff in a practice. This will ensure all persons, who are subject to these rules, are on notice as to practice conduct falling within the VEB's

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

jurisdiction.

14. Long Range Implications of Implementing the Rule

To the extent that the proposed rule will clarify what is included in the practice of veterinary medicine, this may have a positive impact in giving certainty to veterinarians concerning the regulation of surgery for reproductive, cosmetic and other purposes that do not fall clearly within the notion of "therapeutic" and those acts that may be delegated to a certified veterinary technician.

15. Compare With Approaches Being Used by Federal Government

There are no federal regulations governing the practice of veterinary medical surgeries.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

None of the surrounding states of Illinois, Indiana, Iowa, Michigan or Minnesota, have their own definition of surgery for the purpose of practicing veterinary medicine. Illinois does include animal reproductive services in the definition of the practice of veterinary medicine. Iowa does include cosmetic surgery in the practice of the veterinary medicine definition-

17. Comments Received in Response to Web Posting and DATCP Response

No comments were received in response either to the posting on the Department external website or the statewide administrative rules website. Othere comments were received at the public hearings and during the period for written comments and all were considered by the VEB. In addition, there was an objection made to the VEB, as a whole, and the matter was considered, with notice and opportunities for persons to speak to the VEB on the issue, at a regular VEB meeting, pursuant to s. 227.18(3), Stats. The information presented at the hearing led the VEB to make further changes to the rule, to accommodate the concerns of this stakeholder. Even after these changes were made, there were additional written comments from other stakeholders and then comments made at the next VEB meeting. The VEB took these additional comments into account as it made limitations to its decision from the previous meeting before it voted to send this draft as final.

17. Contact Name	18. Contact Phone Number
Cheryl Furstace Daniels, VEB Legal Counsel	(608) 224-5026

This document can be made available in alternate formats to individuals with disabilities upon request.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

While the rule does have an impact on small businesses, since many Wisconsin veterinarians practice in small businesses, there is not a direct economic impact because the practices involved are already within the practice of veterinary medicine.

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

Working with the Wisconsin Veterinary Medicial Association ("WVMA") and receiving several comments from veterinarians in small businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

☐ Less Stringent Compliance or Reporting Requirements
☐ Less Stringent Schedules or Deadlines for Compliance or Reporting
☐ Consolidation or Simplification of Reporting Requirements
☐ Establishment of performance standards in lieu of Design or Operational Standards
☐ Exemption of Small Businesses from some or all requirements
☒ Other, describe:

The ability of veterinarians to delegate certain procedures to certified veterinary technicians.

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

The rule does include several additional procedures that a veterinarian may delegate to a certified veterinary technician, under the direct supervision of the veterinarian while personally present on the premises, in order to facilitate the best use of the veterinarian and his or her staff in a practice.

5. Describe the Rule's Enforcement Provisions

Issues involving the standards of professional conduct for veterinarians are handled on a complaint-based, case-by-case basis. However, the VEB will assist veterinarians with questions by giving guidance on whether a specific fact situation is allowed under the rule provisions.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes ☒ No