



Wisconsin Department of Agriculture, Trade and Consumer Protection

# Open Meeting Notice

Meeting: Veterinary Examining Board Administrative Rules Committee

Date & Time: Tuesday, February 16th, 2021, 4:00PM

Location: **Virtual meeting via Zoom**

See agenda for access

City, State Zip

Division: Division of Animal Health

## Agenda:

Meeting to be held via Zoom. To attend the meeting by telephone, call 1 (551) 285-1373, with meeting ID: 161 905 0713 and passcode: 981877, or via internet at:

<https://www.zoomgov.com/j/1619050713?pwd=VUtMVGtZejU0N0hEdFZuSjFSTHM4dz09>

I. 4:00 PM OPEN SESSION – ROLL CALL – CALL TO ORDER

II. Prepare for Telehealth Advisory Committee

A. Discuss scope of Telehealth Advisory Committee

B. Discuss telehealth regulation resources

C. Discuss what to include in the structure of a telehealth regulation proposal

III. ADJOURNMENT

To find out more about the meeting or hearing, or to request copies of documents that may have been prepared by the DATCP or to request documents to be used in connection with the meeting/hearing, contact:

DATCP - Division of Animal Health

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For the hearing or visually impaired, non-English speaking, or for those with other personal circumstances which might make communication at the meeting/hearing difficult, this agency will, to the maximum extent possible, provide aids including an interpreter, or a non-English, large print or taped version of hearing documents. Please contact the address or phone number listed above as soon as possible.

This agency, to the maximum extent possible, holds all meetings in facilities that are physically accessible to persons with disabilities. For questions about accessibility, contact the department using the information listed above.



**State of Wisconsin**  
**Veterinary Examining Board**

Governor Tony Evers  
Dr. Hunter Lang, DVM, Chair

## **Telehealth Advisory Committee Overview**

### **Purpose:**

The purpose of the Telehealth Advisory Committee is to provide recommendations for telehealth regulatory framework in Wisconsin, in relation to statement of scope SS 064-20.

### **Limitations:**

The Telehealth Advisory Committee is limited to the telehealth portion of statement of scope SS 064-20. For reference, the full statement of scope is available at [https://docs.legis.wisconsin.gov/code/register/2020/774a2/register/ss/ss\\_064\\_20/ss\\_064\\_20](https://docs.legis.wisconsin.gov/code/register/2020/774a2/register/ss/ss_064_20/ss_064_20).

The VEB's rule proposal must comply with existing state statutes, and recommendations from the Telehealth Committee should also comply with existing state statutes. Attached is a summary of relevant statutes.

### **Open Meetings:**

The Telehealth Advisory Committee is a governmental body and must comply with Wisconsin open meetings law. Attached is a summary of Wisconsin open meetings law, which will also be discussed at the first meeting.

## Wisconsin Statutes Relevant to Veterinary Telehealth

Wis. Stat. ch. 89, related to the Veterinary Examining Board, is available at <https://docs.legis.wisconsin.gov/statutes/statutes/89>. A few key sections relevant to veterinary telehealth are shown below.

**Wis. Stat. s. 89.02 (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.

**Wis. Stat. s. 89.02 (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.

**Wis. Stat. s. 89.068 (1) (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.

# Wisconsin Open Meetings Law – Summary

## I. Policy of the Open Meetings Law

- Importance of having a public informed about governmental affairs.
- Importance of vigilant application of the law.
- DOJ will provide legal advice to government agencies regarding open meetings.
- Most violations occur by mistake.
- Open meetings law require all meetings of all state and local governmental bodies be publicly held in places reasonably accessible to members of the public and open to all citizens at all times unless otherwise expressly provided by law.

## II. Open Meetings Law Applies to Every Meeting of a Governmental Body

- Entities that are governmental bodies:
  - State or local agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, ordinance, rule, or order. Includes advisory entities.
  - A formally constituted subunit of a governmental body is a governmental body. A subunit is a separate, smaller body created by a parent body and composed exclusively of members of the parent body.
- Entities that are not governmental bodies
  - Ad hoc gatherings/committees – as not created by law.
  - Government agency staff – doesn't satisfy definition (staff is individual subordinates within agency).
  - Government department with only a single member.
  - Bodies that are formed for or meeting for the purpose of collective bargaining with municipal or state employees.
  - Bodies created by the Court.
- A meeting is defined as the convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body.
  - Definition of a meeting applies whenever a convening of members of a governmental body satisfies two requirements:
  - There is a purpose to engage in governmental business – formal or informal action including discussion, decision or informational gathering on matters within the governmental body's realm of authority.
  - The number of members present is sufficient to determine the governmental body's course of action on the business under consideration.
  - Typically, governmental bodies operate under a simple majority rule in which a margin of one vote is necessary for the body to pass a proposal. Under simple majority rule, open meetings law applies whenever one-half or more of the governmental body members gather to discuss or act on matters within the body's realm of authority.
- A meeting is not limited to all members being in same place – meetings by telephone or video conferencing qualifies as a convening of members if for the purpose of conducting governmental business and involves a sufficient number of members of the body to determine the body's course of action on the business under consideration.
- Written communication transmitted by electronic means such as email or instant messaging may constitute a convening of members but due to the complexity of determining the communication to be a conversation or meeting, it is recommended to proceed with caution or avoid electronic communication in conducting governmental body business.

- When a quorum of the members of one government body attend a meeting of another governmental body to engage in governmental business regarding a subject they have decision-making responsibility, it is considered two separate meetings and notice must be given of both meetings, although a single notice can be used if that notice clearly indicates that a joint meeting will be held and gives the names of each governmental body involved and published in each place where notices are published for the bodies.
- A social occasion is not a place to conduct government business and it is strongly recommended to not talk about government body business at a social gathering.

### III. **Two Basic Requirements of Open Meetings Law – Advance Public Meeting Notice and Conducting Business in Open Session** ***Public Meeting Notice Requirements***

- The chief presiding officer of a governmental body or the officer's designee is responsible for public meeting notification.
- Notice of each meeting must be given to the public, any members of the news media requesting it, and the official newspaper designated as the primary news source for the area.
  - Meeting notice to be posted in one or more places likely to be seen by the general public – advise posting at three different locations within jurisdiction that governmental body services or with a paid notice within jurisdiction. Nothing in the open meetings law prevents a governmental body from determining that multiple notice methods are necessary to provide adequate public notice of the body's meetings.
- Every meeting public notice must give the time, date, place, and subject matter of the meeting, including that intended for consideration at any contemplated closed session, in such form as is reasonably likely to apprise members of the public and news media thereof.
  - Information in the notice must be sufficient to alert the public to the importance of the meeting, so that they can make an informed decision whether to attend – generic designations are not sufficient.
  - If closed session, the notice must contain the subject matter to be considered in closed session.
- Every public meeting notice must be given at least 24 hours in advance of the meeting, unless “for good cause” exists. Then notice should be given ASAP and must be given at least two hours in advance.
- A governmental body, when conducting a meeting, is free to discuss any aspect of any subject identified in the public notice of that meeting, as well as issues reasonably related to that subject, but may not address any topics that are not reasonably related to the information in the notice.
  - There is no requirement that a governmental body must follow the agenda in the order listed on the meeting notice unless an agenda item has been notices for a specific time.

#### ***Open Session Requirements***

- All meetings shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times.
  - The policy of openness and accessibility favors governmental bodies holding meetings in public places rather than private premises. Generally speaking, places such as a private room in a restaurant are not considered reasonably accessible. A governmental body should meet on private premises only in exceptional cases where the body has a specific reason for doing so that does not compromise the public's right to information about governmental affairs.
  - The policy of openness and accessibility also requires the governmental bodies hold meetings at locations near to the public they serve.
  - The law also requires that the meeting location also be accessible for those with disabilities. The Americans with Disabilities Act and other federal laws may also require governmental bodies to meet accessibility that exceed the requirements imposed by Wisconsin's open meetings law.

- All meetings must be initially convened in open session. All business of any kind, formal or informal, must be initiated, discussed, and acted upon in open session, unless one of the exemptions set forth in Wisconsin statute applies.
- The open meetings law grants citizens the right to attend and observe meetings of governmental bodies that are held in open session. It also grants citizens the right to tape record or videotape open session meetings as long as doing so does not disrupt the meeting.
  - The law does not permit recording of an authorized closed session.
- The open meetings law grants citizens the right to attend and observe meetings of governmental bodies that are held in open session but does not require a governmental body to allow members of the public to speak or actively participate in the body's meeting.
  - Unless a statute specifically applies, a governmental body is free to determine for itself whether and to what extent it will allow citizen participation at its meeting.
  - There are some other state statutes that require governmental bodies to hold public hearings on specified matters.
  - Although not required, the open meetings law does permit a governmental body to set aside a portion of an open meeting as a public comment period.
    - Such a period must be included on the meeting notice.
    - During this period, the body may receive information from the public and may discuss any matter raised by the public.
    - If a member raises a subject that is not on the agenda, it is advisable to limit the discussion of that subject and to defer any extensive deliberation to a later meeting so that more specific notice can be given.
    - The body also may not take formal action on a subject raised in the public comment period unless that subject is also identified in the meeting notice.
- No secret ballots may be used to determine any election or decision of a governmental body, except the election of officers of a body.
  - If a member of a governmental body requests that the vote of each member be recorded on a particular matter, a voice vote or a vote by a show of hands is not permissible unless the vote is unanimous and the minutes reflect who is present for the vote.
- The open meetings law requires a governmental body to create and preserve a record of all motions and roll-call votes at its meetings. This requirement applies to both open and closed sessions.
  - As long as the body creates and preserves a record of all motions and roll-call votes, it is not required by the open meetings law to take more formal or detailed minutes of other aspects of the meeting.
  - Other statutes outside the open meetings law may prescribe particular minute-taking requirements for certain governmental bodies and officials that go beyond what is required by the open meetings law.
  - The general legislative policy of the open meetings law is that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business – provide public with a reasonably intelligible description of the essential substantive elements of every motion made, who initiated and seconded the motion, the outcome of any vote on the motion, and if a roll-call vote, how each member voted.
  - Nothing in the open meetings law prohibits a body from making decisions by general consent, without a formal vote. Whether a decision is made by consensus or other method, Wisconsin statute requires the body to create and preserve a meaningful record of that decision.
- All meeting records, open and closed, must be open to public inspection to the extent prescribed in the state public records law unless the particular record at issue is subject to a specific statutory exemption or the custodian concludes that the harm to the public from its release outweighs the benefit to the public.

- As long as the reasons for convening in closed sessions continue to exist, the custodian may be able to justify not disclosing any information that requires confidentiality and would separate information that can be made public from that which cannot, and disclose the former. Once the underlying purpose for the closed session ceases to exist, all records of the session must then be provided to any person requesting them.

#### IV. Closed Session Requirements

- If closed session contemplated at the time public notice is given, the notice must contain the subject matter of the closed session.
  - If closed session not contemplated at time of public notice, that does not foreclose a government body from going into closed session to discuss an item contained in the notice.
  - In both situations, a governmental body must follow the procedure set forth in Wisconsin statute before going into closed session.

##### ***Procedure for Convening in Closed Sessions***

- Meeting must initially be convened in open session.
- Governmental body must pass a motion, by recorded majority vote to convene in closed session.
  - If unanimous motion, no requirement to record votes individually.
  - Before governmental body votes on the motion, the chief presiding officer must announce and record in open session the nature of the business to be discussed and the specific statutory exemption that is claimed to authorize the closed session.
  - If several exemptions are relied on to authorize a closed discussion of several subject, the motion should make it clear which exemptions correspond to which subjects.
- The governmental body must limit its discussion in closed session to the business specified in the announcement.
- Wisconsin Statute contains 13 exemptions to the open session requirement that permit, but do not require a governmental body to convene in closed session.
  - See Wisconsin Open Meetings Law Compliance Guideline for detailed information on the exemptions.
- The open meetings law gives wide discretion to a governmental body to admit into a closed session anyone whose presence the body determines is necessary for the consideration of the matter that is the subject of the meeting.
- A governmental body vote should occur in open session unless the vote is clearly an integral part of deliberations authorized to be conducted in closed sessions under Wisconsin statutes (should vote in open session unless doing so would compromise the need for the closed session).
- A governmental body may not commence a meeting, convene in closed session, and subsequently reconvene in open session within 12 hours after completion of a closed session unless public notice of the subsequent open session is given "at the same time and in the same manner" as the public notice of the prior open session.

#### V. Open Meetings Law Enforcement and Penalties

##### ***Enforcement***

- Both the Attorney General and the district attorneys have authority to enforce the open meetings law.
- A district attorney has authority to enforce the open meetings law only after an individual files a verified meetings law complaint with the district attorney.
  - The verified complaint must be signed by the individual and notarized and should include available information that will be helpful to investigators:
    - Identifying the governmental body and any members thereof alleged to have violated the law.



- Describing the factual circumstances of the alleged violations.
  - Identifying witnesses with relevant evidence.
  - Identifying any relevant documentary evidence.
- An enforcement action brought by a district attorney or by the Attorney General must be commenced within six years after the cause of action accrues or be barred.
  - Proceedings to enforce the open meetings law are civil actions subject to the rules of civil procedure, rather than criminal procedure, and governed by the ordinary civil standard of proof.
    - Open meetings law enforcement action is commenced like any civil action by filing and serving a summons and complaint.
    - Open meetings law cannot be enforced by the issuance of a citation because citation procedures are inconsistent with the statutorily-mandated verified complaint procedure.
  - If the district attorney refuses to commence an open meetings law enforcement action or otherwise fails to act within 20 days of receiving a complaint, the individual who filed the complaint has a right to bring an action, in the name of the state, to enforce the open meetings law.
  - Although an individual may not bring a private enforcement action prior to the expiration of the district attorney's 21 day review period, the district attorney may still commence an action even though more than 20 days have passed. It is not uncommon for the review and investigation of open meetings complaints to take longer than 20 days.
  - Court proceedings brought by private relators to enforce the open meetings law must be commenced within two years after the cause of action accrues or the proceedings will be barred.

### **Penalties**

- Any member of a governmental body who knowingly attends a meeting held in violation of the open meetings law, or otherwise violates the law, is subject to a forfeiture of between \$25 and \$300 for each violation.
  - The Wisconsin Supreme Court has defined knowingly as not only positive knowledge of the illegality of a meeting, but also awareness of the high probability of the meeting's illegality or conscious avoidance of awareness of the illegality.
- A member of a governmental body who is charged with knowingly attending a meeting held in violation of the law may raise one of two defenses:
  - That the member made or voted in favor of a motion to prevent the violation.
  - That the member's votes on all relevant motions prior to the violation were inconsistent with the cause of the violation.
  - A member who is charged with a violation other than knowingly attending a meeting held in violation of the law may be permitted to raise the additional statutory defense that the member did not act in his or her official capacity.
  - A member of the body can avoid liability if he or she can factually prove that he or she relied, in good faith and in an open and unconcealed manner, on the advice of counsel whose statutory duties include the rendering of legal opinions as to the actions of the body.
- A governmental body may not reimburse a member for a forfeiture incurred as a result of a violation of the law, unless the enforcement action involved a real issue as to the constitutionality of the open meetings law.
- In addition to the forfeiture penalty, Wisconsin Statute provides that a court may void any action taken at a meeting held in violation of the open meetings law if the court finds that the interest in enforcing the law outweighs any interest in maintaining the validity of the action.

## Common Telehealth Regulations Considerations

1. Define **where** the practice takes place
2. Can an initial **Veterinary-Client-Patient-Relationship (VCPR)** be established using telemedicine? Is it different when the veterinarian is not their primary veterinarian, but a specialist who has access to the primary veterinarian's records on the patient?
3. Can **medication** be prescribed using tele-technologies? In what circumstances? What requirements must be met?
4. Are there specific **records requirements** when an exam is completed using telemedicine technology?
5. What is the scope of **veterinary care** for a telehealth encounter?
6. What **other terms** need to be defined to make telehealth rules clear? For example, consultation?
7. What are **acceptable forms of telehealth**? Are there differences between providing general advice, tele-triage, and actual telemedicine?
8. What is the **scope of telemedicine**? Is it limited to the veterinarian-client-patient-relationship or can it be expanded to enhance delegations of medical services? How does our VE 1-11 statement of scope apply here?

### 1. Define where the practice takes place

#### **WVMA**

Providers who evaluate, treat or prescribe through telehealth technologies are practicing veterinary medicine. The practice of veterinary medicine occurs where the patient is located at the time telehealth technologies are used. Therefore, a provider must be licensed to practice veterinary medicine in the State of Wisconsin in order to evaluate or treat patients located in Wisconsin utilizing telehealth technologies or otherwise.

#### **AVMA**

One of the many benefits of telemedicine is that it collapses distances and makes it easier for veterinarians to work with patients and clients who are physically remote from the clinic. When conducting telemedicine consults across state lines, it is advisable and may be required for the veterinarian to be licensed both in the state where they are located and the state where the patient(s) is located. Should issues arise, being licensed in both states ensures the veterinarian is legally authorized to practice. Just like an appropriately established VCPR, licensure in both states protects veterinarians, patients, and clients.

#### **AAVSB**

A veterinarian or veterinary technician must be licensed by, or under the authority of, the board of veterinary medicine in the jurisdiction where the VCPR is established (location of patient at time of VCPR establishment)

Any veterinarian who is licensed in another jurisdiction, or any person whose expertise, in the opinion of the veterinarian with an established VCPR, would benefit an animal, and who is consulting with the veterinarian, is exempt from licensure in this Jurisdiction, provided such service is limited to such consultation.

### **Other States**

#### **Idaho (Policy)**

The practice of veterinary medicine occurs where the patients or clients are located at the time telehealth is used. Veterinarians who treat through online service sites are practicing veterinary medicine and must possess appropriate licensure in all jurisdictions where patients receive care. Should a veterinary technician be utilized in the delivery of animal care, the veterinarian and veterinary technician must possess appropriate licensure in the jurisdiction where the patient(s) is receiving care.

#### **North Carolina**

The delivery of veterinary medical services through telemedicine is the practice of veterinary medicine. The practice of veterinary medicine occurs where the patient(s) is located at the time telemedicine technologies are used.

#### **Ohio (Position Statement)**

The location of the patient determines the location of the practice of medicine. The veterinarian must be licensed in the State of Ohio to treat a patient in the State of Ohio.

#### **Iowa**

A valid veterinarian/client/patient relationship cannot be established by contact solely based on a telephonic or electronic communication.

#### **California**

No person may practice veterinary medicine in this state except within the context of a veterinarian-client-patient relationship or otherwise permitted by law. A veterinarian client-patient relationship cannot be established solely by telephonic or electronic means.

#### **New Mexico**

A VCPR cannot be established by telephonic, computer, internet or other electronic communications; however, a New Mexico-licensed veterinarian may provide or arrange for consulting services for their clients using the described electronic communication methods.

- 2. Can an initial Veterinary-Client-Patient-Relationship (VCPR) be established using telemedicine? Is it different when the veterinarian is not their primary veterinarian, but a specialist who has access to the primary veterinarian's records on the patient?**

## **WVMA**

Establishing an Initial VCPR for Telehealth. For purposes of establishing an initial VCPR prior to engaging in the practice of veterinary medicine using telehealth technologies, the veterinarian must meet the requirements of Wis. Stat. s. 89.02 (8) and:

- a. For livestock, (food and fiber animals), the veterinarian must have either conducted an in-person physical examination of the patient or must have visited the premises on which the patient is kept at least once in the immediate six (6) months prior to engaging in any telehealth treatment or services.
- b. For companion animals and equine animals, the veterinarian must have conducted an in-person physical examination of the patient at least once in the immediate six (6) months prior to engaging in any telehealth treatment or services.

Maintaining a VCPR for Telehealth. Once a VCPR is established, for purposes of maintaining that VCPR and engaging in the ongoing practice of veterinary medicine using telehealth technologies, the veterinarian must meet the requirements of Wis. Stat. s.89.02 (8) and:

- a. For livestock (food and fiber animals), the veterinarian must either conduct an in-person physical examination of the patient or must visit the premises on which the patient is kept at least once every six (6) months.
- b. For companion animals and equine animals, the veterinarian must conduct an in-person physical examination of the patient at least once every twelve (12) months.

## **AVMA**

The AVMA believes veterinary telemedicine should only be conducted within an existing VCPR. An exception may be made for advice given in an emergency until a patient can be seen by a veterinarian.

Such a relationship can exist only when the veterinarian has performed a timely physical examination of the patient(s) or is personally acquainted with the keeping and care of the patient(s) by virtue of medically appropriate and timely visits to the operation where the patient(s) is(are) kept, or both.

## **AAVSB**

AAVSB recommends that each jurisdiction promulgate appropriate regulations clarifying who may be included within the scope of a single VCPR such as a veterinarian or another veterinarian within the same practice group with access to medical records, or a veterinarian with whom he/she is consulting.

AAVSB recommends that each jurisdiction promulgate appropriate regulations defining how to establish sufficient knowledge, including the following:

- A recent examination of the animal or group of animals, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; or
- Through medically appropriate and timely visits to the premises at which the animal or group of animals are kept.

## **Other States**

Alaska (Proposed)

Have examined the animal either physically or by means of telemedicine services, or has become familiar with the care and keeping of the species of animal on the premises of the client, including other premises within the same operation or production system of the client, through medical appropriate and timely visits to the premises where the animal is kept.

Alaska also clarifies that the VCPR, once established, extends to other veterinarians within the group in which the veterinarian practices, or a veterinarian with whom the veterinarian has consulted. (There was a proposal that failed in Alaska that would have allowed for a VCPR to be established without an in person examination)

#### Montana (Proposed)

Has proposed regulation that would add the term 'physical' to the definition of VCPR, those requiring a physical exam to establish the VCPR.

#### Idaho (Policy)

The veterinarian must employ sound profession judgment to determine whether using Telehealth is appropriate in particular circumstances each and every time animal care is provided and only provide medical advice or treatment via Telehealth to the extent that it is possible without a hands on examination. A veterinarian using Telehealth must take appropriate steps to obtain Informed Consent, establish the VCPR and conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation. As such, some situations and patient presentations are appropriate for the utilization of Telehealth as a component of, or in lieu of, hands on medical care, while others are not.

#### Ohio (Position)

A veterinarian using telehealth technologies must take appropriate steps to establish a valid Veterinary-Client-Patient Relationship (VCPR) and conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presented. The Board recognizes that telehealth technologies, in lieu of hands-on medical care, may be useful in some situations where a VCPR has already been established. The Veterinarian must employ sound professional judgment to determine whether using Telehealth is suitable each time veterinary services are provided and only furnish medical advice or treatment via Telemedicine when it is medically appropriate.

#### North Carolina

A veterinarian may provide veterinary care via telemedicine to any patient(s) located in the State after establishing a Veterinary-Client-Patient-Relationship (VCPR). No person shall practice veterinary telemedicine except a veterinarian within the context of a VCPR. A VCPR cannot be established by any electronic means.

#### Nevada (Proposed)

The veterinarian who will provide telemedicine services may establish that he has sufficient knowledge of an animal by or through: (a) An examination of the animal has occurred no longer than one year prior to the present encounter, either physically or by the use of instrumentation and diagnostic equipment through which images and medical

records may be transmitted electronically and in real time to the veterinarian; (b) A physical examination and assessment performed at the veterinarian's direction by a veterinary technician employed by the veterinarian who is physically present with the animal

#### Minnesota

Allows patient-specific telemedicine within a VCPR. A VCPR cannot be established without an in-person examination.

#### Oklahoma

Telemedicine means the practice of veterinary medicine including diagnosis, consultation, evaluation and treatment, transfer of medical data or exchange of information by means of a two-way, real-time interactive communication, between a client/patient and a veterinarian with access to and reviewing the patient's relevant information prior to the telemedicine visit. Does not include consultations provided by telephone audio-only communication. A veterinarian using telehealth technologies must take appropriate steps to establish the VCPR and conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation. A veterinarian must be licensed, or under the jurisdiction of, the veterinary board of the jurisdiction where the patient is located. The practice of medicine occurs where the patient is located at the time telehealth technologies are used.

### **3. Can medication be prescribed using tele-technologies? In what circumstances? What requirements must be met?**

#### **WVMA**

Prescribing medications via telehealth technologies requires a VCPR and is at the professional discretion of the provider. The indication, appropriateness, and safety considerations for each telehealth visit that results in the issuance of a prescription must be evaluated by the provider in accordance with current standards of practice and, consequently, carries the same professional accountability as prescriptions delivered during an in-person visit. However, where such measures are upheld, and the appropriate clinical consideration is carried out and documented, providers may exercise their judgment and prescribe medications as part of telehealth encounters. In addition, prescribing medications must be done in accordance with all applicable state and federal laws including Wis. Stat. s. 89.068 (1) (b).

#### **AAVSB**

Prescribing medications in-person or via telemedicine requires a VCPR and is at the professional discretion of the veterinarian. The indication, appropriateness, and safety considerations for each prescription issued in association with telemedicine services must be evaluated by the veterinarian in accordance with all jurisdictional and federal laws and standards of care.

#### **Other States**

#### Ohio (Position)

Prescribing medications requires a VCPR and is at the professional discretion of the Veterinarian. The indication, appropriateness, and safety considerations for each prescription issued in association with Telehealth services must be evaluated by the Veterinarian in accordance with Ohio Pharmacy laws and standards of care.

#### Idaho (Policy)

In order to prescribe medication when practicing via Telehealth, the veterinarian must have sufficient knowledge of the animal or group of animals by virtue of a history and inquiry and either physical examination or medically appropriate and timely visits to the premises where the animal or group of animals is kept. Prescribing medications, in-person or via Telehealth, is at the professional discretion of the veterinarian. The indication, appropriateness, and safety considerations for each Telehealth visit prescription must be evaluated by the veterinarian in accordance with current laws and standards of care and consequently carry the same professional accountability as prescriptions delivered during an encounter in person.

#### Oklahoma

The veterinarian accepts that he or she cannot prescribe drugs when practicing via telehealth alone, unless the veterinarian has sufficient knowledge of the animal or group of animals by virtue of a history and inquiry, and either physical examination or medically appropriate and timely visits to the premises where the animal or group of animals is kept

#### **4. Are there specific records requirements when an exam is completed using telemedicine technology?**

##### **WVMA**

Documentation of all physical examinations or visits to the premises on which the patient is kept must be maintained in a reproducible form and be available for inspection as provided in Section G. and Wis. Admin. Code. s. VE 7.03.

In addition all medical records must be maintained with regard to telehealth visits consistent with the requirements provided in Wis. Admin. Code s. VE 7.03. The medical record should include, if applicable, copies of all patient-related electronic communications including VCPR communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telehealth technologies. Informed consents obtained in connection with an encounter involving telehealth technologies should be maintained in accordance with best practices in the medical record. The patient record established during the use of telehealth technologies must be accessible and documented for both the provider and the client, consistent with all established laws and regulations governing veterinary medicine in the State of Wisconsin.

##### **AAVSB**

Veterinarians must maintain appropriate medical records that contain sufficient information for continued care and are compliant with jurisdictional requirements.

Documentation of the telemedicine encounter should be readily available upon request by the client.

### **Other States**

#### Ohio (Position)

Evidence of the permission by the client to use telehealth technologies must be maintained in the medical record. Medical records must contain sufficient information for continued veterinary medical care in accordance with Rule 4741-1-21 of the Ohio Administrative Code.

#### Idaho (Policy)

Appropriate medical records must be maintained in a secure and confidential manner. The medical record should include, but not be limited to, if applicable, copies of all patient related electronic communications, including prescriptions, laboratory and test results, imaging, evaluations and consultations, and instructions obtained or produced in connection with the utilization of telehealth. Informed consents obtained in connection with an encounter involving telehealth should also be filed in the medical record.

## **5. What is the scope of veterinary care for a telehealth encounter?**

### **WVMA**

#### Evaluation and Treatment of the Patient

An appropriate medical evaluation and review of relevant clinical history, commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided, should be performed prior to providing treatment, including issuing prescriptions, electronically or otherwise. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional in-person settings.

#### Informed Consent

Appropriate informed consent should be obtained for a telehealth encounter including those elements required by law and generally accepted standards of practice. Evidence documenting appropriate patient informed consent for the use of telehealth services must be obtained and maintained. Appropriate informed consent should, as a baseline, include the following:

- Identification of the client, patient, veterinarian, and the veterinarian's credentials including Wisconsin license registration number;
- Types of activities permitted using telehealth services, which may include prescription refills, appointment scheduling and patient education;
- Agreement by the client that it is the role of the veterinarian to determine whether the condition being diagnosed and/or treated is appropriate for a telehealth encounter;
- Discussion with the client the available diagnostic and treatment options, a risk assessment, and prognosis; and
- Consent, by the client, to the recommended treatment.



## **AAVSB**

The veterinarian must employ sound professional judgment to determine whether using Telehealth is suitable each time veterinary services are provided and only furnish medical advice or treatment via telemedicine when it is medically appropriate. A veterinarian using telemedicine must take appropriate steps to establish the VCPR, obtain informed consent from the client, and conduct all necessary patient evaluations consistent with currently acceptable standards of care. Some patient presentations are appropriate for the utilization of telemedicine as a component of, or in lieu of, hands-on medical care, while others are not.

The veterinarian must take appropriate precautions to safe guard the confidentiality of a client's or patient's records. Such includes ensuring that technology and physical settings used as part of telemedicine services are compliant with jurisdictional or federal requirements. The veterinarian must ensure that the client is aware of the veterinarian's identity, location and jurisdiction's license number and licensure status. Evidence documenting informed consent for the use of telemedicine must be obtained and maintained in the medical record.

## **Other States**

### **North Carolina**

Veterinarians practicing telemedicine shall be held to the same standard of care as veterinarians providing 10 in-person medical care. There is not a separate standard of care applicable to telemedicine.

### **Ohio Policy**

Telemedicine is a reasonable option for patients who lack regular access to veterinary care. It enhances opportunities to access emergency or specialty veterinary expertise in geographic areas where no other options are available. The location of the patient determines the location of the practice of medicine. The veterinarian must be licensed in the State of Ohio to treat a patient in the State of Ohio.

The veterinarian must obtain informed consent from the client and identify him or herself and the licensure status when performing telehealth. Evidence of the permission by the client to use telehealth technologies must be maintained in the medical record. Medical records must contain sufficient information for continued veterinary medical care in accordance with Rule 4741-1-21 of the Ohio Administrative Code.

## **6. What other terms need to be defined to make telehealth rules clear? For example, consultation?**

### **WVMA**

Consultation means advice given to a Wisconsin licensed veterinarian that is delivered in person, telephonically, electronically, or by any other method of communication from a veterinarian licensed in this or any other jurisdiction, or another person whose expertise, in the opinion of the licensed veterinarian, would benefit a patient. The licensed

veterinarian receiving the consultation maintains the veterinarian-client-patient-relationship. Consultation is not considered telehealth.

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.” Wis. Stat. § 89.02(6m)

Telehealth means a mode of delivery of veterinary medicine through telecommunications systems including but not limited to, video and digital technologies used to facilitate the assessment, diagnosis, treatment, or care management of an animal’s medical care while the client/patient is located at a different site from the provider. The term includes synchronous interactions and store-and-forward transfers.

Telehealth technologies means technologies and devices enabling secure electronic communications and information exchange between a licensee in one location and a client/patient in another location with or without an intervening veterinarian.

Teletriage means emergency animal care, including animal poison control services, for immediate, potentially life-threatening animal health situations (e.g., poison exposure mitigation, animal CPR instructions, other critical lifesaving treatment or advice).

## **AVMA**

Telehealth is the overarching term that encompasses all uses of technology to remotely gather and deliver health information, advice, education, and care. Telehealth can be divided into categories based on who is involved in the communication. For communication between veterinarians and animal owners there are two important categories that are distinguished by whether a VCPR has been established:

- Without a VCPR, telehealth includes the delivery of general advice, educational information, and teletriage (to support the care of animals in emergency situations).
- Telemedicine includes the delivery of information specific to a particular patient, and is allowable only within the context of an established VCPR.

Teleadvice includes the provision of any health information, opinion, guidance or recommendation concerning prudent actions that are not specific to a particular patient's health, illness or injury. This general advice is not intended to diagnose, prognose, treat, correct, change, alleviate, or prevent animal disease, illness, pain, deformity, defect, injury, or other physical or mental conditions. Examples include recommendations made by veterinarians or non-veterinarians via phone, text or online that all animals should receive physical exams or premise visits as part of a comprehensive healthcare plan, or reference to the importance of attending to regular vaccination or parasite prevention as a key part of preventive care.

Telemedicine involves the use of a tool to exchange information about a patient’s clinical health status electronically from one site to another. Examples include using technology to communicate with a client and visually observe the patient during a postoperative follow-up examination and discussion.

Teleconsulting refers to a primary care veterinarian using telehealth tools to communicate with a veterinary specialist or other qualified expert to gain insights and advice on the care of a patient.

Telemonitoring, mHealth or mobile health employs mobile devices. Some mHealth applications and wearables are designed to augment animal health care within VCPRs, while others are designed and marketed directly to consumers for their education and for animal monitoring without clinical input (outside of a VCPR).

Teletriage is the safe, appropriate, and timely assessment and management (immediate referral to a veterinarian or not) of animal patients via electronic consultation with their owners. In assessing a patient's condition electronically, the assessor determines urgency and the need for immediate referral to a veterinarian, based on the owner's (or responsible party's) report of history and clinical signs, sometimes supplemented by visual (e.g., photographs, video) information.

A diagnosis is not rendered. The essence of teletriage is to make good and safe decisions regarding a patient's disposition (immediate referral to a veterinarian or not), under conditions of uncertainty and urgency.

Telesupervision is the supervision of individuals using mediums such as audio or audio/video conference, text messaging and email. Clinical supervision is integral to continuing professional development of health professionals. While telesupervision may be useful in any context, its value is amplified for health professionals working in rural and remote areas where in-person access to supervisors within the local work environment is often diminished.

## **AAVSB**

Consultation means when a Veterinarian receives advice or assistance in-person, or by any method of communication, from another veterinarian or other Person whose expertise, in the opinion of the Veterinarian, would benefit a Patient. Under any circumstance, the responsibility for the welfare of the Patient remains with the Veterinarian receiving Consultation.

Informed Consent means the Veterinarian has informed the Client or the Client's authorized representative, in a manner understood by the Client or representative, of the diagnostic and treatment options, risk assessment, and prognosis, and the Client has consented to the recommended treatment.

General Advice means any advice provided by a Veterinarian or Veterinary Technician via any method of communication within or outside of an established VCPR that is given in general terms and is not specific to an individual Animal, group of Animals, diagnosis, or treatment.

Telehealth is the overarching term that encompasses all uses of technology geared to remotely deliver health information or education. Telehealth encompasses a broad variety of technologies and tactics to deliver virtual medical, health, and education services. Telehealth is not a specific service, but a collection of tools which allow Veterinarians to enhance care and education delivery. Telehealth encompasses both Telemedicine and General Advice.

Telemedicine is the remote delivery of healthcare services, such as health assessments or consultations, over the telecommunications infrastructure. It allows Veterinarians to evaluate, diagnose and treat patients without the need for an in-person visit.

Teletriage means emergency Animal care, including Animal poison control services, for immediate, potentially life-threatening Animal health situations (e.g., poison exposure mitigation, Animal CPR instructions, other critical lifesaving treatment or advice).

### **Other States**

Alaska (proposed)

“telemedicine services” means the delivery of veterinary care by the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating an animal or consulting with other veterinary care providers regarding an animal’s diagnoses or treatment; telemedicine services does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.

### **7. What are acceptable forms of telehealth? Are there differences between providing general advice, tele-triage, and actual telemedicine?**

#### **WVMA**

An emergency plan should be provided by the provider to the client when the care provided using telehealth technologies indicates that a referral to an acute care or emergency facility for treatment is necessary for the safety of the patient.

Teletriage may be performed by a veterinarian or veterinary technician without establishing a VCPR or obtaining informed consent to provide emergency, potentially life-saving telemedicine services.

Licensed veterinarians should adhere to generally accepted standards of practice as it relates to continuity and coordination of care.

An animal owner should be able to easily seek follow-up care or information from the veterinarian who conducts an encounter while using telehealth technologies. The veterinarian must ensure that the client is aware of the veterinarian's identity, location, licensure status, and the privacy and security issues involved in accessing veterinary care via telehealth technologies as provided in this document.

#### **Unknown**

VCPR/continuity of care: The veterinarian is readily available – does that mean the veterinarian conducting the telemedicine must be readily available or that they provide for ‘a’ veterinarian to be readily available – referral clinics in the area.. think chewy.com. If that is the case what are the record keeping requirements for chewy.com

### **8. What is the scope of telemedicine? Is it limited to the veterinarian-client-patient-relationship or can it be expanded to enhance delegations of medical services? How does our VE 1-11 statement of scope apply here?**

#### **WVMA**

Notwithstanding the delegation provisions under Wis. Admin. Code. s.VE 7.02 (4), no veterinary surgery, as defined under Wis. Admin. Code s. 1.02 (9), including those procedures identified in Wis. Admin. Code s. VE 1.02 (9) (b), may be delegated using telehealth technologies.

December 19, 2019

**VIA U.S. MAIL AND EMAIL TO:**

[Melissa.Mace@wisconsin.gov](mailto:Melissa.Mace@wisconsin.gov)

Veterinary Examining Board  
Dept. of Agriculture, Trade and Consume Protections  
C/O Melissa Mace, VEB Executive Director  
PO Box 8911  
Madison, WI 53708-8911

RE: WVMA Suggested Guidance and Request for Guidance on the Use of Telehealth in Veterinary Medicine

Dear Chairman Forbes and Members of the Veterinary Examining Board:

Emerging and developing technology and advancements in communication have created the opportunity for improving the accessibility of veterinary medical care using telehealth technologies. Telehealth allows veterinarians to utilize electronic communication, information technology and other means to interact with patients who are located in a different physical location from the treating veterinarian. However, the WVMA believes that client/patient safety concerns must be carefully evaluated, and strategies must be developed to allow for the delivery of veterinary care via telehealth in a way that is protective of both animal health and public health.

Accordingly, the WVMA formed a Telehealth Task Force that worked this fall to develop the enclosed *suggested* guidelines for the Wisconsin Veterinary Examining Board (VEB) to consider and review. We urge the VEB to use our Task Force recommendations to develop telehealth guidance for Wisconsin-licensed veterinarians.

These guidelines should not be construed to alter the scope of practice of any veterinarian or veterinary technician or to authorize the delivery of veterinary medical services in a setting or in a manner that is not otherwise authorized by Wisconsin law. These guidelines support a consistent standard of care and veterinarians and veterinary technicians must review and understand the laws, regulations, and policies of each jurisdiction where they practice.

The WVMA believes that it is critical that the veterinarian must employ sound professional judgment to determine whether using telehealth is suitable each time veterinary services are provided and should only furnish medical advice or treatment via telemedicine when it is medically appropriate.

Chairman Forbes and Members of the Veterinary Examining Board  
December 19, 2019  
Page 2

For reference, we have also enclosed a copy of the “AAVSB Recommended Guidelines for The Appropriate Use of Telehealth Technologies in the Practice of Veterinary Medicine” (2018).

If you have any questions regarding our suggestions or our request for telehealth guidance, please contact me directly at (608) 252-9358 or [jkl@dewittllp.com](mailto:jkl@dewittllp.com).

Very truly yours,

**DeWitt LLP**



Jordan K. Lamb

JKL:jav

Enclosures

cc. Kim Pokorny, Executive Director, WVMA (*via email only / with enclosures*)  
WVMA Telehealth Task Force Members (*via email only / with enclosures*)

**WVMA Suggested Guidance for the Use of Telehealth Technologies  
in Veterinary Medicine**  
*December 2019*

**I. Definitions**

**Consultation** means advice given to a Wisconsin licensed veterinarian that is delivered in person, telephonically, electronically, or by any other method of communication from a veterinarian licensed in this or any other jurisdiction, or another person whose expertise, in the opinion of the licensed veterinarian, would benefit a patient. The licensed veterinarian receiving the consultation maintains the veterinarian-client-patient-relationship. Consultation is not considered telehealth.

**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.” [Wis. Stat. § 89.02\(6m\)](#)

**Telehealth** means a mode of delivery of veterinary medicine through telecommunications systems including but not limited to, video and digital technologies used to facilitate the assessment, diagnosis, treatment, or care management of an animal’s medical care while the client/patient is located at a different site from the provider. The term includes synchronous interactions and store-and-forward transfers.

**Telehealth technologies** means technologies and devices enabling secure electronic communications and information exchange between a licensee in one location and a client/patient in another location with or without an intervening veterinarian.

**Teletriage** means emergency Animal care, including Animal poison control services, for immediate, potentially life-threatening Animal health situations (e.g., poison exposure mitigation, Animal CPR instructions, other critical lifesaving treatment or advice).

**Veterinary Client-Patient Relationship (“VCPR”)** has the meaning set forth at s. [89.02 \(8\)](#), Stats., which reads as follows:

(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.

## II. Guidelines for Use of Telehealth in Veterinary Medicine

### A. Licensure

Providers who evaluate, treat or prescribe through telehealth technologies are practicing veterinary medicine. The practice of veterinary medicine occurs where the patient is located at the time telehealth technologies are used. Therefore, a provider must be licensed to practice veterinary medicine in the State of Wisconsin in order to evaluate or treat patients located in Wisconsin utilizing telehealth technologies or otherwise.

### B. Establishment of a Veterinarian-Client-Patient Relationship (“VCPR”) for Purposes of Telehealth

1. **VCPR Required.** Veterinary services may only be provided using telehealth technologies where a VCPR is established. If an existing VCPR relationship is present, then telehealth technologies may be used as long as the VCPR is maintained in accordance with Wis. Stat. s. 89.02 (8) and [the requirements in this Section](#). If an existing VCPR relationship is not present, then a veterinarian must take appropriate steps to establish a VCPR consistent with [Wis. Stat. s. 89.02 \(8\) and the requirements in this Section](#).
2. **Establishing an Initial VCPR for Telehealth.** For purposes of establishing an initial VCPR prior to engaging in the practice of veterinary medicine using telehealth technologies, the veterinarian must meet the requirements of [Wis. Stat. s. 89.02 \(8\)](#) and:
  - a. For livestock, (food and fiber animals), the veterinarian must have either conducted an in-person physical examination of the patient or must have visited the premises on which the patient is kept at least once in the immediate six (6) months prior to engaging in any telehealth treatment or services.
  - b. For companion animals and equine animals, the veterinarian must have conducted an in-person physical examination of the patient at least once in the immediate six (6) months prior to engaging in any telehealth treatment or services.
3. **Maintaining a VCPR for Telehealth.** Once a VCPR is established, for purposes of maintaining that VCPR and engaging in the ongoing practice of veterinary medicine using telehealth technologies, the veterinarian must meet the requirements of Wis. Stat. s. 89.02 (8) and:
  - a. For livestock (food and fiber animals), the veterinarian must either conduct an in-person physical examination of the patient or must visit the premises on which the patient is kept at least once every six (6) months.
  - b. For companion animals and equine animals, the veterinarian must conduct an in-person physical examination of the patient at least once every twelve (12) months.



- 4. Documentation Required.** Documentation of all physical examinations or visits to the premises on which the patient is kept must be maintained in a reproducible form and be available for inspection as provided in Section G. and Wis. Admin. Code. s. VE 7.03.

### **C. Evaluation and Treatment of the Patient**

An appropriate medical evaluation and review of relevant clinical history, commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contraindications to the treatment recommended/provided, should be performed prior to providing treatment, including issuing prescriptions, electronically or otherwise. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional in-person settings.

### **D. Informed Consent**

Appropriate informed consent should be obtained for a telehealth encounter including those elements required by law and generally accepted standards of practice. Evidence documenting appropriate patient informed consent for the use of telehealth services must be obtained and maintained. Appropriate informed consent should, as a baseline, include the following:

- Identification of the client, patient, veterinarian, and the veterinarian's credentials including Wisconsin license registration number;
- Types of activities permitted using telehealth services, which may include prescription refills, appointment scheduling and patient education;
- Agreement by the client that it is the role of the veterinarian to determine whether the condition being diagnosed and/or treated is appropriate for a telehealth encounter;
- Discussion with the client the available diagnostic and treatment options, a risk assessment, and prognosis; and
- Consent, by the client, to the recommended treatment.

### **E. Continuity of Care**

Licensed veterinarians should adhere to generally accepted standards of practice as it relates to continuity and coordination of care.

An animal owner should be able to easily seek follow-up care or information from the veterinarian who conducts an encounter while using telehealth technologies. The veterinarian must ensure that the client is aware of the veterinarian's identity, location, licensure status, and the privacy and security issues involved in accessing veterinary care via telehealth technologies as provided in this document.

## **F. Referrals for Emergency Services and Telerriage**

An emergency plan should be provided by the provider to the client when the care provided using telehealth technologies indicates that a referral to an acute care or emergency facility for treatment is necessary for the safety of the patient.

Telerriage may be performed by a Veterinarian or Veterinary Technician without establishing a VCPR or obtaining Informed Consent to provide emergency, potentially life-saving Telemedicine services.

## **G. Medical Records**

In addition to the specific documentation required in Section B., all medical records must be maintained with regard to telehealth visits consistent with the requirements provided in [Wis. Admin. Code s. VE 7.03](#). The medical record should include, if applicable, copies of all patient-related electronic communications including VCPR communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telehealth technologies. Informed consents obtained in connection with an encounter involving telehealth technologies should be maintained in accordance with best practices in the medical record. The patient record established during the use of telehealth technologies must be accessible and documented for both the provider and the client, consistent with all established laws and regulations governing veterinary medicine in the State of Wisconsin.

## **H. Privacy and Security of Veterinary Records & Exchange of Information**

Providers should meet or exceed applicable requirements for maintaining veterinary records, including but not limited to [Wis. Admin. Code s. VE 7.03](#). Written policies and procedures related to treatment and prescribing medications using telehealth technologies should be maintained at the same standard as traditional in-person encounters for documentation, maintenance, and transmission of the records of the encounter using telehealth technologies.

In accordance with [Wis. Admin. Code. s. 11.16 \(4\)](#), patient health care records are confidential under s. [146.82](#), Stats., and shall not be made available to the public without the informed consent of the patient or of a person authorized by the patient or as provided under s. [146.82 \(2\)](#), Stats.

## **I. Disclosures and Functionality for Providing Online Services**

Disclosures and advertising should be made in accordance with all applicable state and federal laws.

## **J. Prescribing Medications Via Telehealth**

Prescribing medications via telehealth technologies requires a VCPR and is at the professional discretion of the provider. The indication, appropriateness, and safety considerations for each telehealth visit that results in the issuance of a prescription must be evaluated by the provider in accordance with current standards of practice and, consequently, carries the same professional accountability as prescriptions delivered during an in-person visit. However, where such measures

are upheld, and the appropriate clinical consideration is carried out and documented, providers may exercise their judgment and prescribe medications as part of telehealth encounters. In addition, prescribing medications must be done in accordance with all applicable state and federal laws including [Wis. Stat. s. 89.068 \(1\) \(b\)](#).

#### **K. Delegation of Surgical Procedures is Prohibited**

Notwithstanding the delegation provisions under [Wis. Admin. Code s. VE 7.02 \(4\)](#), no veterinary surgery, as defined under [Wis. Admin. Code s. 1.02 \(9\)](#), including those procedures identified in [Wis. Admin. Code s. VE 1.02 \(9\) \(b\)](#), may be delegated using telehealth technologies.

#### **L. Parity of Professional and Ethical Standards**

There should be parity of ethical and professional standards applied to all aspects of a provider's practice. A provider's professional discretion as to the diagnoses, scope of care, or treatment should not be limited or influenced by non-clinical considerations of telehealth technologies or by payment terms, incentives or other monetary influences related to use of telehealth technologies. Provider remuneration or treatment recommendations should not be materially based on the delivery of patient-desired outcomes (*i.e.* a prescription or referral) or the utilization of telehealth technologies.



# AAVSB RECOMMENDED GUIDELINES FOR THE APPROPRIATE USE OF TELEHEALTH TECHNOLOGIES IN THE PRACTICE OF VETERINARY MEDICINE

## Introduction

When telehealth is used within the confines of state and provincial regulations, it provides valuable tools to augment the delivery and availability of high quality veterinary care. According to the Center for Connected Health Policy, “Telehealth encompasses a broad variety of technologies and tactics to deliver virtual medical, health, and education services. Telehealth is not a specific service, but a collection of means to enhance care and education delivery.”<sup>1</sup> Advancements in communication and information technology provide opportunities for new approaches to the delivery of veterinary medicine.

The American Association of Veterinary State Boards (AAVSB) charged the AAVSB Regulatory Policy Task Force to draft proactive guidelines that provide an appropriate balance between enabling access to veterinary care while ensuring patient safety. This document provides guidance to AAVSB Member Boards for regulating the use of telehealth technologies in the practice of veterinary medicine. Key components of the document include: definitions, veterinarian-client-patient relationship (VCPR), licensure, evaluation and treatment of the patient, continuity of care, medical records, emergency services, prescribing medication, and telemedicine service requirements.

Veterinary medical boards face complex regulatory challenges and patient and public safety concerns in adapting regulations and standards historically intended for the hands-on provision of veterinary medical care to new delivery models involving telehealth technologies. Challenges include determining when a VCPR is established, assuring confidentiality and privacy of client and patient data, guaranteeing creation and maintenance of appropriate medical records, proper diagnosis and treatment of the patient, and limiting the prescribing and dispensing of certain medications.

These guidelines should be used in conjunction with the AAVSB Practice Act Model and in no way be construed to alter the scope of practice of any veterinarian or veterinary technician or

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<sup>1</sup> The Center for Connected Health Policy ([www.cchpca.org](http://www.cchpca.org))

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authorize the delivery of veterinary medical services in a setting or in a manner that is not otherwise authorized by law. In fact, these guidelines support a consistent standard of care and scope of practice. Veterinarians and veterinary technicians must review and understand the laws, regulations, and policies of each jurisdiction where they practice.

The veterinarian must employ sound professional judgment to determine whether using telehealth is suitable each time veterinary services are provided and only furnish medical advice or treatment via telemedicine when it is medically appropriate. A veterinarian using telemedicine must take appropriate steps to establish the VCPR, obtain informed consent from the client, and conduct all necessary patient evaluations consistent with currently acceptable standards of care. Some patient presentations are appropriate for the utilization of telemedicine as a component of, or in lieu of, hands-on medical care, while others are not.

## Definitions

When used in these guidelines, these words and phrases shall be capitalized and are defined as follows:

- **Animal** means any member of the animal kingdom other than humans, whether living or dead.
- **Client** means a Person who has entered into an agreement with a Veterinarian for the purposes of obtaining veterinary medical services in-person or by any means of communication.
- **Consultation** means when a Veterinarian receives advice or assistance in-person, or by any method of communication, from another veterinarian or other Person whose expertise, in the opinion of the Veterinarian, would benefit a Patient. Under any circumstance, the responsibility for the welfare of the Patient remains with the Veterinarian receiving Consultation.
- **Informed Consent** means the Veterinarian has informed the Client or the Client's authorized representative, in a manner understood by the Client or representative, of the diagnostic and treatment options, risk assessment, and prognosis, and the Client has consented to the recommended treatment.
- **General Advice** means any advice provided by a Veterinarian or Veterinary Technician via any method of communication within or outside of an established VCPR that is given in general terms and is not specific to an individual Animal, group of Animals, diagnosis, or treatment.
- **Jurisdiction** means any commonwealth, state, or territory, including the District of Columbia, of the United States of America, or any province of Canada.
- **Patient** means any Animal or group of Animals receiving veterinary care from a Veterinarian or Veterinary Technician.

- **Person** means any individual, firm, partnership, association, joint venture, cooperative, corporation, governmental body, or any other group, legal entity or combination acting in concert; and whether or not acting as a principal, trustee, fiduciary, receiver, or as any kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such Person.
- **Telehealth** is the overarching term that encompasses all uses of technology geared to remotely deliver health information or education. Telehealth encompasses a broad variety of technologies and tactics to deliver virtual medical, health, and education services. Telehealth is not a specific service, but a collection of tools which allow Veterinarians to enhance care and education delivery. Telehealth encompasses both Telemedicine and General Advice.
- **Telemedicine** is the remote delivery of healthcare services, such as health assessments or consultations, over the telecommunications infrastructure. It allows Veterinarians to evaluate, diagnose and treat patients without the need for an in-person visit.
- **Teletriage** means emergency Animal care, including Animal poison control services, for immediate, potentially life-threatening Animal health situations (e.g., poison exposure mitigation, Animal CPR instructions, other critical lifesaving treatment or advice).
- **Veterinarian** means an individual who is duly licensed to practice Veterinary Medicine under the Jurisdiction's practice act. When not capitalized, means an individual who is duly licensed to practice Veterinary Medicine in another Jurisdiction.
- **Veterinarian-Client-Patient Relationship (VCPR)** exists when:
  - 1) Both the Veterinarian<sup>2</sup> and Client agree for the Veterinarian to assume responsibility for making medical judgments regarding the health of the Animal(s); and
  - 2) The Veterinarian has sufficient knowledge<sup>3</sup> of the Animal(s) to initiate at least a general or preliminary diagnosis of the medical condition of the Animal(s); and
  - 3) The practicing Veterinarian is readily available for follow-up in case of adverse reactions or failure of the regimen of therapy.
- **Veterinary Technician** means an individual who is duly licensed to practice Veterinary Technology under the Jurisdiction's practice act.

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<sup>2</sup> AAVSB recommends that each jurisdiction promulgate appropriate regulations clarifying who may be included within the scope of a single VCPR such as a Veterinarian or another Veterinarian within the same practice group with access to medical records, or a veterinarian with whom he/she is consulting.

<sup>3</sup> AAVSB recommends that each jurisdiction promulgate appropriate regulations defining how to establish sufficient knowledge, including the following:

- A. A recent examination of the Animal or group of Animals, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; or
- B. Through medically appropriate and timely visits to the premises at which the Animal or group of Animals are kept.



## Guidelines for the Appropriate Use of Telehealth Technologies in Veterinary Medical Practice

### Licensure

A Veterinarian or Veterinary Technician must be licensed by, or under the authority of, the Board of Veterinary Medicine in the Jurisdiction where the VCPR is established (location of Patient at time of VCPR establishment)<sup>4</sup>.

Any veterinarian who is licensed in another Jurisdiction, or any Person whose expertise, in the opinion of the Veterinarian with an established VCPR, would benefit an Animal, and who is consulting with the Veterinarian, is exempt from licensure in this Jurisdiction, provided such service is limited to such Consultation.

### Evaluation and Treatment of the Patient(s)

The Veterinarian must employ sound professional judgment to determine whether using Telehealth is suitable each time veterinary services are provided and only furnish medical advice or treatment via Telemedicine when it is medically appropriate. A Veterinarian using Telemedicine must take appropriate steps to establish the VCPR, obtain Informed Consent from the Client, and conduct all necessary Patient evaluations consistent with currently acceptable standards of care. Some Patient presentations are appropriate for the utilization of Telemedicine as a component of, or in lieu of, hands-on medical care, while others are not.

The Veterinarian must take appropriate precautions to safe guard the confidentiality of a Client's or Patient's records. Such includes ensuring that technology and physical settings used as part of Telemedicine services are compliant with Jurisdictional or federal requirements.

The Veterinarian must ensure that the Client is aware of the Veterinarian's identity, location and Jurisdiction's license number and licensure status. Evidence documenting Informed Consent for the use of Telemedicine must be obtained and maintained in the medical record.

### Continuity of Care/Medical Records

Veterinarians must maintain appropriate medical records<sup>5</sup> that contain sufficient information for continued care and are compliant with Jurisdictional requirements. Documentation of the Telemedicine encounter should be readily available upon request by the Client.

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<sup>4</sup> Arguments can also be made that identify the location of practice under these circumstances as occurring in both Jurisdictions; that is where the Patient is located and where the Veterinarian is located.

<sup>5</sup> See the AAVSB Practice Act Model Article V for suggested language.



### Emergency Services

Teletriage may be performed by a Veterinarian or Veterinary Technician without establishing a VCPR or obtaining Informed Consent to provide emergency, potentially life-saving Telemedicine services.

### Prescribing Medications

Prescribing medications in-person or via Telemedicine requires a VCPR and is at the professional discretion of the Veterinarian. The indication, appropriateness, and safety considerations for each prescription issued in association with Telemedicine services must be evaluated by the Veterinarian in accordance with all Jurisdictional and federal laws<sup>6</sup> and standards of care.

### Telemedicine Service Requirements

A provider of Telemedicine services must ensure that the Client is aware of the Veterinarian's identity, location and Jurisdiction's license number and licensure status, and should provide to Clients a clear mechanism to:

1. Access, supplement and amend Client-provided contact information and health information about the Patient; and
2. Register complaints with the appropriate Board of Veterinary Medicine or other regulatory body.

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<sup>6</sup> The Federal definition of the VCPR must be followed when issuing prescriptions in accordance with the Veterinary Feed Directive (VFD) and Animal Medicinal Drug Use Clarification Act (AMDUCA) of 1994.



## Links to Telehealth Standards

AAVSB Guidelines for Telehealth: [Board Services | AAVSB](#) Select Guidelines for Telehealth towards the bottom of the page.

AVMA: [AVMA-Veterinary-Telehealth-Guidelines.pdf](#)

California: [Proposed Language Regarding Veterinarian-Client-Patient Relationship \(ca.gov\)](#)

Oklahoma: [Vet Bd. Position Statement Telemedicine Telehealth \(okvetboard.com\)](#)

Idaho: [Policy Number: \(idaho.gov\)](#)

Ohio: [Telemed position.pdf \(ohio.gov\)](#)

<b>Telemedicine   Veterinarian-Client-Patient Relationship (VCPR)</b>			
<b>State</b>	<b>Link</b>	<b>Summary of Proposed Bill or Regulation</b>	<b>Status</b>
<b>Alaska</b>	<a href="#"><u>AK- 5/20/20 - CCED</u></a>	<p>Would have:</p> <ol style="list-style-type: none"> <li>1. Added definition of VCPR that allows:               <ol style="list-style-type: none"> <li>A. Examination for establishment of a VCPR by means of telemedicine services; and</li> <li>B. A veterinarian to be another veterinarian within the group in which the veterinarian practices, or a veterinarian with whom the veterinarian has consulted; and</li> </ol> </li> <li>2. Defined "telemedicine services" as the delivery of veterinary care by the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating an animal or consulting with other veterinary care providers regarding an animal's diagnoses or treatment; telemedicine services does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.</li> </ol>	Proposed 5/20/20
<b>Florida</b>	<a href="#"><u>FL SB 366</u></a>	<p>Would have defined:</p> <ol style="list-style-type: none"> <li>1. "Patient" as any animal, or any herd, collection, or group of animals, for which the veterinarian practices veterinary medicine;</li> <li>2. "Physical Examination" to mean the evaluation of a patient by personal inspection, palpation, and auscultation; and</li> <li>3. "VCPR" to mean a relationship in which the veterinarian:               <ol style="list-style-type: none"> <li>a. Has performed a physical examination of the patient, or made timely and medically appropriate visits to the premises where the patient is kept,</li> <li>b. Has assumed responsibility for making medical judgments regarding the health of the patient and its need for medical treatment, or</li> <li>c. Has access to the patient's records and has been designated by a veterinarian with whom the patient had a prior relationship to provide reasonable and appropriate medical care.</li> </ol> </li> </ol>	Failed 3/14/20

<b>Florida</b>	<a href="#"><u>FL HB 1015</u></a>	<p>Would have defined and redefined terms as follows:</p> <ol style="list-style-type: none"> <li>1. "VCPR" means a relationship <u>in which</u> the veterinarian has <u>performed a physical exam of the patient, or made timely and medically appropriate visits to the premises where the patient is kept, and has assumed</u> responsibility for making medical judgments regarding the health of the <u>patient</u> and its need for medical treatment <u>or the veterinarian has access to the patient's records and has been designated by a veterinarian with whom the patient had a prior relationship to provide reasonable and appropriate medical care;</u></li> <li>2. "Patient" means any animal, <u>or any herd, collection, or group of animals,</u> for which the veterinarian practices veterinary medicine; and</li> <li>3. "Physical examination" means the evaluation of a patient by <u>personal inspection, palpation, and auscultation.</u></li> </ol>	Failed 3/14/20
<b>Michigan</b>	<a href="#"><u>MI HB 6195</u></a>	<p>Would have:</p> <ol style="list-style-type: none"> <li>1. Require a VCPR be established to provide telehealth services; and</li> <li>2. In state of emergency or large-scale animal cruelty cases, permit licensure of veterinarians and veterinary technicians to practice for 90 days if certain requirements are met.</li> </ol>	Sine Die Failed Last Action 9/15/20
<b>Montana</b>	<a href="#"><u>MT 24-225-41</u></a>	Would have added the term "physical" to the definition of a VCPR to address questions from the public and licensees regarding the specific type of examination required to initiate a VCPR.	
<b>Nevada</b>	<a href="#"><u>NV #091-20I</u></a>	Would have established telemedicine services regulations for veterinary medicine and allow establishment of a VCPR by telemedicine.	Proposed 3/13/20
<b>North Carolina</b>	<a href="#"><u>21 NCAC 66.0211</u></a>	Would allow a veterinarian to provide veterinary care via telemedicine to any patient located in the State after establishing a VCPR and would prohibit a VCPR from being established by electronic means. The proposed effective date is March 1, 2021.	Proposed 6/19/20
<b>Oklahoma</b>	<a href="#"><u>OK HB 3482</u></a>	Would have redefined "telemedicine" to include: or "telehealth" as the practice of veterinary medicine, including diagnosis, consultation, evaluation, treatment, transfer of medical data or exchange of information by means of a two-way, real-time interactive communication between a client or patient and a veterinarian with access to and reviewing the patient's relevant information prior to the telemedicine visit. Telemedicine or telehealth would not have included consultations provided by telephone audio-only communication. A veterinarian using telehealth technologies would have had to take appropriate steps to establish the VCPR and conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for a patient presentation. A veterinarian would have had to be licensed, or under the jurisdiction of, the veterinary board of the jurisdiction where the patient is located. The practice of medicine would have occurred where the patient was located at the time telehealth technologies were used.	Proposed 11/2/20

## **Michigan and Nevada consider policy regarding telemedicine**

A bill in Michigan ([MI HB 6195](#)), introduced on September 10, would codify the VCPR in statute and explicitly prohibit establishment of a VCPR through telehealth. Additionally, a regulation in Nevada (NV#091-201), published on July 19, would establish telemedicine regulations for veterinary medicine and have dramatic implications for veterinarians in the state. The proposed regulation in Nevada would permit a VCPR to be established via telemedicine.

**Chapter 68. Board of Veterinary Examiners.**

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted. Complete new sections are not in boldface or underlined.)

12 AAC 68.015(c) is amended to read:

(c) The state written examination is an open book examination. The examination and study materials will be mailed **or provided electronically** directly to each applicant. Completed examinations must be returned to the department within 30 days after mailing **or provided electronically**, as shown by the postmark **or electronic** dates. The passing score on the state written examination required by (b) of this section is 90 percent or above. (Eff. 9/2/2001, Register 159; am 8/23/2003, Register 167; am 1/14/2007, Register 181; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 08.98.050 AS 08.98.165 AS 08.98.180

12 AAC 68.045(a)(3) is amended to read:

(3) a notarized copy of the applicant's veterinary school diploma **showing graduation from an accredited veterinary school, or official transcripts from an accredited veterinary school, or official records showing completion of the Educational** [EDUCATION] Commission for Foreign Veterinary Graduates **certification process required by AS 08.98.165(a)(1)** [CERTIFICATE]; and (Eff. 10/21/92, Register 124; am 8/13/2000, Register 155; am 5/30/2015, Register 214; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 08.98.050 AS 08.98.080 AS 08.98.180

12 AAC 68.046(a)(3) is amended to read:

(3) a notarized copy of **the applicant's veterinary school** [A] diploma showing graduation from an accredited veterinary school, **or official transcripts from an accredited veterinary school**, or official records showing completion of the Educational Commission for Foreign Veterinary Graduates certification process required by AS 08.98.165(a)(1); **and** (Eff. 1/1/2000, Register 152; am 4/9/2005, Register 174; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 08.98.050 AS 08.98.186

12 AAC 68 is amended by adding a new section to read:

**12 AAC 68.075. Veterinary-client-patient relationship.** (a) A veterinary-client-patient relationship means a veterinarian has assumed the responsibility for making medical judgment and providing medical treatment to an animal, and the client, owner, or other caretaker of the animal has consented to treatment and agrees to follow the instructions of the veterinarian; an animal is defined in AS 08.98.250 and includes a group of agricultural animals or bees.

(b) The veterinarian providing medical treatment to an animal must

(1) have sufficient knowledge of the animal to provide a general or preliminary diagnoses of the medical condition;

(2) have examined the animal either physically or by means of telemedicine services, or has become familiar with the care and keeping of the species of animal on the premises of the client, including other premises within the same operation or production system of the client, through medical appropriate and timely visits to the premises where the animal is kept; and

(3) be available to provide follow-up care.

(c) A veterinarian under this section may be another veterinarian within the group in which the veterinarian practices, or a veterinarian with whom the veterinarian has consulted. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 08.98.050

12 AAC 68.990 is amended by adding a new subsection to read:

(6) “telemedicine services” means the delivery of veterinary care by the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating an animal or consulting with other veterinary care providers regarding an animal’s diagnoses or treatment; telemedicine services does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire. (Eff. 4/10/88, Register 106; am 5/9/98, Register 146; am 1/1/2000, Register 152; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 08.98.050