

Initial discussion draft of proposed revisions to the AVMA Model Veterinary Practice Act

This DRAFT revised Model Veterinary Practice Act (MVPA) was prepared by the AVMA Council on Veterinary Service and is provided to state boards of veterinary medicine, state veterinary medical associations, allied organizations, and AVMA entities strictly for the purpose of soliciting their initial feedback. The draft revisions (additions underlined, deletions ~~struck through~~) have not been approved by the AVMA Board of Directors or the House of Delegates, and are not to be construed as AVMA policy.

The proposed revisions include:

- Section 2-12: deletion of estimate from owner consent definition because estimates are addressed in the AVMA's Principles of Veterinary Medical Ethics.
- Section 2-22: revision to definition of "veterinary premises"
- Section 2 Commentary – deletion of reference to policy that has been rescinded since last update to MVPA

In addition to feedback on the proposed revisions and the MVPA in general, the AVMA seeks input on the following issues that have been identified as specific areas of interest relative to the MVPA.

- Best practices used in establishing and maintaining state rules and regulations of veterinary practice
- Preferences whether to include more specifics or fewer specifics in state practice acts compared to state practice rules and regulations
- Veterinarian-client-patient relationships in multidocor practices (especially Section 5)
- Record keeping requirements [especially Sections 2(12 and 20), 14(5), 19(2 and 8)]
- Practicing without licensure [especially Sections 2(16), 4, 6, and 14(9)]
- Equine dentistry [especially related to exemption 6(8)]
- Physical therapy by nonveterinarians
- Embryo transfer by nonveterinarians
- Additional suggestions

Introduction to the AVMA Model Veterinary Practice Act

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

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

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Society of Veterinary Medical Association Executives. The task force also included a member of a state veterinary licensing board, a small animal practitioner, a large animal practitioner, and a non-veterinarian public member.

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

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

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Preamble

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

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

Section 1 – Title

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

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

Section 2 – Definitions

1. "Accredited college of veterinary medicine" means any veterinary college, school, or division of a university or college that offers the degree of Doctor of Veterinary Medicine or its equivalent and that is accredited by the Council on Education of the American Veterinary Medical Association (AVMA).
2. "Accredited program in veterinary technology" means any postsecondary educational program that is accredited by the Committee on Veterinary Technician Education and Activities of the AVMA.
3. "Animal" means any living organism, except humans, having sensation and the power of voluntary movement and requiring for its existence oxygen and organic nutrients.
4. "Board" means the [State Board of Veterinary Medicine].
5. "Client" means the patient's owner, owner's agent, or other person responsible for the patient.
6. "Complementary, alternative, and integrative therapies" means a heterogeneous group of preventive, diagnostic, and therapeutic philosophies and practices that are not considered part of conventional (Western) medicine as practiced by most veterinarians and veterinary technicians. These therapies include, but are not limited to, veterinary acupuncture, acupressure, and acupressure; veterinary homeopathy; veterinary manual or manipulative therapy (ie, therapies based on techniques practiced in

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osteopathy, chiropractic medicine, or physical medicine and therapy); veterinary nutraceutical therapy; and veterinary phytotherapy.

7. "Consultation" means when a licensed veterinarian seeks and receives advice in person, telephonically, electronically, or by any other method of communication from a veterinarian licensed in this or any other state or other person whose expertise, in the opinion of the licensed veterinarian, would benefit a patient. The licensed veterinarian receiving consultation maintains the veterinarian-client-patient relationship.
8. "Credentialed veterinary technician or technologist" means a veterinary technician or veterinary technologist who is currently registered, certified, or licensed by the Board.
9. "ECFVG® certificate" means the certificate issued by the Educational Commission for Foreign Veterinary Graduates® of the AVMA indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited college of veterinary medicine.
10. "Extralabel use" means actual use or intended use of a drug in an animal in a manner that is not in accordance with the approved labeling. This includes, but is not limited to, use in species not listed in the labeling, use for indications (disease or other conditions) not listed in the labeling, use at dosage levels, frequencies, or routes of administration other than those stated in the labeling, and deviation from the labeled withdrawal time based on these different uses.
11. "Impaired" means a licensed veterinarian or credentialed veterinary technician who is unable to perform his or her duties in veterinary medicine with reasonable skill and safety because of a physical or mental disability as evidenced by a written determination from a competent authority or written consent based on clinical evidence, including deterioration of mental capacity, loss of motor skills, or abuse of drugs or alcohol of sufficient degree to diminish the person's ability to deliver competent patient care.
12. "Owner consent" means the veterinarian has informed the client, in a manner that would be understood by a reasonable person, of the diagnostic and treatment options, risk assessment, and prognosis and has provided the client with an estimate of the fees expected for the provision of veterinary services and the client has consented to the recommended treatment.
13. "Licensed veterinarian" means a person who is currently licensed to practice veterinary medicine in the State.
14. "Patient" means an animal or group of animals examined or treated by a veterinarian.
15. "Person" means any individual, firm, partnership (general, limited, or limited liability), association, joint venture, cooperative, corporation, limited liability company, or any other group or combination acting in concert; and whether or not acting as a principal, partner, member, trustee, fiduciary, receiver, or as any other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such person.
16. "Practice of veterinary medicine" means:
 1. To diagnose, prognose, treat, correct, change, alleviate, or prevent animal disease, illness, pain, deformity, defect, injury, or other physical, dental, or mental conditions by any method or mode; including the:
 - i. performance of any medical or surgical procedure, or

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- ii. prescription, dispensing, administration, or application of any drug, medicine, biologic, apparatus, anesthetic, or other therapeutic or diagnostic substance, or
 - iii. use of complementary, alternative, and integrative therapies, or
 - iv. use of any procedure for reproductive management, including but not limited to the diagnosis or treatment of pregnancy, fertility, sterility, or infertility, or
 - v. determination of the health, fitness, or soundness of an animal, or
 - vi. rendering of advice or recommendation by any means including telephonic and other electronic communications with regard to any of the above.
 2. To represent, directly or indirectly, publicly or privately, an ability and willingness to do an act described in subsection 16(a).
 3. To use any title, words, abbreviation, or letters in a manner or under circumstances that induce the belief that the person using them is qualified to do any act described in subsection 16(a).
17. "Practice of veterinary technology" means:
1. To perform patient care or other services that require a technical understanding of veterinary medicine on the basis of written or oral instruction of a veterinarian, excluding diagnosing, prognosing, performing surgery, or prescribing.
 2. To represent, directly or indirectly, publicly or privately, an ability and willingness to do an act described in subsection 17(a).
 3. To use any title, words, abbreviation, or letters in a manner or under circumstances that induce the belief that the person using them is qualified to do any act described in subsection 17(a).
18. "Supervision":
1. "Direct supervision" means a licensed veterinarian is readily available on the premises where the patient is being treated and has assumed responsibility for the veterinary care given to the patient by a person working under his or her direction.
 2. "Indirect supervision" means a licensed veterinarian need not be on the premises; has given either written or oral instructions for treatment of the patient; is readily available by telephone or other forms of immediate communication; and has assumed responsibility for the veterinary care given to the patient by a person working under his or her direction.
19. "Veterinarian" means a person who has received a professional veterinary medical degree from a college of veterinary medicine.
20. "Veterinarian-client-patient relationship" means that all of the following are required:
1. The veterinarian has assumed the responsibility for making medical judgments regarding the health of the patient and the client has agreed to follow the veterinarian's instructions.
 2. The veterinarian has sufficient knowledge of the patient to initiate at least a general or preliminary diagnosis of the medical condition of the patient. This means that the veterinarian is personally acquainted with the keeping and care of the patient by virtue of:

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- i. a timely examination of the patient by the veterinarian, or
 - ii. medically appropriate and timely visits by the veterinarian to the operation where the patient is managed.
 3. The veterinarian is readily available for follow-up evaluation or has arranged for the following:
 - i. veterinary emergency coverage, and
 - ii. continuing care and treatment.
 4. The veterinarian provides oversight of treatment, compliance and outcome.
 5. Patient records are maintained.
21. "Veterinary medicine" means all branches and specialties included within the practice of veterinary medicine.
22. Veterinary premises" means any premises or facility where the practice of veterinary medicine is performed, including but not limited to a mobile ~~clinic practice~~, outpatient clinic, ~~satellite clinic, or~~ veterinary hospital or clinic, ~~emergency facility, specialty facility, referral facility, or center~~, but shall not include the premises of a veterinary client, research facility, a federal military base, or an accredited college of veterinary medicine.
23. "Veterinary prescription drug" means a drug that may not be dispensed without the prescription of a veterinarian and that bears the label statement: "CAUTION: Federal law restricts this drug to use by or on the order of a licensed veterinarian."
24. "Veterinary specialist" means a veterinarian that has been awarded and maintains certification from an AVMA-recognized veterinary specialty organization.
25. "Veterinary technician" means a graduate of a two- or three-year accredited program in veterinary technology.
26. "Veterinary technologist" means a graduate of a four-year accredited program in veterinary technology.

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

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

To protect and promote public health, safety, and welfare, the AVMA believes that it is important for state practice acts or the rules and regulations promulgated under those acts to include language that will preserve the present-day high standard of veterinary medical education throughout the United States (see subsection 1). The accreditation process administered by the Council on Education of the AVMA, which is the sole entity recognized by the United States Department of Education to accredit United States veterinary colleges, assures that this

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standard is maintained. All accreditation decisions made by the Council are independent of the AVMA. In a like manner, the accreditation process for veterinary technology programs administered by the Committee on Veterinary Technician Education and Activities of the AVMA maintains the standard for veterinary technician education throughout the United States (see subsection 2).

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

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

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

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

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

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

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3. Demonstration of adequate knowledge of basic and clinical veterinary medical sciences.
4. Demonstration of clinical skills proficiency through consistent and validated testing or evaluation after graduation.

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

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

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

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

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

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

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

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

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

In 2012, subsections 20-b and 20-c were revised for purposes of clarification. Subsection 20-e was added to state that patient records must be maintained to establish a VCPR.

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

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

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

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

Section 3 – Board of Veterinary Medicine

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

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

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

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

Although not explicitly stated, the AVMA believes that it is important that the Board interact with the state veterinary medical association to forward names of potential well-qualified nominees to the Governor for appointment so that all areas of veterinary practice prevalent within the state are represented on the Board.

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

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

Section 4 – License Requirement

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

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

Section 5 – Veterinarian-Client-Patient Relationship Requirement

1. No person may practice veterinary medicine in the State except within the context of a veterinarian-client-patient relationship (VCPR).
 - a. A veterinarian-client-patient relationship cannot be established solely by telephonic or other electronic means. Without a VCPR, any advice provided through electronic means shall be general and not specific to a patient, diagnosis or treatment. Veterinary telemedicine shall only be conducted within an existing VCPR, with the exception for advice given in an emergency until that patient can be seen by a veterinarian.
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COMMENTARY TO SECTION 5—This section, was added in 2003 to emphasize, not only that veterinary medicine must be practiced within the context of a veterinarian-client-patient relationship (VCPR), but also that because a VCPR usually requires the veterinarian to examine the patient, it cannot be adequately established by telephonic or other electronic means alone. However, once established, a VCPR may be able to be maintained between medically necessary examinations via telephone or other types of consultations. In 2017, this section was revised to address the use of veterinary telemedicine, with the understanding that it may change in the future as technologies advance and evidence-based research on the impact of telemedicine on access to care and patient safety becomes available.

Section 6 – Exemptions

This Act shall not be construed to prohibit:

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

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14. Any credentialed veterinary technician, veterinary technologist, or other employee of a licensed veterinarian performing lawful duties under the direction and supervision of such veterinarian who shall be responsible for the performance of the employee.
15. A veterinarian licensed or a veterinary technician credentialed in another state may practice in the State during an emergency or natural disaster within the scope and location of assigned veterinary medical duties of the response efforts without written examination or other qualification if:
 1. an official declaration of the disaster or emergency has been made by the Governor or the delegated State official; and
 2. an official invitation has been extended to the veterinarian or veterinary technician for a specified time by the authority that has jurisdiction for coordinating the animal/agricultural issues in the State during emergencies either within or outside the Emergency Management Assistance Compact (EMAC).
16. Any person who, without expectation of compensation, provides immediate veterinary care in the event of an emergency or accident situation.
17. Any person acting under the direct or indirect supervision of a licensed veterinarian to provide care to animals that are the property of an animal shelter when at least the following three conditions are met:
 1. the person is an employee of an animal shelter or its agencies; and
 2. the person is performing these tasks in compliance with a written protocol developed in consultation with a licensed veterinarian; and
 3. the person has received proper training.Such persons shall not diagnose, prescribe or perform surgery.
18. Any person who lawfully provides care and rehabilitation of wildlife species under the supervision of a licensed veterinarian.

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

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

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

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performance of and subsequent aftercare associated with these exempted procedures. It behooves the attending veterinarian to advocate on the animal's behalf to ensure that procedures are performed at the proper age to minimize pain and discomfort and that appropriate techniques are applied.

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

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

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

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

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

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

Section 7 — Veterinary Technicians and Technologists

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

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

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

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

Section 8 – Status of Persons Previously Licensed

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

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

Section 9 – Application for License: Qualifications

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

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

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

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

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

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Section 10 – Examinations

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

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

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

Section 11 – License By Endorsement

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

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3. is currently credentialed as a veterinary technician in at least one state of the United States, and
 4. has practiced veterinary technology in one or more of those states without disciplinary action by any state or federal agency for at least the three years immediately prior to filing the application.
3. At its sole discretion, the Board may examine any person qualifying for licensing under this Section.

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

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

Section 12 – Temporary Permit

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

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

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

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

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in another state or country may be granted a temporary permit to practice and may do so with or without indirect supervision of a veterinarian licensed to practice in that state.

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

Section 13 – License Renewal

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

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

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Section 14 – Discipline of Licensees

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

1. Violations of any order of the Board.
2. Unprofessional conduct as defined in regulations adopted by the Board.
3. Violations of this Act or of the rules promulgated under this Act.
4. The use of advertising or solicitation that is false or misleading.
5. Failure to keep accurate and comprehensive patient records as set by rules promulgated by the Board.
6. Failure to keep veterinary premises and equipment, including practice vehicles, in a clean and sanitary condition as set by rules promulgated by the Board.
7. Failure to permit the Board or its agents to enter and inspect veterinary premises and equipment, including practice vehicles, as set by rules promulgated by the Board.
8. Fraud, misrepresentation, or deception in obtaining a license.
9. Aiding the unlawful practice of veterinary medicine or veterinary technology.
10. The inability to practice with reasonable skill and safety because of a physical or mental disability, including deterioration of mental capacity, loss of motor skills, or abuse of drugs or alcohol of sufficient degree to diminish the person's ability to deliver competent patient care.
11. Incompetence, gross negligence, or other malpractice in the practice of veterinary medicine or veterinary technology.
12. Revocation, suspension, or limitation of a license to practice by another state, on grounds other than nonpayment of registration fees.
13. Loss or suspension of accreditation by any federal or state agency on grounds other than nonpayment of registration fees or voluntary relinquishment of accreditation.
14. Fraud or dishonesty in the application or reporting of any test for disease in animals.
15. Failing to report or making an intentional false or misleading report of reportable diseases; reportable diseases are those stipulated by federal or state laws or requirements of the Board.
16. Dishonesty or gross negligence in the performance of food safety inspections or the issuance of any Certificates of Veterinary Inspection.
17. The dispensing, distribution, prescription, or administration of any veterinary prescription drug, or the extralabel use of any drug, in the absence of a veterinarian-client-patient relationship.
18. Violations of state or federal drug laws.
19. Conviction or entering of a diversion agreement relative to the following in any federal court or in the courts of the State or any other jurisdiction, regardless of whether the sentence is deferred:

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1. Any felony.
 2. Any crime involving cruelty, abuse, or neglect of animals, including bestiality.
 3. Any crime of moral turpitude including, but not limited to, any crime involving unlawful sexual contact; child abuse; the use or threatened use of a weapon; the infliction of injury; indecent exposure; perjury, false reporting, criminal impersonation, forgery, and any other crime involving a lack of truthfulness, veracity, or honesty; intimidation of a victim or witness; larceny; or alcohol or drugs.
20. For the purposes of subsection 19, a plea of guilty or a plea of nolo contendere accepted by the court shall be considered as a conviction.

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

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

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

Section 15 – Impaired Licensed Veterinarian and Credentialed Veterinary Technician

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

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

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

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Section 16 – Hearing Procedure

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

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

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

Section 17 – Appeal

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

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

Section 18 – Reinstatement

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

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

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Section 19 – Veterinarian-Client Confidentiality

1. No licensed veterinarian shall disclose any information concerning the licensed veterinarian's care of a patient, except on written or electronic authorization or waiver by the licensed veterinarian's client or an appropriate court order or subpoena, or as otherwise provided in this Section.
2. Copies of or information from veterinary records shall be provided without the owner's consent to the Board or public health, animal health, animal welfare, wildlife, or agriculture authorities employed by federal, state, or local governmental agencies who have a legal or regulatory interest in the contents of said records for the protection of animal or public health.
3. Any licensed veterinarian releasing information under written or electronic authorization or other waiver by the client or under an appropriate court order or subpoena, or as otherwise provided by this Section, shall not be liable to the client or any other person.
4. The privilege provided by this Section shall be waived to the extent that the licensed veterinarian's client or the owner of the patient places the licensed veterinarian's care and treatment of the patient or the nature and extent of injuries to the animal at issue in any administrative, civil, or criminal proceeding.
5. This Section shall not prevent a licensed veterinarian from disclosing identifiable client and patient information to a third party so that the third party can use the information to provide services for or perform functions on behalf of the licensed veterinarian, provided that a written agreement is in place requiring the third party to maintain the confidentiality of such information.
6. This Section shall not prevent a licensed veterinarian from disclosing any information for purposes of the veterinarian's own treatment, payment, or veterinary care operations.
7. This Section shall not prevent a licensed veterinarian from disclosing medical information for research purposes, so long as patients and clients are not individually identifiable or, if patients or clients are individually identifiable, appropriate written or electronic authorizations have been obtained.
8. For purposes of this Section, "appropriate court order or subpoena" means for information or veterinary records specifically exempted or deemed waived as provided in this Section.
9. For purposes of this Section, "client" means the client at the time services were rendered by the licensed veterinarian.

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

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

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

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

Section 20 – Immunity from Liability

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

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

Section 21 – Cruelty to Animals – Immunity for Reporting

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

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

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

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Section 22 – Abandoned Animal

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

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

Section 23 – Enforcement

1. Any person who practices veterinary medicine or veterinary technology without a valid license, temporary permit, or credential issued by the Board shall be guilty of a criminal offense and upon conviction for each violation shall be fined [an appropriate amount of money according to the Board or the laws of the State] or imprisoned [an appropriate amount of time according to the Board or the laws of the State], provided that each act of such unlawful practice shall constitute a distinct and separate offense.
2. Any person not licensed or credentialed under this Act is considered to have violated this Act and may be subject to all the penalties provided for such violations if that person:
 1. Performs any of the functions described as the practice of veterinary medicine or veterinary technology as defined in this Act, or
 2. Represents, directly or indirectly, publicly or privately, an ability and willingness to perform any of the functions described as the practice of veterinary medicine or veterinary technology as defined in this Act, or
 3. Uses any title, words, abbreviation, or letters in a manner or under circumstances that induces the belief that the person using them is qualified to perform any of the functions described as the practice of veterinary medicine or veterinary technology as defined in this Act.
3. The Board may bring an action to enjoin any person from practicing veterinary medicine or veterinary technology without a currently valid license, temporary permit, or credential issued by the Board. If the

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court finds that the person is violating or is threatening to violate this Act, it shall enter an injunction restraining him or her from such unlawful acts.

4. Notwithstanding other provisions of this Act, the Board may take immediate action if there is an imminent threat to the health, safety, or welfare of the public. The Board shall find that this action is necessary for the protection of the public and necessary to effectively enforce this Act. If the Board takes immediate action pursuant to this subsection 4, efforts shall be made as soon as possible to proceed in accordance with a hearing pursuant to Section 16 of this Act.
5. In addition to any other penalty or remedy provided by law, the Board shall have the authority to implement a system of Cite and Fine procedures for licensed and non-licensed persons who violate the State Veterinary Practice Act. The Board may also impose a civil penalty, upon conviction, for each separate violation. This civil penalty shall be in an amount not to exceed [dollar amount] for each violation and shall be assessed by the Board in accordance with the provisions set forth in Section 16 of this Act.
6. The success or failure of an action based on any one of the remedies set forth in this Section shall in no way prejudice the prosecution of an action based on any other of the remedies.

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

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

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

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

Section 24 – Severability

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

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

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Section 25 – Effective Date

This Act shall become effective on _____1, 20___. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date

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

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