

Wisconsin Veterinary Examining Board

Regulatory Flexibility Analysis

Rule Subject: Veterinary Professional Assistance Program

Adm. Code Reference: VE 11

Rules Clearinghouse #: Not assigned – EMERGENCY RULE

DATCP Docket #: 17-VER-01

Rule Summary

When the Veterinary Examining Board (“VEB”) was transferred from the Department of Safety and Professional Services (“DSPS”) to the Department of Agriculture, Trade and Consumer Protection (“DATCP”), for administrative purposes, the specific administrative code chapters that pertained to its operations were transferred. However, none of the general DSPS administrative code chapters pertaining to all the credentialing boards were made a part of the VE rules, including SPS 7, Professional Assistance Procedure.

This emergency rule creates ch. VE 11, “Veterinary Professional Assistance Program”, to implement s. 89.03(3), Stats., created by the Legislature in 2017 Wisconsin Act 59, the Budget Bill (1) The new statutory s. 89.03 (3), Stats., states that the veterinary examining board (“VEB”) shall promulgate rules specifying a procedure for addressing allegations that a person licensed or certified by the VEB under this chapter has practiced as a veterinarian or veterinary technician while impaired by alcohol or other drugs or that his or her ability to practice is impaired by alcohol or other drugs, and for assisting a person licensed by the VEB under this chapter who requests to participate in the procedure or who requests assistance in obtaining mental health services. In promulgating rules under this subsection, the VEB shall seek to facilitate early identification of chemically dependent veterinarians or veterinary technicians and encourage their rehabilitation. The rules promulgated under this subsection may be used in conjunction with the formal disciplinary process under this chapter. The VEB may contract with another entity to administer the procedure specified under the rules promulgated under this subsection.

Pursuant to section 9102 of the non-statutory language in 2017 Wisconsin Act 59, the VEB may use the procedure under s. 227.24, Stats., to promulgate rules under s. 89.03 (3), Stats., for the period before the effective date of the permanent rule promulgated under s. 89.03 (3), Stats. If the VEB uses this procedure to promulgate these rules, the VEB shall promulgate the rules no later than the 60th day after the effective date of the Budget Bill, which was September 22, 2017. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the VEB is not required to provide evidence that promulgating a rule under this subsection, as an emergency rule, is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

This is an emergency rule so there was no posting for comments. However, the VEB is proposing a permanent rule, which will be the same as the emergency rule. This rule will be posted for economic impact analysis, be approved by the VEB for hearing, and have several hearings, for obtaining comments, held in conjunction with this emergency rule hearing.

Small Businesses Affected

This rule change is anticipated to have an effect on small business, as many veterinarian professionals practice in small businesses. However, as the rule are designed for early identification and treatment of alcohol and other drug and mental health impairments in veterinary professionals, this should have a

positive impact on veterinary small businesses in assisting with professional assessment and treatment before the impairment affects the practice. In addition, this rule will also ensure that persons, subject to these rules, are on notice as to procedures, within the VEB's jurisdiction, that will be utilized in the disciplinary process. Finally, the cost of the program will be absorbed within the current budget of the VEB and no additional fees will be assessed against credential holders to pay for the program.

Reporting, Bookkeeping and other Procedures

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

Professional Skills Required

The proposed rule does not require any new professional skills.

Accommodation for Small Business

This rule, as written, comports with specific statutory language, directing the VEB to write rules for a veterinary professional assistance program. It was written with the individual and small businesses at the forefront, and no accommodation is required.

Conclusion

The expectation by those advocating for the rule change, including veterinarians and certified veterinary technicians, is that these rules are needed for assistance to impaired veterinary professionals

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