

**DATCP Docket 19-R-07
Proposed Hearing Draft
Clearinghouse Rule No.
July 1, 2021**

**PROPOSED ORDER
OF THE STATE OF WISCONSIN VETERINARY EXAMINING BOARD
ADOPTING RULES**

1 The Wisconsin Veterinary Examining Board proposes the following permanent rule *to repeal* VE
2 1 to 10; *to create* VE 1 to 3; *to renumber* VE 11; *relating to* veterinarians and veterinary
3 technicians.

Analysis Prepared by the Veterinary Examining Board

The proposed rule makes structural changes, minor language changes, and telehealth changes.

Statutes Interpreted

Statutes interpreted: Wis. Stat. ss. 89.03 and 89.063

Statutory Authority

Statutory authority: Wis. Stat. ss. 89.03 and 89.063

Explanation of Statutory Authority

Wis. Stat. s. 89.03 authorizes the Veterinary Examining Board (Board) to promulgate rules related to the practice of veterinary medicine.

Wis. Stat. s. 89.063 authorizes the Department of Agriculture, Trade and Consumer Protection (Department) to determine by rule applicable fee amounts.

Related Statutes and Rules

Wis. Admin. Code chs. VE 1 to 11.

Plain Language Analysis

The proposed rule makes structural changes, minor language changes, and telehealth changes as described below.

Structural Changes

-Consolidates the eleven existing rule chapters into three chapters: one for veterinarians, one for veterinary technicians, and one for the professional assistance program. Consolidation makes the rules easier to access quickly.

-Adds a chapter for relevant complaint procedures that did not transfer in the previous rules from DSPS to DATCP.

-States the current fee amounts in rule. Fee amounts do not change.

Minor Language Changes

-Makes changes regarding procedures and processes.

- Removes the word annual from references to the review of colleges and technical schools.

- Expands the temporary veterinary permit process to include applicants who are scheduled to take or are awaiting results from the examination on state laws and rules.

- Clarifies that applicants for licensure who have previously been licensed in Wisconsin or another jurisdiction must apply by endorsement.

- Adds for clarity and consistency a section identifying common situations in which the board may require additional information from an applicant when reviewing an application.

- States more clearly that the board may reprimand the licensee or deny, suspend, limit or revoke a credential for cause, including filing an incomplete or fraudulent application, misrepresenting information on an application, or violating the rule chapter or Wis. Stat. ch. 89.

-Makes technical changes and updates.

- Adds the denial of a license to the list of reasons for a temporary veterinary permit to expire.

- Allows applicants to provide proof of graduation through the American Association of Veterinary State Boards (AAVSB), which allows for electronic submissions using the AAVSB online system.

- Adds direction in the rules to assure the requirements for access to health care records required in Wis. Stat. s. 89.075 are clear and consistently applied.

- Removes an obsolete provision regarding continuing education auditing of journal articles read. The Board previously eliminated the ability to self-study journal articles and mistakenly did not also eliminate this provision regarding auditing.

- Clarifies the continuing education requirements for persons who have not been credentialed for more than 5 years.

- Adds language to clearly state license exemptions.

-Allows veterinarians to delegate additional veterinary medical acts to certified veterinary technicians and unlicensed assistants.

- Allows veterinarians to delegate the placement of intravenous catheters to unlicensed assistants under the direct supervision of the veterinarian present on the premises, per requests from stakeholders.
 - Additional changes to the delegation of veterinary medical acts are included in the telehealth section of this summary.
- Makes changes for consistency and ease of use the places in which rule requirements repeat, or refer to requirements in statute.
 - Modifies language regarding unprofessional conduct so that it also refers to Wis. Stat. s. 89.07 (1).
 - Modifies language regarding prescribing and dispensing a veterinary drug to refer to Wis. Stat. s. 89.068 (1) (c) allows.
 - Makes a correction to the delegation of rabies vaccinations to reflect Wis. Stat. s. 95.21 (2) (a).
 - Modifies terminology for clarity and consistency.
 - Adds additional definitions and updates existing definitions language for clarity.
 - Renames “temporary permit” to “temporary veterinary permit” and renamed “temporary consulting permit” to “veterinary consulting permit.”
 - Changes language to use the word “dispense” rather than “sell” to be more consistent with statutory language and definitions to make the language clearer and easier to understand.
 - Adds a note clarifying that the board accepts “veterinary nurse” as equivalent to “veterinary technician.”

Telehealth Changes

- Adds definitions related to telehealth.
- Adds definitions related to veterinary consulting and clarifies that a consulting veterinarian or other consultant may not do any of the following:
 - Visit the patient or client or communicate directly with the client without the knowledge of the attending veterinarian.
 - Take charge of a case or problem without the consent of the attending veterinarian and the client.
- Clarifies that the practice of veterinary medicine takes place where the animal is located at the time of practice, in alignment with Wis. Stat. ss. 89.05 (1) and 89.02 (6).
 - Clarifies that in order to practice veterinary medicine in Wisconsin a veterinarian must be licensed in Wisconsin and have an established veterinary-client-patient relationship (VCPR) with the client. A VCPR must be established via an in person physical exam, or timely medically appropriate visits to the premises on which the patient is kept. It may not be established by telehealth technologies.

-Clarifies that the VCPR, once established, extends to other veterinarians within the practice, or relief veterinarians within the practice, that have access to, and have reviewed, the medical history and records of the animal.

-Clarifies that records must be kept, regardless of the encounter type.

-Clarifies, in accordance with Wis. Stat. s. 89.02 (8) (c), that an animal owner must be able to easily seek follow-up care or information from the veterinarian who conducts an encounter while using telehealth technologies.

-Expands the delegation of medical services to allow a veterinarian to delegate the following items to a certified veterinary technician (CVT) if the veterinarian is available to communicate via telehealth technologies within five minutes. Under current rules, these items may only be delegated to a CVT if the veterinarian is personally present on the premises.

- Performing diagnostic radiographic awake contrast studies not requiring general anesthesia.

- Sample collection via a cystocentesis procedure.

- Placement of intravenous catheters.

- Suturing of tubes and catheters.

- Fine needle aspirate of a mass.

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

Pursuant to 9 CFR 160 to 162, a veterinarian must be specifically authorized by the United States Department of Agriculture – Animal and Plant Health Inspection Service to perform animal disease eradication and control functions under federal animal health laws.

Licensure requirements to practice veterinary medicine are established by each state and should not be affected by federal requirements.

Comparison with Rules in Adjacent States

The structural changes and minor language changes in the proposed rule are unique to Wisconsin rules and make the rules clearer and easier to use. Veterinary telehealth regulations in Wisconsin, Illinois, Iowa, Michigan, and Minnesota are compared below. Regulatory recommendations by the American Association of Veterinary State Boards, the American Veterinary Medical Association, and the Wisconsin Veterinary Medical Association are also included for comparison.

Wisconsin

Under both the existing rule and the proposed rule, a veterinarian must be licensed in Wisconsin in order to practice veterinary medicine and have an established VCPR with the client. A VCPR must be established via an in-person physical exam, or timely medically appropriate visits to the premises on which the patient is kept. It may not be established by telehealth technologies.

The proposed rule clarifies items related to telehealth and also expands the delegation of medical services to allow a veterinarian to delegate the specific items to a CVT if the veterinarian is available to communicate via telehealth technologies within five minutes.

Illinois

In Illinois, a valid VCPR cannot be established solely by telephonic or electronic communications. No further information was provided regarding whether Illinois would allow telehealth to be used if a VCPR was previously established.

Iowa

In Iowa, a valid VCPR cannot be established solely by telephonic or electronic communications. No further information was provided regarding whether Illinois would allow telehealth to be used if a VCPR was previously established.

Michigan

Michigan recently promulgated a new rule related to the practice of veterinary medicine using telehealth technologies, which became effective April 15, 2021. The Michigan rules now require:

- Disclosure of the identity and contact information of the veterinarian providing telehealth services. Licensing information shall be provided upon request.
- Ensure that the technology method and equipment used to provide telehealth services complies with all current privacy-protection laws.
- Employ sound professional judgement to determine whether using telehealth is an appropriate method for delivering medical advice or treatment to the animal patient.
- Have sufficient knowledge of the animal patient to render telehealth services demonstrating by satisfying one of the following:
 - Have recently examined the animal patient in-person or have obtained current knowledge of the animal patient through the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically.
 - Have conducted medically appropriate and timely visits to the premises where the group of animal patients is kept.
- Act within the scope of practice.
- Exercise the same standard of care applicable to traditional, in-person veterinary care service.
- Be readily available to the animal patient for follow-up veterinary services or ensure there is another suitable provider available for follow-up care.
- Consent for medical advice and treatment shall be obtained before providing a telehealth service.
- Evidence of consent for medical advice and treatment must be maintained in the animal patient's medical record.
- A veterinarian providing a telehealth service may prescribe a drug if the veterinarian is a prescriber acting within the scope of practice and in compliance.

Minnesota

Minnesota only allows patient-specific telemedicine within a VCPR. A VCPR cannot be established without an in-person examination. A veterinarian licensed in another state can serve as a consultant to the Minnesota veterinarian that holds the VCPR for that patient. The same standards of care apply to services rendered via telemedicine as to in-person visits.

American Association of Veterinary State Boards (AAVSB)

The AAVSB practice act model and AAVSB guidelines for telehealth are both available at <https://www.aavsb.org/board-services/member-board-resources/practice-act-model/>. Regarding the VCPR, the AAVSB practice model act and AAVSB guidelines for telehealth state that:

-Veterinarian-Client-Patient Relationship (VCPR) exists when:

- Both the Veterinarian and Client agree for the Veterinarian to assume responsibility for making medical judgments regarding the health of the Animal(s); and
- The Veterinarian has sufficient knowledge of the Animal(s) to initiate at least a general or preliminary diagnosis of the medical condition of the Animal(s); and
- The Veterinarian has provided the client with information for obtaining timely follow up care.

-The AAVSB recommends that each jurisdiction promulgate appropriate regulations clarifying who may be included within the scope of a single VCPR such as a Veterinarian or another Veterinarian within the same practice group with access to medical records. The AAVSB recommends that each jurisdiction promulgate appropriate regulations defining how to establish sufficient knowledge of the Animal(s), including the following:

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

-The AAVSB recommends that each Jurisdiction promulgate appropriate regulations for the Veterinarian to provide instructions to the Client for obtaining follow up care that may include directing the Client to another Veterinarian or emergency clinic. It is essential for the VCPR to be easily established in order to require the Veterinarian to assume accountability for the Veterinary Medical Services rendered. Furthermore, as standards of practice and codes of conduct change over time, it is easier to promulgate new rules incorporating such changes rather than adopting legislative modifications.

American Veterinary Medical Association (AVMA)

AVMA guidelines for the use of telehealth in veterinary practice are available at <https://www.avma.org/sites/default/files/2021-01/AVMA-Veterinary-Telehealth-Guidelines.pdf>. Regarding the VCPR, the AVMA guidelines state that:

-Having a VCPR in place is critical whenever practicing veterinary medicine, whether practicing in person or remotely using telemedicine. The AVMA Model Veterinary Practice Act, which many governmental bodies use as a guide when establishing or revising laws governing veterinary practice, includes the following definition of the VCPR: The veterinarian-client-patient relationship is the basis for veterinary care. To establish such a relationship the following conditions must be satisfied:

- The licensed veterinarian has assumed the responsibility for making medical judgments regarding the health of the patient(s) and the need for medical therapy and has instructed the client on a course of therapy appropriate to the circumstance.

- There is sufficient knowledge of the patient(s) by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition(s) of the patient(s).

- The client has agreed to follow the licensed veterinarian's recommendations.

- The licensed veterinarian is readily available for follow up evaluation or has arranged for:

 - Emergency or urgent care coverage, or

 - Continuing care and treatment has been designated by the veterinarian with the prior relationship to a licensed veterinarian who has access to the patient's medical records and/or who can provide reasonable and appropriate medical care.

- The veterinarian provides oversight of treatment.

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

- Patient records are maintained. Both the licensed veterinarian and the client have the right to establish or decline a veterinarian-client-patient relationship within the guidelines set forth in the AVMA Principles of Veterinary Medical Ethics. A licensed veterinarian who in good faith engages in the practice of veterinary medicine by rendering or attempting to render emergency or urgent care to a patient when a client cannot be identified, and a veterinarian-client-patient relationship is not established, should not be subject to penalty based solely on the veterinarian's inability to establish a veterinarian-client-patient relationship.

-Many states have adopted this definition of the VCPR, or a very similar one, as a component of their state veterinary practice act or regulations. In addition, federal law requires a veterinarian to establish a VCPR before undertaking any extra-label drug use in animals, issuing a Veterinary Feed Directive, or the creation and use of certain types of biologics. It is also important for veterinarians to understand that they must comply with the federal law requiring a VCPR under these circumstances, regardless of how a state may ultimately define a VCPR in state law or regulation.

-Given current technological capabilities, available research, and the existing state and federal regulatory landscape, the AVMA believes veterinary telemedicine should only be conducted within an existing VCPR. An exception may be made for advice given in an emergency until a patient can be seen by a veterinarian. Ultimately, how a state defines the VCPR, the

congruence of that state VCPR with federal requirements, and whether or not a VCPR exists in a given situation based on those definitions, determine what services can be offered.

-Within an established VCPR: A variety of telehealth and telemedicine service models are available to veterinarians and veterinary practices. Client-facing telemedicine services may include use of tools that allow the veterinarian to remotely and securely gather essential patient health information from the animal owner or another caretaker; access the patient's medical records; and conduct a virtual evaluation of the patient through real-time video or transmitted photographs or other data.

-Without an established VCPR: The veterinarian may provide non-patient-specific advice, but must stay clear of diagnosing, prognosis of, or treating patients. Two exceptions may apply: (1) if state law allows a VCPR to be established electronically, the veterinarian has met the requirements for doing so, and activities that would invoke a requirement for adherence to the federal VCPR are not conducted or (2) advice given in an emergency until a patient can be seen by a veterinarian. Non-client electronic communications that include the provision of non-patient-specific advice and general educational content are usually acceptable.

Wisconsin Veterinary Medical Association (WVMA)

WVMA formed a Telehealth Task Force and submitted suggested guidelines to the Board on December 19, 2019. Regarding the VCPR, the WVMA suggested guidelines state that:

-VCPR Required: Veterinary services may only be provided using telehealth technologies where a VCPR is established. If an existing VCPR relationship is present, then telehealth technologies may be used as long as the VCPR is maintained in accordance with Wis. Stat. s. 89.02 (8) and the requirements in this Section. If an existing VCPR relationship is not present, then a veterinarian must take appropriate steps to establish a VCPR consistent with Wis. Stat. s. 89.02 (8) and the requirements in this Section.

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

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

-For companion animals and equine animals, the veterinarian must have conducted an in-person physical examination of the patient at least once in the immediate six (6) months prior to engaging in any telehealth treatment or services.

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

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

Summary of Factual Data and Analytical Methodologies

The proposed rule makes the rules clearer and easier to use. Restructuring the chapters makes the rules easier to read and reference quickly. Adding a chapter for relevant complaint procedures makes these procedures clearer and more accessible to credential holders and members of the public. The fee amounts remain the same, but are stated in the proposed rule to make them readily accessible. Minor language changes relating to procedures and processes, technical changes and updates, delegation of veterinary medical acts, references to statutory requirements, and terminology make the proposed rule more consistent and easier to understand. The proposed rule includes language changes to respond to public interest in the use of telehealth technologies in veterinary medicine. The proposed rule could reduce the burden to veterinarians, veterinary technicians, and consumers of veterinary services, as the proposed rule is easier to read and understand quickly.

The Board held a preliminary public hearing on SS 125-19 on February 17, 2020, with a written comment period through February 24, 2020. The Board received three comments. All three comments requested that the statement of scope be expanded to address the use of telehealth technologies in the practice of veterinary medicine. One comment also requested that the statement of scope address the circumstances under which a veterinarian may dispense a drug for a patient of another veterinarian. This statement of scope for this rule proposal (SS 064-20) includes both of these topics.

The Board held a preliminary hearing on SS 064-20 on August 19, 2020, with a written comment period through August 26, 2020. The Board received three comments. One comment was for information. Two comments expressed support of the scope, both expressed support of including telehealth in the scope, and one also expressed support of including addressing the circumstances under which a veterinarian may dispense a drug for a patient of another veterinarian in the scope.

The Board convened a Telehealth Advisory Committee (Committee) to advise the Board in relation to the veterinary telehealth. The Committee was comprised of 13 representatives: 10 veterinarians and 3 certified veterinary technicians. Of the veterinarians, 1 works in large and small animal practice, 3 work in large animal practice, 1 works in equine and small animal practice, and 5 work in small animal practice. The veterinarians included representatives from the Wisconsin Veterinary Medical Association, Sexing Technologies, and the Dairy Business Association. The Department submitted a notice to JCRAR with the names of the Committee members on February 9, 2021.

The Committee met on March 4, March 25, and April 8, 2021, to discuss potential veterinary telehealth options. The following is a summary of proposals that the Telehealth Advisory Committee discussed, as well as the responses of the Committee members:

A. Definitions

Attending Veterinarian: means the veterinarian who holds the Veterinarian-Client-Patient Relationship and is responsible for the medical care and treatment of the animal.

Consulting Veterinarian: means the veterinarian who gives advice or assistance, whether in-person or by any method of communication, to the attending veterinarian, for the benefit of an animal patient.

Consultant: means a person whose subject matter expertise, in the opinion of the attending veterinarian, will benefit an animal patient, and who gives the attending veterinarian advice or assistance, whether in-person or by any method of communication.

Consultation: means the advice or assistance given by a consulting veterinarian or other consultant to the attending veterinarian where the responsibility for patient treatment, prescriptions, and welfare remain with the attending veterinarian.

A consulting veterinarian or other consultant may not do any of the following:

- Visit the patient or client or communicate directly with the client without the knowledge of the attending veterinarian.
- Take charge of a case or problem without the consent of the attending veterinarian and the client.

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

General Advice: means any advice provided by a veterinarian or certified veterinary technician, via any method of communication within or outside of an established VCPR, which is given in general terms and is not specific to an individual animal or group of animals, diagnosis, or treatment.

Telehealth: is the collection of technology tools used to remotely deliver virtual veterinary medical, health, and education services, allowing a veterinarian to deliver enhance care and education.

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

Tele-triage: means emergency animal care, including animal poison control services, for immediate, potentially life-threatening animal health situations, including poison exposure mitigation, animal CPR instructions, and other critical lifesaving treatment or advice that may be performed within or outside of a VCPR.

Members asked for clarification about the consulting veterinarian, consultant, and consultation definitions but no member expressed opposition to these definitions. No member expressed concerns about any of the other definitions.

B. Location of Practice

The practice of veterinary medicine takes place where the animal is located at time of practice, in alignment with Wis. Stat. ss. 89.05 (1) and 89.02 (6).

No member expressed concerns.

C. Establishing Veterinarian-Client-Patient Relationship (VCPR)

-Option 1: In order to practice veterinary medicine in WI a veterinarian must be licensed in WI and have an established VCPR with the client. A VCPR must be established via an in person physical exam, or timely medically appropriate visits to the premises on which the patient is kept. It may not be established by telehealth technologies.

-Option 2: In order to practice veterinary medicine in WI a veterinarian must be licensed in WI and have an established VCPR with the client prior to treating a patient. A VCPR may be established by utilizing telehealth technologies to examine the patient as medically appropriate to the circumstance.

-Option 3: In order to practice veterinary medicine in WI a veterinarian must be licensed in WI and have an established VCPR with the client prior to treating a patient. To establish a VCPR the veterinarian must meet the requirements of Wis. Stat. s. 89.02 (8). A licensed veterinarian may satisfy the exam requirement under Wis. Stat. s. 89.02 (8) (b) for the establishment of the VCPR via telehealth technologies through the use of instrumentation and diagnostic equipment where images and medical records are able to be transmitted electronically or a physical in person exam.

Six members expressed support of option 1. One member expressed support of either option 1 or 3, as long as the veterinarian physically touches the animal at some point. One member expressed support of option 2. Two members expressed support of either option 2 or 3. One member expressed support of either option 2 or 3, as long as a VCPR is established in person at some point during the life of the patient.

Seven members expressed support of keeping the current timeframe requirements as timely and medically appropriate. One member expressed support of a one-year minimum requirement. One member expressed support of a 12 or 18-month minimum requirement. One member expressed support of a one or two-year minimum requirement.

D. Extending VCPR

The VCPR, once established, extends to other veterinarians within the practice, or relief veterinarians within the practice, that have access to, and have reviewed, the medical history and records of the animal.

All members expressed support.

E. Prescribing

Medication may not be prescribed without either a physical examination or medically appropriate and timely visits to the premises where the animal or group of animals is kept.

Nine members expressed that the language is not necessary or is redundant to the VCPR language. One member expressed no opinion.

F. Record Keeping

Records must be kept, regardless of encounter type, in accordance with the current Wis. Admin. Code ch. VE 7.

All members agreed.

G. Continuity of Care

In accordance with Wis. Stat. s. 89.02(8) (c), an animal owner must be able to easily seek follow-up care or information from the veterinarian who conducts an encounter while using telehealth technologies. The veterinarian must ensure that the client is aware of the veterinarian's identity and location.

Seven members expressed support of including identity and location. Of those, two specified that at least to the level of the state. One member expressed no need for the language. Two members expressed no opinion.

H. Permit and/or Continuing Education (CE)

Require a permit and/or telehealth-specific continuing education (CE) to practice telehealth.

Eight members expressed that a permit and/or specific CE should not be required to practice telehealth. One member expressed that CE on telehealth should be required, similar to what is required to practice telehealth in human medicine. One member expressed support of requiring both a permit and CE, but also expressed concerns about the logistics of it.

I. Delegated Medical Services – CVTs

Based on the discussion, staff highlighted items the following items to consider with regards to CVTs and telehealth:

- (b) Performing diagnostic radiographic contrast studies: Only awake contrast studies not requiring general anesthesia
- (d) Sample collection via a cystocentesis procedure.
- (e) Placement of intravenous catheters (not arterial catheters)
- (f) Suturing of tubes and catheters.
- (g) Fine needle aspirate of a mass.
- (h) Performing amniocentesis, embryo collection and transfer, follicular aspiration, and transvaginal oocyte collection and recovery on livestock.

Eleven members expressed support of allowing b (only awake contrast studies not requiring general anesthesia), d, e (not arterial catheters), f, and g as shown above to be performed by a CVT with the ability to communicate with the veterinarian via telehealth.

Ten members expressed opposition to allowing h to be performed by a CVT without the veterinarian present on the premises. One member expressed support of allowing h to be performed by a CVT without the veterinarian present on the premises with the ability to communicate with the veterinarian via telehealth.

Eleven members expressed support of requiring a shorter than 15 minute timespan for communicating with the veterinarian via telehealth regarding the specified medical services. Of those, five members expressed support of five minutes, one member expressed support of ten minutes, and two members expressed support of five or ten minutes.

J. Delegated Medical Services – Unlicensed Assistants

Staff highlighted items currently delegable to unlicensed assistants to discuss with regards to telehealth.

Eleven members expressed that the medical services currently delegable to unlicensed assistants with the veterinarian present on the premises should continue to require the veterinarian to be present on the premises.

Analysis and Supporting Documents Used to Determine Effect on Small Business and in Preparation of an Economic Impact Analysis

The proposed rule will directly affect Wisconsin licensed veterinarians and certified veterinary technicians. Most veterinary practices are small businesses. Current fee amounts would not change. Adjustments to make rule language and structure clearer, and to simplify processes where possible, may reduce the burden to each of these affected entities, by making the rules easier to access and understand quickly.

The Board convened a Telehealth Advisory Committee (Committee) to advise the Board in relation to the veterinary telehealth. The Committee was comprised of 13 representatives: 10

veterinarians and 3 certified veterinary technicians. Of the veterinarians, 1 works in large and small animal practice, 3 work in large animal practice, 1 works in equine and small animal practice, and 5 work in small animal practice. The veterinarians included representatives from the Wisconsin Veterinary Medical Association, Sexing Technologies, and the Dairy Business Association.

Effect on Small Business

The Board expects the proposed rule to have minimal to no economic impact. No fee amounts will be changed in the proposed rule.

Most veterinary practices are small businesses. The proposed rule's structural changes and minor language changes may reduce the burden to veterinarians, veterinary technicians, and consumers of veterinary services, as the rules may become easier to access and understand quickly.

The proposed rule also allows for more use of telehealth technologies than the existing rule. New language regarding telehealth may reduce the economic burden to veterinarians and animal owners, especially in rural areas. The proposed rule expands the delegation of medical services to allow a veterinarian to delegate the following items to a CVT if the veterinarian is available to communicate via telehealth technologies within five minutes. Under current rules, these items may only be delegated to a CVT if the veterinarian is personally present on the premises.

- Performing diagnostic radiographic awake contrast studies not requiring general anesthesia.
- Sample collection via a cystocentesis procedure.
- Placement of intravenous catheters.
- Suturing of tubes and catheters.
- Fine needle aspirate of a mass.

Environmental Impact

This rule does not have an environmental impact.

Standards Incorporated by Reference

This rule does not create standards incorporated by reference.

DATCP Contact

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Where and When Comments May Be Submitted

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

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Comments will be accepted up to two weeks after the last public hearing is held on this rule. Hearing dates will be scheduled after this hearing draft rule is approved by the Board.

4 **SECTION 1.** Chapter VE 1 to Ch. VE 10 are repealed.

5 **SECTION 2.** Chapter VE 1 is created to read:

6 **Chapter VE 1 Veterinarians**

7 Subchapter I – Authority and Definitions

8 VE 1.01 Authority

9 VE 1.02 Definitions

10 Subchapter II – Examinations

11 VE 1.04 Administration

12 VE 1.06 Competency tested

13 VE 1.08 Passing scores

14 VE 1.10 Claim of examination error

15 Subchapter III – Licensure

16 VE 1.12 License exemptions

17 VE 1.14 Qualifications for licensure, all applicants

18 VE 1.16 Qualifications for licensure by examination

19 VE 1.18 Qualifications for licensure by endorsement

20 VE 1.20 Licensure review by board

21 VE 1.22 Fees for service members, former service members, their spouses

22 VE 1.24 Issuing a license

23 VE 1.26 Administrative fees

24 VE 1.28 Renewal of license

25 VE 1.30 Continuing education; requirements

26 VE 1.32 Continuing education; programs and courses

27 Subchapter IV – Permits

28 VE 1.34 Temporary veterinary permits

29 VE 1.36 Veterinary consulting permits

30 Subchapter V – Practice Related to Veterinary Schools

31 VE 1.38 Faculty license

32 VE 1.40 Post graduate training permit

33 VE 1.42 Veterinary students

34 Subchapter VI – Standards of Practice and Unprofessional Conduct

35 VE 1.44 Delegation of veterinary medical acts

36 VE 1.46 Veterinary consulting

37 VE 1.48 Veterinary referral to a license holder in another profession

38 VE 1.50 Veterinary telehealth

39 VE 1.52 Records

40 VE 1.53 Change of name and address

41 VE 1.56 Display of license

42 VE 1.58 Unprofessional conduct

43 VE 1.60 Board action

44 **Subchapter I – Authority and Definitions**

45 **VE 1.01 Authority.** The rules in this chapter are adopted by the veterinary examining
46 board pursuant to the authority delegated by ss. 15.08 (5), 89.03 (1), 89.03 (2), and 227.11 (2),
47 Stats.

48 **VE 1.02 Definitions.**

49 (1) “Accredited college or university” means an educational institution that is accredited
50 by a regional or national accrediting agency recognized by the U.S. Department of Education.

51 (2) “Advertising” means to give notice by any means, including but not limited to any
52 circular, card, notice, telephone book listing, magazine, newspaper or other printed material or any
53 electronic medium.

54 (3) “Approved veterinary college” means a veterinary college which is AVMA accredited
55 or approved.

56 (4) “Attending veterinarian” means the veterinarian who holds the VCPR and is
57 responsible for the medical care and treatment of the animal.

58 (5) “AVMA” means the American veterinary medical association.

59 (6) “Board” means the veterinary examining board.

60 Note: The board office is located at 2811 Agriculture Drive, P.O. Box 8911, Madison,
61 Wisconsin 53708–8911.

62 (7) “Client” means the person who owns or who has primary responsibility for the care of
63 a patient.

64 (8) “Complementary, alternative, and integrative therapies” includes a heterogeneous
65 group of preventive, diagnostic, and therapeutic philosophies and practices. These therapies
66 include:

67 (a) Veterinary acupuncture, acuthery, and acupressure.

68 (b) Veterinary homeopathy.

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

71 (d) Veterinary nutraceutical therapy.

72 (e) Veterinary phytotherapy.

73 (9) “Consulting veterinarian” means the veterinarian who gives advice or assistance,
74 whether in-person or by any method of communication, to the attending veterinarian, for the
75 benefit of an animal patient.

76 (10) “Consultant” means a person whose subject matter expertise, in the opinion of the
77 attending veterinarian, will benefit an animal patient, and who gives the attending veterinarian
78 advice or assistance, whether in-person or by any method of communication.

79 (11) “Consultation” means the advice or assistance given by a consulting veterinarian or
80 other consultant to the attending veterinarian where the responsibility for patient treatment,
81 prescriptions, and welfare remain with the attending veterinarian.

82 (12) “Deception” means:

83 (a) Claiming to have performed an act or given a treatment which has not in fact been
84 performed or given.

85 (b) Giving needless treatment.

86 (c) Using a different treatment than stated.

87 (13) “Department” means the department of agriculture, trade and consumer protection.

88 (14) “Faculty license” means a credential issued to a person by the board after the person
89 has met the requirements of s. 89.06 (2m) (a), Stats., signifying that the person may practice
90 veterinary medicine on privately owned animals only within the scope of the person’s employment
91 at a school of veterinary medicine in this state.

92 (15) “Fraud” means:

93 (a) The making of false claims regarding knowledge, ability, skills or facilities for use in
94 treatment or diagnosis of a disease.

95 (b) The making of false claims regarding testing, inspecting, reporting or issuing of
96 inter-state, intra-state or export health certificates.

97 (16) “General advice” means any advice provided by a veterinarian or certified veterinary
98 technician, via any method of communication within or outside of an established VCPR, which is
99 given in general terms and is not specific to an individual animal or group of animals, diagnosis,
100 or treatment.

101 (17) “Gross negligence” means a gross, serious or grave degree of negligence as compared
102 to less serious or more ordinary acts of negligence.

103 (18) “Informed consent” means the veterinarian has informed the client or the client’s
104 authorized representative, in a manner understood by the client or representative, of the diagnostic
105 and treatment options, risk assessment, and prognosis, and the client has consented to the
106 recommended treatment.

107 (19) “License” means a credential issued to a person by the board signifying the person has
108 met the requirements of ss. 89.06 (1), 89.06 (2m) (a), or 89.072, Stats., to practice veterinary
109 medicine in this state.

110 (20) “NAVLE” means the north American veterinary licensing examination.

111 (21) “Patient” means an animal that is examined or treated by a veterinarian.

112 (22) “Post graduate training permit” means a credential issued to a person by the board
113 allowing the permit holder to practice veterinary medicine on privately owned animals only within
114 the scope of the permittee’s internship or residency program at a school of veterinary medicine in
115 this state.

116 (23) “Preceptor” means a veterinarian who agrees to supervise a holder of a temporary
117 veterinary permit.

118 (24) “Standard of care” means diagnostic procedures and modes of treatment considered
119 by the veterinary profession to be within the scope of current, acceptable veterinary medical
120 practice.

121 (25) “Supervision” means available at all times for consultation, either in person or within
122 15 minutes of contact by telephone, by video conference or by electronic communications device,
123 except where other provisions are specified in rule.

124 (26) “Surgery” means any procedure in which the skin or tissue of the patient is penetrated
125 or severed but does not include any of the following:

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

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

128 2. Subcutaneous insertion of a microchip for identifying an animal.

129 3. Ear tag or tattoo placement for identifying an animal.

130 4. Euthanasia by injection.

131 (b) Activities considered the practice of veterinary medicine, but which a veterinarian may
132 delegate to a certified veterinary technician, as specified in s. VE 1.44 (5) and (6), as follows:

- 133 1. Simple dental extractions that require minor manipulation and minimal elevation.
- 134 2. Administration of injections, including local and general anesthesia.
- 135 3. Sample collection via a cystocentesis procedure.
- 136 4. Placement of intravenous and arterial catheters.
- 137 5. Suturing of tubes and catheters.
- 138 6. Fine needle aspirate of a mass.
- 139 7. Performing amniocentesis, embryo collection and transfer, follicular aspiration, and
- 140 transvaginal oocyte collection and recovery on livestock.

141 (27) “Telehealth” means the collection of technology tools used to remotely deliver virtual
142 veterinary medical, health, and education services, allowing a veterinarian to deliver enhanced
143 care and education.

144 (28) “Telemedicine” means the remote delivery of veterinary healthcare services, such as
145 health assessments or consultations, over the telecommunications infrastructure, allowing a
146 veterinarian to evaluate, diagnose and treat patients without the need for an in-person visit.

147 (29) “Tele-triage” means emergency animal care, including animal poison control services,
148 for immediate, potentially life-threatening animal health situations, including poison exposure
149 mitigation, animal CPR instructions, and other critical lifesaving treatment or advice that may be
150 performed within or outside of a VCPR.

151 (30) “Temporary veterinary permit” means a credential issued to a person who has
152 qualified to take the NAVLE, is enrolled to take the next examination, and who shall be employed
153 to practice veterinary medicine under the supervision of a preceptor.

154 (31) “Unlicensed assistant” means a person working under the supervision of a
155 veterinarian, but not holding a license, permit, or certificate issued by the board.

156 (32) “VCPR” means a veterinarian–client–patient relationship and has the meaning set
157 forth at s. 89.02 (8), Stats.

158 (33) “Veterinary consulting permit” means a credential issued by the board to a
159 veterinarian, licensed to practice veterinary medicine in another jurisdiction, allowing the
160 veterinarian to practice veterinary medicine in a consulting capacity in Wisconsin for up to 60 days
161 in a calendar year.

162 (34) “Veterinary prescription drug” has the meaning set forth at s. 89.02 (11), Stats.

163 (35) “Veterinary student” means a person enrolled in an approved veterinary college in a
164 curriculum leading to a doctor of veterinary medicine degree.

165 **Subchapter II – Examinations**

166 **VE 1.04 Administration.** (1) The board or its designee shall administer the examinations
167 required of applicants for licensure as a veterinarian by s. VE 1.12 and of applicants for
168 certification as a veterinary technician by s. VE 2.04 at least once each year.

169 (2) Prior to November 1, 2000, the board shall accept as its licensure examinations the
170 national board examination and the clinical competency test. On and after November 1, 2000, the
171 board shall accept as its licensure examination the NAVLE.

172 (3) The board or its designee shall provide an examination admission document to the
173 applicant. The applicant shall present the admission document with any required identification at
174 the examination.

175 (4) The board or its designee shall provide rules of conduct at the beginning of the
176 examination. Time limits may be placed on each portion of the examination.

177 (5) The board may deny release of grades or issuance of a license or certificate if the board
178 determines that the applicant violated rules of conduct or otherwise acted dishonestly.

179 Note: Qualified applicants with disabilities shall be provided with reasonable
180 accommodations.

181 **VE 1.06 Competency tested.** (1) Examinations administered under this chapter test entry
182 level competency and seek to determine that an applicant's knowledge of animals and their
183 treatment is sufficient to protect public health and safety.

184 (2) The board shall furnish to individuals, upon request, general information describing
185 the competencies upon which the examination is based.

186 **VE 1.08 Passing scores.** (1) Passing scores for veterinary applicants for the national board
187 examination and the clinical competency test, and for the NAVLE, shall be based on the board's
188 determination of the level of examination performance required for minimum acceptable
189 competence in the profession. The board shall make the determination, after consulting with
190 subject matter experts who have reviewed a representative sample of the examination questions
191 and available candidate performance statistics, and set the passing score for the examination at the
192 point representing the minimum acceptable competence in the profession. The board may accept
193 any recommendation of the national examination provider.

194 (2) The passing score for an examination on state laws and rules related to the practice of
195 veterinary medicine shall be based on the board's determination of the level of examination
196 performance required for minimum acceptable competence in the profession. The board shall make
197 the determination, after consulting with subject matter experts who have reviewed a representative
198 sample of the examination questions and available candidate performance statistics, and set the
199 passing score for the examination at the point representing the minimum acceptable competence
200 in the profession.

201 **VE 1.10 Claim of examination error.** (1) An applicant wishing to claim examination
202 error shall file a written request for board review in the board office within 30 days of the date the
203 examination was reviewed. The request shall include all of the following:

204 (a) The applicant's name and address.

205 (b) The type of license for which the applicant applied.

206 (c) A description of the mistakes the applicant believes were made in the examination
207 content, procedures, or scoring, including the specific questions or procedures claimed to be in
208 error.

209 (d) The facts which the applicant intends to prove, including reference text citations or
210 other supporting evidence for the applicant's claim.

211 (2) The board shall review the claim, make a determination of the validity of the objections
212 and notify the applicant in writing of the board's decision and any resulting grade changes.

213 (3) If the board confirms the failing status following its review, the application shall be
214 deemed incomplete, and the applicant may be reexamined under s. VE 1.04.

215 **Subchapter III – Licensure**

216 **VE 1.12 License exemptions.** No veterinary license or permit is required for the following
217 veterinarians:

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

219 (2) Employees of an educational or research institution while engaged in teaching or
220 research, except if employed by a school of veterinary medicine in this state and the employee
221 practices veterinary medicine on privately owned animals.

222 (3) Graduates of schools outside the United States and Canada who are enrolled in the
223 educational commission for foreign veterinary graduates certification program of the AVMA or

224 the program for the assessment of veterinary education equivalence offered by the American
225 Association of Veterinary State Boards while completing the required year of clinical assessment
226 under the supervision of a veterinarian.

227 **VE 1.14 Qualifications for licensure; all applicants.** The board may issue a license to
228 practice veterinary medicine to an applicant who satisfies all of the following:

229 (1) Submits an application form provided by the board which includes the applicant's
230 notarized signature.

231 Note: Applications are available upon request to the board office located at 2811
232 Agriculture Drive, P.O. Box 8911, Madison, WI 53708-8911 or at the website at
233 www.datcp.wi.gov.

234 (2) Successfully completes an examination on state laws and rules related to the practice
235 of veterinary medicine.

236 (3) Provides proof of graduation through one of the following means:

237 (a) A certificate of graduation from a veterinary college which shall be signed and sealed
238 by the dean of the school and submitted directly to the board by the school. The certificate may be
239 sent by electronic means if the seal is visible.

240 (b) Certification of graduation provided by the American Association of Veterinary State
241 Boards.

242 (4) Does not have a conviction record or pending criminal charge relating to an offense the
243 circumstances of which substantially relate to the practice of veterinary medicine. An applicant
244 who has a conviction record or pending criminal charge shall request appropriate authorities to
245 provide information about the record or charge directly to the board in sufficient specificity to

246 enable the board to make a determination whether the record or charge substantially relates to the
247 practice of veterinary medicine.

248 (5) Provides all documents in English.

249 (6) Satisfies the requirements for either licensure by examination or licensure by
250 endorsement. Applicants who have never previously been licensed in any jurisdiction must apply
251 by examination. Applicants who have previously been licensed in Wisconsin or any other
252 jurisdiction must apply by endorsement.

253 **VE 1.16 Qualifications for licensure by examination.** Applicants for licensure by
254 examination shall satisfy all of the following:

255 (1) Prior to November 1, 2000, passes the national board examination and clinical
256 competency test. On or after November 1, 2000, passes the NAVLE.

257 (2) For applicants who graduated from a veterinary college which is not board approved,
258 provide proof of graduation required under sub (4), and evidence of successful completion of either
259 the educational commission for foreign veterinary graduates certification program or the program
260 for the assessment of veterinary education equivalence offered by the American Association of
261 Veterinary State Boards which shall be submitted directly to the board by the AVMA or the
262 American Association of Veterinary State Boards.

263 (3) Pay the nonrefundable application fee of \$115.

264 **VE 1.18 Qualifications for licensure by endorsement.** Applicants for licensure by
265 endorsement shall satisfy all of the following:

266 (1) The applicant has not previously failed, and then not subsequently passed, the
267 examinations required under s. VE 1.14 (1).

268 (2) The applicant holds a current license to practice veterinary medicine in another state or
269 U.S. territory or province of Canada.

270 (3) The applicant has satisfied the qualifications for licensure, in s. VE 1.14 (1), within the
271 last 5 years or has actively practiced for 4000 hours during the 5 years preceding application.

272 (4) For an applicant holding a current unrestricted license to practice veterinary medicine
273 in a country other than the United States or Canada, who is not a graduate of an approved veterinary
274 college, in addition to the requirements of subsections (2) – (4), submit evidence that the applicant
275 has successfully completed either the certification program of the educational commission for
276 foreign veterinary graduates of the AVMA or the program for the assessment of veterinary
277 education equivalence offered by the American Association of Veterinary State Boards.

278 (5) For an applicant holding a current unrestricted license to practice veterinary medicine
279 in a country other than the United States or Canada, who is a graduate of a school of veterinary
280 medicine approved by the board, in addition to the requirements of subsections (2) – (4), submit
281 the following:

282 (a) Evidence satisfactory to the board that the requirements for initial licensure in the
283 country where the applicant was originally licensed, including examination requirements, are
284 substantially equivalent to the requirements for graduates of schools of veterinary medicine
285 approved by the board who are seeking initial licensure in this state; or

286 (b) Before November 1, 2000, evidence that the applicant has successfully completed the
287 national board examination and the clinical competency test. On or after November 1, 2000,
288 evidence that the applicant has successfully completed the NAVLE.

289 (6) Provides verification of licensure records and status which has been sent directly to the
290 board by every state or country in which the applicant has ever held a license or certificate to
291 practice veterinary medicine.

292 (7) Pays the nonrefundable application fee of \$185.

293 **VE 1.20 Licensure review by board.** The board shall review the application and
294 determine eligibility for licensure if any of the following apply:

295 (1) The applicant has a conviction record or pending criminal charge relating to an offense
296 the circumstances of which substantially relate to the practice of veterinary medicine.

297 (2) The applicant has been disciplined by the veterinary licensing authority in any other
298 state, territory or country.

299 (3) The applicant is a party in pending litigation in which it is alleged that the applicant is
300 liable for acts committed in the course of practice which evidence a lack of ability or fitness to
301 practice, as determined by the board.

302 (4) The applicant is currently under investigation by another veterinary licensing authority,
303 for acts, related to the license to practice veterinary medicine, which may provide a basis for
304 disciplinary action in this state, as determined by the board.

305 (5) The applicant has been found liable for damages for acts committed in the course of
306 practice of veterinary medicine which evidenced a lack of ability or fitness to practice, as
307 determined by the board.

308 (6) The applicant has had United States drug enforcement administration privileges
309 restricted or revoked.

310 (7) The applicant has had physical or mental impairment, including impairment related to
311 drugs or alcohol, which is reasonably related to the applicant's ability to adequately undertake the
312 practice of veterinary medicine in a manner consistent with the safety of a patient or the public.

313 **VE 1.22 Fees for service members, former services members, their spouses.** A person
314 applying for a reciprocal credential under s. 89.073, Stats., shall pay one of the following
315 nonrefundable fees as applicable:

316 (1) \$40 for a service member or former service member.

317 (2) \$141 for a spouse as defined by s. 89.073 (1) (c).

318 **VE 1.24 Issuing a license.** (1) The board shall review its records to determine eligibility
319 of the applicant for licensure. Within 30 business days of determining an applicant is eligible for
320 licensure, the board shall issue a license to the applicant.

321 (2) The board shall inquire as to whether the applicant is competent to practice as a
322 veterinarian in this state and shall impose any reasonable conditions in issuing the license,
323 including reexamination, as the board deems appropriate, if any of the following apply:

324 (a) The applicant has not previously been licensed in any jurisdiction and passed the
325 NAVLE more than 5 years ago.

326 (b) The applicant was previously licensed in Wisconsin or another jurisdiction and has not
327 been licensed in any jurisdiction for more than 5 years.

328 (c) The board has reviewed the application under any provision in s. VE 1.18.

329 **VE 1.26 Administrative fees.** (1) A person requesting a printed license shall pay a
330 nonrefundable fee of \$10.

331 (2) A person requesting verification of licensure to other states shall pay a nonrefundable
332 fee of \$10.

333 **VE 1.28 Renewal of license.** A license expires if not renewed by January 1 of even-
334 numbered years. A licensee who allows the license to expire may apply to the board for renewal
335 of the license as follows:

336 (1) If the licensee applies for renewal of the license less than 5 years after its expiration,
337 the license shall be renewed upon payment of the renewal fee and fulfillment of 30 hours of
338 continuing education required under s. VE 1.30.

339 (2) If the licensee applies for renewal of the license 5 or more years after its expiration, in
340 addition to requiring the licensee to pay the renewal fee, and to fulfill the continuing education
341 hours required under s. VE 1.30, the board shall inquire as to whether the applicant is competent
342 to practice as a veterinarian in this state and shall impose any reasonable conditions on
343 reinstatement of the license, including reexamination, as the board deems appropriate. An
344 applicant under this subsection is presumed to be competent to practice as a veterinarian in this
345 state if at the time of application for renewal the applicant holds a full unexpired license issued by
346 a similar licensing board of another state or territory of the United States or of a foreign country
347 or province whose standards, in the opinion of the board, are equivalent to or higher than the
348 requirements for licensure in this state. Notwithstanding any presumption of competency under
349 this subsection, the board shall require each applicant under this subsection to pass the examination
350 specified under s. VE 1.12 (2).

351 (3) The licensee shall pay a nonrefundable renewal fee of \$160.

352 (4) A licensee who submits a license renewal after January 1 of even numbered years shall
353 pay, in addition to the renewal fee under sub. (3), a nonrefundable late fee of \$25.

354 **VE 1.30 Continuing education; requirements.** (1) (a) Except as provided in subs. (2) and
355 (3), a veterinarian shall complete at least 30 hours of continuing education pertinent to veterinary

356 medicine in each biennial renewal period. The 30 hours of continuing education shall include at
357 least 25 hours of continuing education that relates to scientific topics pertinent to veterinary
358 medicine.

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

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

363 (2) Subsection (1) does not apply to an applicant who applies to renew a license that expires
364 on the first expiration date after the initial issuance of the license.

365 (3) The board may waive the requirements, under sub. (1), if it finds that exceptional
366 circumstances, such as prolonged illness, disability, or other similar circumstances, have prevented
367 an applicant from meeting the requirements.

368 (4) Continuing education hours shall be completed during the preceding 2-year licensure
369 period.

370 (5) To obtain credit for completion of continuing education hours, a licensee shall, at the
371 time of each renewal, sign a statement saying that he or she has completed, during the preceding
372 2-year licensure period, the continuing education programs required under sub. (1).

373 (6) A veterinarian who fails to complete the continuing education requirements by the
374 renewal date shall not practice as a veterinarian until his or her certificate is renewed.

375 (7) For auditing purposes, every veterinarian shall maintain records of continuing
376 education hours for at least 5 years from the date the certification statement required under sub (5)
377 is signed. The board may audit for compliance by requiring a veterinarian to submit evidence of
378 compliance to the board for the biennium immediately preceding the biennium in which the audit

379 is performed. Documentation of completion of continuing education hours shall include one of the
380 following:

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

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

383 (c) A copy of a published work authored or co-authored by the licensee.

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

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

388 **VE 1.32 Continuing education; programs and courses.** (1) **CRITERIA FOR**
389 **PROGRAMS AND COURSE APPROVAL.** To be approved, a continuing education program or
390 course shall meet the following criteria:

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

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

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

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

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

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

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

406 (d) Authorship or co-authorship of a published work, such as review articles, abstracts,
407 presentations, proceedings, book chapters, and web-based continuing education materials shall be
408 approved for 5 hours each.

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

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

413 (g) Up to 15 hours per biennium shall be granted for a combination of continuing education
414 hours completed under pars. (d) to (f), provided the continuing education is published or presented
415 under the auspices of a provider approved under sub. (4).

416 (h) On-line, video, audio, correspondence courses, or other interactive distance learning
417 courses pertinent to veterinary medicine, or to employment as a veterinarian.

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

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

- 424 (b) A federal or state agency.
- 425 (c) An accredited college or university.
- 426 (d) An association listed in the AVMA or the National Association of Veterinary
427 Technicians in America directory.
- 428 (e) An AVMA accredited veterinary school or veterinary technician program.
- 429 (f) A program approved by the American Association of Veterinary State Boards through
430 its Registry of Approved Continuing Education approval program.
- 431 (g) A foreign veterinary medical or veterinary technician association, an accredited college
432 or university, or a governmental agency that is, as determined by the board comparable to a
433 program provider listed under pars. (a) to (f).

434 **Subchapter IV – Permits**

435 **VE 1.34 Temporary veterinary permits.** (1) An applicant may be granted a temporary
436 veterinary permit before the board receives notice of successful completion of the NAVLE or the
437 examination on state laws and rules related to the practice of veterinary medicine, if the applicant
438 provides evidence that the applicant is either scheduled to take the examination for the first time,
439 or is awaiting results of the examination.

440 (2) An applicant shall complete an application for temporary veterinary permit and submit
441 the nonrefundable fee of \$10.

442 (3) The board shall receive written verification of employment signed and sent directly to
443 the board by the preceptor.

444 (4) The application and verification required by subs. (2) and (3) shall be received by the
445 board office at least 2 weeks prior to the date the applicant intends to begin work.

446 (5) In order to provide supervision for a holder of a temporary veterinary permit, a
447 preceptor shall do all of the following:

448 (a) Delegate only those tasks commensurate with demonstrated abilities of the temporary
449 veterinary permit holder.

450 (b) Be available for direct communication with the temporary veterinary permit holder
451 when the temporary veterinary permit holder is providing veterinary services. Direct
452 communication shall be in person, by telephone, video conference, or electronic communication
453 device.

454 (6) A temporary veterinary permit shall expire upon any of the following:

455 (a) Notification of failure of any examination.

456 (b) Failure to take the next scheduled examination.

457 (c) Issuance of a license.

458 (d) Denial of a license.

459 (7) An applicant may be granted a temporary veterinary permit only once.

460 (8) Any change or addition of preceptor shall be reported to the board by filing a new
461 verification as specified in sub. (3).

462 (9) Within 30 business days of determining an applicant is eligible for a temporary permit,
463 the board shall issue a permit to the applicant. Notification of issuance shall also be sent to the
464 preceptor.

465 **VE 1.36 Veterinary consulting permits.** (1) The board may issue a veterinary consulting
466 permit to practice veterinary medicine in this state to a person holding a license to practice
467 veterinary medicine in another state or territory of the U.S. or in another country, provided the
468 license is in good standing in the other jurisdiction, and a veterinarian has requested a consultation.

469 (2) A veterinary consulting permit may be used up to 60 total days per calendar year.

470 (3) The veterinary consulting permit shall expire on December 31 of each year or on the
471 60th day of use in a calendar year. The holder of a consulting permit may apply for a new permit
472 for a subsequent year by completing the application procedure specified in s. VE 1.36.

473 (4) An applicant for a veterinary consulting permit shall file a completed application with
474 the board. All supporting documents shall be provided in English. An application is not complete
475 until the board receives all of the following:

476 (a) An application form provided by the board and completed by the applicant which
477 includes the applicant's notarized signature.

478 Note: Applications are available upon request to the board office located 2811 Agriculture
479 Drive, P.O. Box 8911, Madison, WI 53708-8911.

480 (b) The required nonrefundable fee of \$160.

481 (c) Verification of licensure records and status which has been sent directly to the board by
482 every state or country in which the applicant has ever held a license or certificate to practice
483 veterinary medicine.

484 (d) Written verification from a veterinarian that a consultation is being sought.

485 (5) A veterinary consulting permit shall automatically expire upon notice to the board that
486 the consultation has been completed.

487 (6) After hearing, a veterinary consulting permit may be denied, suspended, limited or
488 revoked, or the permittee may be reprimanded, for any of the following reasons:

489 (a) Revisiting the patient or client or communicating directly with the client without the
490 knowledge of the attending veterinarian.

491 (b) Taking charge of a case or problem without the consent of the attending veterinarian
492 and the client.

493 (c) Violating any law or rule related to the practice of veterinary medicine.

494 **Subchapter V – Practice Related to Veterinary Schools**

495 **VE 1.38 Faculty license.** (1) APPLICATION. An applicant for a faculty license shall file a
496 completed application with the board. All supporting documents shall be submitted in English. An
497 application is not complete until the board receives all of the following:

498 (a) An application form provided by the board and completed by the applicant, which
499 includes the applicant's notarized signature.

500 Note: Applications are available upon request to the board office located at 2811
501 Agriculture Drive, P.O. Box 8911, Madison, Wisconsin 53708-8911.

502 (b) The required nonrefundable fee of \$185.

503 (c) Verification of employment by a school of veterinary medicine in this state which has
504 been submitted directly to the board by the dean of the school.

505 (d) Proof of graduation through one of the following means:

506 1. A certificate of graduation from an approved veterinary college signed and sealed by the
507 dean of the school submitted directly to the board by the school, or evidence of substantially
508 equivalent qualifications.

509 2. Certification of graduation provided by the American Association of Veterinary State
510 Boards.

511 (e) Successful completion of an examination on state laws and rules related to the practice
512 of veterinary medicine.

513 (2) DISCIPLINARY ACTION. A faculty license may be denied, suspended, limited or revoked,
514 or the licensee may be reprimanded, for the following reasons:

515 (a) Violation of any law or regulation substantially related to the practice of veterinary
516 medicine; or

517 (b) Engaging in the practice of veterinary medicine in this state outside the scope of
518 employment unless licensed to do so.

519 (3) EXPIRATION. The faculty license expires upon termination of the faculty employee's
520 employment with the school of veterinary medicine, as reported by the dean of the school of
521 veterinary medicine.

522 **VE 1.40 Post graduate training permit.** (1) An applicant for a post graduate training
523 permit under s. 89.06 (2m) (b), Stats., shall file a completed application with the board. All
524 supporting documents shall be provided in English. An application shall not be considered
525 complete until the board receives all of the following:

526 (a) An application form provided by the board and completed by the applicant, including
527 the applicant's notarized signature.

528 Note: Applications are available upon request to the board office located at 2811
529 Agriculture Drive, P.O. Box 8911, Madison, Wisconsin 53708-8911.

530 (b) Evidence that the applicant has received a degree from a school of veterinary medicine
531 or an equivalent degree.

532 (c) The required nonrefundable fee of \$100.

533 (d) Verification that the applicant is undertaking intern or resident training at a school of
534 veterinary medicine in this state. Verification shall consist of certification signed and sealed by the
535 dean of the school and submitted directly to the board by the school.

536 (2) An applicant for a post graduate training permit shall successfully complete an
537 examination on state laws and rules related to the practice of veterinary medicine before a permit
538 may be issued.

539 (3) A post graduate training permit may be denied, suspended, limited or revoked, or the
540 licensee may be reprimanded, for the following reasons:

541 (a) Violation of any law or regulation substantially related to the practice of veterinary
542 medicine; or

543 (b) Engaging in the practice of veterinary medicine in the State of Wisconsin outside the
544 scope of the training program unless licensed to do so.

545 (4) The post graduate training permit expires upon termination of the permittee's
546 internship or residency program, as reported by the dean of the school of veterinary medicine.

547 **VE 1.42 Veterinary students.** (1) A veterinary student may practice veterinary medicine
548 within the school of veterinary medicine pursuant to standards and supervisory protocols
549 established by the school.

550 (2) A veterinary student may perform delegated veterinary acts outside of the school
551 setting as set forth under s. VE 1.44 (1), (3), and (9).

552 **Subchapter VI – Standards of Practice and Unprofessional Conduct**

553 **VE 1.44 Delegation of veterinary medical acts.** (1) In delegating the provision of
554 veterinary medical acts to veterinary students, certified veterinary technicians and others, the
555 veterinarian shall do all of the following:

556 (a) Delegate only those tasks commensurate with the education, training, experience and
557 demonstrated abilities of the person supervised.

558 (b) Provide the supervision required under subs. (2) to (8).

559 (c) Where the veterinarian is not required to be personally present on the premises where
560 the delegated services are provided, be available at all times for consultation either in person or
561 within 15 minutes of contact by telephone, by video conference or by electronic communication
562 device.

563 (d) Observe and monitor the activities of those supervised on a daily basis.

564 (e) Evaluate the effectiveness of delegated acts performed under supervision on a daily
565 basis.

566 (f) Establish and maintain a daily log of each delegated patient service which has been
567 provided off the premises of the supervising veterinarian.

568 (g) Notify the client that some services may be provided by a veterinary student, certified
569 veterinary technician or an unlicensed assistant.

570 (2) The following acts are limited to those holding a license under s. 89.06 (1), 89.06 (2m)
571 (a), or 89.072, Stats.; a permit under s. VE 1.36, 1.38, or 1.40; or active status as a student at a
572 college of veterinary medicine approved by the board, and may not be delegated to or performed
573 by veterinary technicians or other persons not holding such license or permit:

574 (a) Diagnosis and prognosis of animal diseases and conditions.

575 (b) Prescribing of drugs, medicines, treatments and appliances.

576 (c) Performing surgery.

577 (3) Except as provided under s. 95.21 (2), Stats., veterinarians may delegate to veterinary
578 students the provision of veterinary medical services under the supervision of the veterinarian
579 when the veterinarian is personally present on the premises where the services are provided.

580 (4) Except as provided under s. 95.21 (2), Stats., veterinarians may delegate to certified
581 veterinary technicians the provision of the following veterinary medical services under the
582 supervision of the veterinarian:

583 (a) Nonsurgical veterinary treatment of animal diseases and conditions, including
584 administration of vaccines.

585 Note: See s. 95.21 (2) (a), Stats., for the delegation of rabies vaccinations.

586 (b) Observations and findings related to animal diseases and conditions to be utilized by a
587 veterinarian in establishing a diagnosis or prognosis, including routine radiographs, nonsurgical
588 specimen collection, drawing of blood for diagnostic purposes, and laboratory testing procedures.

589 (c) Administration of sedatives and presurgical medications.

590 (d) Nutritional evaluation and counseling.

591 (e) Except to certified veterinary technicians who are also licensed professionals governed
592 by the provisions in s. VE 1.48, the provision of any complementary, alternative, or integrative
593 therapy, as defined in s. VE 1.02 (8).

594 (5) Veterinarians may delegate to certified veterinary technicians the provision of the
595 following veterinary medical services under the supervision of the veterinarian when the
596 veterinarian is available to communicate via telehealth technologies within 5 minutes or the
597 veterinarian is personally present on the premises where the services are provided:

598 (a) Performing diagnostic radiographic awake contrast studies not requiring general
599 anesthesia.

600 (b) Sample collection via cystocentesis procedure.

601 (c) Placement of intravenous catheters.

602 (d) Suturing of tubes and catheters.

603 (f) Fine needle aspirate of a mass.

604 (6) Veterinarians may delegate to certified veterinary technicians the provision of the
605 following veterinary medical services under the supervision of the veterinarian when the
606 veterinarian is personally present on the premises where the services are provided:

607 (a) Administration of local or general anesthesia, including induction and monitoring.

608 (b) Performing diagnostic radiographic contrast studies, including those requiring general
609 anesthesia.

610 (c) Dental prophylaxis and simple extractions that require minor manipulation and minimal
611 elevation.

612 (d) Placement of arterial catheters.

613 (e) Performing amniocentesis, embryo collection and transfer, follicular aspiration, and
614 transvaginal oocyte collection and recovery on livestock.

615 (7) Veterinarians may delegate to unlicensed assistants the provision of the following
616 veterinary medical services under the supervision of the veterinarian:

617 (a) Basic diagnostic studies, including routine radiographs, nonsurgical specimen
618 collection, and laboratory testing procedures.

619 (b) Monitoring and reporting to the veterinarian changes in the condition of a hospitalized
620 animal patient.

621 (c) Dispensing prescription drugs pursuant to the written order of the veterinarian.

622 (8) Except as provided under s. 95.21, Stats., veterinarians may delegate to unlicensed
623 assistants the provision of the following veterinary medical services under the supervision of the
624 veterinarian when the veterinarian is personally present on the premises where the services are
625 provided:

626 (a) Nonsurgical veterinary treatment of animal diseases and conditions, including
627 administration of vaccines, and administration of sedatives and presurgical medications.

628 (b) Observations and findings related to animal diseases and conditions to be utilized by a
629 veterinarian in establishing a diagnosis or prognosis, including the drawing of blood for diagnostic
630 purposes.

631 (c) Dental prophylaxis.

632 (d) Nutritional evaluation and counseling.

633 (e) Placement of intravenous catheters.

634 (9) Notwithstanding subs. (1) to (8), a veterinary student, certified veterinary technician
635 or unlicensed assistant employed by a veterinarian may, under the supervision of the veterinarian
636 and pursuant to mutually acceptable written protocols, perform evaluative and treatment
637 procedures necessary to provide an appropriate response to life-threatening emergency situations
638 for the purpose of stabilizing the patient pending further treatment.

639 **VE 1.46 Veterinary consulting.** (1) A consulting veterinarian or other consultant may not
640 do any of the following:

641 (a) Visit the patient or client or communicate directly with the client without the knowledge
642 of the attending veterinarian.

643 (b) Take charge of a case or problem without the consent of the attending veterinarian and
644 the client.

645 Note: The VCPR, as defined in s. 89.02 (8), Stats., remains with the attending veterinarian.

646 (2) Subs. (1) does not apply to other veterinarians or relief veterinarians licensed by the
647 board, practicing with the attending veterinarian, who have access to, and have reviewed, the
648 medical history and records of the animal.

649 **VE 1.48 Veterinary referral to a license holder in another profession.** (1) A veterinarian
650 may make a referral to a client, for treatment of a patient by a license holder in another profession,
651 using complimentary, alternative, or integrative therapies, as defined in s. VE 1.02 (8), if the
652 license holder, to whom the client and patient are referred, provides all of the following evidence
653 to the veterinarian for performing the type of therapy for which the referral is being made:

654 (a) The license holder's current licensing in good standing, with the applicable board
655 through the department of safety and professional services.

656 (b) The license holder's education, training, and experience in performing the therapy on
657 an animal.

658 (2) The VCPR, as defined in s. 89.02 (8), Stats., does not extend to the provision of any
659 complementary, alternative, or integrative therapy performed on a veterinarian's patient, under
660 either of the following circumstances:

661 (a) The therapy is performed by a license holder in another profession, where the
662 veterinarian demonstrates meeting the requirements, in sub (1), for making the referral to the
663 license holder.

664 (b) The veterinarian's client obtains any complementary, alternative, or integrative therapy
665 services for a veterinarian's patient without a referral by the veterinarian.

666 **VE 1.50 Veterinary telehealth.**

667 (1) The practice of veterinary medicine takes place where the animal is located at the time
668 of practice, in accordance with ss. 89.05 (1) and 89.02 (6), Stats.

669 (2) In order to practice veterinary telemedicine in Wisconsin, a veterinarian must be
670 licensed in Wisconsin and have an established VCPR with the client. A VCPR must be established

671 via an in-person physical exam, or timely medically appropriate visits to the premises on which
672 the patient is kept. The VCPR may not be established by telehealth technologies.

673 (3) The VCPR, once established, extends to other veterinarians or relief veterinarians
674 licensed by the board, who are practicing with the attending veterinarian, and who have access to,
675 and have reviewed, the medical history and records of the animal.

676 (4) Telehealth records must be kept in accordance with this chapter.

677 (5) In accordance with s. 89.02 (8) (c), Stats., an animal owner must be able to easily seek
678 follow-up care or information from the veterinarian who conducts an encounter while using
679 telehealth technologies.

680 (6) A veterinarian using telehealth technologies is required to follow all applicable
681 requirements of this chapter.

682 **VE 1.52 Records.** (1) A veterinarian shall maintain individual patient records on every
683 patient administered to by the veterinarian other than food and fiber patients and equine patients
684 for a period of not less than 3 years after the date of the last entry. The veterinarian shall keep
685 individual client records for equine and food and fiber patients for 3 years after the date of the last
686 entry. A computerized system may be used for maintaining a record, as required under this section,
687 if the system is capable of producing a printout of records contained in such system within 48
688 hours of a request.

689 (2) The individual patient record shall contain clinical information pertaining to patients
690 other than food and fiber patients and equine patients with sufficient information to justify the
691 diagnosis and warrant treatment, including information regarding each of the following matters
692 which apply:

693 (a) Date.

- 694 (b) Client name.
- 695 (c) Patient identification.
- 696 (d) History.
- 697 (e) Complaint.
- 698 (f) Present illness.
- 699 (g) Provisional diagnosis.
- 700 (h) Physical examination findings.
- 701 (i) Record of client's informed consent by signature and date or other specified means.
- 702 (j) Treatment — medical, surgical.
- 703 (k) Vaccinations administered.
- 704 (L) Drugs prescribed, dispensed or administered, including strength or concentration, route
705 of administration, dosing schedule, number dispensed and number of refills allowed.
- 706 (m) Final diagnosis.
- 707 (n) Consultation, if any.
- 708 (o) Clinical laboratory reports.
- 709 (p) Radiographic reports.
- 710 (q) Necropsy findings.
- 711 (r) Identification of the veterinarian providing the care.
- 712 (3) The client record for food and fiber patients shall contain at least the following
713 information which apply:
- 714 (a) Date.
- 715 (b) Client name.
- 716 (c) Type of call.

- 717 (d) Individual or herd diagnosis.
- 718 (e) Record of client's informed consent by signature and date or other specified means.
- 719 (f) Treatment and drugs used including amounts of drugs administered and method of
720 administration.
- 721 (g) Drugs dispensed including dosing schedule and number dispensed.
- 722 (h) Meat or milk withholdings.
- 723 (i) Clinical laboratory reports.
- 724 (j) Identification of the veterinarian providing the care.
- 725 (4) The client record for equine patients shall contain at least the following information
726 which applies:
- 727 (a) Date.
- 728 (b) Client name.
- 729 (c) Patient identification.
- 730 (d) History.
- 731 (e) Physical examination findings.
- 732 (f) Diagnosis.
- 733 (g) Record of client's informed consent by signature and date or other specified means.
- 734 (h) Treatment-medical, surgical.
- 735 (i) Treatment and drugs used including amount of drugs administered and method of
736 administration.
- 737 (j) Drugs dispensed including dosing schedule and number dispensed.
- 738 (k) Clinical laboratory reports.
- 739 (L) Radiographic reports.

740 (m) Necropsy findings.

741 (n) Identification of the veterinarian providing the care.

742 (5) A veterinarian shall provide access to health care records in accordance with s. 89.075,
743 Stats.

744 **VE 1.54 Change of name and address.** Every veterinarian shall notify the board of a
745 change of name or address within 30 days.

746 **VE 1.56 Display of license.** Each veterinarian shall display a current license in a manner
747 conspicuous to the public view, and shall at all times have evidence of licensure available for
748 inspection when practicing at a remote location.

749 **VE 1.58 Unprofessional conduct.** Unprofessional conduct by a veterinarian is
750 prohibited. Unprofessional conduct includes:

751 (1) Unprofessional conduct under s. 89.07 (1), Stats.

752 (2) Conduct in the practice of veterinary medicine which evidences a lack of knowledge
753 or ability to apply professional principles or skills.

754 (3) Fraud, gross negligence or deception in the practice of veterinary medicine.

755 (4) Being convicted of a crime the circumstances of which substantially relate to the
756 practice of veterinary medicine.

757 (5) Violating or aiding and abetting the violation of any law or administrative rule or
758 regulation substantially related to the practice of veterinary medicine.

759 (6) Advertising in a manner which is false, fraudulent, misleading or deceptive, or
760 knowingly maintaining a professional association with another veterinarian or veterinary firm that
761 advertises in a manner which is false, fraudulent, misleading or deceptive.

762 (7) Having a veterinary license or federal veterinary accreditation limited, suspended or
763 revoked, or having been subject to any other discipline or restriction.

764 (8) Practicing or attempting to practice, while the veterinarian has a physical or mental
765 impairment, including impairment related to drugs or alcohol which is reasonably related to the
766 applicant's ability to adequately undertake the practice of veterinary medicine in a manner
767 consistent with the safety of a patient or the public.

768 (9) The personal use, misuse, or sale, other than for medical treatment of patients, of the
769 drugs listed in the U.S. Controlled Substances Act of 1979, as amended, or ch. 961, Stats., except
770 personal use of drugs prescribed by a physician for individual use by the veterinarian.

771 (10) Prescribing, ordering, dispensing, administering, supplying or giving of any
772 amphetamine, its salts, isomers and salts of its isomers or related sympathomimetic amine drug
773 designated as a Schedule II drug in ch. 961, Stats., except for the treatment of narcolepsy or
774 hyperkinesia in animals who do not respond to other methods of treatment, or for clinical research
775 of these compounds as approved by the board. A written description of the intended research
776 project proposed shall be filed with the board prior to conducting the research.

777 (11) Prescribing or dispensing veterinary prescription drugs to a client without following
778 the requirements in s. 89.068 (1) (c), Stats.

779 (12) Dispensing any veterinary prescription drugs to a person unless the person requests
780 fulfillment of a prescription meeting the requirements of s. 89.068(1) (b), Stats.

781 (13) Failure to include on the label of a prescription drug the generic or brand name of the
782 drug dispensed, the name and address of the clinic or veterinarian dispensing the drug, the
783 directions for use and caution statements required by law. In case of companion animals, the
784 prescription shall bear the name or identification of the patient.

785 (14) Prescribing, ordering, dispensing, administering, supplying or giving any controlled
786 substance solely for training or racing purposes and not for a medically sound reason.

787 (15) Allowing a veterinary student to treat a patient without the veterinarian giving
788 supervision.

789 (16) Failure of the veterinarian to advise the client that the person assisting is a veterinary
790 student or unlicensed assistant.

791 (17) Failure to maintain records as required by s. VE 1.52.

792 (18) Refusal, upon request, to cooperate in a timely manner with the board's investigation
793 of complaints lodged against the veterinarian. Persons taking longer than 30 days to provide
794 requested information shall have the burden of demonstrating that they have acted in a "timely
795 manner."

796 (19) Failure to keep the veterinary facility and all equipment, including mobile units, in a
797 clean and sanitary condition while practicing as a veterinarian.

798 (20) Failure of a veterinarian to permit the board or its agents to enter and inspect the
799 veterinarian's practice facilities, vehicle, equipment and records during office hours and other
800 reasonable hours.

801 (21) Engaging in unsolicited communications to members of the board regarding a matter
802 under investigation by the board other than to the investigative member of the board.

803 (22) Practicing under an expired license.

804 (23) Exceeding the scope of veterinary practice, as defined in s. 89.02 (6), Stats., by
805 providing medical treatment to humans or distributing, prescribing or dispensing for human use
806 prescription drugs, as defined in s. 450.01 (20), Stats., or any drug labelled for veterinary or animal
807 use only.

- 808 (24) Falsely certifying to the board under s. VE 1.30 (5) that the veterinarian:
- 809 (a) Has completed the 30 hours of continuing education required under s. VE 1.30 (1).
- 810 (b) Is exempt under s. VE 1.30 (2) from having to complete the 30 hours of continuing
811 education required under s. VE 1.30 (1).
- 812 (25) Failure to inform a client prior to treatment of the diagnostic and treatment options
813 consistent with the veterinary profession's standard of care and the associated benefits and risks of
814 those options.
- 815 (26) Failure to release a patient's medical records as required by s. 89.075, Stats.
- 816 (27) Advertising a specialty or claiming to be a specialist when not a diplomate of a
817 veterinary specialty organization recognized by the AVMA American Board of Veterinary
818 Specialties or by a foreign veterinary specialty organization which, in the opinion of the board, is
819 equivalent to an AVMA American Board of Veterinary Specialists recognized veterinary specialty
820 organization.
- 821 (28) Failure to provide copies of or information from veterinary records, with or without
822 the client's consent, to the board or to public health, animal health, animal welfare, wildlife or
823 agriculture authorities, employed by federal, state, or local governmental agencies who have a
824 legal or regulatory interest in the contents of said records for the protection of animal or public
825 health.
- 826 **VE 1.60 Board action.** The board may reprimand the licensee or deny, suspend, limit or
827 revoke a veterinary license or permit under this chapter for cause, including any of the following:
- 828 (1) Filing an incomplete or fraudulent application, or misrepresenting any information on
829 an application.
- 830 (2) Violating this chapter or ch. 89, Stats.

831 **SECTION 3.** Chapter VE 2 is created to read:

832 **Chapter VE 2 Veterinary Technicians**

833 Subchapter I – Authority and Definitions

834 VE 2.01 Authority

835 VE 2.02 Definitions

836 Subchapter II – Certification

837 VE 2.04 Certification

838 VE 2.06 Fees for service members, former service members, their spouses

839 VE 2.08 Passing scores

840 VE 2.10 Administrative fees

841 VE 2.12 Renewal of certification

842 VE 2.14 Continuing education; requirements

843 VE 2.16 Continuing education; programs and courses

844 Subchapter III – Standards of Practice and Unprofessional Conduct

845 VE 2.18 Prohibited acts

846 VE 2.20 Change of name and address

847 VE 2.22 Display of certificate

848 VE 2.24 Standards of practice

849 VE 2.26 Unprofessional conduct

850 VE 2.28 Board action

851 **Subchapter I – Authority and Definitions**

852 **VE 2.01 Authority.** The rules in this chapter are adopted by the veterinary examining
853 board pursuant to the authority delegated by ss. 15.08 (5), 89.03 (1), 89.03 (2), and 227.11 (2),
854 Stats.

855 **VE 2.02 Definitions.**

856 (1) “Accredited college or university” means an educational institution that is accredited
857 by a regional or national accrediting agency recognized by the U.S. Department of Education.

858 (2) “Advertising” means to give notice by any means, including but not limited to any
859 circular, card, notice, telephone book listing, magazine, newspaper or other printed material or any
860 electronic medium.

861 (3) “AVMA” means the American veterinary medical association.

862 (4) “Board” means the veterinary examining board.

863 Note: The board office is located at 2811 Agriculture Drive, P.O. Box 8911, Madison,
864 Wisconsin 53708–8911.

865 (5) “Board approved technical school or college” means a technical school or college which
866 the board approves.

867 Note: The board shall consider for approval all schools which are accredited or approved
868 by the American veterinary medical association.

869 (6) “Certificate” means a document issued to a person by the board, after the person has
870 met the requirements of s. 89.06 (3), Stats., signifying that the person has met the statutory
871 requirements to practice veterinary technology in Wisconsin.

872 (7) “Client” means the person who owns or who has primary responsibility for the care of
873 a patient.

874 (8) “Department” means the department of agriculture, trade and consumer protection.

875 (9) “Gross negligence” has the meaning set forth at s. VE 1.02 (18).

876 (10) “Patient” means an animal that is examined or treated by a veterinarian.

877 (11) “Surgery” has the meaning set forth at s. VE 1.02 (27).

878 (12) “VTNE” means the veterinary technician national exam.

879 **Subchapter II – Certification**

880 **VE 2.04 Certification.** (1) The board may issue a certificate to practice as a veterinary
881 technician to an applicant who does all of the following:

882 (a) Submits an application form provided by the board which includes the applicant's
883 notarized signature.

884 Note: Applications are available upon request to the board office located at 2811
885 Agriculture Drive, P.O. Box 8911, Madison, WI 53708-8911 or at the website at
886 www.datcp.wi.gov.

887 (b) Meets the age and training requirements of s. 89.06 (3), Stats.

888 (c) Pays one of the following nonrefundable fees as applicable:

889 1. \$115 for an applicant who has never been credentialed in Wisconsin or another
890 jurisdiction.

891 2. \$185 for an applicant who has previously been credentialed in Wisconsin or another
892 jurisdiction.

893 (d) Has successfully completed both the VTNE and an examination on state laws and rules
894 related to the practice of veterinary technology, the results of which shall be submitted directly to
895 the board by the department's office of examinations or the interstate reporting services.

896 (e) Provides verification of licensure records and status which has been sent directly to the
897 board by every state or country in which the applicant has ever held a license or certificate to
898 practice veterinary technology.

899 Note: The board accepts the classification of “veterinary nurse” in other jurisdictions as
900 equivalent to “veterinary technician.”

901 (f) Does not have a conviction record or pending criminal charge relating to an offense the
902 circumstances of which substantially relate to the practice of veterinary technology. An applicant
903 who has a conviction record or pending criminal charge shall request appropriate authorities to
904 provide information about the record or charge directly to the board in sufficient specificity to
905 enable the board to make a determination.

906 (g) Provides all supporting documents in English.

907 (2) The board shall review its records to determine eligibility of the applicant. Within 30
908 business days of determining an applicant is eligible for certification, the board shall issue a
909 certificate to the applicant.

910 (3) The board the board shall inquire as to whether the applicant is competent to practice
911 as a veterinary technician in this state and shall impose any reasonable conditions on instatement
912 of the certificate, including reexamination, as the board deems appropriate, if any of the following
913 apply:

914 (a) The applicant has not previously been certified in any jurisdiction and passed the VTNE
915 more than 5 years ago.

916 (b) The applicant was previously certified in Wisconsin or another jurisdiction and has not
917 been certified in any jurisdiction for more than 5 years.

918 (c) The applicant has prior discipline or litigation in another jurisdiction.

919 (d) The applicant has pending discipline or litigation in any jurisdiction.

920 **VE 2.06 Fees for service members, former services members, their spouses.** A person
921 applying for a reciprocal credential under s. 89.073, Stats., shall pay one of the following
922 nonrefundable fees as applicable:

923 (1) \$40 for a service member or former service member.

924 (2) \$141 for a spouse as defined by s. 89.073 (1) (c), Stats..

925 **VE 2.08 Passing scores.** (1) The passing score for veterinary technician applicants on the
926 written national examination shall be based on the board's determination of the level of
927 examination performance required for minimum acceptable competence in the profession. The
928 board shall make the determination after consultation with subject matter experts who have
929 reviewed a representative sample of the examination questions and available candidate
930 performance statistics, and shall set the passing score for the examination at that point that
931 represents minimum acceptable competence in the profession. The board may accept the
932 recommendation of the national examination provider.

933 (2) The passing score for an examination on state laws and rules related to the practice of
934 veterinary technology shall be based on the board's determination of the level of examination
935 performance required for minimum acceptable competence in the profession. The board shall make
936 the determination after consultation with subject matter experts who have reviewed a
937 representative sample of the examination questions and available candidate performance statistics,
938 and shall set the passing score for the examination at that point that represents minimum acceptable
939 competence in the profession.

940 **VE 2.10 Administrative fees.** (1) A person requesting a printed license shall pay a
941 nonrefundable fee of \$10.

942 (2) A person requesting verification of licensure to other states shall pay a nonrefundable
943 fee of \$10.

944 **VE 2.12 Renewal of certification.** A certificate expires if not renewed by January 1 of
945 even-numbered years. A certificate holder who allows the certificate to expire may apply to the
946 board for renewal of the certificate as follows:

947 (1) If the certificate holder applies for renewal of the certificate less than 5 years after its
948 expiration, the certificate shall be renewed upon payment of the renewal fee and fulfillment of 15
949 hours of continuing education required under s. VE 2.14.

950 (2) If the certificate holder applies for renewal of the certificate 5 or more years after its
951 expiration, in addition to requiring the certificate holder to pay the renewal fees, and to fulfill the
952 continuing education hours required under s. VE 2.14, the board shall inquire as to whether the
953 applicant is competent to practice as a veterinary technician in this state and shall impose any
954 reasonable conditions on renewal of the certificate including reexamination, as the board deems
955 appropriate. An applicant under this subsection is presumed to be competent to practice as a
956 veterinary technician in this state if at the time of application for renewal the applicant holds a full
957 unexpired certificate issued by a similar licensing board of another state or territory of the United
958 States or of a foreign country or province whose standards, in the opinion of the board, are
959 equivalent to or higher than the requirements for certification in this state. Notwithstanding any
960 presumptions of competency under this subsection, the board shall require each applicant under
961 this subsection to pass the examination specified under s. VE 2.04 (2).

962 (3) The certificate holder shall pay a nonrefundable renewal fee of \$160.

963 (4) A certificate holder who submits a certificate renewal after January 1 of even numbered
964 years shall pay, in addition to the renewal fee under sub. (3), a nonrefundable late fee of \$25.

965 **VE 2.14 Continuing education; requirements.** (1) (a) Except as provided in subs. (2) and
966 (3), a veterinary technician shall complete at least 15 hours of continuing education pertinent to
967 veterinary medicine or veterinary technology in each biennial renewal period. The 15 hours of
968 continuing education shall include all of the following:

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

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

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

975 (2) Subsection (1) does not apply to an applicant who applies to renew a certificate that
976 expires on the first expiration date after the initial issuance of the certificate.

977 (3) The board may waive the requirements under sub. (1) if it finds that exceptional
978 circumstances, such as prolonged illness, disability, or other similar circumstances, have prevented
979 an applicant from meeting the requirements.

980 (4) Continuing education hours shall be completed during the preceding 2-year certification
981 period.

982 (5) To obtain credit for completion of continuing education hours, a certificate holder shall,
983 at the time of each renewal, sign a statement saying that he or she has completed, during the
984 preceding 2-year certification period, the continuing education programs required under sub. (1).

985 (6) A veterinary technician who fails to complete the continuing education requirements
986 by the renewal date shall not practice as a veterinary technician until his or her certificate is
987 renewed.

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

- 994 (a) A certificate of attendance from an approved course provider.
- 995 (b) A grade report or transcript from an accredited college or university.
- 996 (c) A copy of a published work authored or co-authored by the licensee.
- 997 (d) A copy of a meeting syllabus, announcement, abstract or proceeding for a presentation.
- 998 (f) A signed document from an internship or residency institution certifying enrollment in
999 a program.

1000 **VE 2.16 Continuing education; programs and courses.** (1) **CRITERIA FOR**
1001 **PROGRAMS AND COURSE APPROVAL.** To be approved, a continuing education program or
1002 course shall meet the following criteria:

- 1003 (a) The subject matter of the program or course shall be pertinent to veterinary technology.
- 1004 (b) The program or course sponsor agrees to record registration and furnish a certificate of
1005 attendance to each participant.

1006 (2) **UNRELATED SUBJECT MATTER.** If a continuing education course includes subject
1007 matter that is not pertinent to veterinary technology, only those portions of the course that relate
1008 to veterinary technology will qualify as continuing education under this chapter.

1009 (3) **MODALITIES AND METHODS OF DELIVERY.** Modalities and methods of delivery
1010 of continuing education programs acceptable to the board include one or more of the following:

1011 (a) Attendance at a scientific workshop, seminar, or laboratory demonstration pertinent to
1012 veterinary technology.

1013 (b) Enrollment in graduate or other college level courses pertinent to veterinary technology.
1014 Credit for qualified courses will be approved on the basis of multiplying each college credit hour
1015 by 10.

1016 (c) Enrollment in an internship, residency or certification program approved by a veterinary
1017 specialty organization recognized by the AVMA or in an AVMA accredited veterinary school.

1018 (d) Authorship or co-authorship of a published work, such as review articles, abstracts,
1019 presentations, proceedings, book chapters, and web-based continuing education materials shall be
1020 approved for 5 hours each.

1021 (e) A peer reviewed publication shall be approved for 5 hours.

1022 (f) Development and presentation of research findings, scientific workshops, seminars or
1023 laboratory demonstrations pertinent to veterinary technology shall be approved for 5 contact hours
1024 each.

1025 (g) Up to 8 hours per biennium shall be granted for a combination of continuing education
1026 hours completed under pars. (d) to (f), provided the continuing education is published or presented
1027 under the auspices of a provider approved under sub. (4).

1028 (h) On-line, video, audio, correspondence courses, or other interactive distance learning
1029 courses pertinent to veterinary technology, or to employment as a veterinary technician.

1030 (4) APPROVED PROGRAM PROVIDERS. Subject to compliance with the requirements
1031 set forth in subs. (1) to (3), the board shall approve attendance at and completion of one or more
1032 continuing education programs approved by any one of the following approved program providers
1033 as fulfilling the continuing education hours required under this chapter:

1034 (a) A national, regional, state, or local veterinary medical or veterinary technician
1035 association.

1036 (b) A federal or state agency.

1037 (c) An accredited college or university.

1038 (d) An association listed in the AVMA or the National Association of Veterinary
1039 Technicians in America directory.

1040 (e) An AVMA accredited veterinary school or veterinary technician program.

1041 (f) A program approved by the American Association of Veterinary State Boards through
1042 its Registry of Approved Continuing Education approval program.

1043 (g) A foreign veterinary medical or veterinary technician association, an accredited college
1044 or university, or a governmental agency that is, as determined by the board comparable to a
1045 program provider listed under pars. (a) to (f).

1046 **Subchapter III – Standards of Practice and Unprofessional Conduct**

1047 **VE 2.18 Prohibited acts.** The following acts are limited to veterinarians and therefore
1048 prohibited for veterinary technicians:

1049 (1) Diagnosis and prognosis of animal diseases and conditions.

1050 (2) Prescribing of drugs, medicines, treatments and appliances.

1051 (3) Performing surgery.

1052 **VE 2.20 Change of name and address.** Every veterinary technician shall notify the board
1053 of a change of name or address within 30 days.

1054 **VE 2.22 Display of certificate.** Each veterinary technician shall display a current
1055 certificate in a manner conspicuous to the public view.

1056 **VE 2.24 Standards of practice.** (1) Veterinary technicians may perform delegated
1057 veterinary acts as set forth under s. VE 1.44 (4), (5), (6), and (9).

1058 (2) In the performance of delegated veterinary acts a veterinary technician shall:

1059 (a) Accept only those delegated veterinary acts for which there are mutually approved
1060 protocols, written standing orders or verbal directions.

1061 (b) Accept only those delegated veterinary acts for which the veterinary technician is
1062 competent to perform based on education, training or experience.

1063 (c) Consult with a veterinarian in cases where the veterinary technician knows or should
1064 know a delegated veterinary act may harm a patient.

1065 **VE 2.26 Unprofessional conduct.** The following acts constitute unprofessional conduct
1066 by a veterinary technician and are prohibited:

1067 (1) Unprofessional conduct under s. 89.07 (1), Stats.

1068 (2) Performing as a veterinary technician unless supervised as specified under s. VE 1.44
1069 (4), (5), (6), and (9).

1070 (3) Misrepresentation in obtaining a veterinary technician certificate or in performing as a
1071 veterinary technician.

1072 (4) Conduct in the practice of veterinary technology which evidences a lack of knowledge
1073 or ability to apply professional principles or skills.

1074 (5) Gross negligence while performing as a veterinary technician.

1075 (6) The personal use, misuse or sale other than for medical treatment of patients, of drugs
1076 listed in the U.S. controlled substances act of 1970, as amended, or ch. 961, Stats., other than drugs
1077 prescribed by a physician for use by the veterinary technician.

1078 (7) Practicing or attempting to practice while the veterinary technician has a physical or
1079 mental impairment, including impairment related to drugs or alcohol, which is reasonably related
1080 to the applicant's ability to adequately undertake the practice of veterinary technology in a manner
1081 consistent with the safety of a patient or the public.

1082 (8) Being convicted of a crime the circumstances of which substantially relate to the
1083 practice of veterinary technology.

1084 (9) Violating or aiding and abetting the violation of any law or administrative rule
1085 substantially related to the practice of veterinary technology.

1086 (10) Having a veterinary technician certificate limited, suspended or revoked or subject to
1087 any other disciplinary action in another state or U.S. jurisdiction.

1088 (11) Accepting fees for animal health care services from a client.

1089 (12) Practicing under an expired certificate.

1090 (13) Falsely certifying to the board under s. VE 2.14 (5) that the veterinary technician:

1091 (a) Has completed the 15 hours of continuing education required under s. VE 2.14 (1).

1092 (b) Is exempt under s. VE 2.14 (2) from having to complete the 15 hours of continuing
1093 education required under s. VE 2.14 (1).

1094 (14) Advertising a specialty or claiming to be a specialist when not recognized as such by
1095 a veterinary technician specialty academy recognized by the National Association of Veterinary
1096 Technicians in America or by a foreign veterinary technician specialty academy which, in the
1097 opinion of the board, is equivalent to a National Association of Veterinary Technicians in America
1098 recognized veterinary technician specialty academy.

1099 **VE 2.28 Board action.** The board may reprimand the certificate holder or deny, suspend,
1100 limit or revoke a certification under this chapter for cause, including any of the following:

1101 (1) Filing an incomplete or fraudulent application, or misrepresenting any information on
1102 an application.

1103 (2) Violating this chapter or ch. 89, Stats.

1104 **SECTION 4.** Chapter VE 3 is created to read:

1105 **Chapter VE 3 Complaint Procedures**

1106 Subchapter I – Authority and Definitions

1107 3.01 Authority

1108 3.02 Definitions

1109 Subchapter II – Procedures for Informal Complaints

1110 3.04 Scope; kinds of proceedings

1111 3.06 Receiving informal complaints

1112 3.08 Screening

1113 3.10 Unlicensed persons

1114 3.12 Negotiated settlement

1115 3.14 Issuing an administrative warning

1116 3.16 Contents of an administrative warning

1117 3.18 Review of an administrative warning

1118 3.20 Administrative warning review procedures

1119 3.22 Review record

1120 Subchapter III – Procedures for Disciplinary Proceedings

1121 3.24 Scope

1122 3.26 Commencement of disciplinary proceedings

1123 3.28 Pleadings to be captioned

1124	3.30 Complaint
1125	3.32 Service and filing of complaint
1126	3.34 Answer
1127	3.36 Administrative law judge
1128	3.38 Settlements
1129	3.40 Conduct of hearing
1130	3.42 Witness fees and costs
1131	3.44 Record of proceedings, transcripts
1132	3.46 Proposed decision
1133	3.48 Assessment of costs
1134	3.50 Service of proposed decision
1135	3.52 Final decision and order
1136	Subchapter IV – Summary Suspensions and Limitations
1137	3.54 Scope
1138	3.56 Petition for summary suspension or limitation
1139	3.58 Notice of petition to respondent
1140	3.60 Issuance of summary suspension or limitation order
1141	3.62 Contents of summary suspension or limitation order
1142	3.64 Service of summary suspension or limitation order
1143	3.66 Hearing to show cause
1144	3.68 Delegation
1145	3.70 Commencement of disciplinary proceeding
1146	Subchapter V – Administrative Injunctions

1147	3.72 Scope; kinds of proceedings
1148	3.74 Pleadings to be captioned
1149	3.76 Petition for administrative injunction
1150	3.78 Service and filing of petition
1151	3.80 Answer
1152	3.82 Administrative law judge
1153	3.84 Settlements
1154	3.86 Conduct of public hearing
1155	3.88 Witness fees and costs
1156	3.90 Record of proceedings, transcripts
1157	3.92 Decision
1158	3.94 Service of decision
1159	3.96 Final decision and order

1160 **Subchapter I – Authority and Definitions**

1161 **3.01 Authority.** The rules in this chapter are adopted by the veterinary examining board
 1162 pursuant to the authority in ss. 89.03 (1), 227.11 (2) (a) and 227.51 (3), Stats.

1163 **3.02 Definitions.** In this chapter:

1164 (1) “Administrative injunction” means a special order enjoining a person from the
 1165 continuation of a practice or use of a title without a credential required under ch. 89, Stats.

1166 (2) “Administrative law judge” means the administrative law judge assigned by the
 1167 division to hear a disciplinary proceeding or summary suspension or limitation appeal, on behalf
 1168 of the board, or an administrative injunction proceeding on behalf of the department.

1169 (3) “Board” means the veterinary examining board.

1170 (4) "Case advisor" means a member of the board assigned to assist disciplinary counsel in
1171 an investigation of an informal complaint about a credential holder.

1172 (5) "Complainant" means the person who signs a complaint.

1173 (6) "Complaint" means the formal charging of violations against a credential holder in a
1174 disciplinary proceeding.

1175 (7) "Court-ordered injunction" means a judgment and order by a court of competent
1176 jurisdiction enjoining a person from the continuation of a practice or use of a title without a
1177 credential required under ch. 89, Stats.

1178 (8) "Credential" means a license, certification, or permit that is issued under ch. 89, Stats.

1179 (9) "Credential holder" means an individual holding any license, permit, or certificate
1180 granted by the board, or having any right to renew a license, permit, or certificate granted by the
1181 board.

1182 (10) "Department" means the department of agriculture, trade and consumer protection.

1183 (11) "Department counsel" means the department attorney assigned an informal complaint
1184 against any person who may be continuing a practice or use of a title without a credential required
1185 under ch. 89, Stats.

1186 (12) "DHA" means the division of hearings and appeals in the department of
1187 administration.

1188 (13) "Division" means the division of animal health in the department.

1189 (14) "Disciplinary counsel" means the department attorney assigned an informal complaint
1190 against a credential holder.

1191 (15) "Disciplinary proceeding" means an administrative proceeding against a credential
1192 holder for any alleged violations of law constituting misconduct.

1193 (16) "Informal complaint" means any written information submitted to the board or
1194 department by any person, which alleges facts that, if true, warrant action including an
1195 administrative warning, discipline, or an injunction.

1196 (17) "Minor violation" means all of the following:

1197 (a) No significant harm was caused by misconduct of the credential holder.

1198 (b) Continued practice by the credential holder presents no immediate danger to the public.

1199 (c) If prosecuted, the likely result of prosecution would be a reprimand or a limitation
1200 requiring the credential holder to obtain additional education.

1201 (d) The complaint does not warrant use of prosecutorial resources.

1202 (18) "Misconduct" means a violation of a statute, rule, or regulation related to the
1203 profession or other conduct for which discipline may be imposed under ch. 89, Stats.

1204 (19) "Office" means the office of legal counsel in the department.

1205 (20) "Petition" means a petition for summary license suspension or limitation or a special
1206 order for an administrative injunction.

1207 (21) "Petitioner" means the disciplinary or department counsel.

1208 (22) "Respondent" means a credential holder who is charged in a disciplinary proceeding
1209 or a person who is charged in an administrative injunction proceeding.

1210 (23) "Screening" means preliminary review of complaints to determine the disposition of
1211 any informal complaints.

1212 (24) "Screening committee" means the committee of the board that meets with disciplinary
1213 counsel to determine the disposition of any informal complaints.

1214 (25) "Special order" means an administrative order issued by the department enforced
1215 against a named or identified person.

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Subchapter II – Procedures for Informal Complaints

3.04 Scope; kinds of proceedings. This subchapter governs procedures for investigating and disposing of informal complaints against credential holders and unlicensed entities before the board and persons before the department.

3.06 Receiving informal complaints. All informal complaints received shall be referred to the office for filing, screening and, if necessary, investigation.

3.08 Screening. Screening for complaints against license holders shall be done by the board’s screening committee, in consultation with the disciplinary counsel. Considerations in screening include, but are not limited to:

- (1) Whether the person complained against is licensed.
- (2) Whether the matter alleged is a violation of any statute, rule, regulation, or standard of practice.
- (3) Whether the matter alleged, if taken as a whole, is either:
 - (a) Not a violation, so that the matter may be closed;
 - (b) A minor violation, so that the matter may be disposed of with an administrative warning; or
 - (c) Requires further investigation by disciplinary counsel, with assistance by a case advisor and department staff as assigned.

3.10 Unlicensed persons. Department staff shall investigate complaints, and may consult with the board, concerning any complaint against a person who may be engaged in the practice of veterinary medicine without holding a credential.

3.12 Negotiated settlement. (1) WHEN INITIATED. At the discretion of the disciplinary counsel, in consultation with the case advisor in assigned matters, or department counsel,

1239 negotiations for settlement may be held prior to the commencement of a disciplinary or unlicensed
1240 practice proceeding. Where the informal complaint investigation reveals undisputed or clearly
1241 ascertainable facts, from documents received, resolution through negotiations is encouraged.

1242 (2) LIMITATION. Negotiations for settlement shall not be held without the consent of the
1243 credential holder or unlicensed person. No agreement reached between the parties through
1244 negotiations, which imposes discipline upon a credential holder, shall be effective or binding until
1245 the parties stipulate to the agreement in writing, signed by the credential holder and any
1246 representative and disciplinary counsel, for approval by the board in a signed final order.

1247 (3) ORAL STATEMENTS IN NEGOTIATIONS. Oral statements made during negotiations shall
1248 not be introduced into or made part of the record in a disciplinary proceeding.

1249 **3.14 Issuing an administrative warning.** In lieu of commencing disciplinary proceedings
1250 under subch. III or injunction proceedings under subch. IV, the board or department may issue an
1251 administrative warning, after making all of the following findings:

1252 (1) That there is specific evidence of misconduct by the credential holder or unlicensed
1253 person.

1254 (2) That the misconduct is a minor violation of a statute or rule related to the profession
1255 or other conduct for which discipline or an administrative injunction may be imposed.

1256 (3) That issuance of an administrative warning will adequately protect the public.

1257 **3.16 Contents of an administrative warning.**

1258 (1) An administrative warning shall be issued in writing, shall state the findings required
1259 by s. VE 3.12, and include a notice of appeal rights under s. VE 3.16.

1260 (2) An administrative warning may be issued to a credential holder or unlicensed person
1261 by mailing the administrative warning to the last address provided to the department. Service by

1262 mail is complete on the date of mailing. The warning may also be issued by email, if the credential
1263 holder or unlicensed person has given permission to send all notices to a specified email address.
1264 Service by email is complete upon sending.

1265 **3.18 Review of an administrative warning.** A credential holder who has been issued an
1266 administrative warning may make a request in writing for the board to review its issuance within
1267 20 days after the date of mailing or emailing. The request shall be in writing and set forth:

1268 (1) The credential holder's name and address.

1269 (2) The reason for requesting a review.

1270 **3.20 Administrative warning review procedures.** The procedures for an administrative
1271 warning review are:

1272 (1) Within 45 calendar days of receipt of a request for review, the board shall notify the
1273 credential holder of the time and place of the review.

1274 (2) No discovery is permitted. A credential holder may inspect records under s. 19.35,
1275 Stats., the public records law.

1276 (3) The board shall preside over the appeal and the review shall be electronically recorded.

1277 (4) The board shall provide the credential holder with an opportunity to make a personal
1278 appearance before it and present a statement. The board may request the disciplinary counsel to
1279 appear and present a statement on issues raised by the credential holder. The board may establish
1280 a time limit for making a presentation. Unless otherwise determined by the disciplinary authority,
1281 the time for making a personal appearance shall be 20 minutes.

1282 (5) If the credential holder fails to appear for a review, or withdraws the request for a
1283 review, the disciplinary authority may note the failure to appear in the minutes and leave the
1284 administrative warning in effect without further action.

1285 (6) The board may adjourn into closed session to deliberate on the request for review. Any
1286 action taken by the board following deliberation shall be made in open session. The board shall
1287 send the final decision of its review to the credential holder.

1288 **3.22 Review record.** The credential holder may request a copy of the recorded review at
1289 no cost.

1290 **Subchapter III – Procedures for Disciplinary Proceedings**

1291 **3.24 Scope.** This subchapter governs procedures in all disciplinary proceedings against
1292 credential holders before the board.

1293 **3.26 Commencement of disciplinary proceedings.** Disciplinary proceedings commence
1294 when a complaint is served upon the respondent.

1295 **3.28 Pleadings to be captioned.** All pleadings, notices, orders, and other papers filed in
1296 disciplinary proceedings shall be captioned: "BEFORE THE WISCONSIN VETERINARY
1297 EXAMINING BOARD" and shall be entitled: "IN THE MATTER OF DISCIPLINARY
1298 PROCEEDINGS AGAINST _____, RESPONDENT."

1299 **3.30 Complaint.** The disciplinary counsel may make a complaint upon information and
1300 belief and it shall contain:

1301 (1) The name and address of the licensee complained against and the name and address of
1302 the complainant.

1303 (2) A short statement in plain language of the cause for disciplinary action identifying with
1304 reasonable particularity the transaction, occurrence or event out of which the cause arises and
1305 specifying the statute, rule or other standard alleged to have been violated.

1306 (3) A request in essentially the following form: "Wherefore, the complainant demands that
1307 the board hear evidence relevant to matters alleged in this complaint, determine and impose the
1308 discipline warranted, and assess the costs of the proceeding against the respondent."

1309 (4) The signature of the complainant.

1310 **3.32 Service and filing of complaint.**

1311 (1) The complaint and other papers may be served on a respondent by mailing a copy of
1312 the paper to the respondent at the last known address of the respondent, by any procedure described
1313 in s. 801.14 (2), Stats., or by electronic transmission if agreed to by the respondent or respondent's
1314 authorized representative. Service by mail is complete upon mailing.

1315 (2) Any paper required to be filed with the board may be mailed to the board's office and,
1316 if an administrative law judge has been designated to preside in the matter, to the administrative
1317 law judge and shall be deemed filed on the date of the postmark. Materials submitted by personal
1318 service or by inter-departmental mail shall be considered filed on the date they are received at the
1319 board's office or by the administrative law judge. Papers required to be filed may instead be filed
1320 and served by electronic mail or facsimile transmission. For materials transmitted by electronic
1321 mail, the filing date shall be the date that the electronic mail was sent. For materials transmitted
1322 by facsimile, the date received shall determine the date of filing.

1323 **3.34 Answer.**

1324 (1) An answer to a complaint shall state in short and plain terms the defenses to each cause
1325 asserted and shall admit or deny the allegations upon which the complainant relies. If the
1326 respondent is without knowledge or information sufficient to form a belief as to the truth of the
1327 allegation, the respondent shall so state and this has the effect of a denial. Denials shall fairly meet
1328 the substance of the allegations denied. The respondent shall make denials as specific denials of

1329 designated allegations or paragraphs but if the respondent intends in good faith to deny only a part
1330 or a qualification of an allegation, the respondent shall specify so much of it as true and material
1331 and shall deny only the remainder.

1332 (2) The respondent shall set forth affirmatively in the answer any matter constituting an
1333 affirmative defense.

1334 (3) Allegations in a complaint are admitted when not denied in the answer.

1335 (4) An answer to a complaint shall be filed within 20 days from the date of service of the
1336 complaint.

1337 **3.36 Administrative law judge.**

1338 (1) DESIGNATION. The board may request DHA assign an administrative law judge to
1339 preside over any disciplinary proceeding.

1340 (2) AUTHORITY AND DUTIES. An administrative law judge may, on behalf of the board, do
1341 all of the following:

1342 (a) Gain permission from parties for service of all documents to be via electronic
1343 transmission, or other means if necessary.

1344 (b) Require parties to clarify positions or issues.

1345 (c) Hold prehearing conferences and issue memoranda for the record, summarizing all
1346 actions taken and agreements reached.

1347 (d) Make procedural rulings and issue scheduling orders, including for motions, date, time
1348 and location of hearing, discovery, identification of witnesses and evidence for hearing,
1349 stipulations by the parties for hearing and other matters aiding in the orderly disposition of the
1350 proceedings.

1351 (e) Hold motion hearings and make rulings on said motions.

- 1352 (f) Adjourn or postpone proceedings.
- 1353 (g) Grant continuances or extensions of time.
- 1354 (h) Issue subpoenas to compel witness attendance and document production.
- 1355 (i) Regulate discovery proceedings, and issue orders to compel or limit discovery.
- 1356 (j) Select the location of the hearing.
- 1357 (k) Preside over hearings and regulate the course of hearings.
- 1358 (L) Administer oaths and affirmations.
- 1359 (m) Make evidentiary rulings and receive relevant evidence.
- 1360 (n) Impose sanctions on disobedient parties.
- 1361 (o) Require or permit the parties to file written briefs and arguments.
- 1362 (p) Supervise the required creation of a stenographic or electronic record of the portion of
- 1363 the proceedings conducted under the auspices of the administrative law judge.
- 1364 (q) If required, order and supervise the preparation of a written transcript of proceedings
- 1365 conducted before the administrative law judge.
- 1366 (r) Issue proposed decisions.
- 1367 (2) Limits on authority. The administrative law judge may not exercise any authority
- 1368 reserved to the board.
- 1369 (3) Impartiality.
- 1370 (a) An administrative law judge shall withdraw from a contested case if the administrative
- 1371 law judge determines that there is a conflict of interest or other circumstance which prevents the
- 1372 administrative law judge from acting impartially, or which creates an undue appearance of bias.

1373 (b) If an administrative law judge receives an ex parte communication which violates s.
1374 227.50 (1), Stats., the administrative law judge shall deal with the ex parte communication as
1375 provided in s. 227.50 (2), Stats.

1376 **3.38 Settlements.** At any point in a proceeding, the parties may agree to settle the case.
1377 Parties wishing to settle a case shall file both a written stipulation, signed by the respondent and
1378 any representative and disciplinary counsel, setting forth the agreed terms of settlement, and a
1379 proposed final order disposing of the case, for approval by the board. No stipulation disposing of
1380 a complaint shall be effective or binding in any respect until approved by the board in a signed
1381 final order.

1382 **3.40 Conduct of hearing.**

1383 (1) RECORD. An electronic or stenographic recording shall be made of all hearings in
1384 which the testimony of a witness is offered as evidence.

1385 (2) EVIDENCE. The respondent shall have the right to appear in person or by counsel, and
1386 both parties have the right to call, examine, and cross-examine witnesses and to introduce evidence
1387 into the record.

1388 (3) A hearing, or any portion of a hearing, may be held by telephone or video-conference if the
1389 administrative law judge determines that this method is justified for the convenience of any party or witness,
1390 and that no party is unfairly prejudiced by this method. The party calling a witness to testify by telephone
1391 or video-conference shall notify the administrative law judge before the hearing to allow for making the
1392 necessary arrangements and is responsible for providing the witness with a complete set of numbered copies
1393 of all exhibits.

1394 (3) BRIEFS. The administrative law judge may require or permit the filing of briefs.

1395 (4) MOTIONS. All motions, except those made at hearing, shall be in writing, filed by the
1396 date set by the administrative law judge, and a copy served upon the opposing party. If no date is
1397 set by the administrative law judge all motions shall be filed 10 business days before hearing.

1398 (5) SUMMARYJUDGMENT. The parties may use the summary judgment procedure provided
1399 in s. 802.08, Stats.

1400 (6) ADJOURNMENTS. The administrative law judge may, for good cause, grant
1401 continuances, adjournments and extensions of time.

1402 (7) SUBPOENAS.

1403 (a) Subpoenas for the attendance of any witness at a hearing in the proceeding may be
1404 issued in accordance with s. 885.01, Stats. Service shall be made in the manner provided in
1405 s. 805.07 (5), Stats. A subpoena may command the person to whom it is directed to produce the
1406 books, papers, documents, or tangible things designated therein.

1407 (b) An administrative law judge may issue protective orders according to the provision the
1408 provisions of s. 805.07, Stats.

1409 **3.42 Witness fees and costs.** Witnesses subpoenaed at the request of the disciplinary
1410 counsel shall be entitled to compensation from the state for attendance and travel as provided
1411 in ch. 885, Stats.

1412 **3.44 Record of proceedings, transcripts.**

1413 **(1) RECORD OF ORAL PROCEEDINGS.** Oral proceedings in a disciplinary proceeding shall
1414 be electronically recorded unless the administrative law judge determines that a stenographic
1415 record is required.

1416 **(2) ELECTRONIC RECORDING; COPIES.** If an oral proceeding in a contested case is
1417 electronically recorded, a copy of the recording shall be furnished at cost to any party who requests
1418 a copy.

1419 **(3) STENOGRAPHIC RECORDING; COPIES.** (a) If a stenographic recording is made, the
1420 reporting service who records the proceeding may charge a fee for an original transcription and
1421 for copies. Fees are identified in the state operational purchasing bulletin for reporting services
1422 and fees allowed to be charged.

1423 Note: Purchasing bulletins may be obtained through the State Bureau of Procurement, PO
1424 Box 7867, Madison WI 53707-7867, call (800) 482-7813 or email doawispro@wisconsin.gov.

1425 (b) A person who is without means and who requires a transcript for appeal or other
1426 reasonable purposes shall be furnished with a transcript without charge upon the filing of a petition
1427 of indigency signed under oath.

1428 **3.46 Proposed decision.** The administrative law judge shall prepare a proposed decision
1429 for consideration by the board. The proposed decision shall include proposed findings of fact,
1430 conclusions of law, and a final order, with a signed opinion explaining the proposed decision.

1431 **3.48 Assessment of costs.**

1432 (1) The proposed decision shall include a recommendation whether all or part of the costs
1433 of the proceeding shall be assessed against the respondent.

1434 (2) If a respondent objects to the recommendation that costs be assessed, objections to the
1435 assessment of costs shall be filed at the same time as other objections to the proposed decision.

1436 (3) When costs are imposed, the administrative law judge shall file a supporting affidavit
1437 with the proposed decision, listing costs incurred to be paid by the respondent. Within 20 days, the
1438 disciplinary counsel shall file a supporting affidavit showing costs incurred. The respondent shall

1439 file any objection to the affidavits within 15 days after service of the disciplinary counsel's
1440 affidavit.

1441 **3.50 Service of proposed decision.** The administrative law judge shall deliver the
1442 proposed decision, with a copy of the record including the electronic recording of the proceedings,
1443 to the board. The administrative law judge shall serve the proposed decision on the parties, in the
1444 manner agreed to by the parties. Each proposed decision shall contain a notice providing each
1445 party, adversely affected by the proposed decision, with an opportunity to file objections and
1446 written argument with the board. A party adversely affected by a proposed decision shall have 20
1447 days from the date of service of the proposed decision to file objections and argument.

1448 Note: Objections may be electronically filed at datcpveb@wisconsin.gov or mailed to the
1449 Wisconsin Veterinary Examining Board, PO Box 8911, Madison, WI 53708-8911.

1450 **3.52 Final decision and order.** After the time expires for filing all objections to the
1451 proposed decision and order, including assessment of costs, the board shall meet to make a final
1452 decision and order in a disciplinary proceeding. The final decision and order shall include a
1453 determination whether all or part of the costs of the proceeding shall be assessed against the
1454 respondent. If the final decision varies from the administrative law judge's proposed decision, the
1455 final decision shall explain the reasons for all variations.

1456 **Subchapter IV – Summary Suspensions and Limitations**

1457 **3.54 Scope.** This subchapter governs procedures in all summary suspension or limitation
1458 proceedings against credential holders before the board.

1459 **3.56 Petition for summary suspension or limitation.**

1460 (1) The disciplinary counsel shall petition the board for a summary suspension or
1461 limitation. The petition shall state the name and credential status of the respondent, and an assertion

1462 of the facts establishing that the respondent has engaged in or is likely to engage in conduct such
1463 that the public health, safety or welfare imperatively requires summary suspension or limitation of
1464 the respondent's credential.

1465 (2) The petitioner shall sign the petition upon oath and make the petition upon information
1466 and belief or by affidavit of another person with knowledge of the necessary facts to sustain the
1467 petition.

1468 **3.58 Notice of petition to respondent.** Prior to presenting the petition, the petitioner shall
1469 give notice to the respondent and respondent's authorized representative of the time and place when
1470 the petition will be presented to the board. Notice may be given by mailing a copy of the petition
1471 and notice to the last-known address of the respondent as indicated in the records of the board,
1472 pursuant to s. 227.44 (1), Stats. Notice by mail is complete upon mailing. Notice may also be given
1473 by electronic transmission if agreed to by the respondent or authorized representative.

1474 **3.60 Issuance of summary suspension or limitation order.**

1475 (1) If the board finds that notice has been given under s. VE 3.58 and finds probable cause
1476 to believe that the respondent has engaged in or is likely to engage in conduct such that the public
1477 health, safety or welfare imperatively requires emergency suspension or limitation of the
1478 respondent's license, the board may issue an order for summary suspension or limitation. The order
1479 may be issued at any time prior to or subsequent to the commencement of a disciplinary proceeding
1480 under s. VE 3.26.

1481 (2) The petitioner may establish probable cause under sub. (1), by affidavit or other
1482 evidence.

1483 (3) The summary suspension or limitation order shall be effective upon service, under s.
1484 VE 3.62, or upon actual notice of the summary suspension or limitation order to the respondent or

1485 respondent's attorney, whichever is sooner. The order shall continue through the effective date of
1486 the final decision and order made in the disciplinary proceeding against the respondent, unless the
1487 credential is restored or the limitation is lifted under s. VE 3.64 or the disciplinary proceeding is
1488 otherwise terminated.

1489 **3.62 Contents of summary suspension or limitation order.** The summary suspension or
1490 limitation order shall include all of the following:

1491 (1) The manner in which the respondent or the respondent's attorney was notified of the
1492 petition for summary suspension or limitation.

1493 (2) The identification of all witnesses providing evidence at the time the petition for
1494 summary suspension or limitation was presented and identification of the evidence used as a basis
1495 for the decision to issue the summary suspension or limitation order.

1496 (3) A finding that the public health, safety or welfare imperatively requires emergency
1497 suspension or limitation of the respondent's credential.

1498 (4) A statement that the suspension or limitation order is in effect and continues until the
1499 effective date of a final order and decision in the disciplinary proceeding against the respondent,
1500 unless otherwise ordered by the board.

1501 (5) A statement of the respondent's right to request a hearing at any time to show cause
1502 why the summary suspension or limitation order should not be continued, with the board's office
1503 mailing address or email address where a request for hearing may be filed.

1504 (6) A statement that the hearing to show cause shall be scheduled for hearing on a date
1505 within 20 days of receipt by the board of respondent's request for hearing, unless a later time is
1506 requested by or agreed to by the respondent.

1507 **3.64 Service of summary suspension or limitation order.** An order of summary
1508 suspension or limitation shall be served upon the respondent by mail or by email if agreed to by
1509 respondent or respondent's attorney.

1510 **3.66 Hearing to show cause.**

1511 (1) A hearing to show cause shall be scheduled for a date no later than 20 days after the
1512 filing of the request for hearing with the board, unless a later time is requested by or agreed to by
1513 the respondent.

1514 (2) Unless the parties otherwise agree, no discovery is permitted, except for the taking and
1515 preservation of evidence as provided in ch. 804, Stats., with respect to witnesses described in
1516 s. 227.45 (7) (a) to (d), Stats. A respondent may inspect records under s. 19.35, Stats., the public
1517 records law.

1518 (3) At the hearing to show cause, the disciplinary counsel may call, examine and cross-
1519 examine witnesses, or present other evidence in order sustain its burden to show, by a
1520 preponderance of the evidence, why the summary suspension or limitation order should be
1521 continued. The respondent may testify, call, examine and cross-examine witnesses, and offer other
1522 evidence to rebut disciplinary counsel's showing.

1523 (4) Immediately upon conclusion of the hearing to show cause the board shall make
1524 findings and an order on the record. If it is determined that the summary suspension or limitation
1525 order should not be continued, the suspended credential shall be immediately restored, and any
1526 limitation shall be lifted.

1527 **3.68 Delegation.**

1528 (1) The board may delegate authority to preside over and rule in a hearing to show cause
1529 to an administrative law judge employed by the division.

1530 (2) A delegation of authority under subs. (1) may be continuing.

1531 **3.70 Commencement of disciplinary proceeding.**

1532 (1) A complaint, under s. VE 3.26, commencing a disciplinary proceeding against the
1533 respondent shall be issued no later than 20 days following the issuance of the summary suspension
1534 or limitation order or the suspension or limitation shall lapse at the end of the tenth day. The formal
1535 disciplinary proceeding shall be determined promptly.

1536 (2) If at any time the disciplinary proceeding is not advancing with reasonable promptness,
1537 the respondent may make a motion to the administrative law judge for an order granting relief.

1538 (3) If it is found that the disciplinary proceeding is not advancing with reasonable
1539 promptness, and the delay is not as a result of the conduct of respondent or respondent's counsel,
1540 a remedy, as would be just, shall be granted including:

1541 (a) An order immediately terminating the summary suspension or limitation.

1542 (b) An order compelling that the disciplinary proceeding be held and determined by a
1543 specific date.

1544 **Subchapter V – Administrative Injunctions**

1545 **3.72 Scope; kinds of proceedings.** This subchapter governs procedures for public hearings
1546 before the department to determine whether a person has engaged in a practice or used a title
1547 without a credential required under ch. 89, Stats., and issue a special order for an administrative
1548 injunction

1549 **3.74 Pleadings to be captioned.** All pleadings, notices, orders, and other papers filed in
1550 an administrative injunction proceeding shall be captioned: "BEFORE THE DEPARTMENT OF
1551 AGRICULTURE, TRADE AND CONSUMER PROTECTION" and shall be entitled: "IN THE

1552 MATTER OF A PETITION FOR A SPECIAL ORDER TO ENJOIN _____,
1553 RESPONDENT."

1554 **3.76 Petition for administrative injunction.** Department counsel, on behalf of the
1555 division, may petition for a special order from the department to issue an administrative injunction,
1556 which shall allege that a person has engaged in a practice or used a title without a credential
1557 required under ch. 89, Stats. A petition may be made on information and belief and shall contain:

1558 (1) The name and address of the respondent and the name and address of the department
1559 attorney who is prosecuting the petition.

1560 (2) A short statement in plain language of the basis for the belief that the respondent has
1561 engaged in a practice or used a title without a credential required under ch. 89, Stats., and
1562 specifying the statute or rule alleged to have been violated.

1563 (3) A request in essentially the following form: "Wherefore, the petitioner requests that a
1564 public hearing be held and that the department issue a special order enjoining the person from the
1565 continuation of the practice or use of the title."

1566 (4) The signature of the petitioner.

1567 **3.78 Service and filing of petition.**

1568 (1) The petition and other papers required to be served on a respondent may be served by
1569 mailing a copy of the paper to the respondent at the last known address of the respondent, by any
1570 procedure described in s. 801.14 (2), Stats., or by electronic transmission if agreed to by the
1571 respondent or respondent's attorney. Service by mail is complete upon mailing.

1572 (2) Any paper required to be filed with the department may be mailed to the department
1573 secretary's office and, if an administrative law judge has been designated to preside in the matter,

1574 to the administrative law judge and shall be deemed filed on the date of the postmark. Materials
1575 submitted by personal service or by inter-departmental mail shall be considered filed on the date
1576 they are received at the department secretary's office or by the administrative law judge. Papers
1577 required to be filed may instead be filed and served by facsimile transmission or by electronic
1578 mail. For materials transmitted by facsimile, the date received shall determine the date of filing.
1579 For materials transmitted by electronic mail, the filing date shall be the date that the electronic
1580 mail was sent.

1581 **3.80 Answer.**

1582 (1) An answer to a petition shall state in short and plain terms the defenses to each cause
1583 asserted and shall admit or deny the allegations upon which the complainant relies. If the
1584 respondent is without knowledge or information sufficient to form a belief as to the truth of the
1585 allegation, the respondent shall so state and this has the effect of a denial. Denials shall fairly meet
1586 the substance of the allegations denied. The respondent shall make denials as specific denials of
1587 designated allegations or paragraphs but if the respondent intends in good faith to deny only a part
1588 or a qualification of an allegation, the respondent shall specify so much of it as true and material
1589 and shall deny only the remainder.

1590 (2) The respondent shall set forth affirmatively in the answer any matter constituting an
1591 affirmative defense.

1592 (3) Allegations in a petition are admitted when not denied in the answer.

1593 (4) An answer to a petition shall be filed within 20 days from the date of service of the
1594 petition.

1595 **3.82 Administrative law judge.**

1596 (1) DESIGNATION. The department may request DHA assign an administrative law judge
1597 to preside over any administrative injunction proceeding.

1598 (2) AUTHORITY AND DUTIES. An administrative law judge may, on behalf of the
1599 department, do all of the following:

1600 (a) Gain permission from parties for service of all documents to be via electronic
1601 transmission, or other means if necessary.

1602 (b) Require parties to clarify positions or issues.

1603 (c) Hold prehearing conferences and issue memoranda for the record, summarizing all
1604 actions taken and agreements reached.

1605 (d) Make procedural rulings and issue scheduling orders, including for motions, date, time
1606 and location of hearing, discovery, identification of witnesses and evidence for hearing,
1607 stipulations by the parties for hearing and other matters aiding in the orderly disposition of the
1608 proceedings.

1609 (e) Hold motion hearings.

1610 (f) Adjourn or postpone proceedings.

1611 (g) Grant continuances or extensions of time.

1612 (h) Issue subpoenas to compel the witness attendance and document production.

1613 (i) Regulate discovery proceedings, and issue orders to compel or limit discovery.

1614 (j) Select the location of the hearing.

1615 (k) Preside over hearings and regulate the course of hearings.

1616 (L) Administer oaths and affirmations.

1617 (m) Make evidentiary rulings and receive relevant evidence.

1618 (n) Impose sanctions on disobedient parties.

1619 (o) Require or permit the parties to file written briefs and arguments.

1620 (p) Supervise the required creation of a stenographic or electronic record of the portion of
1621 the proceedings conducted under the auspices of the administrative law judge.

1622 (q) If required, order and supervise the preparation of a written transcript of proceedings
1623 conducted before the administrative law judge.

1624 (r) Issue proposed decisions.

1625 (s) Issue final decisions and orders, if requested by the department.

1626 (2) Limits on authority. The administrative law judge may not exercise any authority
1627 which is reserved to the department, except as delegated in writing under (1) (s).

1628 (3) Impartiality.

1629 (a) An administrative law judge shall withdraw from a contested case if the administrative
1630 law judge determines that there is a conflict of interest or other circumstance which prevents the
1631 administrative law judge from acting impartially, or which creates an undue appearance of bias.

1632 (b) If an administrative law judge receives an ex parte communication which violates s.
1633 227.50 (1), Stats., the administrative law judge shall deal with the ex parte communication as
1634 provided in s. 227.50 (2), Stats.

1635 **3.84 Settlements.** At any point in a proceeding, the parties may agree to settle the case.
1636 Parties wishing to settle a case shall file both a written stipulation, signed by the respondent and
1637 any representative, and the division representative and department counsel, setting forth the agreed
1638 terms of settlement, and a proposed final order disposing of the case, for approval by the
1639 department. No stipulation disposing of a petition filed under this subchapter shall be effective or
1640 binding in any respect until the final order is approved and signed by the department.

1641 **3.86 Conduct of public hearing.**

1642 (1) RECORD. A stenographic, electronic or other record shall be made of all hearings in
1643 which the testimony of witnesses is offered as evidence.

1644 (2) EVIDENCE. The respondent shall have the right to appear in person or by counsel, and
1645 both parties have the right to call, examine, and cross-examine witnesses and to introduce evidence
1646 into the record.

1647 (3) BRIEFS. The administrative law judge may require or permit the filing of briefs.

1648 (4) MOTIONS. All motions, except those made at hearing, shall be in writing, filed by the
1649 date set by the administrative law judge, with a copy served upon the opposing party.

1650 (5) SUMMARYJUDGMENT. The parties may use the summary judgment procedure provided
1651 in s. 802.08, Stats.

1652 (6) ADJOURNMENTS. The administrative law judge may, for good cause, grant
1653 continuances, adjournments and extensions of time.

1654 (7) SUBPOENAS.

1655 (a) Subpoenas for the attendance of any witness at a hearing in the proceeding may be
1656 issued in accordance with s. 885.01, Stats. Service shall be made in the manner provided in
1657 s. 805.07 (5), Stats. A subpoena may command the person to whom it is directed to produce the
1658 books, papers, documents, or tangible things designated therein.

1659 (b) An administrative law judge may issue protective orders according to the provision the
1660 provisions of s. 805.07, Stats.

1661 **3.88 Witness fees and costs.** Witnesses subpoenaed at the request of the department shall
1662 be entitled to compensation from the state for attendance and travel as provided in ch. 885, Stats.

1663 **3.90 Record of proceedings, transcripts.**

1664 **(1) RECORD OF ORAL PROCEEDINGS.** Oral proceedings in an administrative injunction
1665 case shall be electronically recorded unless the administrative law judge determines that a
1666 stenographic record is necessary.

1667 **(2) ELECTRONIC RECORDING; COPIES.** If an oral proceeding in an administrative injunction
1668 case is electronically recorded, a copy of the recording shall be furnished at cost to any party who
1669 requests a copy.

1670 **(3) STENOGRAPHIC RECORDING; COPIES.** (a) If a stenographic recording is made, the
1671 reporting service who recorded the proceeding may charge a fee for an original transcription and
1672 for copies. Fees are identified in the state operational purchasing bulletin for reporting services
1673 and fees allowed to be charged.

1674 (b) A person who is without means and who requires a transcript for appeal or other
1675 reasonable purposes shall be furnished with a transcript without charge upon the filing of a petition
1676 of indigency signed under oath.

1677 **3.92 Decision.** The administrative law judge shall prepare a proposed decision for
1678 consideration by the department or a final decision, if designated as final decision maker. The
1679 decision, whether proposed or final, shall include findings of fact, conclusions of law, and an order,
1680 with a signed opinion explaining the decision.

1681 **3.94 Service of decision.** The administrative law judge shall deliver the proposed or final
1682 decision, with a copy of the record including the electronic recording of the proceedings, to the
1683 department. The proposed or final decision shall be served by the administrative law judge on the
1684 parties with a notice providing each party adversely affected by the proposed decision with an
1685 opportunity to file objections and written argument with respect to the objections to the department
1686 or to the administrator of DHA, depending on who is the final decision maker. A party adversely

1687 affected by a decision shall have 20 days from the date of service of the proposed decision to file
1688 objections and argument.

1689 **3.96 Final decision and order.** After the time expires for filing all objections to the
1690 proposed decision and order, the department or the administrator of DHA shall make a final
1691 decision and order in the administrative injunction proceeding. If the final decision varies from
1692 the administrative law judge's decision, the final decision shall explain the reasons for all
1693 variations.

1694 **SECTION 5.** Chapter VE 11 is renumbered Ch. VE 4.

1695 **EFFECTIVE DATE.** This rule is effective on the first day of the month commencing after the
1696 date of publication, as provided under Wis. Stat. s. 227.22 (2) (intro.).