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Alaska State Board of Veterinary Medical Examiners  
Department of Commerce, Community and Economic Development  
Division of Corporations, Business and Professional Licensing  
PO Box 110806  
Juneau, AK 99811-0806  
[Boardofveterinaryexaminers@alaska.gov](mailto:Boardofveterinaryexaminers@alaska.gov)

**Re: Proposed sections 12 AAC 68.075. Veterinary-Client-Patient-Relationship and 12 AAC 68.990 Telemedicine Services**

Dear Board of Veterinary Medical Examiners:

Thank you for the opportunity to comment on the proposed professional regulations in sections 12 AAC 68.075 and 12 AAC 68.990. I am providing comments on behalf of the Alaska State Veterinary Medical Association (AKVMA). AKVMA is comprised of 170 veterinarians that represent the broad spectrum of veterinary medicine, including, but not limited to small animal, food supply, exotic, aquatic, and equine practice, and those veterinarians working in research, academic and government capacities.

The Alaska State Veterinary Medical Association (AKVMA) is committed to helping protect the health, safety, and welfare of Alaskans and advocating for veterinarians to provide safe, competent professional veterinary services to consumers. AKVMA is supportive of the need to include a VCPR regulation for Alaska as well as facilitate access to veterinary care in underserved areas. AKVMA does have concerns however that the proposed regulations are an overly broad solution that violates Federal law and allows the establishment of a VCPR solely via telemedicine that can facilitate the delivery of substandard care, potentially harming the patients served. The proposed regulation would apply not only to remote or underserved areas, but to all regions and practice settings in the state. It is overbroad and threatens the quality of care by undermining the VCPR, which has served the public well in ensuring proper care and treatment, even where a veterinarian is available for an in-person examination.

AKVMA has the following comments regarding the proposed professional regulations in Section 12 AAC 68.075 and 12 AAC 68.990:

**1. We believe that it is important to use the term “Veterinarian” in place of “Veterinary” in the Veterinary-client-patient relationship” in the regulation.**

- *Veterinary* means, *of or relating to veterinary medicine*, whereas *veterinarian* designates a person (veterinarian) responsible for making medical judgment and providing treatment.
- The U.S. Food and Drug Administration (FDA), the American Veterinary Medical Association (AVMA) and the American Association of Veterinary State Boards (AAVSB) all use Veterinarian-Client-Patient Relationship in defining the VCPR.

2. **The proposed VCPR regulation to allow for the establishment of a VCPR through telemedicine services without the requirement for a physical exam or medically appropriate and timely visits to the premises where the animal is kept, is in violation of FDA regulations when issuing veterinary feed directives (VFD), prescribing FDA-approved drugs in an Extra-Label manner, or creating/delivering autogenous biologics. The AAVSB reminds us of that as well in *The AAVSB Guidelines for the Appropriate Use of Telehealth Technologies in Veterinary Medical Practice*<sup>1</sup>, stating, “The Federal definition of the VCPR must be followed when issuing prescriptions in accordance with the Veterinary Feed Directive (VFD) and Animal Medicinal Drug Use Clarification Act (AMDUCA) of 1994.”**

- Regulations associated with the Federal Food, Drug, and Cosmetic Act and, specifically, the encompassed definition of the VCPR (see 21 USC § 530.3[i]) does not allow for the establishment of a VCPR through electronic means (telemedicine). That definition states, in part, “...Such a relationship can exist only when the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal(s) by virtue of examination of the animal(s), and/or by medically appropriate and timely visits to the premises where the animal(s) are kept.” The FDA is applying temporary regulatory enforcement discretion to the definition during the COVID-19 pandemic to facilitate veterinarians’ ability to utilize telemedicine, but that is not equivalent to a change in the federal definition. FDA has indicated that it will periodically review its temporary policy of discretion and revise or withdraw the policy, as necessary.
- Many medications used in both agriculture and aquaculture require a VFD to be issued and therefore require adherence to, at a minimum, the federal VCPR definition. The same requirement exists for Extra-Label Drug Use and the creation/delivery of autogenous biologics. Use of any FDA-approved (for animal or human use) drug that is not consistent with the label (e.g., species, dosage amount, dosage length, stated disease condition, intended use of animal), i.e., extra-label use, requires adherence to, at a minimum, the federal VCPR definition. A state may impose stricter VCPR requirements for VFD, Extra-Label Drug Use, and creation/delivery of autogenous biologics, but may not impose requirements that are less strict.
- Potential risks associated with failing to follow the federal VCPR definition when issuing VFDs, using/prescribing FDA-approved drugs in an Extra-Label manner, or the creation/delivery of autogenous biologics include potential FDA enforcement and civil lawsuits in the event of an adverse event or treatment failure. Our understanding is that the FDA has historically focused on animal safety and human food safety risks when prioritizing their enforcement actions. Authorizing VFDs without following the FDA VCPR and associated VFD Guidance for Industry and Compliance Policy Guides, particularly for antimicrobials, could garner FDA attention. FDA has historically been less interested in policing ELDU in companion animals unless there was a safety issue. However, increasing concerns about antimicrobial resistance and a specific focus on antimicrobial stewardship for companion animals in FDA’s Five-Year Plan (see “[Supporting Antimicrobial Stewardship in Veterinary Settings: Goals for Fiscal Years 2019-2023](#)”) signal that the agency’s approach is shifting. Risk of civil litigation is also very real. In the event of an adverse event or treatment failure, a veterinarian’s failure to follow the federal VCPR when it is required under federal law could be used as evidence that the veterinarian was negligent and increase the likelihood of a judgement against them. What the veterinary licensing board is currently proposing only protects the veterinarian from regulatory action from the board of veterinary medical examiners. It will not necessarily protect the veterinarian from civil action due to misdiagnosis (the risk of which is higher with the use of telemedicine) and subsequent errors/inadequacy in treatment. It also does not promote a standard of care that is in the best interests of the patient.

3. **The proposed “telemedicine services” definition is too broad and does not place any limitations on the diagnosis or treatment of an animal without a physical exam or timely visits to the premises where the animal is kept. The proposed definition is not consistent with comments appearing in The AAVSB *Guidelines for the Appropriate Use of Telehealth Technologies in Veterinary Medical Practice*.<sup>1</sup>**

According to the AAVSB, “A veterinarian using telemedicine must take appropriate steps to establish the VCPR, obtain informed concern from the client, and conduct all necessary patient evaluations consistent with currently acceptable standards of care. Some patient presentations are appropriate for the utilization of telemedicine as a component of, or in lieu of, hands-on medical care, while others are not.”

This potentially increases the risk of improper treatment of animals.

- Practically speaking, we also have a concern about the proposed provision that extends the electronically established VCPR to a colleague or consultant. This means that, potentially, an animal could be treated by multiple individuals, only one of whom may have had the benefit of a telehealth consult, for an indefinite period of time without the animal ever having been seen in-person. We do not believe that any U.S. jurisdiction allows this approach, as it increases the risk of poor outcomes and treatment by unqualified practitioners, even unlicensed individuals.

**AKVMA recommends that section 12 AAC 68.075 and Section 12 AAC68.990 be amended to address our concerns. Our specific recommendations include:**

A) Change, in Section 12 AAC 68.075, the veterinary-client-patient relationship to veterinarian-client-patient relationship.

B.) Add to Section 12 AAC 68.990 (no. 7 and 7 a.)

(7) Telemedicine services must be provided within a valid Veterinarian-client-patient relationship that requires 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.

(a) A licensed veterinarian in Alaska 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. When this occurs, an evaluation of the patients or premises may initially be conducted through telemedicine services, as long as the client agrees to present the animal(s) for an in-person examination or the veterinarian conducts a medically appropriate visit to the premise as soon as reasonably achievable.

(b) A Veterinarian using telemedicine services must take appropriate steps to obtain Informed Consent from the client and conduct all necessary patient evaluations consistent with currently acceptable standards of care. Evidence documenting informed consent for the use of telemedicine services must be obtained and maintained in the medical record.<sup>1</sup>

(c) The Veterinarian must maintain patient medical records.

(d) The Veterinarian must ensure the client is aware of the Veterinarian’s identity, location and Jurisdiction’s license number and licensure status.<sup>1</sup>

In summary, the primary concerns with the proposed regulation changes are:

1. There are serious national implications to broadening the VCPR definition to no longer require establishing the VCPR through traditional means (i.e., not requiring a physical examination or onsite inspection of a herd or agricultural facility). This could lead to paramount changes in the profession of veterinary medicine as Alaska could be perceived as the pilot state for telemedicine as the sole mechanism to establish a VCPR. This could lead to eliminating the requirement for physical examinations and inspections of the premises where animals are housed, greatly limiting the quality of care for our patients.
2. Eliminating a physical examination requirement fails to recognize the inherent value of a professional and thorough physical examination to ensuring the provision of quality care for animals that cannot communicate their clinical signs to their healthcare provider like our human counterparts can.
3. The proposed changes leave our colleagues at risk of working in conflict with federal law and places them at risk for both federal discipline and adverse judgments in civil litigation.
4. Redefining a VCPR in our state does not eliminate the federal requirement for a physical examination of the patient prior to extra-label drug use and medically appropriate and timely visits to the premises where animals are kept prior to issuing veterinary feed directives.
5. Appropriate oversight for public health, food safety, and antimicrobial stewardship is not assured under the proposed VCPR definition.
6. "Telemedicine services" as currently defined in the proposed regulations does not include important guidelines and standards of care as recommended by AAVSB. This potentially increases harm to the public by supporting the potential for delivery of substandard care by veterinarians.

Thank you for your time and consideration of our comments on this matter.

Sincerely,



Dr. Sarah Coburn, President AKVMA

***"Promoting excellence and professionalism of Alaska Veterinarians in advancing the health and well-being of animals and the public. "***

<sup>1</sup>AAVSB Recommended Guidelines for the Appropriate Use of Telehealth Technologies in the Practice of Veterinary Medicine