

**PROPOSED REGULATION OF THE
NEVADA STATE BOARD OF VETERINARY MEDICAL EXAMINERS**

LCB FILE NO. R091-201

**The following document is the initial draft regulation proposed
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**PROPOSED REGULATION OF THE NEVADA STATE BOARD
OF VETERINARY MEDICAL EXAMINERS**

LCB File No. R*-19**

June 12, 2020

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted mm*

AUTHORITY: §§1-5, 7 and 8, NRS 638.070; §6, NRS 638.070 and 638.147.

A REGULATION relating to veterinary medicine; allowing veterinarians to provide telemedicine services and conditions related thereto.

Legislative Counsel’s Digest:

Existing law. . .

Section 1. Chapter 638 of NAC is hereby amended by adding thereto the provisions set forth as section 2 of this regulation.

Sec. 2. *“Consultant” means a veterinarian who does not have a veterinarian-client-patient relationship with a patient and who consults with a treating veterinarian.*

Sec. 3. 1. *“Telemedicine” means the remote delivery of healthcare services for patients, such as health assessments or consultations, over the telecommunications infrastructure and by which a veterinarian may evaluate, diagnose, treat, create a veterinarian-client-patient relationship, and provide health information or education related to patients to other veterinarians or clients. Telemedicine includes emergency patient care for immediate,*

potentially life-threatening animal health situations such as, but not limited to, poison exposure mitigation, animal CPR instructions, or other critical lifesaving treatment or advice.

2. Telemedicine does not include:

(a) Animal poison control services to which clients or veterinarians may refer telephonically or via the internet for advice and direction regarding ingestion by an animal of a potentially poisonous substance; or

(b) A subscription or membership service by which a veterinarian may seek or to which a veterinarian may refer a particular case for specialty review, advice, or treatment recommendations.

Sec. 4. “Treating veterinarian” is a veterinarian who:

- 1. Practices veterinary medicine in a location in Nevada;*
- 2. Has a veterinarian-client-patient relationship with an animal located in Nevada; and*
- 3. Sees and treats the animal in-person at a location in Nevada.*

Sec. 5. 1. A veterinarian may provide telemedicine services to clients and patients in Nevada where:

(a) The veterinarian is licensed with the Board;

(b) The veterinarian is licensed in good standing in the state from which he or she will be providing the telemedicine services;

(c) The veterinarian has established a veterinary-client-patient relationship with a patient; and

(d) The veterinarian provides the telemedicine services in conformance with this section.

2. A consultant who is licensed in another state and only consults with a treating veterinarian related to an animal being treated by the treating veterinarian and who does not

establish a veterinarian-client-patient relationship with the animal is exempt from licensure under this section. If a veterinarian who is licensed in another state speaks with or otherwise communicates directly with a client, then that veterinarian is not a consultant and must comply with these regulations.

3. Off-site supervision may only utilize telehealth if the veterinary technician and the supervising veterinarian are employed by or work in the same veterinary facility and the veterinary facility must be located in Nevada. Telehealth may not be used for the purposes of providing direct, indirect, immediate supervision.

Sec. 6. 1. A veterinarian who provides telemedicine services to an animal and a client located in Nevada must for each encounter:

(a) Allow the encounter to commence only through means of a telephone, website or application, and at the commencement of the encounter, inform the patient in writing and orally of the veterinarian's name, location from which he or she is providing the telemedicine, and the veterinarian's license number in Nevada and the state from which he or she is providing telemedicine;

(b) Evaluate and assess the animal by whatever technological means and consistent with currently acceptable standards of care;

(c) Determine that the animal and client are appropriate candidates for the utilization of telemedicine will be adequate to address the presentation, and if the animal and client are not appropriate candidates for the utilization of telemedicine, so inform the client, provide contact information for the nearest available and appropriate Nevada veterinarian, and terminate the encounter;

(d) If the veterinarian determines that the animal and client are appropriate candidates for the utilization of telemedicine, establish a veterinarian-client-patient relationship;

(e) If the veterinarian determines that the animal and client are appropriate candidates for the utilization of telemedicine, obtain written evidence by paper, e-mail, or other technological means of the informed consent of the client to receiving telemedicine services related to the animal;

(f) In all cases, make a medical record related to the encounter;

(g) In all cases where the client has an established treating veterinarian located in Nevada, provide the medical records generated in the telemedicine encounter to the treating veterinarian located in Nevada within 48 hours of the encounter;

(h) In all cases, assure that the encounter is conducted and maintained confidentially.

2. Where, in the judgment of the veterinarian, the providing of advice regarding or guidance in the treatment of the animal is emergent and that the life or well-being of the animal is in imminent threat, the veterinarian may act and advise as he or she deems necessary and may assure compliance with any or all of subsections (a), (e), (f), or (g) after the emergency is resolved with the animal.

3. The website or application through which the client initiated the encounter must contain:

(a) A method by which the client may access, supplement, and amend contact and health information the client provided related to the animal;

(b) A method by which the client may request the medical records and other related records made and maintained by the veterinarian related to the care of the animal; and

(c) Information about how the client may file a complaint about the care provided to the Nevada board and the board of the state from which the veterinarian is providing the telemedicine.

Sec. 7. 1. *All written medical records made regarding a telemedicine encounter involving a patient and client located in Nevada must comply with NAC 638.0475. All such records must be made available upon request to the client or the Board within three business days of the request.*

2. If the veterinarian records the encounter by video or aural means, the veterinarian shall:

(a) Inform the client that the recording will be made and obtain the client's consent to the recording before the recording can commence;

(b) Maintain the recording as part of the medical record; and

(c) Assure that the substance of the recording is written into the medical record within 24 hours of the encounter.

Sec. 8. *If the veterinarian determines that a prescription drug is appropriate and necessary as part of a telemedicine encounter, the veterinarian may:*

1. Call in or provide an electronic prescription to a pharmacy of the client's choice;

2. Not prescribe more than a three-day supply of a controlled substance or a ten-day supply of a dangerous drug except;

(a) If the prescription is for a horse or livestock; or

(b) Where the drug is packaged and sold by the manufacturer only in a quantity that exceeds a ten-day supply and where the packaging is such that it is not intended to be removed or broken into smaller er usable units.

3. Not dispense the drug to the patient from a veterinary facility unless the prescribing veterinarian is employed at or practices from a veterinary facility that is located in Nevada and the client picks up the drug in person at that veterinary facility.

4. Not prescribe:

(a) A drug where the drug will be used in an extra-label manner;

(b) A medicated feed for minor species in an extra-label manner; or

(c) An on-label veterinary feed directive.

Sec. 9. 1. For the purposes of providing telemedicine services, a veterinarian-client-patient relationship exists when:

(a) Both the veterinarian and client agree for the veterinarian to assume responsibility for making medical judgments regarding the health of the animal; and

(b) The veterinarian has sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal.

2. The veterinarian who will provide telemedicine services may establish that he has sufficient knowledge of an animal by or through:

(a) An examination of the animal has occurred no longer than one year prior to the present encounter, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically and in real time to the veterinarian;

*(b) A physical examination and assessment performed at the veterinarian's direction by a veterinary technician employed by the veterinarian who is physically present with the animal;
or*

(c) Through medically appropriate and timely visits to the premises at which the animal is kept.

Sec. 10. NAC 638.0197 shall be amended to read as follows:

1. For the purposes of this chapter, a veterinarian shall be deemed to have a “veterinarian-client-patient relationship” concerning a nonhuman animal if the veterinarian *satisfies Section 9 of this regulation or* all of the following conditions:

(a) The veterinarian assumes the responsibility for making medical judgments concerning the health of the animal and the need for medical treatment of the animal.

(b) The veterinarian has knowledge of the present care and health of the animal sufficient to provide at least a general or preliminary diagnosis of the medical condition of the animal. This knowledge must be acquired by:

(1) Conducting a physical examination of the animal; ~~[or]~~

(2) Visiting the premises where the animal is kept in a timely manner that is appropriate to the medical condition of the animal ~~[-]~~; *or*

(3) Compliance with Section 9 of this regulation.

(c) The veterinarian obtains the informed consent of the client for medical treatment of the animal.

(d) The veterinarian obtains the agreement of the client to follow the instructions provided by the veterinarian for the care and medical treatment of the animal.

2. As used in this section, “informed consent” means that the client, after having been informed in a manner that would be understood by a reasonable person, of the diagnostic and treatment options, risk assessment and prognosis for the animal and of an estimate of the fees

expected for provision of veterinary services to be rendered to the animal, has consented to the recommended treatment.

Sec. 11. NAC 638.0435 shall be amended to read as follows:

NAC 638.0435. 1. *Except as provided in subsection 3, ~~in~~ in* addition to the requirements of NRS 638.100, an applicant for a license to practice veterinary medicine must submit to the Executive Director of the Board proof that the applicant has passed, within the 5 years immediately preceding the date on which he or she submitted his or her application:

(a) The North American Veterinary Licensing Examination of the National Board of Veterinary Medical Examiners; or

(b) Any other examination approved for this purpose by the Board pursuant to NRS 638.110.

2. In addition to the requirements of subsection 1, an applicant for a license to practice veterinary medicine who is a graduate of a school of veterinary medicine that is not accredited by the Council on Education of the American Veterinary Medical Association must submit to the Board a verified copy of the educational certificate required pursuant to paragraph (b) of subsection 2 of NRS 638.100.

3. A veterinarian is not required to comply with subsection 1 where the veterinarian:

(a) Has been licensed in and has practiced veterinary medicine in another state for at least five years preceding his or her application; and

(b) Has not been disciplined in any other state.