

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

LCB File No. R091-20

July 24, 2020

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

AUTHORITY: §§1-4, 6-10 and 12, NRS 638.070; §5, NRS 638.070 and 638.124; §11, NRS 638.070 and 638.110.

A REGULATION relating to veterinary medicine; establishing provisions relating to telemedicine services provided by a veterinarian; revising provisions relating to applicants for a license to practice veterinary medicine; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Nevada State Board of Veterinary Medical Examiners to adopt regulations that are necessary to carry out the provisions of law relating to veterinary medicine. (NRS 638.070) **Sections 2-9** of this regulation establish provisions that authorize a veterinarian licensed in this State to provide telemedicine services to animals and clients in certain circumstances.

Section 5 of this regulation sets forth the requirements a veterinarian must satisfy to be able to provide telemedicine services to animals and clients in this State, including: (1) being licensed in good standing with the Board or, if telemedicine services will not be provided from this State, being licensed in good standing in the state from which the telemedicine services will be provided; and (2) establishing a veterinarian-client-patient relationship with the animal and client.

Section 6 of this regulation establishes the duties of a veterinarian during each telemedicine session, including: (1) providing certain information to a client; (2) determining whether a client and an animal are appropriate candidates for the utilization of telemedicine; (3) maintaining a medical record related to the session; and (4) providing the medical record relating to the session to the treating veterinarian of the client not later than 48 hours after the session ends. **Section 6** also establishes requirements relating to any website or application through which a telemedicine session takes place.

Section 7 of this regulation requires that a written medical record relating to a telemedicine session must be made available upon request to the Board or its representative or a client not later than 3 business days after receiving the request. **Section 7** also establishes

requirements concerning telemedicine sessions that a veterinarian records by video or aural means.

Section 8 of this regulation establishes requirements relating to prescription drugs that a veterinarian prescribes as the result of a telemedicine session, including: (1) generally prohibiting a veterinarian from prescribing more than a 3-day supply of a controlled substance or a 10-day supply of a dangerous drug; (2) prohibiting a veterinarian from prescribing certain drugs; and (3) requiring that certain requirements be met in order for a veterinarian to dispense a prescription drug to a client from a veterinary facility.

Section 9 of this regulation provides that, for the purposes of providing telemedicine services, a veterinarian-client-patient relationship exists if: (1) the veterinarian and client agree that the veterinarian will assume the responsibility for making medical judgments concerning the health of an animal; and (2) the veterinarian has sufficient knowledge of the animal to initiate a general or preliminary diagnosis of the medical condition of the animal. **Section 9** also provides the ways in which a veterinarian may establish that he or she has such sufficient knowledge of an animal.

Existing law generally requires each applicant for an initial license to practice veterinary medicine in this State to pass: (1) the state examination administered by the Board; and (2) any other examination approved by the Board and a national testing service for veterinary medicine that is approved by the Board. (NRS 638.110) Accordingly, existing regulations require an applicant to submit to the Executive Director of the Board proof that the applicant has passed the North American Veterinary Licensing Examination of the National Board of Veterinary Medical Examiners or another examination approved by the Board within 5 years immediately preceding the date on which the applicant submits his or her application. (NAC 638.0435) **Section 11** of this regulation provides that a veterinarian is exempt from the requirement to provide such proof to the Executive Director if the veterinarian: (1) has continuously been licensed and practiced veterinary medicine in another state for at least 5 years immediately preceding the date on which the veterinarian submits his or her application; and (2) has not been disciplined in any other state.

Section 1. Chapter 638 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 9, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Telemedicine” means the remote delivery of healthcare services for animals over the telecommunications infrastructure, including, without limitation, health assessments and consultations, by which a veterinarian may establish a veterinarian-client-patient relationship,*

evaluate, diagnose and treat animals and provide health information or education relating to animals to other veterinarians or clients. The term:

1. Includes emergency patient care for immediate, potentially life-threatening animal health situations including, without limitation, poison exposure mitigation, animal CPR instructions and other critical lifesaving treatment or advice.

2. Does not include:

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

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

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

1. Practices veterinary medicine at a location in this State;

2. Has a veterinarian-client-patient relationship with an animal located in this State; and

3. Sees and treats the animal in person at a location in this State.

Sec. 5. 1. A veterinarian may provide telemedicine services to an animal and a client in this State if the veterinarian:

(a) Is licensed in good standing with the Board;

(b) If the telemedicine services will not be provided from this State, is licensed in good standing in the state from which the veterinarian will be providing the telemedicine services;

(c) Has established a veterinarian-client-patient relationship with the animal; and

(d) Provides the telemedicine services in accordance with this section.

2. A treating veterinarian may, in accordance with NAC 638.0495, consult with a veterinarian who is licensed in another state regarding an animal being treated by the treating veterinarian if the veterinarian being consulted does not establish a veterinarian-client-patient relationship with the animal. A veterinarian licensed in another state who speaks with or otherwise communicates directly with a client must comply with the requirements set forth in subsection 1.

3. A supervising veterinarian and veterinary technician may only provide telemedicine services if the supervising veterinarian and veterinary technician are employed by or work in the same veterinary facility in this State from which the telemedicine services are provided. Telemedicine technology must not be used for the purposes of a supervising veterinarian providing direct supervision, indirect supervision or immediate supervision.

Sec. 6. 1. *Except as otherwise provided in subsection 2, a veterinarian who provides telemedicine services to an animal and a client located in this State shall, for each session:*

(a) Allow the session to commence and proceed only through means of a telephone, website or application;

(b) At the commencement of the session, inform the client orally and in writing of:

(1) The name of the veterinarian;

(2) The location from which the veterinarian is providing the telemedicine services;

(3) The license number of the veterinarian in this State; and

(4) If the telemedicine services are not being provided from this State, the license number of the veterinarian in the state from which he or she is providing the telemedicine services;

(c) Evaluate and assess the animal by using technological means that are consistent with currently acceptable standards of care;

(d) Determine whether the animal and client are appropriate candidates for the utilization of telemedicine to address any issue adequately, and if the animal and client:

(1) Are appropriate candidates for the utilization of telemedicine:

(I) Establish a veterinarian-client-patient relationship;

(II) Obtain written evidence by paper, electronic mail or other technological means of the informed consent of the client to receive telemedicine services regarding the animal; or

(2) Are not appropriate candidates for the utilization of telemedicine:

(I) Inform the client of that determination;

(II) Provide contact information for a veterinarian in this State who is nearest to the location of the animal and client and who can appropriately address the needs of the animal and client; and

(III) Terminate the session;

(e) Maintain a medical record related to the session;

(f) If the client has an established treating veterinarian located in this State, provide the medical record relating to the session to the treating veterinarian not later than 48 hours after the session ends; and

(g) Ensure that the session is conducted and maintained confidentially.

2. In the judgment of a veterinarian, if providing advice or guidance regarding the treatment of an animal is urgent and the life or well-being of the animal is in imminent danger, the veterinarian may advise and act as he or she deems necessary under the circumstances and may comply with the requirements set forth in paragraph (b), (e) or (f) of

subsection 1 or sub-subparagraph (II) of subparagraph (1) of paragraph (d) of subsection 1 after the emergency is resolved with the animal.

3. A website or application through which a telemedicine session takes place must contain:

(a) A method by which a client may:

(1) Access, supplement and amend contact and health information relating to an animal that the client previously provided; and

(2) Request medical records and other related records relating to the care of an animal that were created and are maintained by the veterinarian; and

(b) Information regarding how the client may file a complaint with the Board relating to the care provided by the veterinarian during the session and, if the veterinarian is providing the telemedicine services from another state, the board of that state.

Sec. 7. 1. All written medical records relating to a telemedicine session involving an animal and a client located in this State must comply with the provisions of NAC 638.0475 and be made available upon request to the Board or its representative or the client not later than 3 business days after receiving a request from the Board or its representative or the client.

2. If a veterinarian records a telemedicine session by video or aural means, the veterinarian shall:

(a) Before commencing the recording, inform the client that the recording will be made and obtain the client's consent to the recording;

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

(c) Ensure that the substance of the recording is written into the medical record relating to the session not later than 24 hours after the session ends.

Sec. 8. *If a veterinarian determines during a telemedicine session that the prescribing of a prescription drug is appropriate and necessary, the veterinarian shall:*

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

2. Not prescribe:

(a) More than a 3-day supply of a controlled substance or a 10-day supply of a dangerous drug unless:

(1) The prescription is for a horse or livestock; or

(2) The prescription drug is packaged and sold by the manufacturer only in a quantity that exceeds a 10-day supply and the packaging is not intended to be removed or broken into smaller usable units;

(b) A prescription drug that will be used in an extra-label manner;

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

(d) An on-label veterinary feed directive.

3. Not dispense the prescription drug to the client from a veterinary facility unless:

(a) The veterinary facility is located in this State;

(b) The prescribing veterinarian is employed at or practices in the veterinary facility; and

(c) The client picks up the prescription drug in person at the veterinary facility.

Sec. 9. *1. For the purposes of sections 2 to 9, inclusive, of this regulation, a "veterinarian-client-patient relationship" exists if:*

(a) The veterinarian and client agree for the veterinarian to assume the responsibility for making medical judgments concerning the health of an 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. For the purposes of paragraph (b) of subsection 1, a veterinarian may establish that he or she has sufficient knowledge of an animal in the following ways:

(a) The animal was examined by the veterinarian not more than 1 year before the present telemedicine session, either physically or by using instrumentation and diagnostic equipment through which images and medical records can be transmitted electronically and in real time to the veterinarian;

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

(c) The veterinarian visits the premises where the animal is kept in a timely manner that is appropriate to the medical condition of the animal.

Sec. 10. NAC 638.0197 is hereby amended to read as follows:

638.0197 1. ~~For~~ *Except as otherwise provided in section 9 of this regulation, 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 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.

(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 is hereby amended to read as follows:

638.0435 1. ~~Has~~ *Except as otherwise provided in subsection 3, 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~~ *International Council for* Veterinary ~~Medical Examiners;~~ *Assessment;* 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. An applicant is not required to provide proof to the Executive Director of the Board pursuant to subsection 1 if the applicant:

(a) Has continuously been licensed and practiced veterinary medicine in another state for at least 5 years immediately preceding the date on which he or she submitted his or her application; and

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

Sec. 12. NAC 638.0475 is hereby amended to read as follows:

638.0475 1. Each licensed veterinarian shall maintain in this State for at least 4 years a separate medical record of each animal receiving veterinary services, including, without limitation, an examination conducted pursuant to NAC 638.610, from the licensed veterinarian or under his or her supervision. The records must be available for inspection by the Board or its representative or the owner of the animal during normal business hours at least 5 days each week. Except as otherwise provided in this subsection ~~H~~ ***and section 7 of this regulation***, the licensed veterinarian shall provide a copy of that record to the Board or its representative or the owner of the animal receiving veterinary services not later than 48 hours after receiving a request from the Board or its representative or the owner of the animal. The licensed veterinarian is not required to provide a copy of any radiographs or other diagnostic images in the medical record to the owner of the animal receiving veterinary services.

2. The medical record must contain the following information, in legible form:

- (a) The name, address and telephone number of the animal's owner;
- (b) The name or identifying number, or both, of the animal;

- (c) The age, sex, weight and breed of the animal;
- (d) The dates of care, custody or treatment of the animal;
- (e) Documentation of the informed consent of the client for medical treatment of the animal;
- (f) A short history of the animal's condition as it pertains to the animal's medical status;
- (g) The results of and notations from an examination of the animal, including, without limitation, the temperature, pulse and respiration rate of the animal and laboratory data pertaining to the animal;
- (h) The diagnosis or condition at the beginning of custody of the animal, including, without limitation, results of tests;
- (i) The immunization record of the animal;
- (j) All clinical information pertaining to the animal, including, without limitation, sufficient information to justify the diagnosis or determination of the medical status of the animal and to warrant any treatment recommended for or administered to the animal;
- (k) The notes taken during surgery, including, without limitation:
 - (1) The name and quantity of any drug administered for anesthesia and preanesthesia;
 - (2) The procedure performed;
 - (3) The times at which the surgery begins and ends;
 - (4) If the surgery is performed in a veterinary facility using general anesthesia:
 - (I) The vital signs of the animal at the beginning and end of the surgery that are appropriate to the species and condition of the animal at the time of surgery, which may include, without limitation, the temperature, pulse, heart rate, respiration, blood pressure, capillary refill time and oxygen levels of the animal; and

(II) The vital signs of the animal recorded at least every 5 minutes during the surgery, including, without limitation, the pulse, heart rate and respiration of the animal;

(l) Any medication and treatment administered, including, without limitation, the amount and frequency;

(m) The progress and disposition of the case;

(n) The name of each person who is not an employee of the veterinarian who provided professional advice or performed treatments, examinations or other services pertaining to the animal;

(o) The signature, initials or other identifying mark of the person who made the entry in the medical record;

(p) Any radiographs other than intraoral dental radiographs. Each radiograph other than an intraoral dental radiograph must be labeled on the image as follows:

(1) The name of the veterinarian or facility that took the radiograph;

(2) The name or identifying number, or both, of the animal;

(3) The name of the animal's owner;

(4) The date on which the radiograph was taken; and

(5) The anatomical orientation depicted by the radiograph; and

(q) Any intraoral dental radiographs or other diagnostic images. For each intraoral dental radiograph or other diagnostic image, the medical record must include the information set forth in subparagraphs (1) to (5), inclusive, of paragraph (p) with regard to the intraoral dental radiograph or other diagnostic image. That information may be included:

(1) In a hard copy of the medical record if the medical record is maintained as a written record; or

(2) In the computer file which contains the intraoral dental radiograph or other diagnostic image if the medical record is maintained as a computer record.

3. The Board or its representative will evaluate each medical record inspected pursuant to subsection 1 for compliance with the provisions of this chapter and chapter 638 of NRS.

4. Each radiograph or other diagnostic image is the property of the veterinarian who caused it to be prepared. A radiograph or other diagnostic image may be released to the owner of the animal. A radiograph or other diagnostic image must be released within 48 hours after the request is made to another veterinarian who has the authorization of the owner of the animal to which it pertains. The radiograph or other diagnostic image must be returned within a reasonable time to the veterinarian to whom it belongs.

5. The medical records required by this section must be written records or computer records. If the medical records are computer records:

- (a) The security of the computer must be maintained.
- (b) The computer records must be backed-up daily and cumulatively backed-up monthly using technology designed to store data permanently.
- (c) The computer records must be inalterable or clearly indicate when they have been altered and the manner in which they have been altered.
- (d) The computer records must not contain information relating to a physical examination that is automatically generated by the computer.
- (e) Any such computer records relating to the administration, prescribing or dispensing of a prescription drug must contain the initials of the person who administered, prescribed or dispensed the prescription drug. The initials of the person who administered, prescribed or

dispensed the prescription drug may be manually entered into the computer record or automatically generated by the computer.

6. In addition to the requirements of subsection 2, if a licensed veterinarian is not associated with a veterinary facility, and any controlled substances or prescription drugs are administered to the animal, the medical record required by this section must include the same information that a veterinary facility which:

(a) Maintains a stock of controlled substances for administration and dispensing is required to ensure is contained in a log for the veterinary facility pursuant to paragraphs (d) and (e) of subsection 3 of NAC 638.0628; and

(b) Dispenses prescription drugs is required to ensure is contained in the medical records of the animal pursuant to paragraph (e) of subsection 1 of NAC 638.0629.

7. In a practice concerned with herds of animals, records must be kept on each herd and may be kept on individual animals.

8. If a veterinarian ceases his or her practice without providing for the continuation of treatment of the animals under the veterinarian's care, the President of the Board may appoint a master to supervise his or her records, the treatment of those animals and the mailing of notices to the owners of the animals which had been under his or her care.

9. The medical record of an animal is confidential and may not be released except:

(a) As otherwise provided in subsection 1;

(b) In response to a court order; or

(c) As required to ensure compliance with any federal, state and local statutes, regulations or ordinances.

10. Nothing in this section is intended to prevent the sharing of veterinary medical information among veterinarians, law enforcement officials, and members, agents or officers of a society for the prevention of cruelty to animals who are acting to protect the welfare of an animal.

11. As used in this section, “other diagnostic image”:

(a) Includes, without limitation, an ultrasound, magnetic resonance imaging and computerized axial tomography scan; and

(b) Does not include a radiograph.