

## WSR 24-21-098

## PROPOSED RULES

## DEPARTMENT OF HEALTH

(Veterinary Board of Governors)

[Filed October 17, 2024, 10:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-17-101.

Title of Rule and Other Identifying Information: Veterinarian-client-patient relationship (VCPR) as related to telehealth. In response to three rules petitions received in 2022, the veterinary board of governors (board) is proposing changes to WAC 246-933-010 and 246-933-200 to establish additional standards for use of telehealth when establishing and maintaining a VCPR. The proposed rules add relevant definitions and specify boundaries on the use of telehealth in veterinary services.

Hearing Location(s): On December 9, 2024, at 9:10 a.m., at the Department of Health, Town Center 2, Room 153, 111 Israel Road S.E., Tumwater, WA 98501; or virtual [Date of Intended Adoption: December 9, 2024.](https://gcc02.safelinks.protection.outlook.com/ap/t-59584e83/?url=https%3A%2F%2Fteams.microsoft.com%2F1%2Fmeetup-join%2F19%253ameeting_OGM0ZmY4ZjgtZDBjYy00NmQzLWI0NmYtM2I0NmZm5MjM3ZmI4%2540thread.v2%2F0%3Fcon-text%3D%257b%2522Tid%2522%253a%252211d0e217-264e-400a-8ba0-57dcc127d72d%2522%252c%2522Oid%2522%253a%25224f64b0cb-39c0-4afe-b683-8cdc99a0355e%2522%257d&data=05%7C02%7CAmber.Freeberg%40doh.wa.gov%7Cfc5cc94e66d0427d22aa08dc80c83737%7C11d0e217264e400a8ba057dcc127d72d%7C0%7C0%7C638526844621707896%7CUnknown%7CTWfPbGZsb3d8eyJWijoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJCB-TiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=m4gSji-FAwLPbxMJ8f15FVKuBdvInlsSARlMnBV8N9rU%3D&reserved=0; or call in (audio only) 564-999-2000, 833-322-1218 (toll-free), Phone Conference ID 654 257 718#.</p></div><div data-bbox=)

Submit Written Comments to: Poppy Budrow, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview/>, [veterinary@doh.wa.gov](mailto:veterinary@doh.wa.gov), beginning the date and time of this filing, by December 2, 2024, 11:59 p.m.

Assistance for Persons with Disabilities: Contact Poppy Budrow, phone 564-669-0026, TTY 711, email [poppy.budrow@doh.wa.gov](mailto:poppy.budrow@doh.wa.gov), by November 25, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board is proposing to amend WAC 246-933-010 Definitions, by adding relevant terms relating to telehealth in veterinary services. The board is also proposing to amend WAC 246-933-200 Veterinarian-client-patient relationship, to clarify the regulatory requirements for establishing and maintaining a VCPR and specifying allowances for the utilization of telehealth

Reasons Supporting Proposal: In 2022, the board received three rule-making petitions in relation to standards for telehealth services in the practice of veterinary medicine. The board determined there are areas of veterinary services that may be appropriate for telehealth and agreed to consider amending the rules to allow for telehealth veterinary services when establishing and maintaining a VCPR. The board conducted workshops and solicited input from interested parties in order to develop rules that are consistent with industry standards, provide greater access to care, and maintain patient safety.

Statutory Authority for Adoption: RCW 18.92.030.

Statute Being Implemented: RCW 18.92.030.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Veterinary board of governors, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Poppy Budrow, 111 Israel Road S.E., Tumwater, WA 98501, 564-669-0026.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Poppy Budrow, P.O. Box 47852, Olympia, WA 98504-7852, phone 564-669-0026, TTY 711, email poppy.budrow@doh.wa.gov, veterinary@doh.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rules only apply to credential holders, not businesses.

Scope of exemption for rule proposal:

Is fully exempt.

October 17, 2024

Andrea Sanchez-Chambers, DVM

Chairperson, Veterinary Board of Governors

## OTS-5715.2

AMENDATORY SECTION (Amending WSR 93-08-029, filed 3/30/93, effective 4/30/93)

**WAC 246-933-010 Definitions.** (~~For the purposes of this chapter, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise. Unless stated, words used in the singular may be read in the plural.~~) The definitions in this section apply throughout the chapter unless the context clearly requires otherwise.

(1) "Advertise" means to announce publicly by any form of media in order to aid directly or indirectly in the sale of a commodity or service.

(2) "Animal" means any species normally recognized as treatable by veterinary medicine.

(3) "Controlled substances" as defined in RCW 69.50.101.

(4) "Department" means the department of health.

(5) "Drug((s))" as defined in RCW 69.50.101.

(6) "Health certificate" means a document prepared pursuant to law and which attests to the fact that an animal is in a certain state of health.

(7) "Patient" means any animal under the care and treatment of a veterinarian.

(8) "Secretary" means the secretary of the department of health.

(9) "Teleadvice" means the provision of any health information, opinion, guidance, or recommendation concerning prudent future actions

that are not specific to a particular patient's health, illness, or injury. This is general advice that is not intended to diagnose, prognose, treat, correct, change, alleviate, or prevent animal disease, illness, pain, deformity, defect, injury, or other physical, dental, or mental conditions.

(10) "Telehealth" means the overarching term that encompasses all uses of technology geared to remotely deliver health information or education. Telehealth encompasses a broad variety of technologies and tactics to deliver virtual medical, health, and education services. Telehealth is not a specific service, but a collection of tools which allow veterinarians to enhance care and education delivery. Telehealth encompasses teleadvice, telemedicine, and teletriage.

(11) "Telemedicine" means remote delivery of health care services, such as health assessments or consultations, over the telecommunications infrastructure. It allows veterinarians to evaluate, diagnose, and treat patients without the need for an in-person visit.

(12) "Teletriage" means the provision of emergency animal care advice, recommendations, or treatment in response to immediate, potentially life-threatening animal health situations (e.g., poison exposure mitigation, animal CPR instructions, immediate response to acute life-threatening trauma). A diagnosis is not rendered.

(13) "Veterinary board of governors" is that board appointed by the governor pursuant to chapter 18.92 RCW.

AMENDATORY SECTION (Amending WSR 16-11-004, filed 5/4/16, effective 6/4/16)

**WAC 246-933-200 ((Veterinary)) Veterinarian-client-patient relationship.** A ~~((veterinary))~~ veterinarian-client-patient relationship (VCPR) is the basis for interaction between veterinarians and their clients and patients.

(1) A ~~((veterinary))~~ veterinarian-client-patient relationship exists when all of the following conditions have been met:

(a) The veterinarian has assumed responsibility for making clinical judgments regarding the health of the animal ~~((+s))~~ and need for medical treatment, and the client or key party as defined in WAC 246-934-020 has agreed to follow the instructions of the veterinarian.

(b) The veterinarian has sufficient knowledge of the animal ~~((+s))~~ to initiate, at a minimum, a general or preliminary diagnosis of the medical conditions of the animal ~~((+s))~~. This means the veterinarian:

(i) Has physically examined the animal ~~((+s))~~ within the last year, or sooner if medically appropriate; or

(ii) In cases involving operations with several animals, such as encountered at farms, laboratories, or in shelters, is personally acquainted with the keeping and care of the ~~((animal(s)))~~ animals by virtue of an examination of the ~~((animal(s)))~~ animals or by medically appropriate and timely visits to the premises where the ~~((animal(s)))~~ animals are kept.

(c) The veterinarian is readily available for follow-up evaluation or has arranged for emergency coverage and continuing care and treatment.

(2) The veterinarian shall not establish a ~~((veterinary-client-patient relationship))~~ VCPR solely by ~~((telephonic or other electronic means))~~ telehealth. ~~((However, once established, a veterinary-client-~~

~~patient relationship may be maintained between medically necessary examinations via telephone or other types of consultations.))~~ Once a VCPR has been established, ongoing care can be provided via telemedicine; however, it is the responsibility of the examining veterinarian to determine if an additional physical examination is medically appropriate based on available information regardless of when the last physical examination was performed.

(3) Once a VCPR has been established, it extends to all veterinarians while employed/practicing at the same premises or same mobile practice entity as the veterinarian who established the most current VCPR. The VCPR cannot be extended to other veterinarians based solely on the accessibility of the medical records.

(4) In the absence of an established VCPR, allowable telehealth services are limited to:

(a) Teleadvice;

(b) Triage;

(c) Telemedicine for the purpose of prescribing sedation, other than a controlled substance, prior to an in-person visit, and only to facilitate transportation to, examination by, or treatment by a veterinarian;

(d) Dispensing drugs, other than controlled substances, prescribed by another veterinarian, including a veterinarian licensed in another state, if:

(i) Failure to dispense the drug could interrupt a therapeutic regimen or cause a patient to suffer;

(ii) The prescribing veterinarian has ascertained information necessary to fill the requested prescription;

(iii) The quantity of the dispensed drug does not exceed a 10-day supply for each animal annually;

(iv) The annual total of dosage units of drugs dispensed under this subsection is not more than five percent of the total dosage units of drugs the veterinarian dispenses in a year;

(v) The veterinarian maintains records of dispensing activities under this section consistent with chapter 246-933 WAC; and

(vi) Consistent with RCW 18.92.012, controlled substances can be dispensed only if prescribed by a veterinarian licensed under chapter 18.92 RCW.

(5) Once a VCPR has been established, all forms of telehealth, as defined in WAC 246-933-010, may be used at the discretion of the veterinarian.

(6) The ~~((veterinary-client-patient relationship))~~ VCPR may be terminated under these conditions:

(a) ~~((Veterinarians may terminate a veterinary-client-patient relationship as long as))~~ The termination does not constitute patient abandonment as described in WAC 246-933-060.

(b) If there is an ongoing medical or surgical condition, the client is offered a patient ~~((should be referred))~~ referral at the time of termination to another veterinarian for diagnosis, care, and treatment.

(c) Clients may terminate the ~~((veterinary-client-patient relationship))~~ VCPR at any time.

~~((4))~~ (7) For animals or animal products for food consumption:

(a) There must be a written agreement with the client that identifies the farm veterinarian of record (VOR) who is accountable for drug use and treatments administered to the animals on the farm operation;

(b) The VOR is the responsible party for providing appropriate oversight of drug use on the farm operation. Oversight includes establishment of diagnostic and treatment protocols, training of personnel, review of treatment records, monitoring drug inventories, assuring appropriate labeling of drugs, and monitoring compliance and outcomes. Veterinary oversight of drug use must include all drugs used on the farm regardless of the distribution of the drugs to the farm;

(c) Provision of drugs or drug prescriptions must be for specific time frames appropriate to the scope and type of operation involved and only for the management groups within the operation that the VOR has direct involvement and oversight;

(d) A veterinarian issuing a veterinary feed directive (VFD) must comply with applicable federal law, including 21 C.F.R. 558.6.

~~((5))~~ (8) Medical records must be maintained pursuant to WAC 246-933-320(7).

~~((6))~~ (9) (a) A veterinarian shall use or prescribe drugs only within the context of a ~~((veterinary))~~ veterinarian-client-patient relationship except as outlined in subsection (4) of this section. Veterinary prescription drugs are restricted by federal law, under 21 U.S.C. Sec. 353(f), to be used by or on the order of a licensed veterinarian.

(b) Extra label use is legal only when ordered by a veterinarian and within the context of a ~~((veterinary))~~ veterinarian-client-patient relationship.