



North Dakota Veterinary Medical Association

P.O. Box 1231

Bismarck, ND 58502-1231

T | 701.221.7740 Fax: 701.751.4451

E | execdir@ndvma.com www.ndvma.com

In Support of SB 2129 with Amendments

January 16, 2025

Chair Wobbema and Members of the Workforce Development Committee,

My name is Dr. Heather Mitchell, and I serve as the President of the North Dakota Veterinary Medical Association (NDVMA). Our organization proudly represents over 300 veterinarians across diverse disciplines, including companion animal, exotic, livestock, food and fiber animal, and equine medicine, as well as veterinarians in research, academia, and government. For more than a century, the NDVMA has been a steadfast advocate for the veterinary profession. We are committed to ensuring that statutory changes not only protect the interests of the public, our clients, and patients, but also recognize the practical realities of veterinary practice and support the ability of veterinarians to provide safe and effective veterinary services.

The NDVMA offers conditional support for SB 2129, contingent upon amendments. Over the past two years, we have worked closely with the North Dakota Board of Veterinary Medical Examiners, providing valuable input on proposed revisions to Chapter 43-29 of the North Dakota Century Code. This collaboration was instrumental in shaping many aspects of the bill. However, despite our concerted efforts, we were not afforded the opportunity to offer public comments or provide feedback on the final draft of the bill before it was pre-filed as an agency bill. Therefore, we are proposing the following amendments:

Amendment no. 1

Section 43-29-01.1. Definitions

Definition no. 2 (Page 1)

Amend the definition to:

"~~Accredited~~ Approved college of veterinary medicine" means any veterinary college or division of a university or college which offers the degree of doctor of veterinary medicine or its equivalent and which conforms to the standards required for accreditation by the council on education of the American veterinary medical association is accredited by the accrediting body recognized by the board, as determined by rule, to meet the educational standards required for licensure as a veterinarian in this state.

- **Rationale:** *Keeping the accreditation requirement in statute ensures greater accountability and stability, making it a permanent, transparent part of veterinary licensure law. This allows for legislative review and public input when changes are needed, promoting consistency in educational qualifications. Moving it to administrative rules could reduce public engagement and legislative oversight, potentially leading to inconsistencies.*

Amendment no. 2

Section 43-29-01.1. Definitions

Amend to add the following definition: "Practitioner" means an individual licensed to practice veterinary medicine in another jurisdiction."

- **Rationale:** *The current definition of "veterinarian" in the practice act only refers to individuals licensed in North Dakota. This becomes problematic when language in the bill needs to refer to veterinarians not licensed in this state. An example of this is on page 25, line 27, where "veterinarian licensed in another jurisdiction" refers to a veterinarian licensed in another jurisdiction and not in this state.*
- Adding a definition for "practitioner" will:
 - 1) Improve clarity, regulatory effectiveness, and flexibility in recognizing out-of-state practitioners licensed in other states.
 - 2) Ensure regulatory compliance and clear enforcement of state-specific standards.
 - 3) Distinguish between licensed vs. unlicensed veterinarians in this state.

Amendment no. 3

Section 43-29-01.1. Definitions

No. 16 (Page 3)

Amend to include in the "Practice of veterinary medicine" definition, the following language:

For the purposes of this definition, the practice of veterinary medicine is deemed to occur when the veterinarian/practitioner, or the patient, or both, are located in this state. A practitioner located in another jurisdiction must be licensed in this state to practice veterinary medicine on a patient located in this state at the time the practice of veterinary medicine occurs.

- **Rationale:** *The ease of practicing telemedicine across state lines creates a need to ensure the board has appropriate oversight regardless of where the practice of veterinary medicine occurs. Legal accountability, liability, and responsibility associated with practicing veterinary medicine should be in both the state in which the patient is located and the state in which the veterinarian/practitioner providing the service is located.*

Amendment no. 4

Section 2 - Requirements of a veterinarian-client-patient relationship

No. 8 (Page 6), – Change the second sentence to:

The veterinarian must allow the client a reasonable amount of time to arrange care with another veterinarian unless the veterinarian believes the environment, patient, or client threatens the safety of themselves or their staff.

- **Rationale:** *This statement ensures that the veterinarian provides compassionate care and gives clients a reasonable chance to find alternative arrangements. At the same time, it acknowledges situations where safety concerns override this obligation, ensuring the welfare and safety of the veterinary team and maintaining professional integrity.*

Amendment no. 5

Section 43-29-03

Line 6 (page 8) – Amend and add telehealth

- **Rationale:** *Telehealth is a broader and more inclusive term that encompasses multiple remote services, including teleadvice, telerriage, and telemedicine. By using "telehealth," we capture the*

full spectrum of remote veterinary care, ensuring that all forms of virtual consultations and services are covered under the practice act. This broader definition allows for more flexibility in addressing emerging technologies and practices within the field, ensuring that veterinarians can adapt to evolving methods of care while maintaining legal clarity and compliance.

Amendment no. 6

Section 43-29-13

1. H, Line 15 (page 17)– amend to strike “approved” in line 15.

- **Rationale:** Striking the term “approved” from the phrase, “An individual lecturing or giving instructions or demonstrations in connection with an approved continuing education or seminar,” allows for greater flexibility in how educational opportunities are offered to veterinary professionals. Some clinics choose to invite speakers to provide valuable educational content without seeking formal continuing education (CE) credits. By removing the “approved” requirement, this change ensures that these non-CE opportunities are not excluded from the scope of allowable educational activities without the presenter possessing a ND license. It encourages broader access to knowledge and professional development, while still allowing the option for approved CE credits when desired.

Amendment no. 7

Section 15 1.f

Page 18, Line 24 – amend to strike “approved” in line 24.

- **Rationale:** Refer to rationale for amendment no. 6.

Amendment no. 8

43-29-15 Complaints – Investigations

Pages 21/22

Amend 2 c. and strike lines 26 – 30

Amend 2 d, (1), (2), (3), (4), and (5) and strike lines 1 – 18

- **Rationale:** NDVMA is proposing that addressing impaired veterinarians and veterinary technicians through appropriate evaluations, treatment, and rehabilitation be addressed in a separate section (amendment 9); *Evaluations of Veterinarians and Veterinary Technicians – Behavioral Health, Mental Health, Physical Condition, Substance Use Disorder.*
- By creating two separate sections—one focused on **Complaints and Investigations** and the other on **Evaluations for Impaired Individuals**, the proposed changes offer a more nuanced and supportive approach to handling situations where impairment may be suspected.

Amendment no. 9

Add a new section to the bill.

Evaluations of Veterinarians and Veterinary Technicians - Behavioral Health, Mental Health, Physical Condition, Substance Use Disorder

1. **Evaluation Requirement for Veterinarians and Veterinary Technicians:** Upon receipt of a signed complaint by a complainant, if the board has reasonable cause to believe that a veterinarian or veterinary technician is unable to practice veterinary medicine or veterinary

technology with reasonable skill and safety due to a physical condition or a behavioral health, mental health, or substance use disorder, the board may, in writing, require that the veterinarian or veterinary technician submit to an examination.

This examination will evaluate:

- (a) The existence and extent of the physical condition or the behavioral health, mental health, or substance use disorder; and
 - (b) Any impact the physical condition or the behavioral health, mental health, or substance use disorder has on the veterinarian or veterinary technician's ability to practice veterinary medicine or veterinary technology with reasonable skill and safety to patients and clients.
2. **Selection of Qualified Examiner:** The board will select a qualified individual to conduct the examination. This examiner may be a professional from a recognized program to assess fitness to practice.
 3. **Failure to Submit to Examination:** If a veterinarian or veterinary technician fails to submit to the examination required under subsection (1), the board may suspend the individual's license to practice veterinary medicine until the examination is completed. However, if the veterinarian or veterinary technician demonstrates to the satisfaction of the board that the failure to submit to the examination is due to circumstances beyond their control, the board shall not suspend the license.
 4. **Voluntary Self-Reporting and Drug Testing:** If a veterinarian or veterinary technician voluntarily submits to drug testing or seeks evaluation or treatment for a behavioral health, mental health, or substance use disorder, without a formal complaint of impairment, the individual will be protected from disciplinary action based solely on participation in such testing or treatment. Specifically:
 - (a) Any reports from the treatment or testing program shared with the board will not be used as evidence in any disciplinary proceeding, except as required to determine the licensee's ability to safely practice veterinary medicine.
 - (b) The treatment or monitoring records are confidential and will not be disclosed to the board or other parties, except when necessary for the board to assess the veterinarian's or veterinary technician's fitness to practice or as required by law.
 - (c) The individual's voluntary participation in testing or treatment will not be considered an admission of impairment and will not trigger a complaint or investigation by the board unless additional information gives the board reasonable cause to believe the licensee's ability to practice safely is compromised.
 5. **Confidentiality of Examination and Treatment Records:** (a) The results of any examination ordered under subsection (1) of this section, as well as any reports or records related to voluntary testing or treatment, shall be kept confidential in accordance with North Dakota law. These records are exempt from public disclosure and are not public records under section 44-04-17.1 of the North Dakota Century Code.
 - (b) The board will not disclose the fact that an examination was administered or the content of the examination, nor will it disclose the complaint that prompted the examination, except as necessary for the board's evaluation of the licensed veterinarian or veterinary technician's fitness to practice or as required by law.
 - (c) Any records or reports from treatment programs or drug testing programs that are shared with the board will be considered confidential medical records and will not be made public unless required by law.

Rationale: *The board's role is to ensure both the safety of patients and the well-being of licensed professionals. These changes provide clarity in the process, protect the confidentiality of licensees undergoing evaluations, and encourage voluntary self-reporting for issues related to impairment without fear of immediate punitive action.*

Moreover, the clear distinction between **investigations related to complaints** and **evaluations for impairment** helps avoid potential confusion and ensures that professionals have access to the support and resources they need when facing personal or professional challenges. Ultimately, these changes foster an environment where public safety is prioritized, while supporting veterinarians and veterinary technicians in addressing impairments through appropriate evaluations, treatment, and rehabilitation.

Amendment no. 10

Section 19, Page 23

Amend this section to remove lines 20 -26

- **Rationale:** While the intention behind this provision may be to ensure accountability for the costs of disciplinary actions, it presents several significant issues that impact both the individuals involved and the broader veterinary profession. Here are the key reasons for removing this language:
- **Inability to Work and Loss of Service:** A suspension for failure to pay disciplinary costs may prevent veterinarians or veterinary technicians from practicing their profession, even if they are still willing and able to provide essential services. This creates an undue hardship, especially in rural or underserved areas where there may be limited access to veterinary care. In these areas, the loss of even one practitioner can significantly reduce available services, impacting both animal health and public welfare.
- **Disproportionate Financial Burden:** The requirement to pay the costs of the investigation and prosecution—including attorney’s fees—places a heavy financial burden on the individual practitioner, particularly in cases where the disciplinary action does not result in the revocation of their license. Many veterinarians and technicians already face financial stress due to the high costs of education and clinic overhead. Adding additional financial penalties could further exacerbate these pressures, potentially driving practitioners out of the field.
- **Potential for Unintended Consequences:** The threat of license suspension over unpaid costs could create a situation where licensed professionals are forced to prioritize paying the board over meeting other critical financial obligations, such as staff salaries or clinic operations. This could lead to job losses and the closure of small veterinary practices, further diminishing access to care.
- **Inconsistent with Fairness and Due Process:** The current provision may also be seen as punitive in nature, imposing additional financial penalties beyond the disciplinary actions themselves. The decision to suspend a license until costs are paid may be considered an excessive consequence, particularly in cases where the practitioner has made efforts to comply with the board’s directives but faces financial difficulty.

Amendment no. 11

Section 23, 2a.

Page 25, Line 27/28

Amend to strike, “veterinarian licensed in another jurisdiction” and replace with practitioner.

- **Rationale:** Refer to rationale provided in amendment no. 2.

Amendment no. 12

Section 23 c.

Page 26, lines 1-2 Amend to:

c. The dispensing veterinarian verifies the prescription with the prescribing veterinarian or the practitioner.

- **Rationale:** *The intent of the statute language is to verify the prescription which in some instances will be a practitioner (an individual licensed to practice veterinary medicine in another jurisdiction but not in this state).*

Amendment no. 13

Section 24

Veterinary telemedicine – teleadvice and teletriage

Page 26

Add the amendments below to include the following exceptions for licensure in this state regarding veterinary telemedicine:

A practitioner who holds an active, unrestricted license in good standing to practice veterinary medicine may provide veterinary telemedicine in this state without first obtaining a license from the board if one of the following applies:

1. A practitioner who has established a veterinarian-client-patient relationship via an in-person examination in another state with a patient that resides in North Dakota may provide continued care to the patient via veterinary telemedicine without obtaining a license to practice veterinary medicine in North Dakota subject to the following:

- a. The veterinarian-client-patient relationship must have been established through an in-person examination in a state in which the practitioner is licensed to practice veterinary medicine;
- b. Subsequent care may be provided to the patient via veterinary telemedicine while the patient is in North Dakota if the care is logical and expected continuation of care previously provided in the state where the practitioner is licensed. If the patient is presenting with new medical conditions, or conditions for which the standard of care dictates an in-person encounter is needed, the patient shall return to the state in which the practitioner is licensed for care or must be referred to a veterinarian; and
- c. The care provided to a patient located in North Dakota via veterinary telemedicine may continue for up to one year after the in-person establishment of the veterinarian-client-patient relationship in another state, after which an in-person encounter must take place in the jurisdiction where the practitioner is licensed before care via veterinary telemedicine may resume for another one year.

2. Temporary care via veterinary telemedicine may be provided if a practitioner has an established veterinarian-client-patient relationship with a patient that is in North Dakota temporarily for hunting, vacation, or other reasons and the patient requires health care services from that primary provider. If the patient is presenting with conditions for which the standard of care dictates an in-person encounter is needed, the patient shall return to the state in which the practitioner is licensed for care or must be referred to a veterinarian.

- **Rationale:** Overall Benefits of the Amendments:
 - 1) *Continuity of Care:* These amendments allow patients to continue receiving care from their established veterinarians, which is especially critical for ongoing treatments, chronic conditions, and long-term care.
 - 2) *Flexibility:* The amendments provide flexibility for veterinarians licensed in other states to offer veterinary telemedicine services in this state while maintaining safeguards to ensure the standard of care is not compromised.
 - 3) *Public Safety and Animal Welfare:* The provisions help ensure that veterinary telemedicine services are provided in a way that is consistent with veterinary standards, with clear rules for when in-person care is necessary.
 - 4) *Encouraging Veterinary Telemedicine Growth:* By providing a clear legal framework for out-of-state veterinarians, these amendments support the continued growth and integration of veterinary telemedicine into veterinary practices in a way that respects both patient needs and state regulations.

In conclusion, the proposed amendments strike a careful balance between advancing the veterinary profession and safeguarding public safety and animal welfare. By fostering continuity of care and offering greater flexibility for veterinarians, the changes ensure that animals receive timely, effective treatment while addressing the evolving needs of clients. Additionally, these amendments promote the responsible growth of veterinary telemedicine, creating new opportunities for innovation and improved access to care. Together, these efforts enhance the profession, protect public health, and contribute to the overall well-being of North Dakota's animals and communities.

Thank you for the opportunity to provide testimony re: SB 2129 and I am available for further questions concerning the legislation.

Sincerely,

A handwritten signature in black ink that reads "Heather Mitchell, DVM". The signature is written in a cursive, flowing style.

Dr. Heather Mitchell
NDVMA President