

**2015 HOUSE AGRICULTURE**

**HB 1184**

# 2015 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Peace Garden Room, State Capitol

HB 1184  
1/30/2015  
Job #22920

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to the veterinarian-client-patient relationship; and to provide for a study

## Minutes:

Attachments #1-5

### **Representative Lefor:** Sponsor of the bill (Attachment #1)

Since I prepared this testimony it has been brought to my attention that the veterinarian-client-patient relationship is in federal statute for certain drugs. I am working with Legislative Council to prepare an amendment to restore that provision in North Dakota statute. The intent is not to take something away but to give veterinarians more electronic diagnostic capability.

I served on a hospital board in which telemedicine is heavily utilized. There are smart phone applications which assist in diagnostic capability, interactive TV, as well as telephone diagnostics. We need to give veterinarians the same capability. My intention was to have a two-year legislative study not only on the veterinary board but also updating laws and regulations in regard to practice of veterinary medicine.

The amendment would allow for the expanded wording in the study.

(7:26)

**Representative Alan Fehr:** There is concern this might be abused.

**Representative Lefor:** Current statute states the veterinarian using their "professional judgment" leaves the liability on the veterinarian.

**Representative Alex Looyen:** Are they taught long distance care in the curriculum in veterinary school?

**Representative Lefor:** I am not aware if they are teaching it now. I am aware of other areas of the country where it is being used.

**Representative Cynthia Schreiber-Beck:** To me the language doesn't state the same as the real estate bill.

**Representative Lefor:** That is correct. I just gave it as an example where one party can complain against the other. They can have the complaint removed.

(10:50)

**Dr. John D. Roe, Veterinarian, Dickinson:** (Attachment #2)

I have learned as much from my clients as they have learned from me. There are cases where a feed lot has an outbreak. We need to get out there. But when we have single animals, it is not economical for them or me to drive 60 miles.

**Pete Hanebutt, Director of Public Policy, ND Farm Bureau:** We understand the bill is a work in progress. We have members who would like to see more telemedicine.

**Scott Bice, Killdeer:** Where we live there are two food animal vets who will work with animal health issues in a nonclinical setting. About 10% of the total beef herd also resides there. This bill would allow livestock producers to take a proactive approach to animal health issues. Not every animal has to be physically seen. At times it is impossible to get close to the animal. Every decision we make affects our bottom line.

**Julie Ellingson, ND Stockmen's Association:** (Attachment #3)

(22:06)

**Chairman Dennis Johnson:** This is one area we have not studied in our rewrites. Would you be in favor of moving this to our next interim rewrite review?

**Julie Ellingson:** Yes.

**Scott Kleemann, Rancher, Killdeer:** In favor of amendments to 1184.

Due to the small number of large animal veterinarians, I feel the need to use any of the modern day technologies and the veterinarian discretion in assisting our animals to overcome their illnesses.

Cattle are often in difficult to access areas. The time it takes to get a vet out could be fatal to the animal. The weather is often bad so you can't get cattle to town or a vet out to the ranch. There are not enough veterinarians to service the sales barns, manage their clinics and still make the ranch and farm calls.

**Opposition:**

**Nancy Kopp, ND Veterinary Medical Association:**

NDVMA represents 75% of the practicing veterinarians in the state of North Dakota.  
Introduced Dr. Gibbens and Dr. Walker.

(27:31)

**Dr. Judy Gibbens, Mixed Animal Veterinarian, Cando: (Attachment #4)**

(34:10)

**Chairman Dennis Johnson:** Would you be opposed to study this issue during the interim?

**Dr. Judy Gibbens:** I stand in opposition to HB 1184.

**Dr. Frank Walker, New Rockford: (Attachment #5)**

**Chairman Dennis Johnson:** Recessed for floor session.

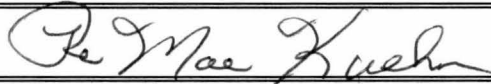
# 2015 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Peace Garden Room, State Capitol

HB 1184  
1/30/2015 (afternoon)  
Job #22935

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to the veterinarian-client-patient relationship; and to provide for a study  
(Hearing continued in the afternoon)

## Minutes:

Attachments #1-3

## Opposition:

**John R. Boyce, Executive Secretary ND Board of Medical Examiners:** (Attachment #1)  
This bill was introduced with no prior input from the ND Board of Veterinary Medical Association or the Board of Animal Health or other interested parties.

(3:30)

This bill would make the law in North Dakota conflict with federal regulations. It would allow veterinarians to establish a relationship without requiring them to see the animals or make periodic visits to the premises.

Two years ago the legislature added two members to the board. We now have five members. It says a quorum is two. So a revision could be done that would change the quorum to three members.

(11:06)

**Representative Alan Fehr:** As you listened to speakers in favor of the bill, they described communicating long distance, etc. Did it raise concerns in your mind that current practices are outside the current law?

**John R. Boyce:** Not concerns. It raised appreciation for what vets face in rural areas. It is not the intent of the law that the veterinary has to examine every sick animal. What they have to have is a formal relationship with the client. Written protocols supplemented by periodic visits to the premises--every six months or at least every year.

What did concern me are veterinarians in other states writing prescriptions for animals they have never seen. Periodic visits supplemented with telephone conversations and other electronic means would be fully consistent with the wording in our practice act as it is now.

**Representative Alan Fehr:** What would be appropriate use of electronic devices?

**John R. Boyce:** I am not a practitioner so I don't want to speak to that. It should be looked at. Also changing is the way the public looks at prescription drugs in food animals. Residues, food safety, federal regulations, feed additives are all different now.

**Mark Hardy, Executive Director of the ND Board of Pharmacy:** (Attachment #2)

(18:00)

**Dr. Susan Keller, State Veterinarian:** (Attachment #3)

According to the American Veterinarian Medical Association Website, the valid veterinarian-client-patient relationship cannot be established online via email or the phone. However once it is established it may be able to be maintained for medically necessary examinations via telephone or other types of consultation. It is up to the veterinarian's discretion to determine if it is appropriate.

The discussion needs to happen first.

**Nancy Kopp, ND Veterinary Medical Association:**

If there an amendment we would like to have time to review it.

# 2015 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Peace Garden Room, State Capitol

HB 1184  
2/5/2015  
Job #23282

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to the veterinarian-client-patient relationship; and to provide for a study  
(Committee Work)

Minutes:

Attachment #1

**Vice Chair Wayne Trottier:** There is an amendment #15.0494.01001.  
This takes and puts it into a study.

**Vice Chair Wayne Trottier:** Moved the amendment (Attachment #1)

**Representative Diane Larson:** Seconded the motion.

**Chairman Dennis Johnson:** This is a hoghouse amendment. The bill we had the hearing on the other day is completely gone. We have the authorization to move forward with the Agriculture rewrite. No significant change can be made in the law. If there is a change it has to be a stand-alone bill.

**Representative Cynthia Schreiber Beck:** The people testifying against the bill didn't think a study was necessary.

**Chairman Dennis Johnson:** The amendments are from the bill sponsor. He was willing to give up the bill if we pursued a study. It says "shall consider." Then the Legislative Management team will decide if we do study this.

**Vice Chair Wayne Trottier:** After listening to the testimony there are many things that do need to be studied.

**Voice Vote** on amendment. Motion carried.

**Vice Chair Wayne Trottier:** Moved Do Pass as amended.

**Representative Joshua Boschee:** Seconded the motion.

**A Roll Call vote was taken: Yes 10, No 1, Absent 2.**

Do Pass as amended carries.

Representative Bert Anderson will carry the bill.



February 3, 2015

*HL*  
*2-5-15*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1184

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study regarding the practice of veterinary medicine in this state.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - PRACTICE OF VETERINARY MEDICINE.** During the 2015-16 interim, the legislative management shall consider studying the practice of veterinary medicine in this state, including any statutory and regulatory requirements and limitations, and the appropriateness of such requirements and limitations with respect to small animal, large animal, and research-focused practices. The study, if conducted, may include a review of the state board of veterinary medical examiners, including the board's membership, powers, duties, and governance of the practice. The study may also include recommended changes to applicable laws that are irrelevant, inconsistent, illogically arranged, or unclear in their intent and direction. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly

Date: 2/5/2015

Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1184**

House **Agriculture** Committee

☐ Subcommittee

Amendment LC# or Description: 15.0494.01001

**Recommendation**

☒ Adopt Amendment  
☐ Do Pass    ☐ Do Not Pass    ☐ Without Committee Recommendation  
☐ As Amended    ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
**Other Actions:**    ☐ Reconsider    ☐ \_\_\_\_\_

Motion Made By Rep. Trottier Seconded By Rep. Larson

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson			Rep. Joshua Bosch		
Vice Chairman Wayne Trottier			Rep. Jessica Haak		
Rep. Bert Anderson			Rep. Alisa Mitskog		
Rep. Alan Fehr					
Rep. Craig Headland					
Rep. Tom Kading					
Rep. Dwight Kiefert					
Rep. Diane Larson					
Rep. Alex Looysen					
Rep. Cynthia Schreiber Beck					

**Total** (Yes) \_\_\_\_\_ No \_\_\_\_\_

**Absent** \_\_\_\_\_

Floor Assignment Rep.

If the vote is on an amendment, briefly indicate intent:

Hoghouse amendment

Date: 2/5/2015

Roll Call Vote #: 2

**2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1184**

House **Agriculture** Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

**Recommendation**

☐ Adopt Amendment  
☒ Do Pass    ☐ Do Not Pass    ☐ Without Committee Recommendation  
☒ As Amended    ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar

**Other Actions:**    ☐ Reconsider    ☐ \_\_\_\_\_

Motion Made By Rep. Trottier Seconded By Rep. Boschee

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson	X		Rep. Joshua Boschee	X	
Vice Chairman Wayne Trottier	X		Rep. Jessica Haak	X	
Rep. Bert Anderson	X		Rep. Alisa Mitskog	X	
Rep. Alan Fehr	AB				
Rep. Craig Headland	X				
Rep. Tom Kading	AB				
Rep. Dwight Kiefert	X				
Rep. Diane Larson	X				
Rep. Alex Looyen		X			
Rep. Cynthia Schreiber Beck	X				

**Total**    (Yes) 10    No 1

**Absent** 2

Floor Assignment Rep. Anderson

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1184: Agriculture Committee (Rep. D. Johnson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 1 NAYS, 2 ABSENT AND NOT VOTING). HB 1184 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study regarding the practice of veterinary medicine in this state.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - PRACTICE OF VETERINARY MEDICINE.** During the 2015-16 interim, the legislative management shall consider studying the practice of veterinary medicine in this state, including any statutory and regulatory requirements and limitations, and the appropriateness of such requirements and limitations with respect to small animal, large animal, and research-focused practices. The study, if conducted, may include a review of the state board of veterinary medical examiners, including the board's membership, powers, duties, and governance of the practice. The study may also include recommended changes to applicable laws that are irrelevant, inconsistent, illogically arranged, or unclear in their intent and direction. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly

**2015 SENATE AGRICULTURE**

**HB 1184**

# 2015 SENATE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Roosevelt Park Room, State Capitol

HB 1184  
3/12/2015  
Job #24708

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

*Emmery Bothers*

## Explanation or reason for introduction of bill/resolution:

Relating to the veterinarian-client-patient relationship

## Minutes:

Attachments: #1-#4

**Chairman Miller** opened the hearing on HB 1184.

**Representative Mike Lefor, District 37** (1:20) introduced HB 1184 (see attachment #1)

**Chairman Miller:** (5:18) This bill has changed considerably since it was introduced, want to talk about that?

**Representative Lefor:** The bill originally had three different aspects to it. 1. To change diagnostics. We were then made aware that the client/patient to veterinarian relationship so the bill that was brought forward in its original state was in conflict with a federal statute. 2. If there is a frivolous complaint against a veterinarian, which we feel has happened, it causes the veterinarian that is being complained against an unbelievable amount of time to get his records. So that we decided to strike it all and make it into a study to determine what is the best route to take for the future of veterinarian medicine in ND.

**Chairman Miller:** Initially, there was a study on the bill that encompassed other parts, correct?

**Representative Lefor:** No, there was three parts. The third part was a study of veterinarian medicine and the board like it is written now.

**Chairman Miller:** Was that the same?

**Representative Lefor:** Substantially, yes.

**Senator Warner:** Wouldn't it be purposeful just to combine this with the rewrite of the veterinarian code?

**Representative Lefor:** I'm not aware of what you are talking about.

**Senator Warner:** The agriculture committees have been in process for a decade in rewriting the entire agriculture code. Maybe we could combine this study with the rewrite of the entire code relative to veterinarian medicine rather than doing it as a two-step process.

**Representative Lefor:** I do have concerns that we need to focus on the large animal veterinary area and the regulations they are under because they want to use technology to better diagnose and service their clients. I strongly believe a legislative study is needed specifically in this area for some of those concerns. We are talking about a lot of animals being served here.

**Senator Warner:** Are we going to have licensing issues across state boundaries? Are we going to be using veterinarians and taking business away from in-state veterinarians? Are those concerns of the veterinarian community?

**Representative Lefor:** I'm not aware of that being a concern.

**Senator Klein:** Does the current code not allow the use of technology? Are we restricted by the current code in doing what we are supposed to do?

**Representative Lefor:** I believe that it does stifle the ability to use technology and I think the expert behind me can testify a little more to that.

**Dr. JD Rowe, DVM:** (9:20) testified in favor of HB 1184 (see attachment #2)

**Chairman Miller:** (15:07) People are able to go across state lines through the internet and order online. Is that legal?

**Dr. JD Rowe:** I don't think it is but it is happening.

**Senator Klein:** So what you're saying is the study should look into our inability to call you and ask you to prescribe something and for us to get it? The law says we can't do that? Obviously because the law is old and outdated that physicians can do that with their patients but veterinarians can't do that with their patients.

**Dr. JD Rowe:** It's an archaic law and the main problem is the dynamics of a food animal practice is totally different. In small animals, yes, you have to see the patient because it's way more involved. In food animals, my radius is huge and I can't see all the animals within a 100 mile radius or treat them because of the client/patient veterinarian relationship.

**Senator Klein:** So they can't send you pictures of the animal and you can't diagnose?

**Dr. JD Rowe:** I have done that before but currently the law the way it is you can't diagnose. In my opinion, they should split the practice down the middle between large animal and small animal.

**Senator Warner:** Would that be separate licensure?

**Dr. JD Rowe:** No because you could apply each side of the law accordingly.

**Senator Warner:** This is a conversation from a decade ago about specialty practice people who weren't necessarily veterinarians and companies who would do pregnancy testing, bull testing, embryo transfers where you had companies that did just that and they would come into a market and pursue market share relative to the local veterinarian for that one service. Can you address that issue?

**Dr. JD Rowe:** Embryology for instance, where they had this embryo transfer. A number of years ago, we got the embryo transplant facility started. I had two embryologists who worked under me and they were better prepared and knew how to do embryology better than a lot of veterinarians. As far as pregnancy testing, we have lay people running all over our part of the country doing that.

**Senator Warner:** From an economic stand point it diminishes your practice?

**Dr. JD Rowe:** Correct.

**Senator Warner:** Is it legal for them to do that?

**Dr. JD Rowe:** No, it is not.

**Nancy Kopp, ND Veterinarian Medical Association** (see attachment #3) Testified in support of HB 1184.

**Chairman Miller:** Does the section of code that deals with veterinary medicine need to be rewritten?

**Nancy Kopp:** Our support on this study is lukewarm. We don't necessarily see any major issues. In conversation with legislative council felt that it might be appropriate at this time that they bring in other chapters related to agriculture. The practice act is in chapter 43, not the agriculture chapter. We're amiable to go ahead and see what issues, inconsistencies, or inaccurate information and update them. But it is in a separate chapter.

**Julie Ellingson, ND Stockman's Association:** (see attachment #4) testified in favor of HB 1184

**Chairman Miller:** Do you hear quite a bit of angst amongst your membership of not having needed access to veterinarian care?

**Julie Ellingson** There continues to be challenges or large animal veterinarian shortages in pockets throughout the state. We are very grateful for the efforts that the ND legislature has provided in terms of the veterinarian loan repayment program as well as support through programs like the professional student exchange to help us address some of those areas. We are making some headway, there continues to be challenges. Our herds are growing larger and there continues to be further distances between ranches and the expectations and demands on our large animal veterinarians continue. This study is an opportunity to explore the progress that we have made and answer some of the questions that we have.



**Senator Warner:** Do you have any sense that would it be appropriate to approach the veterinarian chapter and do a rewrite?

**Julie Ellingson:** The Stockman's Association has been part of other agriculture chapter rewrites and I think that instead of just looking at one component, it would be appropriate to look at the big picture and if that process is going on anyway, it would make sense to look at the full chapter because of the implications of some of these issues and then just part of the continuing effort to improve the language and increase understanding and flow.

**Vice Chairman Luick:** In your estimation, how many veterinarians are we short in ND right now?

**Julie Ellingson:** There are different pockets throughout the state and it all depends on the demands on those veterinarians and the type of work.

**Scott Bice, Killdeer, ND:** testified in support of HB 1184. He stated that although his testimony was originally written for the original version of the bill, it demonstrated the need to study the issue. He said there are two veterinarians in his area who deal with an enormous number of animals. According to the original version, veterinarians would not be required to prescribe medication if they were uncomfortable doing so, only provided them the option if they deemed it necessary. He stated that livestock producers have limited options when it comes to treating a sick animal.

**Chairman Miller:** Do you feel that there is a component of access to veterinary care that is stifling growth in cattle industry?

**Scott Bice:** In a lot of ways yes, but so much of our care we do on our own because we have to we are forced too because we can't find any veterinarian that will be able to do it. You have three options: 1. Attempt to do it yourself; 2. Wait for half to a day to have access to a veterinarian; 3. Euthanize the animal. With the price of cattle, most of us try to use the option that will save the animal.

**Senator Warner:** You used a phrase that I hadn't thought of before; a veterinarian might not be comfortable with what a producer may be intending to use the drug for. It came to mind that a producer working with an individual sick animal may do anything to save their animal but maybe at the same time may diminish the consumer's confidences in the food product like antibiotic or drug residuals that got into the food stream. Could you address that issue?

**Scott Bice:** It does but you look at your animals and your residuals and as far as I know within the beef heard that there's been no correlation whatsoever. Most of the problem with that happens in your poultry, pork, and dairy. Most of our beef cattle producers approach the regimen by label and do what you can to help them. I know of no beef animal showing up with that problem

**Senator Warner:** I think the issue of resistance may be coming more from using antibiotics in feed rather than for medicinal use.

**Scott Bice:** I can't speak to the intent of other people because I am only a livestock producer, but there are probably some feedlots that are feeding these antibiotics at a therapeutic level that there's prolonged exposure to them that there shouldn't be. They should be fed at a treatment level in a shorter period of time according to label.

The committee asked to see version 1000 of HB 1184.

**Chairman Miller** closed the hearing on HB 1184.

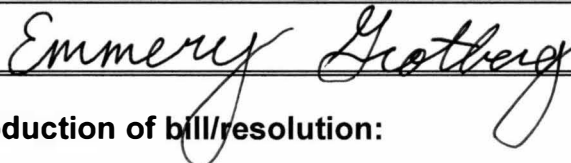
# 2015 SENATE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Roosevelt Park Room, State Capitol

HB 1184  
3/19/2015  
Job #25089

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to the veterinarian-client-patient relationship

## Minutes:

Attachments: n/a

**Chairman Miller** opened committee discussion on HB 1184.

**Senator Klein** moved Do Pass on HB 1184.

**Senator Larsen** seconded the motion.

**Senator Warner:** Would this be considered enabling legislation for a rewrite of the veterinarian chapter? I would be open to that.

**Chairman Miller:** It is pretty broad; I think they could easily do that if they desired if anyone decides they want too.

**Vice Chairman Luick:** Right now, is there a program through extension agency assisting veterinarians and areas that are short of veterinarians?

**Nancy Kopp, ND Veterinarian Medical Association:** Yes, there are repayment programs in existence. There are up to three veterinary slots that receive repayment for their outstanding debt through the health department.

**Vice Chairman Luick:** I'm wondering if someone does have a problem in the field, does the extension have any services in their educational programs to help out anyone they can to get a veterinarian out there?

**Nancy Kopp:** I'm not aware; but they do have extension agents throughout the state.

**Chairman Miller:** NDSU has a technician program and it seems that we always have some extension agent in training that has a large animal portfolio

**Senator Klein:** Since I live close to Carrington research center, there are producers who are probably calling the research center rather than a veterinarian because those researches are working with that every day and may have general information available. I think we are somewhat tied by the fact that people don't want to work outside their scope of practice by giving information. This bill is to help address the concerns of veterinarians who are unable to see all the animals and to give them authority and help.

**Nancy Kopp:** I would encourage you to take a look at HB 1038 on human health telemedicine. Perhaps in the interim that subject might be brought up in regards to veterinarian medicine.

**A Roll Call vote was taken. Yea: 6; Nay: 0; Absent: 0.**

Do Pass carries.

**Senator Klein** will carry the committee's recommendation to the floor.

**2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1184**

Senate Agriculture Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Senator Klein Seconded By Senator Larsen

Senators	Yes	No	Senators	Yes	No
Chairman Joe Miller	Y		Sen. Erin Oban	Y	
Vice Chairman Larry Luick	Y		Sen. John M. Warner	Y	
Sen. Jerry Klein	Y				
Sen. Oley Larsen	Y				

Total Yes 6 No 0

Absent 0

Floor Assignment Senator Klein

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1184, as engrossed: Agriculture Committee (Sen. Miller, Chairman)** recommends  
**DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1184  
was placed on the Fourteenth order on the calendar.

**2015 TESTIMONY**

**HB 1184**

1/30/15

#1

**House Bill 1184**

Testimony

Representative Mike Lefor

Good morning Chairman Johnson and members of the House Agriculture Committee, for the record, my name is Representative Mike Lefor and I represent District 37 which encompasses much of the city of Dickinson.

**Current law** provides that veterinary prescription drugs may be dispensed only within the context of a valid veterinarian-client-patient relationship. Statutorily, that relationship means:

- a. A veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal and the need for medical treatment, and the client, who is the owner or other caretaker, has agreed to follow the instructions of the veterinarian.
- b. There is sufficient knowledge of the animal by the veterinarian to initiate at least a general or preliminary diagnosis of the animal.
- c. The practicing veterinarian is readily available for follow-up in the case of adverse reactions or failure of the regimen of therapy.

This relationship exists only when the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by virtue of an examination of the animal and by medically appropriate and timely visits to the premises where the animal is kept.

Rules have gone on to add that this relationship requires a personal examination of "the individual animal, herd, or a representative segment or a consignment lot and determining that treatment with the controlled substance is therapeutically indicated.." (NDAC 87-05-02-01)

**Here's the first problem:** That definition of a client-patient relationship may work well in a small animal practice but when a large animal veterinarian has 10,000 - 15,000 head of cattle to care for, meeting that standard becomes challenging.

**This is what the bill proposes:** On page 2, the bill still requires that a veterinarian assume responsibility for making medical judgments but it still allows the veterinarian to use or her professional judgment, in order to determine when there is sufficient knowledge of an animal to initiate a diagnosis of its condition.

This is no different that when you call your family physician. You may be prescribed something over the phone or you may be told to come for a visit. That's the exercise of professional judgment.



As a safeguard, the bill requires a veterinarian to be readily available, physically or electronically, in case there is a problem.

The current language regarding availability dates back to at least 1997. In 1997, no one could have envisioned the type of technological capabilities we have today, both for the diagnosis and treatment of humans and for the diagnosis and treatment of animals.

**The second problem** that the bill attempts to address has to do with the filing of a complaint against a veterinarian. If a veterinarian is practicing in an unsafe or improper manner, that veterinarian should be reported and an investigation should ensue.

A complaint can also be filed simply to discredit, harass, or cause economic or professional damage to a veterinarian. That's what we are trying to curtail.

On page 5 of the bill, it provides that if the board determines a complaint was frivolous, the board shall award costs and attorney's fees to the veterinarian against whom the complaint was filed. "Frivolous" means that the complaint was based on a complete absence of facts or law and that a reasonable person could not have believed that a judgment would be entered against the veterinarian.

**The final section** of the bill calls for a study of the state board of veterinary medical examiners, including the board's powers and duties, for the purpose of recommending changes to laws that are irrelevant, inconsistent, illogically arranged, or unclear in their intent and direction.

This would provide an opportunity for the Legislative Assembly, through an interim committee, to look at the laws under which the board operates -- to make sure they are clear, well written, and appropriate for the practice of rural and urban veterinary medicine in the 21<sup>st</sup> Century.

We are an agriculture state and it is difficult for me to understand why we have small animal veterinarians on veterinary boards regulating large animal veterinarian medicine. They are different types of practice, which is just one of many reasons I believe a two year study is needed.

Thank you Mr. Chairman and I am available to answer any questions.

Dr. JD Rowe DVM

Legislative testimony for bill 1184

January 30<sup>th</sup>, 2015

Good Morning chairmen and members of the council,

I support bill 1184

Reasons:

1. The dynamics of a food animal practice is totally different from a companion animal, small animal, or equine practice.
2. The number of patients is numerically far greater in a food animal practice than a small animal practice, we are talking herds of cattle versus individual pets.
3. The number of bovine veterinarians has been shrinking over the last decades for four reasons. These are the four reasons cited by graduate veterinarians why they are not interested in pursuing a career in bovine veterinary medicine.
  - Hours involved, weekend work, and after hours work.
  - The physical aspect involved when working with food animals.
  - Potential of a career ending injury.
  - Income potential is far greater in a small animal practice.

4. The practice area in miles that a bovine practice encompasses is much greater than a small animal practice. My practice has a 60-80 radius with a few clients over 100 miles from Dickinson.
5. In a lot of cases it is impossible for me to exam all the cattle that I am asked to diagnose and treat because there is not enough time in a day to cover my practice area, to treat an individual calf or cow, the distances are to great.
6. Because of the distance getting one sick cow or calf to the veterinarian is not economical.
7. I have trained my clients over the years in animal husbandry (care of animals) Diagnosis and treatment of disease endemics in our area and treatment options.
8. Because of the limited access to legend or veterinary only drugs (prescription drugs) because of limited ability to get animals examined for prescriptions my clients have turned to the Internet to successfully obtain the drugs they need.
9. Weather is often a factor, especially during the winter season, it can be impossible for me to travel to local farms and ranches to diagnose an animal or for the client to get the animal to me to examine.
10. Do not under estimate the ability of ranchers or farmers in diagnosing or treating their own cattle they have grown up around cattle their whole lives and because of the training I have done as mentioned above they can

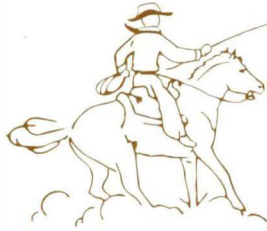
recognize maladies such as pneumonia, foot rot, pinkeye, and the diseases endemic to our area and can successfully treat these diseases.

11. There are a good percentage of my clients where they rarely have a veterinarian on their premises because of the reasons referenced above.
12. When I do get a call from clients like referenced in statement 11, it is usually because they have never seen the condition before ( which is rare) or an antibiotic they are using is not effective and are asking for another option. Between my clients and myself we can successfully make a diagnosis and treatment regimen.

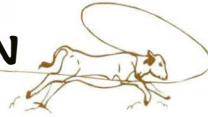
In closing, it has been my experience while raising my family that our personal family physician had many times called a prescription for my children to the local pharmacy without examining my children.

For these reasons I am in favor of bill 1184

North Dakota  
**STOCKMEN'S ASSOCIATION**



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(701) 223-2522  
ndsa@ndstockmen.org • www.ndstockmen.org



1/30/15

#3

**EXECUTIVE COMMITTEE**

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**IMMEDIATE PAST PRESIDENT**  
**JASON ZAHN**  
Towner

**HB 1184**

Good morning, Chairman Johnson and members of the House Agriculture Committee. For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association, an 85-year-old, 3,000-member cattle producers' trade organization.

Livestock producers value their veterinarians. We rely on them as critical partners in our efforts to safeguard the health of our herds and in providing safe, wholesome food to consumers. Our veterinarians work hard to deliver that care and, often, in less than ideal conditions.

As you know, there continues to be areas that suffer from a shortage of large-animal veterinarians in the state and across the country. Because of those shortages and the long distances that many food-animal veterinarians must travel in order to service their clients, our members recognize the importance of providing them and our industry some flexibility to respond to these real-world challenges and assure that our animals receive the care they need in a timely fashion. It is in this spirit that we support the general concept of this bill and the opportunity to have a conversation about the application of emerging technologies and their implications.

With that being said, we are concerned about the language of the bill that strikes the veterinary-client-patient relationship as we know it. We understand the changes outlined here do not mesh with the standards outlined in federal law or the American Veterinary Medical Association guidelines, and, therefore, need study and work.

As such, if deemed appropriate, we extend our offer to work with the committee, the bill sponsors and other stakeholders to try and reconcile the differences and find an amiable solution for all parties, either through amendments or an interim study.

Thank you for the opportunity to comment. I would be happy to answer any questions that you might have.

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## North Dakota Veterinary Medical Association

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#4

### Testimony on HB 1184 - January 30, 2015

Good Morning Chairman Johnson and members of the House Agriculture Committee. My name is Judy Gibbens and I am a practicing mixed animal veterinarian from Cando. I am currently serving as President of the North Dakota Veterinary Medical Association and appear before you today in opposition to House Bill 1184.

Looking at HB 1184, my first concern is the striking of the Veterinarian-Client-Patient Relationship (VCPR) from North Dakota's Practice Act.

The definition of a valid VCPR affects working veterinarians differently, depending on their focus and areas of interest or specialization. Large animal practitioners concentrate their efforts on food animals and horses while small animal veterinarians focus on the wide range of animals who are our pets and companions.

Companion animal veterinarians rely on the complete physical exam of the sick patient, the detailed history from the animal's owner, and routinely complete diagnostic and laboratory workups, to arrive at their diagnosis and treatment plan. Without the requirement of a valid VCPR to obtain prescription medication, who will be responsible for the appropriate use of the many prescription medications used daily, to relieve suffering and address the medical issues of our companion animals?

Even though the current definition of a VCPR can be challenging for many of North Dakota's food animal veterinarians in the state to strictly adhere to, eliminating it from the Century Code is not the answer. Food animal practitioners along with the regulatory veterinarians in the state are responsible for the safety of the nation's meat supply and ultimately, consumer confidence and consumption of the product.

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In addition, the role antibiotic use in our nation's food animals plays in antibiotic resistance and the subsequent impact on human health is of major concern to the Food and Drug Administration (FDA). The FDA continues to employ restrictions on medically important antibiotic compounds by phasing out growth promotion claims and phasing in veterinary oversight of these compounds. The medically important compounds list is long and includes such familiar antibiotic names as penicillin, tetracycline and erythromycin.

As FDA regulations progressively move all medically important antibiotics out of over-the-counter status, to veterinary feed directive status (VFD), the end result in the near future will be all medically important antibiotics used in animal feed or water, will be available only under the supervision of a licensed veterinarian.

Elimination of the VCPR in the ND Practice Act will leave regulatory veterinarians and veterinary practitioners with more questions than answers. It will also bring the FDA's attention to our state's lack of a VCPR definition.

In addition to being a veterinarian, I am also involved in a swine farrow to finish operation near Cando. United States pork producers recognize as their obligation the duty to build and maintain the trust of their customers and the public in both their pork products and their production practices. They identify with consumers who want to know how their food is produced and that it is safe to eat.

The Pork Quality Assurance (PQA) plus program has four core elements including food safety, animal well-being, environmental protection and worker safety. This program lists 10 good production practices pork producers consider keys to their industry's success. The Number 1 Good Production Practice is the use of an appropriate Veterinarian-Client-Patient Relationship as the basis for all medication decision-making.

An established and valid VCPR is the cornerstone of all ethical veterinary patient diagnosis and treatment plans. North Dakota citizens and the animals they take responsibility for will not be well served by eliminating the definition of a valid VCPR. In addition to the oversight and monitoring of prescription drugs, the VCPR plays a key role in addressing antibiotic resistance, food safety and ultimately consumer confidence in our meat products.

Technological advances and their impact on how veterinarians can and will practice in the future needs to be deliberately and carefully studied. Many factors play into this as well, including the future role veterinary technicians will play, the escalating cost of veterinary education, and the difficulty in recruiting veterinarians into underserved areas of North Dakota.

The VCPR definition has many stakeholders. Changes to its definition should be done with input from all concerned North Dakotans. A valid VCPR definition that takes into consideration how different groups of North Dakota veterinarians practice, in order to serve their clients and their patients, will require thoughtful contemplation and input from the broad spectrum of interested parties in our state.

Regarding the section in HB 1184 concerning frivolous complaints, North Dakota citizens with a complaint against a veterinarian should not refrain from voicing their concern because of legal intimidation. The existence of disciplinary policies and procedures serves as a balance between the emotions and desires of animal owners and the standards, practices and actions of the licensed veterinarian.

We would urge a DO NOT PASS on House Bill 1184.

This concludes my testimony, I would be happy to try to answer any questions or concerns you may have. I appreciate your time and attention today. Thank you!



Testimony on HB 1184 on Behalf of the NDVMA January 30, 2015

Good Morning Chairman Dennis Johnson and Members of the House Agriculture Committee,

My name is Frank Walker from New Rockford, ND. I am a mixed animal veterinarian having built, owned, and operated a clinical practice for 30 years, currently retired. I have been actively engaged in my veterinary medical profession in organized veterinary medicine. Following my appointment to the ND Board of Veterinary Medical Examiners (NDBVME), I was nominated by the NDBVME and elected at the national organization of state veterinary boards called the American Association of Veterinary State Boards (AAVSB), where I currently serve as chair-elect.

I do not support the stated proposed revisions of HB 1184.

The valid Veterinary-Client-Patient Relationship (VCPR) definition is a widely accepted, standardized federal statement that is fundamental to state veterinary practice acts, as such the valid VCPR is mirrored in the ND Century Code. The Practice Act Model of the AAVSB and the American Veterinary Medical Association (AVMA) Model Veterinary Practice Act serve as a model set of guiding principles for states who are considering state veterinary practice act revisions. The Model Veterinary Practice Act is intended to support the evolving veterinary societal needs for veterinary medicine and technology.

ND's Veterinary Medical Practice Act is a licensure process where by the State of ND protects the health, safety, and welfare of the public and its animals by ensuring the delivery of competent veterinary medical care.

As a member of the public, a livestock producer, and as a veterinarian, who understands that the practice of veterinary medicine is a privilege conferred by legislative grant to persons licensed by the State Board of Veterinary Examiners, I do not support proposed revisions of HB 1184.

It is a particularly bad time to erode the valid VCPR when the public is demanding more accountability as we deal with increasing world demand for meat, milk, and eggs, food animal safety and security, many animal diseases transmissible to man, and the multiple drug resistant bacteria issues.

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Largely because of the awareness of our human medical concern with drug resistant bacteria issues, it is stated in FDA's Veterinary Feed Directive (VFD) Educational Material, that full policy implementation of new VFD rules will result in, "all medically important antibiotics used in animal feed and water will be used only for the therapeutic purposes of disease treatment, disease control or disease prevention under the supervision of a licensed Veterinarian."

Having a valid VCPR definition upon which to rely is critically important when providing guidance in professional veterinary medical practice. In a letter of support concerning Veterinary Feed Directive (VFD) being promulgated by Food and Drug Administration dated September 30<sup>th</sup> 2014, the Association of American Veterinary State Boards approved of the FDA's deference to state's rights and the respect afforded state practice acts by recognizing the valid VCPR currently incorporated in their practice acts. The Association of American Veterinary State Boards took the position that the Veterinary Feed Directive Rule takes a positive step towards affording the state boards and practitioners the ability to address evolving issues in veterinary medical practice that may be specific to particular regions.

There are other changes coming from the federal level that will require adherence to the nationally recognized and accepted valid VCPR, specifically related to "extra-label use" (or commonly referred to as off label) drug use, as defined in federal regulation implementing the Animal Medicinal Drug Use Clarification Act (AMDUCA).

It is imperative that the ND Veterinary Medical Practice Act and the valid VCPR definition not be revised. In conclusion the present-day high standard of veterinary statute serves to protect the public and animals and provide the public with safe veterinary medicine.

This concludes my testimony. I would be happy to answer any questions you may have.  
Thank you for your time and attention

Frank E. Walker, DVM



# North Dakota Board of Veterinary Medical Examiners

P.O. Box 5001, Bismarck, ND 58502

phone: 701-328-9540, e-mail: [ndbvme@nd.gov](mailto:ndbvme@nd.gov), web: [www.ndbvme.org](http://www.ndbvme.org)

HB 1184

House Agriculture Committee

January 30, 2015

John R. Boyce, Executive Secretary

Licensing boards are established for the purpose of public protection. The North Dakota Board of Veterinary Medical Examiners does not believe that the proposed changes to the veterinary medical practice act are in the best interests of the citizens of North Dakota or the animals they own and care for. Following are comments on the three sections of the practice act (NDCC 43-29) HB 1184 seeks to amend.

1. The veterinarian-client-patient relationship (VCPR) is the basis for all interactions between veterinarians and their clients. The definition of the VCPR in the North Dakota practice act is almost identical with the definition in Federal regulations (21 CFR 530.3(i)). It is also consistent with wording in model veterinary practice acts developed by the American Veterinary Medical Association and the American Association of Veterinary State Boards, and in the AVMA's Principles of Veterinary Medical Ethics. These documents were written and are revised periodically by expert task forces representing all aspects of the profession, and with extensive legal review. Because of the importance of this definition and its impact on the practice of veterinary medicine and public protection, any effort to change the definition of the VCPR should be done with great care and with input from all parties, prior to the introduction of legislation.

If the changes proposed to paragraph 9 of 43-29-01.1 (lines 9-18 on page 4) were to be approved, the law in North Dakota would be in conflict with Federal regulations governing the use of veterinary prescription drugs. The proposed change would allow a veterinarian to establish a VCPR and dispense veterinary prescription drugs without ever examining the animals in person or visiting the premises where they are kept. That would not be consistent with the above mentioned documents prepared by the AVMA and the AAVSB, or with standards of practice developed by the Academy of Veterinary Consultants (a national association of beef cattle veterinarians) and VCPR guidelines issued by professional organizations like the American Association of Bovine Practitioners and the American Animal Hospital Association. It also would not be in the best interest of public protection or animal health.

2. The board's concerns regarding the proposed addition to paragraph 2 of section 43-29-15 (lines 18-23 on page 5) regarding "frivolous" complaints include the lack of similar provisions currently in law elsewhere, the potential effect of discouraging legitimate complaints from being made, remedies already available to a veterinarian if a frivolous complaint is made against him or her, additional due process requirements this change would create, and ambiguities in the wording of the provision.

This proposed change would be without precedent in North Dakota regulatory board administrative law. The board is not aware of any similar provisions in North Dakota or in the

Thomas Bettenhausen, DVM  
Bismarck, ND  
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Gerald Buchholz, DVM  
Bismarck, ND  
*Secretary*

Carolyn Woodruff, DVM  
Beulah, ND

Lynn Priebe, LVT  
Valley City, ND

Carmel Miller  
Carson, ND  
*Public Member*

John R. Boyce, DVM, PhD  
*Executive Secretary*

veterinary practice acts of other states in which a regulatory board is statutorily placed in the position of determining if a complaint made against a licensee is frivolous, and if the board so determines, the board is then legally mandated to award costs and attorney fees to the licensee. In fact, administrative board legislation tends to be drafted in the opposite direction, to provide some level of civil protection and immunity for complaints made in good faith. If a complainant acts in good faith when making a complaint, without a nefarious motive, the complaint made is presumed not to be frivolous. It is entirely possible that the proposed legislation, as drafted, could have a chilling effect among some individuals, and unintentionally discourage citizens from bringing forward to the Board otherwise legitimate complaints. The board is not aware of cases where "frivolous" complaints have been filed against veterinarians that have required the licensee to incur "costs and attorney's fees." Further, the Board already possesses the authority to summarily dismiss and disregard a truly frivolous complaint. In such instances, there would be no or very limited costs and attorney fees accrued by the veterinarian.

Of significant concern to the Board is that the proposed change would place the Board in the position of potentially adjudicating private disputes, rather than regulating the practice of veterinary medicine. A regulatory board is not appointed by the governor to adjudicate private civil disputes between licensees and complainants. The judiciary, not the executive, is generally responsible to adjudicate such matters. A veterinarian who believes a frivolous complaint was made against him or her would be in his or her rights to bring a civil lawsuit in court against the individual who made the frivolous complaint, for malicious use of process, abuse of process, defamation, or other wrong related to the frivolous complaint. If the complainant making an alleged frivolous complaint is a fellow practicing veterinarian, the veterinarian complained against could make a counter-complaint to the Board, outlining and detailing the complainant's potentially unprofessional and improper motives. The Board would then consider both the first complaint and the counter-complaint, albeit strictly within the Board's statutory parameters of its regulatory oversight of the licensure and practice of veterinary medicine.

Finally, the definition of "frivolous" contained within the proposed legislation, that "the complaint was based on a complete absence of facts or law and that a reasonable person could not have believed that a judgment would be entered against the veterinarian" is unworkable and would be difficult to administer. Based upon the reading of the definition, it is hard to imagine a situation in which costs and attorney fees could ever be awarded by the Board, because no realistic complaint could ever be based upon a "complete absence of facts and law." Even the most meritless complaint has some small basis in fact or law. In addition, the provision, as drafted, is ambiguous in relation to who would pay any "awarded" costs and attorney fees. It is unclear from what specific funding source such costs and fees would come – specifically, whether the board itself would pay the costs, or if the complainant would be required to pay the costs and fees to the veterinarian complained against.

3. The final section of the bill (lines 24-31 on page 5) proposes a legislative management study of the veterinary practice act. The practice act, like all portions of the Century Code, is a complex document that has been amended many times over the years. While there are a few portions of the act that could stand some minor revision, the board does not consider this a matter of high priority.

Thank you for the opportunity to appear before this Committee. I would be happy to answer any questions you may have.



State of North Dakota  
Jack Dalrymple, Governor

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Mark J. Hardy, PharmD, R.Ph.  
Executive Director

**House Bill No 1184 – Veterinarian-Client-Patient Relationship**  
**House Agriculture Committee – Peace Garden Room**  
**11:30 AM - Friday – January 30, 2015**

Chairman Johnson, members of the House Agriculture Committee, for the record I am Mark J. Hardy, PharmD, Executive Director of the North Dakota State Board of Pharmacy.

I am here to express concerns about proposed changes made to NDCC 43-15.4-01 which is enforced by the North Dakota State Board of Pharmacy. Specifically, in Section 1. the changing of our definition of "veterinary-client-patient relationship" and in removing the provision that the veterinarian has an in-person evaluation with the animal is of particular concern to us. It is a standard of practice in both the human and veterinarian areas that prescriptions are only issued upon an in-person evaluation of the patient or in this case animal. This is a very important tenet before a pharmacy or, specific to this section, a Veterinary Retail facility would dispense a prescription.

In human medicine, "telemedicine" is an evolving topic in which the patient can visually and verbally respond to the practitioner; this may need further laws and rules governing the practice of such. The same may be true regarding virtual visits in the veterinary world. However, the presence of an audio and visual link we feel would be a minimum standard of care. The changing of our definitions, as indicated in this bill, would not be specific to that, and is left vague enough to potentially allow telephone or fax communications only to serve as an acceptable visit in the issuance of a prescription.

In Section 3 – 2. B. (3) on page 5 regarding the new terminology of "*frivolous complaints*" awards costs back to the veterinarian – while this is not our specific section of law that the Board of Pharmacy governs, it sets a certain precedent for administrative agencies that is of definite concern. We, the Board of Pharmacy, would advocate that the public should have the opportunity to openly make complaints and be assured that the complaint will be investigated. The public may not be educated on all the laws and rules of a specific profession, but should not be disadvantaged from lodging a complaint on the professionals actions in situations in which they feel they were not well served by that professional.

Thank you for the opportunity to express our concerns with HB 1184 and I will be happy to answer any questions.

Doug Goehring  
AGRICULTURE COMMISSIONER

Dr. Susan Keller  
STATE VETERINARIAN

Dr. Beth Carlson  
DEPUTY STATE VETERINARIAN

Dr. Sara McReynolds  
ASSISTANT STATE VETERINARIAN

Melvin Leland, Sidney, MT  
PRESIDENT, REG. PUREBRED CATTLE

Dr. Morgan Dallman, Beulah  
SECRETARY, VETERINARIAN

Dr. Michelle Mostrom, Fargo  
CONSULTING VETERINARIAN



STATE BOARD OF ANIMAL HEALTH  
ND Department of Agriculture  
600 E. Boulevard Ave. Dept. 602  
Bismarck, ND 58505-0020

**Testimony of Susan Keller**  
**State Veterinarian**  
**House Bill 1184**  
**House Agriculture Committee**  
**Peace Garden Room**  
**January 30, 2015**

#3  
p.m.  
Dr. Gerald Kitto, McClusky  
VETERINARIAN

David Pearson, Hettinger  
SHEEP

Joel Olson, Almont  
COMMERCIAL BEEF CATTLE

Kevin Blake, Cando  
SWINE

Kristi Doll, New Salem  
DAIRY CATTLE

Dr. Kenneth Throison, New Rockford  
BISON

Shawn Schafer, Turtle Lake  
NONTRADITIONAL LIVESTOCK

Chairman Johnson and members of the House Agriculture Committee Members, my name is Susan Keller and I've served the state as the deputy state veterinarian and the state veterinarian for 17 years. I primarily serve the ND Agriculture Commissioner and the ND Board of Animal Health, and as a state employee I serve the entire state. I'm charged with executing all duties prescribed for the state veterinarian in title 36 and all duties and responsibilities otherwise authorized by the Board of Animal Health to carry into effect the purposes of that title. The Board of Animal Health is charged with protecting the health of the domestic animals and nontraditional livestock of this state.

I am here as the state veterinarian to testify in opposition to HB 1184. My concern is the language changed by the bill and the potential negative impact that it will have on the Veterinary Client Patient Relationship interpretation in North Dakota. Pages 2 and page 4 of the bill (Section 1, lines 8-17 and Section 2, lines 9-18) provide new language which says 'the veterinarian, *using their professional judgment*, determines if the veterinarian has sufficient knowledge...' That language does not allow for anyone, not even the North Dakota Veterinary Medical Examining Board, to question their professional judgment.

During the 10 years I practiced as a predominately large animal veterinarian, I also served for 3 years on the ND Board of Veterinary Medical Examiners. There were complaints involving questionable practices by veterinarians, which were brought to us by the public that we were asked to address. The Veterinary Practice Act was our standard by which to determine if action could be taken and what the action should be. Similar complaints will continue to be made to the present and future Veterinary Medical Examining Boards. Changes to the Veterinary Practice Act should be carefully applied to those reports that they are expected to respond to. There are occasions where producers, veterinarians, and the general public in ND, may want more oversight than a veterinarian's own self-assessment that their professional judgment is sound and that they have sufficient knowledge of their patient or patients.

At a time when agriculture and the safety of food animals is under increasing scrutiny, this bill could have unintended consequences.

NDCC 36-14-04.1 #3 states *'The Board may require certification indicating that animals entering this state from a foreign country and intended for human consumption have not been treated with drugs that are disallowed under federal law for use in animals intended for human consumption.'* Likewise, our trading partners, states and countries, and consumers need to trust that our practitioners are *accountable to someone* for the judicious use of medicines in food animals. Veterinarians, just as human physicians, are expected by the public to meet basic standards of care and to have a governing body in place, where grievances can be taken to hold them accountable if needed. This bill has removed that capability.

On page 5 (Section 3, lines 18-23) the bill does not state where the funds would come from should the ND Veterinary Medical Examining Board determine a complaint to be frivolous and

they are to award costs and attorney fees to the veterinarian against whom the complaint was filed.

The introduction of this bill indicates that there is a need for discussion about what constitutes an acceptable veterinary client patient relationship and how that may differ for food animal medicine versus companion animal medicine. If any part of this bill should pass, a legislative management study seems to be the part of this bill that should occur first, before substantial changes are made to the Veterinary Practice Act.

Chairman Johnson and committee members, thank you for your time and consideration.

Susan Keller

ND State Veterinarian

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1



PROPOSED AMENDMENTS TO HOUSE BILL NO. 1184

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study regarding the practice of veterinary medicine in this state."

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - PRACTICE OF VETERINARY MEDICINE.** The legislative management shall consider studying the practice of veterinary medicine in this state, including any statutory and regulatory requirements and limitations, and the appropriateness of such requirements and limitations with respect to small animal, large animal, and research-focused practices. The study, if conducted, may include a review of the state board of veterinary medical examiners, including the board's membership, powers, duties, and governance of the practice. The study may also include recommended changes to applicable laws that are irrelevant, inconsistent, illogically arranged, or unclear in their intent and direction. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly

#1  
3/12/15

## **House Bill 1184**

Testimony

Representative Mike Lefor

Good morning Chairman Miller and members of the Senate Agriculture Committee, for the record, my name is Representative Mike Lefor and I represent District 37 which encompasses much of the city of Dickinson.

Engrossed House Bill 1184 simply requests a legislative management study of the practice of veterinary medicine in the state of North Dakota. My reasons for requesting this study are as follows:

### **1. Advancements in Technology**

The advancements in technology have made the delivery of health care more efficient and cost effective. There are telephone applications such as Vet Sharing, which allows for community sharing of veterinary media such as X-Rays and cytology samples.

Other telephone applications such as Merck Vet Manual, Vet Cardiology, Alive ECG Vet and Cornell Consultant are advancing technology available for veterinarians. This is an exciting time for technological advancement in veterinary medicine. It is important to research any laws with regard to small animal or large animal practices to keep pace with the advancing technology.

In addition to smart phone applications, there is Interactive TV such as Skype as well as telephone diagnostics that needs to be studied.

### **2. Outdated Laws**

In addition, the bill calls for a study of the state board of veterinary medical examiners, including the board's powers and duties, for the purpose of recommending changes to laws that are irrelevant, inconsistent, illogically arranged, or unclear in their intent and direction.

This would provide an opportunity for the Legislative Assembly, through an interim committee, to look at the laws under which the board operates -- to make sure they are clear, well written, and appropriate for the practice of rural and urban veterinary medicine in the 21<sup>st</sup> Century.

According to legislative counsel much of the current statute dates back to at least 1997. In 1997, no one could have envisioned the type of technological capabilities we have today. Several other agricultural boards such as milk, wheat and barley have already had updates to the NDCC.

Thank you Mr. Chairman and members of the committee, I would ask your committee to give this bill your favorable consideration by voting for a "do pass" recommendation and I would be happy to answer any questions you may have.

Dr. JD Rowe DVM

Legislative testimony for bill 1184

January 30<sup>th</sup>, 2015

Good Morning chairmen and members of the council,

I support bill 1184

Reasons:

1. The dynamics of a food animal practice is totally different from a companion animal, small animal, or equine practice.
2. The number of patients is numerically far greater in a food animal practice than a small animal practice, we are talking herds of cattle versus individual pets.
3. The number of bovine veterinarians has been shrinking over the last decades for four reasons. These are the four reasons cited by graduate veterinarians why they are not interested in pursuing a career in bovine veterinary medicine.
  - Hours involved, weekend work, and after hours work.
  - The physical aspect involved when working with food animals.
  - Potential of a career ending injury.
  - Income potential is far greater in a small animal practice.

4. The practice area in miles that a bovine practice encompasses is much greater than a small animal practice. My practice has a 60-80 radius with a few clients over 100 miles from Dickinson.
5. In a lot of cases it is impossible for me to exam all the cattle that I am asked to diagnose and treat because there is not enough time in a day to cover my practice area, to treat an individual calf or cow, the distances are to great.
6. Because of the distance getting one sick cow or calf to the veterinarian is not economical.
7. I have trained my clients over the years in animal husbandry (care of animals) Diagnosis and treatment of disease endemics in our area and treatment options.
8. Because of the limited access to legend or veterinary only drugs (prescription drugs) because of limited ability to get animals examined for prescriptions my clients have turned to the Internet to successfully obtain the drugs they need.
9. Weather is often a factor, especially during the winter season, it can be impossible for me to travel to local farms and ranches to diagnose an animal or for the client to get the animal to me to examine.
10. Do not under estimate the ability of ranchers or farmers in diagnosing or treating their own cattle they have grown up around cattle their whole lives and because of the training I have done as mentioned above they can

recognize maladies such as pneumonia, foot rot, pinkeye, and the diseases endemic to our area and can successfully treat these diseases.

11. There are a good percentage of my clients where they rarely have a veterinarian on their premises because of the reasons referenced above.
12. When I do get a call from clients like referenced in statement 11, it is usually because they have never seen the condition before ( which is rare) or an antibiotic they are using is not effective and are asking for another option. Between my clients and myself we can successfully make a diagnosis and treatment regimen.

In closing, it has been my experience while raising my family that our personal family physician had many times called a prescription for my children to the local pharmacy without examining my children.

For these reasons I am in favor of bill 1184



## North Dakota Veterinary Medical Association

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HOUSE BILL 1184

SENATE AGRICULTURE COMMITTEE

MARCH 12, 2015

Good Morning Mr. Chairman and members of the Senate Ag Committee.

For the record, my name is Nancy Kopp. I appear before you this morning representing the North Dakota Veterinary Medical Association, in support of HB 1184.

HB 1184 is a proposal for Legislative Management to consider studying the current statutes and regulations found in the Veterinary Medical Practice Act, as well as a review of the statutes pertaining to the North Dakota Board of Veterinary Medical Examiners.

If this study is conducted, the North Dakota Veterinary Medical Association would like to participate in the discussions on any recommended changes or inconsistencies found in the current law, appropriateness of requirements and limitations with respect to companion animal or food animal practice and any compliance with Federal regulations.

This concludes my testimony. I would encourage your favorable consideration of a DO PASS on HB 1184.

I would be happy to answer any questions you may have of me.

#4  
3/12/15

HB 1184

Good morning, Chairman Miller and members of the Senate Agriculture Committee.

For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association, an 85-year-old cattle producers' trade organization.

Livestock producers consider veterinarians as critical partners in our efforts to safeguard the health of our herds and in providing safe, wholesome food to consumers. Our large-animal veterinarians work extremely hard to deliver quality care to our animals – and often in less than ideal conditions – and we are very grateful for their efforts.

We support the study outlined in HB 1184, as part of the ongoing ag chapter rewrite process and as an opportunity to have a conversation about some of the real-world challenges facing our veterinarians and the livestock industry.

If this study is selected, we stand poised to work with the veterinary community and the interim committee on it if that would be desired.

Thank you for the opportunity to comment. I would be happy to answer any questions that you might have.