

REQUEST FOR TECHNICAL CHANGE

AGENCY: Veterinary Medical Board

RULE CITATION: 21 NCAC 66 .0211

DEADLINE FOR RECEIPT: Friday, July 9, 2021

NOTE: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On the Submission for Permanent Rule Form, Box 2, please insert the name of the Rule.

In the Rule:

This text does not reflect how the Rule was published in the Register. For example, on line 4, it is "(a)" (in parenthesis). Please compare the formatting to the Register formatting and use the correct formatting here.

On line 1, state: 21 NCAC 66 .0211 is adopted as published in 35:20 NCR 2270 with changes as follows:

To make changes to the text of the Rule, you will remove all underlining from the text. Then you will strike the language you are removing and underline all language you are adding in response to this Request for Technical Changes. You will not use any highlighting when formatting this Rule.

G.S. 90-186(10) states:

In addition to the powers set forth in [G.S. 90-185](#) above, the Board may:

(10) Pursuant to administrative rule, the Board may establish all provisions and requirements for the regulation of the practice of veterinary medicine through methods or modes of veterinary telehealth and its subcategories, including telemedicine, teleconsulting, and telemonitoring. The Board may also establish all provisions and requirements as to when and where veterinary telehealth or any of its subcategories may occur, who may provide veterinary care via telehealth or any of its subcategories, and the requirements for the veterinarian-client-patient relationship as it pertains to the methods or modes of veterinary telehealth and its subcategories.

So, why do you need to state on lines 6-7 that the delivery of services through telemedicine is the practice of veterinary medicine? Isn't this provided for within the statute?

On lines 7 and 8, you state that the practice of veterinary medicine occurs where the patient is located at the time services are rendered; however on line 6 you state that the practice is for

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Commission Counsel

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patients residing in or located in the State. How do these two standards work together? Is this to allow for veterinarians to treat animals via telemedicine when the animal is out of the State? And if so, how can this Board regulate services not provided within the State?

In (b), line 9, I recommend replacing “any” with “a”

On lines 11-12, are you mandating an in-person meeting first? I think this can be clarified.

In (c), line 14, please capitalize “Internet”

In (c), lines 15 and 16, as well as (d), lines 19-20, you have just defined these terms as doing the very thing you are now saying is not providing telemedicine. It appears you are trying to set exceptions, but are instead defining the terms as the exception. I suggest clarifying this by stating, “Veterinary telemonitoring” means... The provision of veterinary telemonitoring is not the practice of veterinary medicine.”

However, G.S. 90-186(10) expressly includes telemonitoring and teleconsulting as subcategories of telehealth. How can you exclude them here in contradiction of the statute? If the intent is to say that telemonitoring and teleconsulting can include multiple modalities, but these specific activities are exempted, then state that.

In (e), line 22, why do you need to state, “There is not a separate standard of care applicable to telemedicine.”? It appears to me you are restating lines 21-22. Do you need it here?

On line 22, will the veterinarians determine this based upon their professional judgement? If so, I suggest stating that here.

On line 24, delete the quotation mark after the citation. In order to do so properly, you will strike the current citation “.0207(b)(12)” and insert a new citation, .0207(b)(12)

In the History Note, line 26, you will state:

*History Note: Authority G.S. 90-186(10);
Eff. August 1, 2021.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

21 NCAC 66.0211 VETERINARY TELEMEDICINE is proposed for adoption as follows:

21 NCAC 66.0211 VETERINARY TELEMEDICINE

- a. “Veterinary telemedicine” or “telemedicine” means the use of electronic or telecommunication technologies to remotely provide medical information regarding a patient’s clinical health status and to deliver veterinary medical services to a patient that resides in or is located in the State. The delivery of veterinary medical services through telemedicine is the practice of veterinary medicine. The practice of veterinary medicine occurs where the patient(s) is located at the time telemedicine technologies are used.
- b. A veterinarian may provide veterinary medical services via telemedicine to any patient only after establishing a Veterinarian-Client-Patient-Relationship (VCPR). No person shall practice veterinary telemedicine except a veterinarian within the context of a VCPR. A VCPR cannot be established by any electronic means or telecommunication technologies.
- c. “Veterinary telemonitoring” means the use of a medical device, smart phone, monitoring sensor, or other technology, in combination with an internet connection, to collect and store health information for a patient of the veterinarian and to transmit it to a veterinarian, as directed or requested by a veterinarian. Veterinary telemonitoring, by that act alone, is not the practice of veterinary medicine.
- d. “Veterinary Teleconsulting” occurs when any person, whose expertise the veterinarian believes would benefit the veterinarian’s patient, provides advice or other information by any method of communication to a veterinarian at the veterinarian’s direction or request. Veterinary teleconsulting, by that act alone, is not the practice of veterinary medicine.
- e. Veterinarians practicing telemedicine shall be held to the same standard of care as veterinarians providing in-person medical care. There is not a separate standard of care applicable to telemedicine. Veterinarians shall determine whether telemedicine is appropriate and in the best interest of the patient. Veterinarians shall maintain a medical record of the telemedicine patient(s) as required by 21 NCAC 66 .0207(b)(12).”

History note: G.S. 90-186(10) Eff. July 26, 2019