

VETERINARIAN-CLIENT-PATIENT RELATIONSHIP

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House Bill 4980 as reported from committee

Sponsor: Rep. Laurie Pohutsky

Committee: Agriculture

Complete to 12-8-24

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4980 would amend the Public Health Code to provide that engaging in the *practice of veterinary medicine* can take place only in the context of a *veterinarian-client-patient relationship*. The bill would prescribe the elements that must be met for that relationship to be established and would allow for the use of telehealth visits under certain conditions. The bill would require rules addressing telehealth that are developed and issued by the Department of Licensing and Regulatory Affairs (LARA) in consultation with the Michigan Board of Veterinary Medicine to be subject to the provisions of the bill.

The *practice of veterinary medicine*¹ means:

- Prescribing or administering a drug, medicine, treatment, or method of procedure; performing an operation or manipulation; applying an apparatus or appliance; or giving an instruction or demonstration designed to alter an animal from its normal condition.
- Curing, ameliorating, correcting, reducing, or modifying a disease, deformity, defect, wound, or injury in or to an animal.
- Diagnosing or prognosing, or both, a disease, deformity, or defect in an animal by a test, procedure, manipulation, technique, autopsy, biopsy, or other examination.

Subject to federal law, the bill would provide that all the following requirements must be met for a *veterinarian-client-patient relationship* to be established:

- The veterinarian must assume responsibility for making clinical judgments regarding the health of the animal and the need for medical treatment.
- The animal's owner must have agreed to follow the veterinarian's instructions.
- The veterinarian must have current knowledge of the animal to initiate, at a minimum, a general or preliminary diagnosis of its medical condition. This knowledge could be obtained by any of the following means:
 - Conducting an in-person examination of the animal.
 - Conducting an examination of the animal through *telehealth* using real-time interactive audio and visual electronic technology.
 - Making a medically appropriate and timely visit to the premises where the animal is kept or where a group of the owner's animals are kept.

Telehealth would mean the use of electronic information and telecommunication technologies to support or promote long-distance clinical health care, patient and

¹ Section 18814 includes exemptions. <https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-333-18814>

professional health-related education, public health, or health administration. It could include, but would not be limited to, telemedicine as defined in the Insurance Code.²

A veterinarian could not conduct a telehealth examination if either of the following apply:

- The animal is *not* a companion animal (that is, it is not a service animal³ or an animal commonly considered to be, or considered by its owner to be, a pet).
- The veterinarian is performing the examination to issue an interstate certificate of veterinary inspection or a *pet health certificate*.

Pet health certificate would mean a certificate in a form prescribed by the director of the Michigan Department of Agriculture (MDARD) in which a veterinarian attests to the species, age, sex, breed, and description of an animal; any medical conditions of the animal; any medical treatment and vaccinations that the animal received while under the control of a pet shop or large-scale dog breeding kennel; and the fact that at the time of the preparation of the certificate the veterinarian examined the animal and found the animal free from visual evidence of communicable disease.

All the following would apply to a telehealth examination of an animal:

- When conducting an electronic examination through telehealth, the veterinarian must use instrumentation and diagnostic equipment through which an image and a medical record can be transmitted electronically.
- The veterinarian must be readily available, or arrange for emergency coverage, if the animal experiences an adverse reaction or the treatment regimen for the animals fails.
- The owner of the animal may request an in-person follow-up evaluation with the veterinarian conducting the telehealth examination. If the veterinarian cannot perform the in-person follow-up examination, they must provide the animal's owner with a list of other veterinarians who are geographically accessible to that owner.

A veterinarian that establishes a veterinarian-client-patient relationship through telehealth could prescribe the examined animal a drug under all of the following conditions:

- If the only examination of the animal is the telehealth examination, the animal cannot be prescribed more than a 14-day supply of the drug with no refills. If an additional telehealth examination is conducted, the animal can be prescribed another 14-day supply, but no additional renewals can be prescribed unless an in-person examination is conducted.
- The veterinarian must notify the animal's owner that some prescription drugs may be available at a pharmacy and, upon the owner's request, send the prescription to the pharmacy of the owner's choice.

² Section 3476 of the Insurance Code defines *telemedicine* as the use of an electronic media to link patients with health care professionals in different locations. The health care professional must be able to examine the patient via a HIPAA-compliant, secure interactive audio, video, or audio/video telecommunications system or through the use of store and forward online messaging. ("HIPAA" means the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.)

³ *Service animal* means a dog or miniature horse that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. See <https://www.ecfr.gov/current/title-28/chapter-I/part-36/subpart-A/section-36.104>

- The veterinarian cannot prescribe a controlled substance without first performing an in-person examination of the animal or making a medically appropriate and timely visit to the premises where the animal is kept.
- The veterinarian must comply with federal law and any other Michigan laws relating to the prescribing of the drug, including section 16285 of the Public Health Code.⁴

MCL 333.16287 and 333.18811 and proposed MCL 333.18818

BACKGROUND AND BRIEF DISCUSSION:

Veterinarians are currently allowed to perform telemedicine examinations of an animal in accordance with R 338.4901a of the Michigan Administrative Code,⁵ which allows the examination as long as the veterinarian has recently examined the animal in person. In the event of an emergency, this requirement is waived. According to testimony offered by veterinarians during the House Agriculture committee hearing on November 13, 2024, this is interpreted to mean that the in-person exam must have taken place in the preceding 12 months. A veterinarian also may prescribe a drug for an animal via a telehealth visit in accordance with section 16285 of the Public Health Code.

Supporters of the bill say that telehealth has been a successful part of health care for humans for years, and that expanding the flexibility to pet care visits can be done without sacrificing quality of care. For individuals whose veterinarian is located too far for convenient visits, or for individuals with pets that are especially anxious when taken into an office setting, the ability to virtually conduct a visit with a veterinarian on short notice, or on an annual basis with no interim in-person visits, would add convenience to being able to ensure the continued well-being of their pets. The bill would also allow for the prescribing of drugs for an animal, but with limits on the supply of the drug that could be prescribed, and an in-person visit would be needed if a drug were to be prescribed longer than a total of 28 days. Supporters argue that these prescription guidelines will increase access to needed drugs while minimizing opportunities for abuse

Opponents of the bill say that the current guidelines are adequate and necessary for ensuring that veterinarians can stay current with an animal's condition and well-being. In-person visits, some argue, are needed to ensure accurate assessments of an animal's physical condition because, unlike humans, animals cannot answer a doctor's questions about their ailments.

FISCAL IMPACT:

House Bill 4980 would have an indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs (LARA). The bill would establish new requirements and restrictions for veterinary practice, which would create potential violations that LARA may investigate and issue disciplinary actions for. To the extent that violations of the new provisions occur, additional fine revenue may be realized and enforcement costs incurred.

⁴ <https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-333-16285>

⁵ <https://ars.apps.lara.state.mi.us/AdminCode/DownloadAdminCodeFile?FileName=R%20338.4901%20to%20R%20338.4933.pdf&ReturnHTML=True>

The bill would also have an indeterminate fiscal impact on the Department of Corrections and on local units of government. Violations could lead to convictions, but the number of convictions that would result under provisions of the bill is not known. Violations could be either misdemeanors or felonies, depending on the circumstances. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. New felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2023, the average cost of prison incarceration in a state facility was roughly \$48,700 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$5,400 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as law enforcement practices, prosecutorial practices, judicial discretion, case types, and complexity of cases. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

POSITIONS:

Representatives of the following entities testified in support of the bill (11-13-24):

- American Society for the Prevention of Cruelty to Animals
- Dearborn Family Pet Care
- Humane Society of Huron Valley

The following entities indicated support for the bill (11-13-24):

- Mackinac Center for Public Policy
- Michigan Humane Society

The following testified in opposition to the bill (11-13-24):

- American Veterinarian Medical Association
- Michigan Veterinarian Medical Association

Lakeville Animal Clinic indicated opposition to the bill. (11-13-24)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.