

**Joint Legislative Committee on Performance  
Evaluation and Expenditure Review (PEER)**

Report to  
the Mississippi Legislature



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# **A Review of the Board of Veterinary Medicine**

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The practice of veterinary medicine by unqualified or unscrupulous individuals includes risks to both animal and human health and creates a need for state government to protect the public. The Mississippi Board of Veterinary Medicine, by fulfilling its regulatory functions properly, should diminish these risks. The board's responsibility is to ensure that veterinarians are competent and knowledgeable and to enforce laws, rules, and regulations regarding veterinary practice. PEER sought to determine whether the board effectively fulfills its functions of licensure and enforcement.

Concerning the board's licensure of practitioners, the Board of Veterinary Medicine does not consistently require applicants to comply with state law or its own regulations regarding some licensure and recording requirements. Although the board provides assurance of applicants' competency by requiring passage of a validated national veterinary medical examination, the board's examination of knowledge of state veterinary medical laws and regulations does not fully comply with accepted test construction standards.

Concerning enforcement of laws, rules, and regulations, the board does not inspect veterinary facilities throughout Mississippi, has not developed a comprehensive process for handling complaints against veterinarians, and has not consistently imposed fines and penalties when disciplining veterinarians.

## **PEER: The Mississippi Legislature's Oversight Agency**

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The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A joint committee, the PEER Committee is composed of seven members of the House of Representatives appointed by the Speaker and seven members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms with one Senator and one Representative appointed from each of the U. S. Congressional Districts. Committee officers are elected by the membership with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of four Representatives and four Senators voting in the affirmative.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues that may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and the agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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The Mississippi Legislature

# Joint Committee on Performance Evaluation and Expenditure Review

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July 13, 2004

Honorable Haley Barbour, Governor  
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Honorable Billy McCoy, Speaker of the House  
Members of the Mississippi State Legislature

On July 13, 2004, the PEER Committee authorized release of the report entitled **A Review of the Board of Veterinary Medicine.**

A handwritten signature in black ink, appearing to be "L. Posey".

Senator Lynn Posey, Chair



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# A Review of the Board of Veterinary Medicine

## Executive Summary

### Introduction

The PEER Committee conducted a review of the Mississippi Board of Veterinary Medicine. PEER conducted the review pursuant to the authority granted by MISS. CODE ANN. Section 5-3-57 et seq. (1972). This review is a “cycle review,” which is not driven by specific complaints or allegations of misconduct.

In conducting this review, PEER first determined whether regulation of the veterinary medicine profession is necessary in order to protect the public from risks to safety, health, and welfare. Once PEER established that there is a public need for regulation of the veterinary medicine profession, PEER then evaluated how well the board is carrying out its primary regulatory functions: (1) licensure of veterinarians and veterinary technicians; and, (2) enforcement of state laws, rules, and regulations governing the practice of veterinary medicine.

### Need for the Board of Veterinary Medicine

**The practice of veterinary medicine by unqualified or unscrupulous individuals includes risks to both animal and human health (e.g., food safety and disease transmission) and creates a need for state government to protect the public. The Board of Veterinary Medicine, if it fulfills its regulatory functions properly, should diminish these risks.**

Regulatory bodies such as the Board of Veterinary Medicine help to ensure through examination that veterinarians have the knowledge and competence to practice. The public needs an agency that can receive and investigate complaints about veterinarians and, if necessary, discipline individuals who violate the law.

### Licensure

**The Board of Veterinary Medicine does not consistently require applicants to comply with state law or its own regulations regarding some licensure and**

recording requirements. Although the board provides assurance of applicants' competency by requiring passage of a validated national veterinary medical examination, because the board's examination of knowledge of state veterinary medical laws and regulations has not been properly developed or administered, the board cannot assure the public that applicants have sufficient knowledge of state veterinary medical laws and regulations.

### **Lack of Compliance with Some Licensure and Recording Requirements**

PEER reviewed files of applicants for veterinary licensure for 2002 and 2003 and found that the Board of Veterinary Medicine does not consistently require applicants to comply with state law or its own regulations regarding some licensure and recording requirements.

For example, the board's regulations require that when veterinarians from other states apply for licensure in Mississippi, they must provide three letters of recommendation and have practiced in their home state during the past five years (in addition to meeting other requirements). The file for one out-of-state veterinarian who had applied for licensure in Mississippi did not contain three letters of recommendation or any documentation that the veterinarian had been actively practicing veterinary medicine in his home state during the past five years.

The board also does not consistently require applicants to comply with MISS. CODE ANN. Section 73-39-15 (1972), which requires that, prior to engaging in practice, a newly licensed veterinarian must record his or her license with the circuit clerk's office in the county in which he or she resides. Of the thirty-six applicant files for 2002 and 2003, only two contained documentation of compliance with this requirement.

### **Problems with State Veterinary Medical Exam Development and Administration**

The board has not followed formal test construction standards in the development of the state veterinary medical examination and thereby runs the risk that the test is not meeting its intended purpose of identifying those applicants who possess sufficient knowledge of state laws, rules, and regulations affecting veterinary practice. Due to the way that many of the questions are constructed, a layperson who had not even read these laws, rules, or regulations could answer correctly. The fact that all candidates have passed Mississippi's state veterinary medical board exam raises questions about the value that the state exam provides in assessing candidates' knowledge of state veterinary medical practice laws.

In administering the state veterinary medical exam, the board has not followed some standard professional testing

guidelines for state regulatory boards. The board only partially followed test administration and examination security standards (e.g., the board has only developed one version of the state examination rather than developing multiple, but equivalent, versions of the test in order to try to prevent cheating). Also, the board has not met test administration standards for accommodating applicants with disabilities because it has not provided a written plan acknowledging compliance with the Americans with Disabilities Act.

## Enforcement

**The Board of Veterinary Medicine cannot provide assurance that it adequately protects the public from the risks associated with the practice of veterinary medicine. The board does not inspect veterinary facilities throughout Mississippi, has not developed a comprehensive process for handling complaints against veterinarians, and has not consistently imposed fines and penalties when disciplining veterinarians.**

### Lack of Inspections

In order to carry out the broad purpose of the statutes for protection of animal (and human) health, and because cleanliness is a recognized factor in quality health care, the board should inspect veterinary facilities to determine sanitary conditions. However, the Board of Veterinary Medicine does not inspect veterinary facilities in the state to ensure that practitioners comply with laws, rules, and regulations regarding veterinary practice.

The Executive Director said the board wants to inspect veterinary medical facilities, but that an inspection program has not been implemented due to lack of funding. Despite budgetary limitations, the board has an obligation to request from the Legislature the authority to expend additional special funds or the authority to raise fees in an amount necessary to support the board's regulatory programs.

### Lack of a Comprehensive Process for Handling Complaints and Hearings

The Board of Veterinary Medicine has no formal, written procedures for its complaint and hearing process that it can make available to veterinarians or the public. The complaint process that is in place does not address issues such as investigation of complaints; how the board determines whether to dismiss a complaint or whether to hold an informal or formal hearing; or standards of timeliness for handling complaints, conducting hearings, and disciplining veterinarians.

The board has no summary information on all complaints filed with the board and has not implemented a tracking system to provide information on complaints filed or disciplinary actions taken against veterinarians. This makes it difficult for the board's staff to monitor the status of complaints and determine whether they have been resolved.

The board has no formal process for reviewing, categorizing, and analyzing the types of complaints filed in order to develop ways to diminish recurrence of complaints or determine continuing education course needs. PEER reviewed files for thirty-three complaints received by the board from August 2001 to January 2004 and found no documentation in the board's files of any type of analysis conducted to determine the number of each type of complaint received or possible causes of problems.

The board does not provide information to the public on how to make complaints concerning veterinary medical practice. Without knowledge of or access to contact information, timeliness in making investigations and complaints related to violations of law could be hampered.

## **Inconsistent Imposition of Fines and Penalties**

The authorization to impose fines strengthens a board's enforcement power by providing consequences for noncompliance. A regulatory board should impose administrative penalties in amounts that reflect the severity of the violations and serve as a deterrent to violations of state law, board rules, and regulations.

The Board of Veterinary Medicine has adequate penalties available to it under law. State law provides for disciplinary actions ranging from probation to license revocation and suspension and administrative penalties of up to \$1,000 for each separate offense. However, between August 2001 and January 2004, the board was inconsistent in imposing fines and penalties to discipline practitioners.

The board has penalized some practitioners severely for relatively minor violations while issuing minor penalties (or no penalty) to practitioners with major violations. Because the board has not uniformly assessed penalties and has not based penalties on the type and severity of the violation, veterinarians may not take the board's enforcement power seriously and may continue to violate veterinary laws, rules, and regulations. Such noncompliance could increase risks to animals and the public.

## Recommendations

1. As required by MISS. CODE ANN. Section 73-39-15 (1972), the Board of Veterinary Medicine should ensure that all applicants submit their application thirty days prior to the date of examination.  
  
The board should also require veterinarians from other states who wish to practice in Mississippi to comply with all board regulations and state law requirements for licensure prior to receiving a license.
2. The Board of Veterinary Medicine should validate its written state board examination to ensure that it measures whether the applicant has sufficient knowledge of state laws, rules, and regulations governing the practice of veterinary medicine.
3. The Board of Veterinary Medicine should discontinue using the term “oral examination” if its interview of candidates is not part of the examination process and is not used to differentiate between qualified and unqualified applicants. If the board ever chooses to use its interview as part of the formal examination process, it must first validate the instrument in order to ensure its fairness and effectiveness in measuring whatever it purports to measure.
4. The Legislature should consider amending the Veterinary Practice Law of 1946 to require the Board of Veterinary Medicine to inspect veterinary medical facilities. Additional funds generated from license fees and fines could be used to fund an Inspector position.
5. The Board of Veterinary Medicine’s Executive Director should immediately prepare a plan for inspecting veterinary facilities under the jurisdiction of the board. In conjunction with development of this plan, the Executive Director should also determine the costs of conducting such inspections and make a recommendation to the Legislature that it grant the authority to expend additional special funds or the authority to raise fees in an amount necessary to support the board’s regulatory programs.
6. The Board of Veterinary Medicine should develop formal, written standard policies and procedures regarding the investigation of complaints, the conduct of formal and informal hearings, and disciplinary actions taken against veterinarians. Using existing resources, the board should develop a comprehensive reporting and tracking system to ensure that board staff and the general public have

quick access to complaint and disciplinary information on veterinarians.

7. The Board of Veterinary Medicine should provide information to the public on the complaint process. The board should consider posting complaint reporting or contact information in veterinary facilities throughout the state.
8. The Board of Veterinary Medicine should require board staff to formally review, categorize, and analyze complaints to determine continuing education course needs and develop ways to diminish the recurrence of complaints in a specific area. Board staff should provide an annual written report to the board.
9. The Board of Veterinary Medicine should review its current enforcement practices and consider imposing administrative fines as set forth in MISS. CODE ANN. Section 73-39-19 (1972) to deter and discipline noncompliant veterinarians.
10. The Board of Veterinary Medicine should publicize disciplinary actions taken against veterinarians and provide such information to residents in the county where the veterinarian's practice is located. Using existing resources, the board should consider ways of reporting disciplinary actions in a manner easily accessible to the public, such as newspapers, board newsletters, a board website, or American Association of Veterinary State Boards' national disciplinary database for veterinarians.

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# A Review of the Board of Veterinary Medicine

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## Introduction

### Authority

The PEER Committee authorized a “cycle review” of the Board of Veterinary Medicine, which is a review that is not driven by specific complaints or allegations of misconduct. PEER conducted the review pursuant to the authority granted by MISS. CODE ANN. Section 5-3-57 et seq. (1972).

### Scope and Purpose

In conducting this review, PEER first determined whether regulation of the veterinary medicine profession is necessary in order to protect the public from risks to safety, health, and welfare.

Once PEER established that there is a public need for regulation of the veterinary medicine profession, PEER then evaluated how well the board is carrying out its primary regulatory function: licensure of veterinarians and veterinary technicians and enforcement of state laws, rules, and regulations governing practice of veterinary medicine regulated by the board.

## Method

In conducting this review, PEER:

- reviewed relevant sections of state laws and the board's rules and regulations;
- interviewed legal counsel and staff of the Board of Veterinary Medicine and reviewed board minutes, financial information, veterinary license applications, and complaint files; and,
- interviewed staff from other state boards of veterinary medicine.



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## Background

### Statutory Authority for Regulation of Veterinary Medical Practice in Mississippi

In 1946, the Mississippi Legislature enacted the Veterinary Practice Law, which makes the Board of Veterinary Medicine responsible for regulating veterinarians (MISS. CODE ANN. Section 73-39-1 et seq. [1972]). CODE Section 73-39-2 (n) defines veterinarian as “a person who has received a doctor’s degree in veterinary medicine from a school of veterinary medicine and is validly and currently licensed to practice veterinary medicine in this state.” CODE Section 73-39-2 (o) includes within the scope of veterinary medicine specialties such as veterinary surgery, obstetrics, or dentistry.

The Board of Veterinary Medicine also is responsible for regulating animal technicians. State law defines “animal technician” as:

*...a person approved by the Mississippi Board of Veterinary Medicine to perform acts relating to the maintenance of health in or medical treatment of any animal within the State of Mississippi and provided further, that the performance of such acts shall be directly and immediately supervised by a veterinarian duly licensed to practice in the State of Mississippi. No animal technician may diagnose, perform surgery or prescribe medicine.*

For this occupational class, the board and most veterinary professionals use the term “veterinary technician;” thus, the report will hereafter refer to them as “veterinary technicians.”

MISS. CODE ANN. Section 73-39-1 et seq. (1972) establishes a regulatory structure by which veterinarians are licensed and veterinary technicians are certified and prohibits individuals from practicing veterinary medicine in the state without a license. CODE Section 73-39-35 provides that persons practicing veterinary medicine without a license are guilty of a misdemeanor punishable, upon conviction, by a fine of not more than \$500 or less than \$100.

Mississippi State University’s College of Veterinary Medicine is the only accredited school in Mississippi offering a graduate program in veterinary medicine. Hinds Community College, Northwest Mississippi Community

College, and Mississippi State University have veterinary technology programs to train veterinary technicians.

## Composition and Duties of the Board of Veterinary Medicine

### Board Composition

As presently constituted under MISS. CODE ANN. Section 73-39-1 et seq. (1972), the Board of Veterinary Medicine is composed of five members appointed by the Governor with the advice and consent of the Senate. The members serve five-year terms. The board can have no more than two board members appointed from each of the state's three Supreme Court districts.

To be eligible for appointment as a board member, an individual must be:

- a graduate of a school of veterinary medicine recognized and approved by the Bureau of Animal Industry of the U. S. Department of Agriculture and the American Veterinary Medical Association; and,
- a licensed veterinarian with not less than five years' active practice in veterinary medicine.

Exhibit 1, below, lists members of the Board of Veterinary Medicine as of March 2004.

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### Exhibit 1: Members of the Board of Veterinary Medicine (As of March 2004)

Name	City	Supreme Court District
Stuart Denman, Jr., DVM	Charleston	3rd
Robert D. Childers, DVM	Holly Springs	3rd
Douglas F. Jefcoat, DVM	Laurel	2nd
Betsy A. Lipscomb, DVM	Port Gibson	1st
David C. Newell, DVM	Meridian	1st

SOURCE: Mississippi Board of Veterinary Medicine.

## Board Duties

The Board of Veterinary Medicine's regulatory duties include: adopting reasonable rules governing the practice of veterinary medicine; adopting rules of professional conduct; establishing qualifications for licensure for veterinarians and certification of veterinary technicians; conducting examinations; issuing licenses to veterinarians and certificates to veterinary technicians; issuing temporary licenses to veterinarians; conducting investigations and hearings upon complaints; and imposing disciplinary actions where necessary.

Currently, the board regulates 953 veterinarians and 50 veterinary technicians. Exhibit 2, below, shows a breakdown of the number of licensed veterinarians by type as of April 4, 2004.

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### Exhibit 2: Licensed Veterinarians and Certified Veterinary Technicians in Mississippi (As of April 4, 2004)

	Number
Veterinarians	805
Faculty Veterinarians	27*
Faculty and Practicing Veterinarians	52**
Retired Veterinarians	69***
<b>Total Licensed Veterinarians</b>	<b>953</b>
Certified Veterinary Technicians	50

SOURCE: Mississippi Board of Veterinary Medicine.

\*Faculty veterinarians are licensed to teach veterinary medicine in Mississippi.

\*\*Faculty and practicing veterinarians are licensed both to teach and practice veterinary medicine in Mississippi.

\*\*\*MISS. CODE ANN. Section 73-39-21 (1972) allows any licensed veterinarian who is sixty-five years of age or older to be employed as a veterinarian on a part-time basis and be exempt from paying an annual license renewal fee.

## Organization and Staffing

MISS. CODE ANN. Section 73-39-7 (3) (1972) authorizes the Board of Veterinary Medicine to “employ such personnel and incur such expense as may be necessary for the performance of its duties and the enforcement of this chapter.”

As of March 2004, the board had two employees: an Executive Director and a part-time secretary. Both employees are under contract with the board.

The board contracts with a private attorney who provides the board with assistance on legal matters. The attorney attends all board meetings and is also responsible for handling complaints filed against veterinarians to assist the board in determining whether disciplinary action will be taken concerning a veterinarian’s practice. Also, the board contracts with an accountant to prepare the board’s budget and Generally Accepted Accounting Principles package.

## Revenues and Expenditures

The Board of Veterinary Medicine is a special fund agency supported by funds collected from licensing and examination fees and fines as set forth in MISS. CODE ANN. Section 73-39-7 (1972).

### Initial and Renewal Licensure Fees

The initial licensure fee for veterinarians is \$100 and \$25 for veterinary technicians. From August 1, 2002, through July 31, 2003, the board licensed 36 veterinarians and 13 veterinary technicians.

CODE Section 73-39-21 (d) authorizes the board to collect an annual fee for each application for license renewal. The board currently charges \$75 for veterinarians to renew their license (the renewal fee will increase to \$100 on August 1, 2004). Veterinary technicians pay \$5 to renew their licenses. A total of 825 veterinarians and 46 veterinary technicians renewed their licenses from August 1, 2002, through July 31, 2003.

### Examination Fees

In Mississippi, individuals who wish to take the national veterinary exam must apply through the State Board of Veterinary Medicine. CODE Section 73-39-11 authorizes the board to collect a fee of \$50 from each applicant to take the licensing examination to practice veterinary

medicine. The board combines its state application/examination fee of \$50 with the \$375 national exam fee charged by North American Veterinarian Licensing Examination and requires applicants pay \$425 to take the exams.

### Summary of Revenues and Expenditures

Exhibit 3, below, shows the board’s revenues, expenditures, and end-of-year cash balances for fiscal years 2001 through 2003. As illustrated in the exhibit, the Board of Veterinary Medicine’s expenditures exceeded revenues during that period; however, the board maintained a cash balance during the period sufficient to cover the difference between revenues and expenditures.

Contractual services payments to the board’s Executive Director, secretary, attorney, and accountant represent the majority of the board’s expenditures each year. Per diem and travel expenses for board members represented the only other major item of expenditure.

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#### Exhibit 3: Board of Veterinary Medicine, FY 2001–FY 2003 Revenues, Expenditures, and Cash Balances

	FY 2001	FY 2002	FY 2003
Beginning Cash Balance*	\$161,198	\$136,426	\$110,481
Fees	61,551	69,867	71,939
Subtotal	\$222,749	\$206,293	\$182,420
Total Expenditures	(\$86,323)	(\$95,812)	(\$93,106)
Ending Cash	\$136,426	\$110,481	\$89,314

\* For FY 2001 the beginning cash balance was computed by subtracting the 2000 lapse period expenditures from the Beginning Cash Balance - Unencumbered for FY ending June 30, 2001 identified on the FY 2003 Budget Request

SOURCE: Merlin Revenue Report for the Board of Veterinary Medicine for FY 2001 through FY 2003, Statewide Automated Accounting System expenditure reports for FY 2001 through FY 2003, and the FY 2003 Mississippi Board of Veterinary Medicine’s budget request.

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## Need for the Board of Veterinary Medicine

**The practice of veterinary medicine by unqualified or unscrupulous individuals includes risks to both animal and human health (e.g., food safety and disease transmission) and creates a need for state government to protect the public. The Board of Veterinary Medicine, if it fulfills its regulatory functions properly, should diminish these risks.**

State government is responsible for protecting the public's health, welfare, and safety. When public health and safety risks exist, measures such as establishing a board to regulate a profession are available to diminish or eliminate the associated risks.

Doctors of veterinary medicine play a major role in the health care of pets, livestock, zoo, sporting, and laboratory animals. Veterinarians also use their skills to protect humans against diseases carried by animals and conduct clinical research on human and animal health problems. All fifty states regulate the practice of veterinary medicine.

Because of their unique training, veterinarians can recommend timely treatments for animals and provide counseling to clients on potential public health hazards. Veterinarians are also key players in food safety and have a direct impact on food-animal production. Veterinarians have an in-depth understanding of production practices and animal diseases and the linkages between them. They can identify and scientifically evaluate a wide variety of clinical signs in animals submitted for slaughter to assess the potential impact on human health.

In general, regulatory bodies such as the Board of Veterinary Medicine ensure that veterinarians have the knowledge and competence to practice veterinary medicine as it relates to entry-level private clinical practice through examination. As noted on page 5, the Board of Veterinary Medicine is also authorized by state law to implement rules and regulations to govern veterinary practice in the state. The Veterinary Practice Law of 1946 (MISS. CODE ANN. Section 73-39-1 et seq. [1972]) is designed to protect Mississippians and their animals and give them recourse if laws regarding veterinary practice are violated. Further, the public needs an agency that can receive and investigate complaints about veterinarians and, if necessary, discipline individuals who violate the law.

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# Licensure

The Board of Veterinary Medicine does not consistently require applicants to comply with state law or its own regulations regarding some licensure and recording requirements. Although the board provides assurance of applicants' competency by requiring passage of a validated national veterinary medical examination, because the board's examination of knowledge of state veterinary medical laws and regulations has not been properly developed or administered, the board cannot assure the public that applicants have sufficient knowledge of state veterinary medical laws and regulations.

## Purpose of Licensure

The purpose of licensure is to restrict the practice of a profession to individuals who have demonstrated that they possess the knowledge, skills, and abilities necessary to engage successfully in that profession. In general, professional licensure requires successful completion of formal education requirements as well as passage of a validated examination. The licensure process should be fair in allowing all applicants who have demonstrated competence to practice and should have no elements that are unnecessarily restrictive, thereby preventing competent applicants from practicing.

MISS. CODE ANN. Section 73-39-13 (1972) requires that the Board of Veterinary Medicine determine whether veterinarians meet certain standards relating to general qualifications, education, and testing.

## Licensure Requirements

### Statutory and Board Requirements for Licensure

MISS. CODE ANN. Section 73-39-13 (1972) requires the following of all applicants for licensure to practice veterinary medicine:

- pass an examination as prescribed by the Board of Veterinary Medicine;
- be twenty-one years of age;
- be a citizen of the United States or a resident of Mississippi;
- have good moral character; and,
- be a graduate of a school of veterinary medicine.

The board's rules and regulations require that applicants for a license in Mississippi pass the North American Veterinary Licensing Exam and be a graduate of an American Veterinary Medical Association accredited school of veterinary medicine. Also, the board's regulations require all applicants to pass a state exam.

## Licensure Process

### *Initial Licensure*

To obtain a license to practice veterinary medicine, the applicant must complete an application for licensure form that asks for basic information. The board requires applicants to document graduation from a school or college of veterinary medicine by submitting a copy of their diploma. Also, the applicant must submit a passport quality photograph that has been taken within the last six months.

**Applicants for initial licensure must obtain signatures from at least two veterinarians certifying the applicant's good moral character.**

Licensure applicants are required to submit a signed, notarized application affirming that the information on the application is true and correct and that the applicant has not been guilty of unethical or improper conduct. The applicant must obtain signatures and addresses from four individuals who can certify that the applicant is of good moral character. Two of the four signatures must be from licensed veterinarians who are in good standing in Mississippi and have been practicing veterinary medicine for the last five years.

MISS. CODE ANN. Section 73-39-15 (1972) requires applicants to file their applications with the board at least thirty days prior to the date of the state exam and pay the application for examination fee.

The applicant must also successfully complete a three-part process administered by the board, composed of:

- a national examination developed by the National Board of Veterinary Medical Examiners<sup>1</sup> that tests an applicant's knowledge of veterinary medicine as it relates to entry-level private clinical practice;
- a written state examination that tests applicants' knowledge of state law, veterinary medicine code of ethics, controlled substances and prescription drugs, and the board's rules and regulations; and,

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<sup>1</sup> The National Board of Veterinary Medical Examiners is the corporation organized and operated for the purpose of providing standard examinations that may be used by the states, territories, or dependencies of the United States or provinces of Canada as part of the licensure procedure for veterinarians.



- an oral “examination” that is used by the board to get to know the applicant and learn about career plans.

See pages 13 through 17 for a discussion of the board’s examination process.

### ***Licenses for Veterinarians Originally Licensed in Another State***

**The board requires veterinarians licensed in another state who wish to practice in Mississippi to take the state board exam.**

State law also provides a means for veterinarians licensed in another state who are not already licensed to practice veterinary medicine in Mississippi to become licensed. MISS. CODE ANN. Section 73-39-11 (1972) provides that all persons not already licensed under the laws of Mississippi to practice veterinary medicine must take an examination and pay a fee of \$50 when applying for admission to take the examination.

Board regulations require that for a veterinarian originally licensed in another state to obtain Mississippi licensure, the applicant must:

- pass the National Board Exam;
- have practiced in their home state during the past five years;
- pass the State Board Exam in Mississippi;
- provide three letters of recommendation;
- pay a \$100 license fee; and,
- be approved by the Mississippi Board of Veterinary Medicine.

### ***Temporary Licenses***

MISS. CODE ANN. Section 73-39-9 (h) (1972) authorizes the board to issue temporary permits to practice. The board may issue a temporary permit or license to new graduates to cover the period between the date on which they receive their degree and the date of their state board exam, administered in late June of each year. The board also issues temporary licenses to veterinarians licensed by another state who have met board requirements and are waiting to take the Mississippi state board exam.

**To be granted a temporary license, an applicant must have a licensed veterinarian write the board stating the length of time he or she will be working under supervision.**

In order to be granted a temporary license to practice, an applicant must have a licensed veterinarian send a letter to the board indicating the length of time the unlicensed veterinarian will be working under his or her supervision. If warranted by failure of an exam, a second temporary license could be issued to a recently graduated veterinarian.

From August 1, 2002, to July 31, 2003, the board issued twelve temporary licenses to recently graduated

veterinarians and seven temporary licenses to veterinarians licensed in other states.

### ***Continuing Education Requirements and License Renewal***

MISS. CODE ANN. Section 73-39-29 (1972) requires individuals who are licensed to practice veterinary medicine to attend an educational program in the twelve months preceding each annual license renewal date (August 1). On June 24, 2000, the board raised the number of continuing education hours for veterinarians to fifteen hours.

**Individuals who practice veterinary medicine in Mississippi must complete fifteen hours of continuing education per year.**

The board monitors compliance with continuing education requirements by requiring veterinarians to present documentation that continuing education courses have been completed. The board may suspend the license of a veterinarian who has failed to complete annual required continuing education courses.

### **Compliance with Licensure Requirements**

***The Board of Veterinary Medicine does not consistently require applicants to comply with state law or its own regulations regarding licensure and documentation of licensure.***

*The board does not consistently require applicants to comply with some of the licensure requirements found in MISS. CODE ANN. Section 73-39-15 (1972) or in its own regulations.*

As noted on page 10, MISS. CODE ANN. Section 73-39-15 (1972) requires applicants for a veterinary license to file their application with the board at least thirty days prior to the date of the state examination.

**Some of the board's files within PEER's sample lacked the required letters of recommendation and documentation of active practice.**

However, the board does not consistently enforce this requirement. PEER reviewed applicant files for veterinary licensure for 2002 and 2003. Of the thirty-six applicants, one veterinarian, who had practiced outside of Mississippi, applied for licensure in the state on June 11, 2003, and took the state board exam six days later. After passing the state board exam, the applicant received his license to practice veterinary medicine in Mississippi. Also, the applicant's file did not contain three letters of recommendation or any documentation that the veterinarian had been actively practicing veterinary medicine in his home state during the past five years. (See requirements for licensure for veterinarians originally licensed in another state, page 11.)

In another applicant's file, a veterinarian who stated on his application that he had practiced veterinary medicine in two other states applied for licensure to practice in Mississippi and received a temporary license to practice

veterinary medicine until the date of the state board examinations. However, the file contained no letters of recommendation or reports from the boards of veterinary medicine in either of the two states.

A key component of any regulatory system is a formal process for licensing practitioners that helps to provide assurance to the public that veterinarians are properly trained and competent to practice. The board should ensure that all veterinarians comply with all requirements for licensure.

*The board does not consistently require applicants to comply with MISS. CODE ANN. Section 73-39-15 (1972), which requires that, prior to engaging in practice, a newly licensed veterinarian must record his or her license with the circuit clerk's office in the county in which he or she resides.*

MISS. CODE ANN. Section 73-39-15 (1972) requires the following:

*Any person receiving a license from the Board of Veterinary Medicine shall forthwith and prior to engaging in the practice of veterinary medicine have same recorded in the office of the circuit clerk of the county in which he resides. . . .*

**Only 2 of the 36 application files for 2002 and 2003 contained documentation showing that the veterinarians had recorded their licenses in the circuit court clerk's office.**

PEER reviewed application files for 2002 and 2003 and found that only two of the thirty-six files contained documentation showing that the licensed veterinarians had recorded their licenses in the circuit court clerk's office in the county where they resided.

Although it is unclear as to why state law requires this action, which may originally have been a consumer protection step, it is a requirement of state law and should be complied with as such.

## Examination Process

*The Board of Veterinary Medicine provides assurance to the public of applicants' competency to practice the profession of veterinary medicine by requiring passage of a validated national veterinary medical examination. However, because the board's examination of knowledge of state veterinary medical laws and regulations has not been properly developed or administered, the board cannot assure the public that applicants have sufficient knowledge of state veterinary medical laws and regulations, which constitute the environment in which they plan to practice.*

After applicants for veterinary medical practice in Mississippi meet the minimum qualifications noted on

page 9, licensure examination in Mississippi has two phases: assurance of competency in practicing the veterinary medical profession and assurance of the knowledge of how Mississippi law regulates the practice of veterinary medicine.

## National Veterinary Medical Examination

*The board's use of a validated national veterinary medical exam provides assurance to the public of applicants' competency to practice the profession.*

**The board requires applicants to pass the national veterinary medical exam prior to taking the state board exam.**

Prior to their advancing in the state licensure process, the Board of Veterinary Medicine requires applicants to pass the North American Veterinary Licensing Exam (NAVLE), a validated national exam administered by the National Board of Veterinary Medical Examiners.

The purpose of test validation is to ensure that a test actually “measures” what it is supposed to measure—in this case, competency to practice veterinary medicine. Proper test development and administration are especially important for “high stakes” examinations such as professional credentialing examinations. Not only are these examinations intended to protect the public from incompetent practitioners, but they are intended to ensure that competent practitioners who have invested substantial time, money, and effort in their professional educations are not denied entry into the profession because of a poorly constructed or administered examination.

Candidates must apply for the NAVLE exam through a state or provincial licensing board. The Board of Veterinary Medicine ensures that all candidates pay the application fee and meet eligibility requirements and forwards a list of approved candidates to the National Board of Veterinary Medical Examiners office. The NAVLE is administered in Prometric Test Centers within the U. S.<sup>2</sup> The two Prometric Test Centers in Mississippi that administer the national veterinary exam are located in Jackson and Tupelo.

The board requires a passing score of 425, the level it has set as being necessary to assure competency, before an applicant can be licensed in Mississippi. The board's October 1, 1984, rule states that applicants cannot take the State Board Exam until they have passed the NAVLE. The state board accepts an applicant's passage of this

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<sup>2</sup> Prometric, part of the Thompson Corporation, provides computer-based testing services for professional licensure, academic assessment, certification and for various other professional and academic needs. Prometric administers testing programs for educational institutions, corporations, professional associations, and other organizations.

exam as assurance of knowledge of and competency in practicing the veterinary medical profession.

## Oral Examination

*The board's "oral exam"--used primarily for board members to get to know applicants--is not scored, has not been validated, and should not ever be used in its present format to deny a license.*

Once an applicant has passed the national veterinary medical exam, the applicant is eligible to take the board's "oral examination." The oral exam is given the day before the written state board exam is administered. The oral exam has not been validated and is not used to establish minimum competence. The Executive Director told PEER the oral exam is used as a means for board members to get to know licensees and learn what they plan to do in their careers. During the oral exam, board members randomly ask questions to licensees; however, according to the Executive Director, questions are not scored and no pass or fail grades are given to licensees.

**The board's oral exam has not been validated and is not used to establish minimum competence.**

As long as the board is not using the oral examination as a screening device, the fact that the examination has not been validated is not a problem. However, if the board ever used the current oral examination to deny an applicant a license to practice veterinary medicine in Mississippi, the applicant could legally challenge such action on the basis that the examination was not validated.

## State Veterinary Medical Examination

*The board's examination of knowledge of state veterinary medical laws and regulations has not been properly developed or administered.*

The Board of Veterinary Medicine developed the state board examination, which tests applicants' knowledge of the state's veterinary medical practice law, veterinary medical ethics, laws governing controlled substances and prescription drugs, and American Veterinary Medical Association *Policy Statements and Guidelines*.

**The fact that no one has ever failed Mississippi's state board exam raises questions about the value that the exam provides in assessing candidates' knowledge of state veterinary medical practice laws.**

From June 2002 through June 2003, the board administered forty-nine state examinations. The board administers only one version of the written state board exam and test materials are sent to each exam applicant. The board requires veterinarians to answer correctly seventy-five out of one hundred questions. The board's Executive Director told PEER that no one has ever failed the state board exam. This test has not been validated.

In order to ensure the public that licensees are fully knowledgeable of Mississippi's Veterinary Practice Law and veterinary medical regulations, the board's examination development should follow formal standards for test construction. These standards require identification of

the universe of knowledge to be tested and proper sampling of the universe of knowledge in the development of specific test questions. Also, rules of test item construction require that questions are stated clearly and unambiguously.

**Due to the way that many of the questions on the state board exam are constructed, a person who had not even read the laws, rules, or regulations could answer correctly. Also, some of the questions are worded in a way that could confuse an applicant who is knowledgeable of the subject matter into choosing an incorrect answer.**

PEER determined that the board has not followed formal test construction standards in the development of its state examination and thereby runs the risk that the test is not meeting its intended purpose of identifying those applicants who possess sufficient knowledge of state laws, rules, and regulations affecting veterinary practice. Due to the way that many of the questions are constructed, a lay person who had not even read the laws, rules, or regulations could answer correctly. Many of the questions are true/false questions that have been forced into multiple choice format. For example, one question has the following answer choices: “a. never choose, b. have no choice, c. may choose, d. do not choose.” Since three of the choices are the same (a, b, and d), the answer is obviously “c. may choose.” Some of the questions are worded in a way that could confuse an applicant who is knowledgeable of the subject matter into choosing an incorrect answer.

Also, the board has determined the passing score on the examination to be 75% without conducting the analysis necessary to select the passing score that represents adequate mastery of the knowledge being tested. The fact that all candidates have passed Mississippi’s state board exam raises questions about the value that the state exam provides in assessing candidates’ knowledge of state veterinary medical practice laws.

In addition to standards for test development, there are standards for test administration such as those of the Council on Licensure, Enforcement, and Regulation (CLEAR). CLEAR provides standard professional testing guidelines for state regulatory boards. PEER focused its review of the Board of Veterinary Medicine’s test administration, scoring and reporting, and examination security by comparing them to CLEAR guidelines.

This analysis found that the Mississippi Board of Veterinary Medicine’s test:

- *fully met the scoring and reporting standard.* The CLEAR standard requires that tests be graded and test results reported to students in a fair and uniform manner. The state examination complies with this standard, as the test consists of 100 multiple choice questions with only one correct answer to each question. Board members grade the tests against an answer key and give the applicants the results immediately following the test.

- *partially met the test administration and examination security standards.* CLEAR standards require that the secrecy of test questions be protected by ensuring that students have no access to tests during printing, storage, transportation, or distribution. According to the Board's Executive Director, the board makes all copies of the examination in-house and keeps all copies of the state examination in a secure location. Also, to prevent cheating by allowing another person to take the examination, the board requires that each applicant for a license submit a passport-size photo with the application. The application and photo are matched to the individual when he or she arrives at the test site location in Jackson. All board members proctor the written state board exam. Each applicant signs their name and puts the test date on the answer sheet. CLEAR standards also require that regulatory boards develop multiple, but equivalent, versions of tests in order to try to prevent applicants from being able to copy answers from other applicants at the testing site and to reduce the chances of applicants being able to assist later applicants in passing the test by passing on all of the test questions. The board has only developed one version of the state examination. CLEAR standards also require that applicants be provided with detailed information on test times and dates, test site conditions, grading procedures, and disclosure of test scores to applicants. The board does provide all applicants with sample test questions and information on the time, date, and location of the examination; however, the board does not inform applicants as to test grading and reporting procedures.
- *did not meet test administration standards for accommodating candidates with disabilities.* CLEAR standards require development of a written plan for accommodating candidates with disabilities that complies with the American Disabilities Act. The board has not specifically addressed test administration with a written plan in its policy statement acknowledging compliance with the Americans with Disabilities Act.

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## Enforcement

The Board of Veterinary Medicine cannot provide assurance that it adequately protects the public from the risks associated with the practice of veterinary medicine. The board does not inspect veterinary facilities throughout Mississippi, has not developed a comprehensive process for handling complaints against veterinarians, and has not consistently imposed fines and penalties when disciplining veterinarians.

The board enforces the laws, rules, and regulations regarding veterinary practice by investigating complaints against veterinarians and taking disciplinary action, if necessary. The board does not conduct inspections of veterinary medical facilities.

### Lack of Inspections

*The Board of Veterinary Medicine does not inspect veterinary facilities in the state to ensure that practitioners comply with laws, rules, and regulations regarding veterinary practice.*

MISS. CODE ANN. Section 73-39-9 (1972) gives the Board of Veterinary Medicine the authority to adopt rules and regulations “governing the practice of veterinary medicine as are necessary to enable it to carry out and make effective the purpose and intent of this chapter [the Veterinary Practice Law of 1946].” One of the board’s rules, dated December 1995, defines veterinary facilities and requires that “[A]ll veterinary premises and equipment must be kept in a clean and sanitary condition.” Also, CODE Section 73-39-19 gives the board authority to impose an administrative fine for failure to keep veterinary premises and equipment clean. Thus, in order to carry out the broad purpose of the statutes for protection of animal (and human) health, and because cleanliness is a recognized factor in quality health care, the board’s responsibility to inspect veterinary facilities to determine sanitary conditions is necessarily implied.

Inspections would also help determine veterinarians’ compliance with laws, rules, and regulations dealing with matters other than cleanliness and sanitary conditions. Inspections could also address medical records, equipment and supplies, proper storage of medications, accounting for controlled substances, and proper animal housing facilities.

Although the board has taken a position consistent with the law by requiring that veterinary facilities be “kept in a clean and sanitary condition,” the board has not exercised its enforcement power to inspect facilities routinely. The Executive Director said the board wants to inspect

**Despite budgetary limitations, the board has an obligation to request from the Legislature the authority to expend additional special funds or the authority to raise fees in an amount necessary to support the board’s regulatory programs.**



veterinary medical facilities, but that an inspection program has not been implemented due to lack of funding. Despite budgetary limitations, the board has an obligation to request from the Legislature the authority to expend additional special funds or the authority to raise fees in an amount necessary to support the board's regulatory programs.

**Through inspections, the board would have a means of correcting problems in the initial stages before possible violations of law and complaints occur.**

A key component of any regulatory system is a formal process for periodically inspecting licensees' compliance with state law and board rules and regulations. Through inspections, the board would have a means of correcting problems in the initial stages before possible violations of law and complaints occur. Because the board does not conduct these inspections, it cannot ensure that animals and the public are protected from the risks inherent with noncompliance.

## Lack of Comprehensive Process for Handling Complaints and Hearings

*The Board of Veterinary Medicine has not developed a comprehensive process that includes formal, written procedures for handling complaints and hearings; an effective recordkeeping and tracking system for complaints; a formal process for analyzing complaints; and, a method for informing the public on how to make complaints.*

MISS. CODE ANN. Section 79-39-9 (j) (1972) authorizes the Board of Veterinary Medicine to conduct investigations and hearings on complaints calling for the discipline of a licensee or applicant for license. Although the board takes complaints and conducts hearings, it has not implemented a comprehensive process for doing so that incorporates:

- formal, written procedures for handling complaints and hearings;
- an effective recordkeeping and tracking system for complaints;
- a formal process for analyzing complaints; and,
- a method for informing the public on how to make complaints.

These components are necessary to ensure that complaints are properly investigated, hearings are conducted in a fair and organized manner, and the public is informed on where and how to file complaints.

## Complaint and Hearing Process

### *Steps in the Complaint and Hearing Process*

PEER documented the board's complaint and hearing process through interview with the board's attorney, review of board minutes, and analysis of the complaint form and documents in complaint files.

1. The board requires complainants to submit a written complaint to the board attorney on a complaint form prescribed by the board or in a manner by which the board obtains the complainant's name and address, the name of the veterinarian the complaint is being filed against, the facts of the complaint, and the signature of the complainant. A notary public must notarize all written complaints. Complainants are asked to submit supporting documentation with the complaint that could include such items as photographs, medical records, or billing records.
2. During the next regular meeting, the board's attorney presents the complaint and supporting documentation to the board for its review.
3. The board makes a determination as to the severity of the offense. The board contacts the complainant and accused veterinarian by letter and informs them of the board's decision to dismiss the complaint or hold an informal or formal hearing. All hearings are held in Jackson.
4. If there is a possibility that punitive action may be taken against a veterinarian, the board holds a formal hearing. During the hearing, a court reporter records the proceedings, the complainant and the accused veterinarian may bring legal counsel to represent them, and witnesses must testify under oath.
5. If the board has determined it is not going to take punitive action against a veterinarian, then the board holds an informal hearing and both parties can present any documentation or records to prove their case. After the informal hearing, the board informs the complainant and the accused veterinarian of its decision.
6. If the Board of Veterinary Medicine revokes a veterinarian's license, an appeal can be made in the chancery court in the county where the veterinarian resides.

### ***Lack of Formal, Written Procedures for Handling Complaints and Hearings***

*The Board of Veterinary Medicine has not developed formal, written procedures for its complaint and disciplinary hearing process.*

As noted above, PEER documented the Board of Veterinary Medicine's complaint and hearing process through interviews with the board's attorney, a review of board minutes, and analysis of the board's complaint form and documents in complaint files. This was necessary because the board has no formal, written procedures on its complaint and hearing process that it can make available to veterinarians or the public.

**PEER noted eight complaints in the files that the board took 200 or more days to resolve.**

An effective regulatory process should have a means of making a complaint that is clear and easily accessible to the general public. Although the board has a complaint process in place, it has not developed formal, written policies to address:

- investigation of complaints, how the board reviews complaints, and what supporting documentation and records that should accompany a complaint form;
- how the board determines whether to dismiss a complaint or whether to hold an informal or formal hearing (e.g., the types of violations in state law or board rules and regulations that may cause the board to take punitive action against a veterinarian);
- the types of sanctions the board could take against a veterinarian found in violation of state law or board rules or regulations; or,
- standards of timeliness for handling complaints, conducting hearings, and disciplining veterinarians (e.g., during its file review, PEER noted eight complaints that took 200 or more days for the board to resolve. One case took 720 days before the complaint filed against the veterinarian was closed.).

### **Recordkeeping and Tracking of Complaints**

*The Board of Veterinary Medicine has no summary information on all complaints filed with the board and has not implemented a tracking system to provide information on complaints filed or disciplinary actions taken against veterinarians.*

A regulatory agency should have a comprehensive reporting and tracking system for staff to access readily the summary information regarding complaint files. An effective system should have a complaint file number, date of complaint, the recording of the name of the accused veterinarian(s), complainant's name, type of complaint, board's disposition of complaint, and the date the board closed the complaint file.

**The board's office staff does not have immediate access to complaint files because the files are located in the board attorney's office in Amory, while the board's office is in Starkville.**

The board's office staff does not have immediate access to complaint files. This is because the Board of Veterinary Medicine's office is located in Starkville, but the board attorney who is responsible for handling complaints is located in Amory and all complaint files are located in the board attorney's office.

During its review of complaint files, PEER found multiple complaints and documentation on individual veterinarians located in a single complaint file instead of being separated by individual complaint. The collection of multiple complaints and documents in a single complaint file assigned to a veterinarian also makes it difficult to review and determine the disposition of a complaint because related documents are not placed in any order. Many files contained no information on the disposition of the complaints.

This lack of a comprehensive reporting and tracking system makes it difficult for the board's staff to monitor the status of complaints and determine whether they have been resolved. The way complaints are currently managed, they could be lost during the initial stage of intake or in the process of compiling and completing complaint information for the board's review.

## **Analysis of Complaints**

*The Board of Veterinary Medicine does not have a formal process for reviewing, categorizing, and analyzing the types of complaints filed in order to develop ways to diminish recurrence of complaints or determine continuing education course needs.*

PEER reviewed files for thirty-three complaints received by the board from August 2001 to January 2004. Complaints reviewed during this period included allegations of improper veterinary medical procedures, questionable ethical conduct, improper supervision of employees, unsanitary conditions in veterinary facilities, and improper billing practices by veterinarians.

**The board's files for the period August 2001 to January 2004 contained no documentation of analysis to determine the number of each type of complaint received or possible causes of problems.**

However, PEER found no documentation in the board's files of any type of analysis conducted to determine the number of each type of complaint received or possible causes of problems. The results of such analysis would be helpful in addressing recurring problems. Also, this information could be used to develop or select future continuing education courses on topics related to types of complaints frequently made.

## Informing the Public of How to Make Complaints

*The Board of Veterinary Medicine does not provide information to the public on how to make complaints concerning veterinary medical practice.*

The Board of Veterinary Medicine has not provided information to the general public on the services the board provides or on how to file complaints against veterinarians. Although the board has a telephone number and permanent office in Starkville, the board has not taken further steps and has not utilized free public service announcements through the media to inform the citizens on where and how to file complaints.

Without knowledge of or access to necessary complaint and telephone contact information, the timeliness in making investigations and complaints related to state and federal law violations could be hampered.

Some state veterinary medical boards use a website to inform the public of how to file complaints and what the board does with the complaint after it is filed. Some of these websites provide complaint forms that can be used by consumers.

## Imposition of Fines and Penalties

*State law gives the Board of Veterinary Medicine the authority to administer discipline through imposing administrative fines or suspending or revoking licenses or certification. However, between August 2001 and January 2004, the board was inconsistent in imposing fines and penalties to discipline practitioners.*

### Sanctions Available to the Board

*State law provides a wide range of sanctions for the board's use in disciplining veterinarians and veterinary technicians.*

Sanctions available to the Board of Veterinary Medicine include the imposition of administrative fines or the suspension or revocation of the license of a veterinarian or certificate of a veterinary technician or probation as set forth in MISS. CODE ANN. Section 73-39-19 (1972). State law also allows the board to seek an injunction against unlicensed activity.

The board may also include other conditions after a formal or informal hearing, such as requiring the veterinarian to review the American Veterinary Medical Association's *Principles of Veterinary Medical Ethics* and be tested by the board. The board may send a letter of instruction after an informal hearing giving the veterinarian instructions on surgery procedures. The board may also issue a letter of reprimand to the veterinarian warning against future occurrences or unethical behavior.

**The Board of Veterinary Medicine has adequate penalties available to it under law.**

A key component of any effective regulatory system is the availability and implementation of appropriate penalties for regulatory violations. Such a system should have a range of penalties based upon the severity of the violation. The Board of Veterinary Medicine has adequate penalties available to it under law. MISS. CODE ANN. Section 73-39-19 (1972) provides for disciplinary actions ranging from probation to license revocation and suspension and administrative penalties of up to \$1,000 for each separate offense. Exhibit 4, page 25, shows violations set forth in state law for which administrative fines of up to \$1,000 may be imposed by the board.

### **Inconsistency in Imposing Fines and Penalties**

*Although the board has a wide range of penalties available through law and regulations, the board did not impose any administrative fines from August 2001 to January 2004.*

PEER's review of complaint files for August 2001 through January 2004 showed that during that period, the Board of Veterinary Medicine did not impose any administrative fines in response to violations. For example, the board found a veterinarian in violation of state law for allowing a person to practice veterinary medicine unlawfully. In addition, documentation presented to the board showed that the veterinarian had purchased false and misleading advertisement in the context of the same complaint, which was a second violation of state law. However, the board had imposed no administrative fines for these two offenses.

**The Executive Director said the board has not imposed administrative fines since he became director approximately fifteen years ago.**

According to the board's Executive Director and president, the board has not imposed any administrative fines for offenses cited under MISS. CODE ANN. Section 73-39-19 (1972). The Executive Director said the board has not imposed administrative fines since he became director approximately fifteen years ago. The board's president said the "board's imposition of administrative fines against one's peers would appear self-serving because the fines are used to fund the board's operations."

The authorization to impose fines strengthens a board's enforcement power by providing consequences for noncompliance. A regulatory board should impose administrative penalties in amounts that reflect the severity of the violations and serve as a deterrent to violations of state law, board rules, and regulations.

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## **Exhibit 4: Violations for Which Administrative Penalties and Fines Can Be Imposed Upon Veterinarians or Veterinary Technicians as Set Forth in MISS. CODE ANN. Section 73-39-19 (1972)**

After a hearing, the board, on concurrence of three members, has the power to revoke or suspend the license of a veterinarian or certificate of a veterinary technician and may place the veterinarian or technician on probation conditioned on good conduct and compliance with this chapter, and may impose an administrative fine not to exceed \$1,000 for each separate offense, for any of the following reasons:

- (a) Insanity or mental incompetence or an adjudication of insanity or mental incompetence by a court of competent jurisdiction.
- (b) Chronic inebriety or habitual use of drugs, or any adjudication by a court of competent jurisdiction that such veterinarian is an alcoholic or habitual user of drugs. Decree of divorce shall not be construed as any adjudication that a veterinarian is an alcoholic or habitual user of drugs.
- (c) A final conviction of a felony or of an offense involving moral turpitude by a court of competent jurisdiction.
- (d) Fraud or dishonesty in the application or reporting of any test for disease in animals, including intentional misrepresentation on any forms filed with any governmental agency.
- (e) Failure to report or making a false report of any contagious or infectious disease required by state or federal law to be reported.
- (f) Dishonesty, intentional misrepresentation or gross negligence in the inspection of foodstuffs or the issuance of health or inspection certificates.
- (g) The refusal of licensing authority of another state to issue or renew a license, permit or certificate to practice veterinary medicine in that state or revocation, suspension or other restriction imposed on a license, permit or certificate issued by such licensing which prevents or restricts practice in that state; further, any probationary status imposed by another state which had the offense occurred in this state would have been a violation of this chapter.
- (h) The employment of fraud, misrepresentation or deception in obtaining a license.
- (i) The use of advertising or solicitation which is false or misleading or is deemed unprofessional under rules or regulations adopted by the board.
- (j) Incompetence, gross negligence, cruelty or gross malpractice in the practice of veterinary medicine.
- (k) Employing any person practicing veterinary medicine unlawfully with the knowledge of such illegal practice by said employee.
- (l) Failure to keep veterinary premises and equipment in a clean and sanitary condition.
- (m) Cruelty to animals in the practice of veterinary medicine.
- (n) Unprofessional or unethical conduct as defined in regulations adopted by the board.
- (o) Administering, dispensing or prescribing any narcotic drug having addiction-forming, addiction-sustaining or habituating liability otherwise than in course of legitimate professional practice.
- (p) Conviction of violation of any federal or state law regulating the possession, distribution or use of any narcotic drug or any drug considered a controlled substance under state or federal law.
- (q) Obtaining or procuring or attempting to obtain or procure by misrepresentation, fraud, deception or subterfuge, any narcotic or drug classified as a controlled substance.
- (r) Making or causing to be made any false claims concerning the licensee's professional excellence.
- (s) Being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public.
- (t) Refusing to permit the board or any legal representative of the board to inspect the business premises of the licensee during regular business hours.

SOURCE: MISS. CODE ANN. Section 73-39-19 (1972).

**The board's failure to impose fines weakens its enforcement effectiveness.**

The board's failure to impose fines authorized by law for noncompliance weakens its effectiveness in enforcing laws, rules, and regulations regarding the veterinary medical profession. Because the board does not impose administrative fines, violators do not anticipate a financial burden of noncompliance. If veterinarians do not fear the consequences or penalties that could be posed by the board, they may fail to take the board's enforcement actions seriously and may fail to comply with critical standard-of-care or conduct issues of concern to the public.

*The board has been inconsistent in imposing sanctions, penalizing some practitioners severely for relatively minor violations while issuing minor penalties (or no penalty) to practitioners with major violations.*

PEER reviewed thirty-three individual complaints filed against veterinarians from August 2001 to January 2004 and found that the Board of Veterinary Medicine was inconsistent in administering disciplinary penalties to practitioners. The board issued minor penalties (or no penalty) to practitioners with major violations while it penalized some practitioners severely for relatively minor violations, as illustrated below.

**Because the board has not uniformly assessed penalties and has not based penalties on the type and severity of the violation, veterinarians may not take the board's enforcement power seriously.**

For example, a veterinarian's spouse who was not licensed to practice veterinary medicine was in fact practicing in his wife's clinic. Evidence included a listing from the telephone book showing the veterinarian's husband listed as a doctor and documentation that he had performed surgeries and tested animals. The board could have issued an injunction to stop the unlawful practice immediately, imposed a fine, imposed an administrative fine for each offense, or revoked or suspended the veterinarian. Instead, the board sent a reprimand letter to the veterinarian. Yet the board revoked the license of a veterinarian who failed to meet the board's annual continuing education requirement.

Because the board has not uniformly assessed penalties and has not based penalties on the type and severity of the violation, veterinarians may not take the board's enforcement power seriously and may continue to violate veterinary laws, rules, and regulations. Such noncompliance could increase risks to animals and the public.

## **Informing the Public of Disciplinary Actions**

*The board has not publicized disciplinary actions taken against veterinarians.*

When the Board of Veterinary Medicine does discipline a practitioner for acting in an unprofessional manner, the board does not provide such information to residents of



**Publicizing disciplinary actions that the board has taken against practitioners would provide valuable information that the public could consider in choosing a veterinary professional.**

the county where the veterinarian's practice is located or otherwise publicize the disciplinary action.

PEER reviewed other states' board of veterinary medicine websites and spoke with board staff in other states to determine how other states publicize disciplinary actions. Disciplinary actions are posted on board websites, publicized in board newsletters, or in the American Association of Veterinary State Boards' national disciplinary database for veterinarians.

Publicizing disciplinary actions that the board has taken against practitioners would provide valuable information that the public could consider in choosing a veterinary professional. This is a common practice for other professions (e.g., attorneys).

The board should make all enforcement information, such as the revocation or suspension of a veterinarian's license or veterinary technician's certificate, administrative fines or probation, readily available to the public in a manner easily accessible to consumers.

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## Recommendations

### Licensure

1. As required by MISS. CODE ANN. Section 73-39-15 (1972), the Board of Veterinary Medicine should ensure that all applicants submit their application thirty days prior to the date of examination.

The board should also require veterinarians from other states who wish to practice in Mississippi to comply with all board regulations and state law requirements for licensure prior to receiving a license.

2. The Board of Veterinary Medicine should validate its written state board examination to ensure that it measures whether the applicant has sufficient knowledge of state laws, rules, and regulations governing the practice of veterinary medicine.
3. The Board of Veterinary Medicine should discontinue using the term “oral examination” if its interview of candidates is not part of the examination process and is not used to differentiate between qualified and unqualified applicants. If the board ever chooses to use its interview as part of the formal examination process, it must first validate the instrument in order to ensure its fairness and effectiveness in measuring whatever it purports to measure.

### Enforcement

4. The Legislature should consider amending the Veterinary Practice Law of 1946 to require the Board of Veterinary Medicine to inspect veterinary medical facilities. Additional funds generated from license fees and fines could be used to fund an Inspector position.
5. The Board of Veterinary Medicine's Executive Director should immediately prepare a plan for inspecting veterinary facilities under the jurisdiction of the board. In conjunction with development of this plan, the Executive Director should also determine the costs of conducting such inspections and make a recommendation to the Legislature that it grant the authority to expend additional special funds or the authority to raise fees in an amount necessary to support the board's regulatory programs.

6. The Board of Veterinary Medicine should develop formal, written standard policies and procedures regarding the investigation of complaints, the conduct of formal and informal hearings, and disciplinary actions taken against veterinarians. Using existing resources, the board should develop a comprehensive reporting and tracking system to ensure that board staff and the general public have quick access to complaint and disciplinary information on veterinarians.
7. The Board of Veterinary Medicine should provide information to the public on the complaint process. The board should consider posting complaint reporting or contact information in veterinary facilities throughout the state.
8. The Board of Veterinary Medicine should require board staff to formally review, categorize, and analyze complaints to determine continuing education course needs and develop ways to diminish the recurrence of complaints in a specific area. Board staff should provide an annual written report to the board.
9. The Board of Veterinary Medicine should review its current enforcement practices and consider imposing administrative fines as set forth in MISS. CODE ANN. Section 73-39-19 (1972) to deter and discipline noncompliant veterinarians.
10. The Board of Veterinary Medicine should publicize disciplinary actions taken against veterinarians and provide such information to residents in the county where the veterinarian's practice is located. Using existing resources, the board should consider ways of reporting disciplinary actions in a manner easily accessible to the public, such as newspapers, board newsletters, a board website, or American Association of Veterinary State Boards' national disciplinary database for veterinarians.



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## Agency Response

**Mississippi Board of Veterinary Medicine Response**  
**“A Review of the Board of Veterinary Medicine”**  
**Mississippi Joint Legislative Committee**  
**On**  
**Performance Evaluation and Expenditure Review (PEER)**



### Issue of “Lack of Compliance with Some Licensing and Recording Requirements”

- Board regulations require that when veterinarians from other states apply for licensure in Mississippi, they must provide three letters of recommendation and have practiced in their home state during the past five years (in addition to meeting other requirements). **The Board simply must insure that regulations are followed specifically with no exceptions.**
- The board also does not consistently require applicants to comply with MISS. CODE ANN. Section 73-39-15, which requires that prior to engaging in practice, a newly licensed veterinarian must record his or her license with the circuit clerk’s office in the county in which he or she resides. **The Board must insure compliance until a change in the Practice Act is made to eliminate this requirement.**

### Issue of “Problems with State Veterinary Medicine Exam Development and Administration”

- The Board has not followed formal test construction standards in the development of the state veterinary medicine examination and thereby runs the risk that the test is not meeting its intended purpose of identifying those applicants who possess sufficient knowledge of state laws, rules, and regulations affecting veterinary practice. Due to the way many of the questions are constructed, a layperson who had not even read these laws, rules and regulations could answer correctly. The fact that all candidates have passed Mississippi’s state veterinary medical board exam raises questions about the value that the state exam provides for assessing candidates’ knowledge of state veterinary medical practice laws. **For a full understanding of the state veterinary medical exam, its significance and purpose, a review of the historical metamorphosis should be helpful. Prior to October 1, 1984, the state exam was the only post graduate examination available; therefore, the state examination was the gate between the colleges of veterinary medicine and licensure. On October 1, 1984, the Mississippi Board of Veterinary Medicine adopted a rule requiring applicants for licensure to take and pass the National Board Examination and Clinical Competency Test in veterinary medicine. A part of the rule adopted on that date limited the questions on the state exam to questions of ethics, matters related to practice and to state and federal regulations. The Board has used the state exam as a means of insuring that applicants become familiar with veterinary medical ethics and jurisprudence and with the practice act. State and federal regulations are taught and tested by the United States Department of Agriculture Animal and Plant Health Inspection Service-Veterinary Services. Veterinary graduates have been subjected to rigorous academic requirements for a number of years, and it is understandable that**

reading of the recommended study material should provide adequate information to pass a fair test on the material. The Mississippi Practice Act is concise and straight forward, and ethics and jurisprudence is based on “The Golden Rule”. A lay person, not familiar with veterinary medicine, would be able to answer several of the questions accurately. As far as the concern of security, two separate exams can be prepared and administered. Cheating on the examination has not been a problem; the applicants are seated in alternate seats and proctors monitor the room. What are the “standard professional testing guidelines” that the board has failed to follow in administering the examinations? “The Board has not met test administration standards for accommodating applicants with disabilities because it has not provided a written plan acknowledging compliance with the Americans with Disabilities Act. On December 7, 1992, the Board adopted a rule requiring applicants for an exam with special needs to notify the Board sixty days prior to the examination. The Board has complied with requests to date. In the future, Board communications with applicants will state the willingness to comply with the American Disability Act.

Issue of “enforcement”

- Lack of inspections-Monitoring the quality of veterinary practice in Mississippi is dependant and contingent on funding. Monitoring on a daily basis comes through feedback from animal owners, veterinarians, state and federal regulatory officials including the Drug Enforcement Agency. To provide inspection, a budget increase would be necessary, meaning the Board would be forced to increase revenue by approximately 100%. Considering salary, fringe benefits, administrative support and travel, the financial requirement could be 70 to 100 thousand dollars. Other states utilize the state public health veterinarian in inspecting practices. This may be explored as an option in our state. The Board can request additional funds through the legislative process to support practice inspection.
- Lack of a Comprehensive Process or Handling Complaints and Hearings-In the past, all complaints have been mailed directly to the Board attorney who, along with the Executive Secretary after consulting with Board members, set the time and date of hearings. The Board attorney maintains all files on complaints and hearings. The Board staff can become more active in the complaint process and documentation of complaints and findings.
- Inconsistent imposition of fines and penalties-Historically the Board has been reluctant to impose fines because of perceived conflict of interest. With an understanding of the legality of imposing fines, the Board can and will levy fines as appropriate.

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