

Approved: Eugene Shore 2/24/93  
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Eugene Shore at 9:05 a.m. on February 9, 1993 in Room 423-S of the Capitol.

All members were present except: Representative Lloyd - Excused

Committee staff present: Raney Gilliland, Legislative Research Department  
Jill Wolters, Revisor of Statutes  
Kay Johnson, Committee Secretary

Conferees appearing before the committee: Dr. Michael Whitehair, Kansas Veterinary Medical Assoc.  
Dr. Earl Gatz, Board of Veterinary Examiners  
Dr. Tom Vincent, Board of Veterinary Examiners  
Dr. Marvin Samuelson, Board of Veterinary Examiners  
Camille Nohe, Assistant Attorney General

Chairman Shore called the meeting to order and opened hearings on **HB 2107: Amendments to the Kansas Veterinary Practice Act.**

Dr. Michael Whitehair, President, Kansas Veterinary Medical Association, attachment #1, testified that Kansas Veterinary Medical Association's voting members and Board of Directors have approved support of this bill.

Dr. Earl Gatz, President, Board of Veterinary Examiners, attachment #2, discussed the key provisions of the bill. These include adding two board members, licensure, treatment of foreign graduates, assessment of fines, establishment of minimum standards, premises inspection and an expanded definitions section.

Dr. Tom Vincent, Executive Director, Board of Veterinary Examiners, handed out copies of the current rules and regulations governing veterinary medicine, attachment #3, and addressed the fiscal note for **HB 2107**, attachments #4 and #5. Dr. Vincent stressed that all figures in the fiscal note are estimates. There will be an increase in overall receipts and expenditures and Dr. Vincent thinks there will be no additional cost to the state.

Representative Rezac asked why there is now a need to inspect facilities. Dr. Marvin Samuelson responded that current law gives the Board authority to inspect facilities, but has no provisions for standards. The bill proposes all facilities be inspected within two years, once every five years after that and anytime upon complaint. There are very few that cause problems, but without a set of standards or the ability to assess a fine, the Board can't act appropriately.

Representative Gatlin suggested setting up minimum standards, but not mandating inspections except upon complaint.

Responding to Representative Bryant's comment concerning fines, Dr. Vincent explained there is a need for some type of disciplinary measure between simply writing a letter and revoking a license.

Representative Neufeld asked who would set the dollar amount of the fine. Dr. Vincent responded that a list of infractions with corresponding fines would be put in place before any inspections.

Referring to Section 14 (page 15) of the bill, Dr. Vincent said there is some language variances and the Board of Veterinary Examiners wants to make sure changes are made so that all language is the same.

Representative Kejr expressed concern over the cost to the farmer for facility inspections and Representative Rezac expressed concern over the cost of doing business if upgrades are needed. Dr.

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 9:05 a.m. on February 9, 1993.

Vincent said only a very few would have to spend much for upgrades.

Camille Nohe, Assistant Attorney General, explained the need for two additional board members. They are needed to do administrative work and to ensure a licensee's right to a fair hearing.

Joe Rickabaugh, Executive Secretary, Purebred Division, Kansas Livestock Division, attachment #6, made recommendations to clarify and define specific sections of the bill.

Hearings concluded on **HB 2107**. Chairman Shore appointed Representative Gatlin, Representative Kejr and Representative Rezac to a sub-committee to study the bill.

The minutes of February 2, 3, 4 and 5, 1993 were distributed to committee members. If no corrections are received by 5:00pm on February 10, 1993, they will be considered approved.

The meeting adjourned at 9:50am. The next meeting is scheduled for February 10, 1993.



**KANSAS VETERINARY MEDICAL ASSOCIATION, INC.**

816 SW Tyler, Suite 200, Topeka, Kansas 66612, (913) 233-4141

FAX: (913) 233-2534

February 8, 1993

Representative Eugene Shore, Chairman and  
Members of the Committee on Agriculture,  
Kansas House of Representatives  
4th Floor, State Capitol  
Topeka, Ks. 66612-1594

Dear Representative Shore and  
Members of the Committee on Agriculture, House of  
Representatives:

Amendments to the Kansas Veterinary Practice Act,  
incorporated into House Bill No. 2107, have been reviewed  
by both the elected officials of the Kansas Veterinary  
Medical Association and the organization's general  
membership.

During meetings held, January 7-10, 1993, in Wichita,  
Kansas, the organization's voting members and board of  
directors approved support of the Kansas Board of  
Veterinary Examiners in requesting passage for this  
legislation.

Should you have additional questions regarding our  
organization's support, please feel free to contact me.

Respectfully yours,

Michael L. Whitehair, DVM  
President  
Kansas Veterinary Medical Association

**Dr. Michael L. Whitehair**  
President  
Abilene Animal Hospital, PA  
320 NE 14th  
Abilene, Ks. 67410

**Dr. Terry Turner**  
President-Elect  
Ark Valley Veterinary Hospital  
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**Dr. Gary Modrcin**  
Vice President  
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**Dr. Vern Otte**  
Treasurer  
State Line Animal Hospital  
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**Catharine A. Deever**  
Executive Director  
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816 SW Tyler, Suite 200  
Topeka, Ks. 66612

HOUSE AGRICULTURE

2-9-93

ATTACHMENT #1



## Board of Veterinary Examiners

House of Representatives  
Committee on Agriculture  
February 9, 1993

RE: HB 2107

This will follow along with the structure of the House Bill.

Section 1. KSA 47-814 Purpose of the act. The amendment to this section is to remove the "right to" practice and make it a granted privilege so our law will be compatible with today's legal atmosphere.

Section 2. KSA 47-815 Add "the".

Section 3. KSA 47-816 Definitions.

Amendments here are "Direct supervision" which more clearly defines who is supervising whom, where and how.

"Indirect supervision" follows along with direct supervision and this term replaces limited supervision.

"Practice of veterinary medicine" has paragraphs regrouped and some terms added to include modern fields of medicine.

New definitions here are "Veterinary medical specialist".

"Veterinary premises".

"Graduate veterinary technician".

"Registered veterinary technician".

"Veterinarian/client/patient relationship" (VCPR) this is the most important addition to the act in the form of terms, it is used by the federal regulatory agencies in all their decisions.

"ECFVG certificate" (Education Commission on Foreign Veterinary Graduates) this is used in 47 states, all of Canada and Puerto Rico. To be fair to foreign graduates we need this.

"Veterinary prescription drugs".

"Veterinary corporation".

"Veterinary partnership".

Section 4 KSA 47-817 Exceptions.

Add a good samaritan clause for any member of the public acting in veterinary emergencies.

Exempt fishery biologist.

Delete pesticide applicators, feed manufacturers and feed stores as this is covered by the VCPR.

Section 5 KSA 47-818 Board Appointments and Terms.

The addition of 2 new board members is important because of the procedure used today in our investigation and hearing process.

The deleted area is just removing some outdated wording.

Add "major facets of veterinary medical practice" to make the board a "representative" group from the practitioners in the state.

Section 6 KSA 47-819 Board duties.

The only change is the term secretary-treasurer to executive director.

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Section 7 KSA 47-820 Disposition of moneys.  
This says all fine money will go to general fund minus expenses directly related to their collection.

Section 8 KSA 47-821 Powers of the board.  
"Premises inspection" and issuance of "premises permits" are part of establishing "minimum standards of practice".  
The expanded powers are to "limit, condition, fine, reprimand, or restrict". The existing powers are to suspend, revoke or dismiss.  
"Veterinary technicians" will be examined and registered by the board.  
Establishment of a "continuing education committee", a "peer review committee" and any "other committee" which will assist the board in investigations and other informational activities.

Section 9 KSA 47-822 Fees.  
The fees now in place will remain the same minimums and the maximums are raised only to cover future eventualities without having to change the statutes. Today the application fee (\$100.) for examination also includes the examination fee and is 100% refundable if the applicant does not appear to take the exams. The change of an application fee (\$50.) and an examination fee (\$50.), without changing the total, will allow the board to refund only one of these fees. This will help us cover some of the costs involved.  
New fees will be the examination fee (\$85.), registration fee (\$20.) and annual renewal fee (\$5.) for registered veterinary technicians. The application for a premises permit (\$100) covers the costs of inspection and an annual renewal fee of (\$10.) covers the new fees included in this act.

Section 10 KSA 47-824 Application & Qualifications.  
Allows second semester juniors to take the national examinations.  
Outlines how the board would approve unaccredited schools.  
Defines the forfeiture of application fee of unqualified applicants.

Section 11 KSA 47-825 Examinations & Records.  
This is mainly rewording.  
Defines the forfeiture of the examination fee for those not showing up for the tests.

Section 12 KSA 47-826 Licensure.  
"Licensure by endorsement", licensing a "veterinary medical specialist", a jurisprudence examination and acceptance of the "ECFVG" certificate come into effect in this section. The addition of these items puts Kansas in the arena of modern practice acts.

Section 13 KSA 47-829 Renewal.  
The main addition in this section is the application of the jurisprudence examination to all holders of a Kansas license, so when the new law takes effect everyone will be aware of its content and concept. Delinquency time is also reduced.

Section 14 KSA 47-830 Discipline.

Besides the revoke or suspend we now add the terms; limit, condition, reprimand, restrict or asses a fine, not to exceed \$2000.

"Unprofessional conduct" is addressed here along with patient records and information of treatment.

Section 15 KSA 47-834 Enforcement/Penalties

Here the penalty for practicing without a license is increased from a minimum/maximum of \$50/500 to \$250/2000 to make this section more compatible with the fines discussed in section 14.

Section 18 KSA 47-848 Impairment responsibilities.

The only change here is the addition of a paragraph whereby the board may require a licensee to submit to diagnostic tests if deemed necessary.

NEW Section 19 Premises inspection and premises permits.

This section outlines application for premises inspection and permits. "Minimum standards of practice" are established as they relate to the physical plant. Inspection timing, procedure, issuance of premises permits, their renewal and reinspection is detailed.

NEW Section 20 The veterinarian "Good Samaritan" clause.

NEW Section 21 Authority to asses a fine.

NEW Section 22 Issuance of a citation.

Following all procedures outlined in the Kansas Administrative Procedures Act, the board may issue a civil penalty in the form of a citation not to exceed \$2000 for violations against this act.

NEW Section 23 Contesting a citation, reviews, appeals.

STATE OF KANSAS



DIVISION OF THE BUDGET

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Joan Finney  
Governor

Gloria M. Timmer  
Director

February 8, 1993

The Honorable Eugene Shore, Chairperson  
Committee on Agriculture  
Statehouse, Room 446-N  
Topeka, Kansas 66612

Dear Representative Shore:

SUBJECT: Fiscal Note for HB 2107 by House Committee on  
Agriculture

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2107 is respectfully submitted to your committee.

HB 2107 would make several changes to laws governing the practice of veterinary medicine in Kansas. The bill would expand the number of members on the Board of Veterinary Examiners from five to seven. The current requirement that Board members be graduates of an accredited school of veterinary medicine would be changed to a board-approved school of veterinary medicine. HB 2107 would also shift administrative responsibility from the secretary-treasurer of the board to the executive director.

The bill would also expand the board's powers concerning regulation of the practice of veterinary medicine. In addition to the board's current powers to issue, renew, deny, suspend, or revoke licenses to practice veterinary medicine, the board would be allowed to limit, condition, fine, reprimand, and restrict licenses. The maximum fine could be \$2,000. Individuals receiving fines would be first entitled to an informal hearing with the Executive Director and then a formal hearing under the Kansas Administrative Procedure Act.

The board would be able to adopt minimum standards for continuing veterinary medical education necessary for renewal of a license. The board would also be able to establish any committee necessary for implementation of the act, including a continuing

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education committee and a peer review committee. Veterinary technicians would also be registered by the board.

The bill also revises the criteria for obtaining a license to practice veterinary medicine. These criteria include a diploma from an American Veterinary Medicine Association Accredited School of Veterinary Medicine, passage of the national boards examination, and passage of the Kansas veterinary legal passage examination. The bill also clarifies circumstances under which the Board may revoke or suspend a license. The term "unprofessional conduct" is defined. Individuals practicing without a license would be subject to a fine of \$250 to \$2,000. Under current law this fine is \$50 to \$250.

HB 2107 would also allow the Board to require a licensee to submit to a complete diagnostic examination by one or more physicians. The licensee would also be entitled to be examined by one or more physicians of his or her own choosing and submit the results to the board for consideration.

The bill would also require the board to license and inspect veterinary premises. Veterinary premises are defined as any premises or facility where the practice of veterinary medicine occurs. Any premises not in operation upon the effective date of this act must be inspected and issued a permit prior to opening. Premises currently in operation would be issued a temporary permit and would be inspected within one year. The board would be able to suspend, revoke, or place on probation the license of premises if they do not meet standards or if they are being operated by anyone other than a licensed veterinarian. Premises permits would have to be renewed annually, and the application for license would serve as consent for inspection.

HB 2107 would also limit the legal liability of a veterinarian acting in an emergency situation. No licensed veterinarian acting in good faith in an emergency situation would be liable for damages to an animal that were the result of acts or omissions of the veterinarian. A licensed veterinarian could also not be held liable for acts or omissions when rendering aid to a human in an emergency situation.

HB 2107 would also amend the board's current fee structure. The minimum fee for veterinary medical licenses would be reduced from \$100 to \$50. The maximum fee for renewal of veterinary licenses would be increased from \$75 to \$100. The maximum fee for examinations for veterinarians and veterinary technicians would be increased from \$100 to \$250. A new registration fee for registered veterinary technicians would be established at a minimum of \$20 and a maximum of \$50. Renewal of a veterinary technician's registration would range from \$5 to \$25. A premises permit would be established at a minimum of \$50 and a maximum of \$150.



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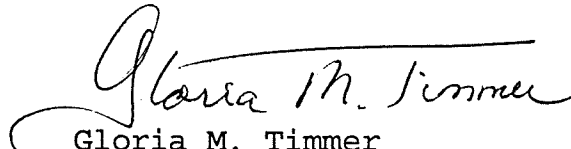
The fiscal impact of HB 2107 would depend on the level at which fees are set and the level of inspection activity. The Board of Veterinary Examiners estimates that the bill would increase receipts by \$50,000. Twenty percent of these receipts (\$10,000) would be credited to the State General Fund and 80.0 percent would be credited to the Veterinary Examiners Fee Fund. The board estimates that it would offer examinations to 20 veterinary technicians and charge a fee of \$85, which would generate \$1,700. An additional \$1,000 would be generated by 200 renewals of veterinary technician registrations at \$5 each. The board also estimates that \$4,300 would be generated from issuing permits to 430 premises at \$10 each. The premises inspection fee would generate \$43,000 based upon an estimated 430 premises at \$100 each.

HB 2107 would also impact the Board of Veterinary Examiners expenditures. The board would be required to purchase examinations for veterinary technicians at an estimated cost of \$1,300. The board states that it would cost \$32,250 to perform the required inspections of veterinary premises. The board anticipates that it would perform the inspections through contractual arrangements rather than by increasing staff.

The Division of the Budget estimates that the addition of two board members would cost \$1,140 in per diem expenses. This item is not included in the board's estimate.

In summary, HB 2107 would generate receipts of \$10,000 to the State General Fund and \$40,000 to the Veterinary Examiners Fee Fund. The bill would also require expenditures of \$34,690 from the Veterinary Examiners Fee Fund. The fiscal impact of this bill is not included in the *FY 1994 Governor's Budget Report*.

Sincerely,

  
Gloria M. Timmer  
Director of the Budget

cc: Dr. Tom Vincent, Board of Veterinary Examiners

2107.fn



COPY

## Board of Veterinary Examiners

TOM D. VINCENT, D.V.M.  
Executive Director  
HC-03 Box 30  
Lakin, Kansas 67860-9417  
(316) 355-6358  
FAX 355-6338

January 28, 1993  
Gloria M. Timmer  
Director of Budget

RE: HB 2107

### Requested information

#### (1) Analysis of proposed legislation:

\* The addition of 2 new board members. This will ease the everyday duties of board functions in case of illness or injury of any of the existing members. This will also greatly enhance the investigation and hearing functions required by the board.

\* Licensing by endorsement and the addition of a jurisprudence examination would do away with the need for reciprocity, institutional, temporary and any other special type of license. This would make everyone on an equal basis and also demonstrate their knowledge of the practice act.

\* The acceptance and recognition of the ECFVG certificate would place our applicants from foreign veterinary colleges on equal basis with most of the other states in the country.

\* From our system today of: revoke, suspend or dismiss, the powers of the board are increased to also: limit, condition, reprimand, restrict or fine as additional disciplinary actions. Disciplines would more closely match infractions with this.

\* The establishment of minimum standards of practice is needed to have a point of reference for complaints of consumers and to make us current in today's legal environment. Please understand the word "minimum", this is not meant to be a burden to anyone.

\* Minimum standards can not be addressed without the inclusion of the premises. It is felt a premises inspection would be needed and a permit issued to demonstrate to the public this is being done. This will involve a fee for the inspection and the permit. This is the only place in this proposal there is a definite increase in cost to the licensee.

\* The legal establishment of a continuing education committee.

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\* The legal establishment of a peer review committee and the authority of the board to refer complaints to it.

\* For those veterinarians caught in emergency situations beyond anyone's control a "good Samaritan" clause is included.

\* The definition area is expanded to include the following:

"veterinarian-client-patient relationship",

"ECFVG",

"unprofessional conduct",

"veterinary corporation",

"veterinary partnership",

"veterinary prescription drugs",

"veterinary premises",

"direct supervision",

"indirect supervision",

"veterinary medical specialist",

"registered veterinary technician".

The things included in these proposed changes are to promote the public health, safety and welfare. To protect the consumer's interest when complaints are made and in the process to enhance the image of the veterinary profession in Kansas.

(2) Statement about operational affect and responsibility areas:

\* This is all included in the information provided under (1).

(3) Dollar effect on our budget:

\* There will be an increase in our overall receipts and expenditures which will be an increase to the overall monies to the general fund.

\* The board will have authority to assess fines, any fines collected will go to general fund once all related expenses are deducted.

\* Premise inspection and permits issued will generate additional monies for general fund, our proposed fees would be on a 'break even' basis.

\* Registration and renewal fees for registered veterinary technicians will be a slight addition to the overall receipts.

\* Forfeiting the examination fee will at least help defray expenses when applicants do not take the examination. The present law directs us to return the full amount. The cost to the applicant will remain the same (\$100), but we now have an application fee (\$50) and an examination fee (\$50) of which the application fee will be returned.

(4) Assumptions used for cost estimates:

\* Our budget should remain constant except for the following.

\* The registration examination for technicians will gross approximately \$1700 (20 X \$85) with offsetting expenses of \$1300 (20 X \$65) for the cost of the examination.

\* Registration renewal from technicians will gross \$1000 (200 X \$5)

\* 430 premises for veterinary practice have been identified in the State of Kansas. Premise permit fees will generate \$4300 (430 X \$10) and these will be renewed annually.

\* A premise inspection would gross \$43000 (430 X \$100) from this our estimated expense would be \$32250 as at this time we are anticipating being able to contract these inspections out for \$75 each.

(5) Whether additional staff and expenditures are necessary:

\* Our office capacity is presently one staff member with no secretarial expenditure. In the very near future, this agency will be in need of contracting out some of our secretarial work or possibly a half time secretarial position whether there's any change in the law or not. From the estimates stated in (4), we could have about \$7500 to cover this needed expenditure if the law was changed.

(6) Long range fiscal effect:

\* This is anybody's guess. The board is comfortable with the present situation and no one knows if the law will pass or what exactly it will say when it passes and the present calculations are figured on minimums so that if there is a financial crisis in the future, the fees could be adjusted to handle the situation by rules and regulations.

For further information or points of clarification, please do not hesitate to give me a call. Thank You.



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Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

February 9, 1993

TO: House Agriculture Committee  
Representative Gene Shore, Chairman

FROM: Joe Rickabaugh, Executive Secretary, Purebred Division

RE: **HB 2107, Amendments to the Kansas Veterinary Practice Act**

Mr. Chairman and committee members, thank you for the opportunity to comment on HB 2107. Our association first became interested in this issue last year when the Board of Veterinary Examiners discussed with us their interest in updating and amending the statutes governing the practice of veterinary medicine. Since the introduction of the bill last year, we have had several meetings and visits with the Board and plan to continue communicating any possible concerns or suggestions for provisions of this bill.

As you can see, this bill is rather lengthy and has many amendments and modifications to veterinary practice statutes. At the time of our Animal Health Committee meeting last December, some of the details had not been worked out by the Board of Veterinary Examiners and their recommendation was still under review. Our association recently put together a task force of cow-calf operators, purebred breeders, cattle feeders, and practicing veterinarians to study the bill and make recommendations to our members when they meet again in a couple of weeks.

This committee had a brief meeting yesterday and asked that we list several questions and possible concerns to the committee and the Board of Veterinary Examiners to discuss with this legislation.

**1. Page 2, subsection (g), lines 40-43.**

This proposed amendment clarifies that unlicensed personnel employed by USDA or the State Board of Agriculture would not be prohibited from collecting blood or other samples. In many instances, employees of the Kansas Animal Health Department would participate in this activity. Perhaps the committee would want to add the Animal Health Department in this paragraph.

**2. Page 4, lines 2-3.**

Number three, under the definition of "veterinary-client-patient relationship" specifies that a veterinarian is "readily available" for follow-up in the case of adverse reactions. Our task force questioned the feasibility of "readily available". Of course this will always be subject to interpretation, but we wanted to point out that in many cases in the rural areas today, a veterinarian may be many miles away from their client.

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**3. Page 3, lines 2-5.**

The bill contains several changes and additions to the definition of "practice of veterinarian medicine". Several of our members felt uncomfortable with number five, which indicates veterinary medicine includes applying principles of environmental sanitation, food inspection, environmental pollution control, animal nutrition, etc. I am comfortable it is not the intention of the Board to get a requirement that animal nutritionists be licensed veterinarians. It might make sense to specify animal nutrition to include "therapeutic" nutrition. Furthermore, there was some concerns about adding environmental pollution control to the list of activities considered to be the practice of veterinarian medicine.

**4. Page 4, section 4, subsection (d), lines 33-36.**

Section four of current law, K.S.A 47-817, specifically includes a list of activities that is not to be prohibited exercises for non-veterinarians. In lines 33-35, the bill strikes the reference to merchant or manufacture in selling medicines, feed, appliances, or other products. Again, I'm sure this is not the intention of the Board to limit the sell of animal health products to only licensed veterinarians. It might make everyone feel more comfortable if this language would continue to be a part of the statutes.

**5. Page 2, subsection (g), lines 18-23.**

Current law specifically says, the use of "manual or mechanical procedures" for pregnancy testing is, in fact, the practice of veterinary medicine. It has been interpreted in the past that anyone other than a licensed veterinarian who was doing pregnancy examinations as a business is in violation of the law.

Please note the new language on lines 19-23 expand the definition of pregnancy detection to include biological or chemical procedure. Several of our task force committee members were a little apprehensive to add the words biological and chemical because of forthcoming ultrasound technology in the field of pregnancy testing. We think this area ought to be further examined and discussed by the Board, ourselves and this committee.

There are a few of the questions which surfaced at our recent meeting. Earlier, our association had deep concerns about this bill tightening or further restricting the practice of embryo transfer that many of our seedstock producers are utilizing today. We appreciate that this legislation proposed by the Board of Veterinary Examiners deletes reference to embryo transfer.

In summary, I want to emphasize these are preliminary questions that our task force have developed. We plan to discuss this more thoroughly with our Board of Directors when they meet again in a few weeks. We also want to work with Dr. Tom Vincent and the Board of Veterinary Examiners to address these questions and be cooperative in this legislative effort. I would be happy to respond to any questions or comments. Thank you.