

APA-1
07/04

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. _____ Department or Agency: Alabama State Board of Veterinary Medical Examiners
Rule No. 930-X-1-39

Rule Title: Exercise of Independent Professional Judgement by Veterinarians: Prohibited Business Arrangements or Relationship.

New Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's Police power and the protection of the public health, Safety, or welfare? Yes

Is there another, less restrictive method of regulation Available that could adequately protect the public? No

Does the proposed rule have the effect of directly or Indirectly increasing the costs of any goods or services Involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public Than the harm that might result from the absence of The proposed rule? No

Are all facets of the rulemaking process designed solely For the purpose of, and so they have, as their primary Effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama, 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer *Tamm J. Wallace*

Date: August 7, 2012

(DATE FILED)
(STAMP)

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07/04

Alabama State Board of Veterinary Medical Examiners

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 930-X-1-.39 Exercise of Independent Professional Judgement by Veterinarians;
Prohibited Business Arrangements or Relationship.

INTENDED ACTION: New

SUBSTANCE OF PROPOSED ACTION: The Board proposes to adopt a new rule to prevent a non-veterinarian from influencing or otherwise interfering with the exercise of a veterinarian's independent judgment and to also state that no person, other than a veterinarian licensed in accordance with this chapter, shall enter into a relationship with a person licensed under this chapter pursuant to which said unlicensed person exercises control over the veterinarian and the daily functions of the veterinary practice.


TIME, PLACE, MANNER OF PRESENTING VIEW: Written comments, views, or arguments will be received by the Alabama State Board of Veterinary Medical Examiners at 9:00 a.m. on October 10, 2012. Comments should be directed to Tammy Wallace, Executive Director, at 8 Commerce Street, Suite 910, Montgomery, AL 36130-5330, or via fax at 334-262-8716. A public hearing will be held at 9:00 a.m. on October 10, 2012 at 8 Commerce Street, Suite 910, Montgomery, AL 36104.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

October 10, 2012

CONTACT PERSON AT AGENCY:

Tammy Wallace, Executive Director
8 Commerce Street – Suite 910
Montgomery, AL 36130-5330
(334) 262-8068


Tammy Wallace, Executive Director
Alabama State Board of Veterinary Medical
Examiners

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07/04

Alabama State Board of Veterinary Medical Examiners

NOTICE OF INTENDED ACTION

RULE NUMBER: 930-X-1-.39

TITLE OF RULE: EXERCISE OF INDEPENDENT PROFESSIONAL JUDGEMENT BY VETERINARIANS;
PROHIBITED BUSINESS ARRANGEMENTS OR RELATIONSHIP.

- (1) No person other than a veterinarian licensed pursuant to §34-29-76 & §34-29-87 may:
- (a) Employ a veterinarian, licensed veterinary technician or both in operation of a veterinary facility;
 - (b) Place in the possession of a veterinarian, licensed veterinary technician or other agent such veterinary material or equipment as may be necessary for the management of a veterinary facility on the basis of a lease or any other agreement for compensation for the use of such material, equipment or offices; or
 - (c) Retain the ownership or control of veterinary equipment, material, or office and make the same available in any manner for the use of a veterinarian, licensed veterinary technician or other agent.
 - (d) The term "person" as used in this section, shall not in any way pertain to state, county, municipal or city institutions but shall be deemed to include any individual, firm, partnership, corporation or other entity not licensed to practice veterinary medicine in the state of Alabama.
 - (f) Nothing in this subsection shall apply to bona fide sales of veterinary equipment, material or office secured by a chattel mortgage or retention title agreement, or to an agreement for the rental of the equipment or office by bona fide lease at a reasonable amount, and under which agreement the licensee under this chapter maintains complete care, custody, and control of said equipment and his practice. Further, nothing in this subsection shall prohibit or restrict persons, firms or corporations from employing or retaining licensed veterinarians to furnish veterinary treatment for their employees or dependents of their employees.
- (2) A prohibited business arrangement or relationship as defined in subsection (a) above shall not be considered a violation of that subsection if a prohibited arrangement or relationship results from the death of a licensed veterinarian and is cured within 24 months of the date of the death.
- (3) The purpose of this section is to prevent a non-veterinarian from influencing or otherwise interfering with the exercise of a veterinarian's independent professional judgment. In addition to the acts specified in subsection (a) no person, other than a veterinarian licensed in accordance with this chapter,

shall enter into a relationship with a person licensed under this chapter pursuant to which said unlicensed person exercises control over the following:

(a) The selection of a course of treatment for a patient, the procedures or materials to be as a part of such course of treatment, and the manner in which such course of treatment is carried out by the licensee;

(b) The patient records of a veterinarian;

(c) Policies and decisions relating to pricing, credit, refunds, warranties and advertising; and

(d) Decisions relating to office personnel; and hours of practice.

(4) Any licensed veterinarian or licensed veterinary technician who enters into any of the arrangements or relationships described in subsection (a) or subsection (c) above with any unlicensed person as defined above, may be subject to any of the penalties set forth in section §34-29-88.

Author: Alabama State Board of Veterinary Medical Examiners

Statutory Authority: Code of Ala. 1975, §34-29-76 & §34-29-88