

The Save Our Pets Act:

Stopping the Corporate Takeover of Veterinary Practices

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Over the last 10 years, the cost of veterinary care for pets increased by [60 percent](#). Even as overall inflation came under control, the cost of veterinary care did not. It is currently increasing at a rate that's [more than double](#) the overall Consumer Price Index. This price surge is causing American pet owners enormous financial and emotional pain.

A [majority of American households](#) own a pet. Even as most people say [they consider pets family members](#), [actual vet visits are down](#), as are sales of [heartworm medication](#). Shelter intakes are up and are, in many municipalities, at crisis levels, [a number attributed](#), in part, to the increasing cost of animal medical care.

The cause for the continuing surge in prices: corporate consolidation and roll-ups. Veterinarian practices were traditionally independently owned. A decade ago, [less than 10 percent](#) were corporate-owned.

That number has now been turned on its head. Estimates vary, but those who study the issue say anywhere between [25 percent](#) and [almost 50 percent](#) of all veterinary practices are now under corporate management. [75 percent](#) of specialty practices such as cardiology, oncology and emergency services are under large corporate and private equity umbrellas. (Many corporate and private equity-owned practices, aware pet owners prefer independently owned veterinary practices, do not brand their acquisitions.)

This ongoing consolidation has been accompanied by an increase in prices and customer complaints of declines in the quality of care. Veterinarians report pressure to [upsell](#) pet owners on unnecessary services and tests. Prices for all services often increase [rapidly and regularly](#).

States have long been concerned about non-medical professional ownership of medical practices, a concern that carries over to the veterinary field. [Eighteen states](#) ban

non-veterinarians from owning a veterinary practice. These laws are designed to ensure medical decisions are made independently by medical professionals, and not corporate managers.

However, legal workarounds that originated in the human healthcare space are also used by the veterinary consolidators, helping them evade the spirit of these restrictions. A veterinarian can technically own the practice, but lease all or sell all its non-medical assets to what is called a management services organization owned by the consolidator. While both revenue and expenses go through the corporation owned by the veterinarian, it pays a management fee to the larger consolidator, and thus passes all profits back to it. These legal workarounds render state law all but meaningless.

This model legislation addresses that issue. It will ban not just non-veterinarians from owning veterinarian practices, but addresses the work-arounds, rendering management services organizational structures also illegal.

SECTION BY SECTION SUMMARY

Part I: Bans non-veterinarian ownership and control of veterinary practices, specifies corporate entities that are permitted to employ veterinarians, bans straw or dual ownership or interest, bans certain advertising, and bans relinquishing control of decision-making in a manner that would adversely impact care and working conditions; restricts certain anticompetitive contracts with management services organizations; restricts non-compete, nondisclosure, and non-disparagement agreements,

Part II: Requires transparent reporting of ownership and control of veterinary practices

Part III: Requires agency review of certain material change transactions, and authorizes post-transaction oversight

DEFINITIONS

“Affiliate” means:

- a. A person, entity, or organization that directly, indirectly, or through one or more intermediaries, controls, is controlled by, or is under common control or ownership of another person, entity, or organization;
- b. A person whose business is operated under a lease, management, or operating agreement by another entity, or a person substantially all of whose property is operated under a management or operating agreement with that other entity;
- c. An entity that operates the business or substantially all the property of another entity under a lease, management, or operating agreement; or
- d. Any out-of-state operations and corporate affiliates of an affiliate as defined in a, b, or c herein, including significant equity investors, real estate investment trusts, and management services organizations.

“Control,” including the terms “controlling,” “controlled by,” and “under common control with,” means the direct or indirect power through ownership, contractual agreement, or otherwise:

- a. to vote more than [10 percent] or more of any class of voting shares of a veterinary practice; or
- b. to direct the actions or policies of the specified entity.

“Licensee” means a natural person who is licensed in the state as a veterinarian.

[Note: States may define the scope of the definition of licensee based on laws in their states regarding individuals with autonomy of diagnosis and treatment.]

“Management services organization” means any organization or entity that contracts with a provider or provider organization to perform management or administrative services relating to, supporting, or facilitating the provision of veterinary care services.

“Material change transaction” means any of the following, occurring during a single transaction or in a series of related transactions [within a consecutive five-year period] involving a veterinary practice within the state that has total assets, annual revenues, or

anticipated annual revenues for new entities, of at least [\$2 million], including both in-state and out-of-state assets and revenues:

a. A corporate merger including one or more veterinary practices;

b. An acquisition of one or more veterinary practices, including insolvent veterinary practices. For the purposes of [this Act], “acquisition” means the direct or indirect purchase in any manner, including, but not limited to, lease, transfer, exchange, option, receipt of a conveyance, creation of a joint venture, or any other manner of purchase, such as by a veterinary practice, private equity group, hedge fund, publicly traded company, real estate investment trust, management services organization, insurance carrier, or any subsidiaries thereof, of a material amount of the assets or operations of a veterinary practice;

[Note: States may have a statutory definition of the word “material.” If not, policymakers may consider defining it in regulation. For example, material may include, without limitation, any changes to veterinary care services or line of business that affects competition or access in one or more geographic region of a state.]

c. Any affiliation, arrangement, or contract that results in a change of control for a veterinary practice. For the purposes of [this Act], “change of control” means an arrangement in which any other person, corporation, partnership, or any other entity acquires direct or indirect control over the operations of a veterinary practice in whole or in substantial part. For purposes of this section, an “arrangement” shall include any agreement, association, partnership, joint venture, management services agreement, professional services agreement, staffing company agreement, or other arrangement that results in a change of governance or

control of a veterinary practice or a department, subdivision, or subsidiary of a veterinary practice;

[Note: State authorities could define by regulation what it means to acquire direct or indirect control over a veterinary practice in whole or in substantial part.]

d. The formation of a partnership, joint venture, parent organization, or management services organization for the purpose of administering contracts with carriers, third-party administrators, or providers;

e. A sale, purchase, lease, affiliation, or transfer of control of a board of directors or governing body of a veterinary practice;

f. A real estate sale or lease agreement involving a material amount of assets of a veterinary practice; or

g. The closure of a veterinary practice,

“Material change transaction” does not include any of the following:

A clinical affiliation of veterinary practices formed solely for the purpose of collaborating on clinical trials; or

Graduate veterinary medicine education programs;

The mere offer of employment to, or hiring of, a single veterinarian; or

Situations in which the veterinary practice directly, or indirectly through one or more intermediaries, already controls, is controlled by, or is under common control with, all other parties to the transaction, such as a corporate restructuring.

“Noncompetition agreement” means a written agreement between a licensee and another person under which the licensee agrees that the licensee, either alone or as an employee, associate, or affiliate of a third person, will not compete with the other person in providing products, processes, or services that are similar to the other person’s products, processes, or services for a period of time or within a specified geographic area after termination of employment or termination of a contract under which the licensee supplied goods to or performed services for the other person.

“Nondisclosure agreement” means a written agreement under the terms of which a licensee must refrain from disclosing partially, fully, directly or indirectly to any person, other than another party to the written agreement or to a person specified in the agreement as a third-party beneficiary of the agreement:

a. A policy or practice that a party to the agreement required the licensee to use, in veterinary medicine;

b. A policy, practice, or other information about or associated with the licensee’s employment, conditions of employment, or rate or amount of pay or other compensation; or

c. Any other information the licensee possesses or to which the licensee has access by reason of the licensee’s employment by, or provision of services for or on behalf of, a party to the agreement, other than information that is subject to protection under applicable law

as a trade secret of, or as otherwise proprietary to, another party to the agreement or to a person specified in the agreement as a third-party beneficiary of the agreement.

“Nondisparagement agreement” means a written agreement under which a licensee must refrain from making to a third party a statement about another party to the agreement or about another person specified in the agreement as a third-party beneficiary of the agreement, the effect of which causes or threatens to cause harm to the other party’s or person’s reputation, business relations, or other economic interests.

“Ownership or investment interest” means any of the following:

- a. Direct or indirect possession of equity in the capital, stock, or profits totaling more than [5 percent] of an entity;
- b. Interest held by an investor or group of investors who engages in the raising or returning of capital and who invests, develops, or disposes on specified assets; or
- c. Interest held by a pool of funds by investors, including a pool of funds managed or controlled by private limited partnerships, if those investors or the management of that pool or private limited partnership employ investment strategies of any kind to earn a return on that pool of funds.

“Private equity fund” means a publicly traded or non-publicly traded company that collects capital investments from individuals or entities and purchases a direct or indirect ownership share or controlling interest of a health care entity.

“Significant equity investor” means:

- a. Any private equity fund with a direct or indirect ownership or investment interest in a veterinary practice;
- b. An investor, group of investors, or other entity with a direct or indirect possession of equity in the capital, stock, or profits totaling more than 10 percent of a provider or provider organization; or
- c. Any private equity fund, investor, group of investors, or other entity with a direct or indirect controlling interest in a veterinary practice or that operates the business or substantially all the property of a veterinary practice under a lease, management, or operating agreement.

“Provider organization” means any corporation, partnership, business trust, association, or organized group of persons that is in the business of veterinary medicine delivery or management, whether incorporated or not, that represents one or more veterinary practices in contracting with carriers for the payments of health care services; provided, that “provider organization” shall include, but not be limited to, veterinary organizations, physician-hospital organizations, independent practice associations, provider networks, accountable care organizations, management services organizations, and any other organization that contracts with carriers for payment for veterinary.

“Staffing company” means a person, firm, corporation, partnership, or other business entity engaged in the business of providing or procuring, for temporary employment or contracting by a veterinary practice, any veterinary personnel, but does not include an individual who independently provides the individual’s own services on a temporary basis to veterinary practices as an employee or contractor.

“Veterinary practice” means a corporate entity or partnership organized for the purpose of practicing veterinary medicine and permitted to practice veterinary medicine in the state, including, but not limited to, partnerships, professional corporations, limited liability companies, and limited liability partnerships.

“Veterinary care services” means services and payments for the care, prevention, diagnosis, treatment, cure, or relief of an animal’s medical, dental, or behavioral health condition, illness, injury, or disease, including but not limited to:

- a. medical, dental, palliative, supportive, or behavioral services;
- b. prescription, retail, or specialty services for drugs, devices, or medical supplies;
- c. performance of functions to refer, arrange, or coordinate care;
- d. equipment used such as durable medical equipment, diagnostic, surgical devices, or infusion; or
- e. technology associated with the provision of services or equipment in paragraphs (a) through (d) above, such as telehealth, electronic health records, software, claims proceeding, or utilization systems.

PART I. BAN ON NON-VET PRACTICE OF VETERINARY MEDICINE

SECTION 1: PROHIBITION ON NON-LICENSED OWNERSHIP AND CONTROL

- A. It is unlawful for a natural person, corporation, partnership, or any other entity without a license under [section on veterinary licensure] to own a veterinary practice, employ licensees, or otherwise engage in the practice of veterinary medicine, or to hold him, her, or itself out or advertise itself in any way as being entitled to practice veterinary medicine, or to receive compensation derived from the practice of veterinary medicine or the performance of veterinary services by any person.
- B. Notwithstanding the foregoing, a natural person, corporation, partnership, or any other entity without a license under [section on veterinary licensure] that is permitted to employ licensees under [Section 2 of this Part] shall not indirectly or directly interfere with, control, or otherwise direct the professional judgment or clinical decisions of a licensee.
- C. Any natural person or firm violating the provisions of this section is guilty of a gross misdemeanor and must be fined not more than \$[5,000], for each offense. Each day that this section is violated is a separate offense. Directors are subject to removal based on consideration of the director's course of conduct and the inadequacy of other available remedies. A firm may be dissolved or its charter or certificate of authority may be revoked if it is established that the firm has violated the provisions of this section.
- D. Notwithstanding the foregoing, a veterinary practice has 12 months after the death of an owner before all of the owner's ownership interest must be acquired by the practice, by persons permitted to own the ownership interest, or by some combination thereof.

SECTION 2: CORPORATE ENTITIES PERMITTED TO EMPLOY VETERINARIANS

A veterinary practice may employ veterinarians and engage in the practice of veterinary medicine under the following conditions:

- a. Licensees who are licensed in this state to practice veterinary medicine must hold the majority of each class of shares that are entitled to vote.

- b. Licensees who are licensed in this state to practice veterinary medicine must be a majority of directors.
- c. All officers except the secretary and treasurer, if any, must be licensees who are licensed in this state to practice veterinary medicine. The same person may hold any two or more offices.

[Note: It is common for states to have majority or exclusive licensee ownership requirements for professional corporations but not for other corporate forms, such as limited liability companies. States should consult their statutes to ascertain existing requirements for each corporate form and amend accordingly.]

[Note: States may be interested in exempting other types of entities from employing veterinarians, such as non-profit veterinary practices.]

SECTION 3: REGULATING CONTRACTS BETWEEN VETERINARY PRACTICES AND MANAGEMENT SERVICES ORGANIZATIONS

[Note: As above, these provisions should apply to all corporate forms that enable for-profit practice of veterinary medicine, not only the “professional corporation” form.]

A. Ban on Straw Ownership

- a. Licensee owners of a veterinary practice must exhibit meaningful ownership of the veterinary practice.
- b. Meaningful ownership shall require that each licensee owner is duly licensed and present in the state and substantially engaged in delivering veterinary care or managing the veterinary practice.

B. Ban on Dual Ownership or Interests

- a. A shareholder, director, or officer of a veterinary practice may not:
 - i. Own or control shares in, serve as a director or officer of, be an employee of or an independent contractor with, or otherwise participate in managing both the veterinary practice and a management services organization with which the veterinary practice has a contract; or

- ii. Receive substantial compensation or remuneration from a management services organization in return for ownership or management of the veterinary practice.
- b. Subparagraph (i) of this paragraph does not apply to the shareholders, directors, or officer of a veterinary practice if the veterinary practice owns a majority of the interest in the management services organization or separate legal entity.

C. Ban on Stock Transfer Restriction Agreements.

- a. A veterinary practice shall not transfer or relinquish control over the sale, the restriction of the sale, or the encumbrance of the sale of the veterinary practice's shares or assets.
- b. A veterinary practice shall not transfer or relinquish control over the issuing of shares of stock in the veterinary practice, in a subsidiary of the veterinary practice, or an entity affiliated with the veterinary, or the paying of dividends.

D. Ban on Restrictive Covenants

- a. Noncompetition Agreements
 - i. A noncompetition agreement between a licensee and another person is void and unenforceable, unless the licensee is a shareholder or member of the other person or otherwise owns or controls an ownership or membership interest that is equivalent to 25 percent or more of the entire ownership or membership interest that exists in the other person.
- b. Non-disclosure and Nondisparagement Agreements
 - i. A nondisclosure agreement or nondisparagement agreement between a licensee and a management services organization is void and unenforceable.
 - ii. Paragraph (a) of this subsection does not limit or otherwise affect any cause of action that: a party to, or third-party beneficiary of, the agreement may have with respect to a statement of a licensee that constitutes libel, slander, a tortious interference with contractual relations, or another tort for which the party has a cause of action against the licensee; and does not depend upon or derive from a breach or violation of an agreement described in paragraph (i) of this subsection.

E. Ban on Advertising

- a. It is unlawful for a management services organization or other legal entity that is not the veterinary practice to advertise the veterinary practice's services under the name of the entity that is not the veterinary practice.

F. Ban on Relinquishing Control of the Veterinary Practice

- a. A veterinary practice may not by means of a contract or other agreement or arrangement, by providing in the veterinary practice's articles of incorporation or bylaws, by forming a subsidiary or affiliated entity or by other means, relinquish control over or otherwise transfer de facto control over any of the veterinary practice's administrative, business or clinical operations that may affect clinical decision-making or the nature or quality of medical care that the veterinary practice delivers.
- b. Conduct prohibited under paragraph (a) of this subsection includes, but is not limited to, relinquishing ultimate decision-making authority over:
 - i. Hiring or terminating, setting work schedules and compensation, or otherwise specifying terms of employment of employees who are licensed veterinarians in this state or who are licensed in this state as veterinary assistants or veterinary technicians;
 - ii. The disbursement of revenue generated from veterinary fees and other revenue generated by veterinary services.
 - iii. Setting staffing levels, or specifying the period of time a licensee may see a customer, for any location that serves customers
 - iv. Making diagnostic coding decisions;
 - v. Setting clinical standards or policies;
 - vi. Setting policies for customer, or customer billing and collection;
 - vii. Setting the prices, rates, or amounts the veterinary practice charges for a licensee's services; or

- viii. Negotiating, executing, performing, enforcing, or terminating contracts with third-party payors or persons that are not employees of the veterinary practice.
- c. Paragraph (b) of this subsection does not prohibit:
 - i. Collection of quality metrics as required by law or in accordance with an agreement to which the veterinary practice is a party; or
 - ii. Setting criteria for reimbursement under a contract between the veterinary practice and an insurer or payer or entity that otherwise reimburses the veterinary practice for veterinary care.
- d. A veterinary practice may relinquish or transfer control over the veterinary practice's administrative, business, or clinical operations only if the veterinary practice executes a shareholder agreement exclusively between or among and for the benefit of a majority of shareholders who are veterinarians licensed in this state to practice veterinary medicine.

SECTION 4: PROTECTIONS FOR EMPLOYED LICENSEES

The following provisions apply to licensees who are employed by, or who provide veterinary services under contract with, an unlicensed person, corporation, or other entity under [Section 2 of this Part].

A. Ban on Restrictive Covenants

- a. Noncompetition Agreements
 - i. A nondisclosure agreement or nondisparagement agreement between a licensee and a management services organization is void and unenforceable.
- b. Non-disclosure and Nondisparagement Agreements
 - i. An agreement or nondisparagement agreement between a licensee and a management services organization is void and unenforceable.
 - ii. Paragraph (i) of this subsection does not limit or otherwise affect any cause of action that:

1. A party to, or third-party beneficiary of, the agreement may have with respect to a statement of a licensee that constitutes libel, slander, a tortious interference with contractual relations, or another tort for which the party has a cause of action against the licensee; and
 2. Does not depend upon or derive from a breach or violation of an agreement described in paragraph (i) of this subsection.
- B. Ban on interfering with, controlling, or otherwise directing the professional judgment or clinical decisions of a licensee.
- a. Conduct prohibited under Section 1(B) of this Part includes, but is not limited to, controlling, either directly or indirectly, through discipline, punishment, threats, adverse employment actions, coercion, retaliation, or excessive pressure, the following:
 - i. the period of time a licensee may spend with a customer or the customer's animal
 - ii. the clinical status of the animal
 - iii. the diagnoses, diagnostic terminology, or codes that are entered into the animal's medical record by the licensee;
 - iv. the range of clinical orders available to the licensee, including by configuring the medical record to prohibit or significantly limit the options available to the licensee;
 - v. any other action specified by regulation to constitute impermissible interference or control over the clinical judgment and decision-making of a licensee.

SECTION 5: ENFORCEMENT

A. Attorney General Enforcement Authority

- a. The Attorney General may subpoena any records necessary to enforce any provisions of [this Part] or to investigate suspected violations of any provisions of [this Part] or any conditions imposed by conditional approval pursuant to the material transactions review process.

- b. The Attorney General may enforce any requirement of [this Part] and any conditions imposed by a conditional approval pursuant to the material transactions review process to the fullest extent provided by law, including damages. In addition to any legal remedies the Attorney General may have, the Attorney General shall be entitled to specific performance, injunctive relief, and other equitable remedies court deems appropriate for any violations or imminent violation of any requirement of this [Part] or any violations or breach any of the conditions and shall be entitled to recover its attorneys' fees and costs incurred in remedying each violation.
- c. In addition to the remedies set forth in paragraph (b), the Attorney General may impose a statutory penalty of [\$10,000 per day] for any violation of this Part or of any conditions imposed pursuant to a conditional approval and may rescind or deny approval for any other past, pending, or future material change transactions involving the veterinary practice or an affiliate.
- d. In addition to the remedies set forth in paragraph (b), the Attorney General may dissolve or revoke the charter or certificate of authority of any firm that has violated the provisions of this section.
- e. All penalties in this Part are to be adjusted for inflation annually on the basis of changes in the Consumer Price Index for all-urban consumers published by the Secretary of Labor, as rounded to the nearest \$500;
- f. Nothing in this subsection shall narrow, abrogate, or otherwise alter the authority of the Attorney General to prosecute violations of antitrust or consumer protection requirements.

B. Administrative Enforcement

- a. Any entity that violates any provision of this [Part] or any rules adopted pursuant thereto shall be subject to an administrative penalty of [\$10,000 per day] for any violation of this [Part];
- b. The [State Board of Veterinary Medicine] engaged in market oversight may disapprove any transaction or agreement that violates this [Part];
- c. The [State Board of Veterinary Medicine] may refer any entity to the Attorney General to review for enforcement of any noncompliance with this Part or regulations adopted pursuant thereto.

C. Private Right of Action

- a. Any person aggrieved by a violation of this statute may file suit in any circuit court in the State of [insert], without regard to exhaustion of any alternative administrative remedies provided herein.
- b. Upon application by a complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action.
- c. If the court finds that the respondent has intentionally violated any provision of this chapter or any regulation under this chapter, it may award damages up to and including an amount equal to the amount of actual damages, or statutory damages of up to [\$100,000] per plaintiff per violation, or other equitable relief.
- d. Any civil action brought under this section shall be subject to appeal.

D. General Rulemaking Authority

- a. The [Attorney General/Department of Health/State Oversight Office/Medical Board] may adopt regulations as necessary to implement [this Part].

[Note: A state may choose to delegate rulemaking authority to a state's veterinary practice board.]

PART II. CREATING TRANSPARENCY IN OWNERSHIP AND CONTROL OF VETERINARY PRACTICES

SECTION 1. REPORTING OF OWNERSHIP AND CONTROL OF VETERINARY PRACTICES

Each veterinary practice shall report to [the State Board of Veterinary Medicine] on an [annual basis] and upon the consummation of a material change transaction involving the entity as defined in Part IV, in a form and manner required by the [State Board of Veterinary Medicine] the following information:

- A. Legal name of entity

- B. Business address of veterinary practice
- C. Locations of operations
- D. Business identification numbers of the veterinary practice, as applicable, including,
 - a. Taxpayer identification number (TIN)
 - b. Employer identification number (EIN)
 - c. National Association of Insurance Commissioners (NAIC) identification number.
 - d. A personal identification number associated with a license issued by the department of insurance
 - e. Name and contact information of a representative of the veterinary practice
- E. The name, business address, and business identification numbers listed in [subsection (D)] for each person or entity that, with respect to the relevant veterinary practice:
 - a. Has an ownership or investment interest;
 - b. Has a controlling interest;
 - c. Is a management services organization; or
 - d. Is a significant equity investor;
- F. A current organizational chart showing the business structure of the veterinary practice, including:
 - a. Any entity listed in [subsection (E)];
 - b. Affiliates, including entities that control or are under common control as the veterinary practice; and
 - c. Subsidiaries.
- G. The names and compensation of the members of the governing board, board of directors, or similar governance body for the veterinary practice; any entity that

is owned or controlled by, affiliated with, under common control as the veterinary practice, and any entity listed in [Subsection (F)].

- H. Comprehensive financial reports of the veterinary practice and any ownership and control entities, including audited financial statements, cost reports, annual costs, annual receipts, realized capital gains and losses, accumulated surplus, and accumulated reserves.

SECTION 2. EXCEPTIONS

The following veterinary practices are exempt from the reporting requirements under [Section 1]: A veterinary practice without any ownership or control entities, consisting of two or fewer veterinarians, provided, however, that if such veterinary practice experiences a material change transaction under [Part IV], the veterinary practice is subject to reporting under [Section 1] upon the consummation of the transaction.

SECTION 3. REGULATORY AUTHORIZATION

- A. The [State Board of Veterinary Medicine] shall promulgate regulations necessary to implement this [Part], specify the format and content of reports, and impose penalties for non-compliance. The [State Board of Veterinary Medicine] may require additional reporting of data or information that it determines is necessary to better protect the public's interest in monitoring the financial conditions, organizational structure, business practices, and market share of each registered veterinary practice.
- B. The [State Board of Veterinary Medicine] may assess administrative fees on veterinary practices in an amount to help defray the costs in overseeing and implementing this Part.

SECTION 4. SHARING OF OWNERSHIP INFORMATION TO IMPROVE TRANSPARENCY

- A. Information provided under this section shall be public information and shall not be considered confidential, proprietary, or a trade secret, provided, however, that any individual veterinarian's taxpayer ID that is also their social security number shall be confidential.
- B. Not later than [Date], and annually thereafter, the [State Board of Veterinary Medicine], shall post on a publicly available website a report with respect to the previous [one-year] period, including:

- a. The number of veterinary practices reporting for such year, disaggregated by the business structure of each specified entity;
 - b. The names, addresses, business structure of any entities with an ownership or controlling interest in each veterinary practice;
 - c. Any change in ownership or control for each veterinary practice;
 - d. Any change in the tax identification number of a veterinary practice;
 - e. As applicable, the name, address, tax identification number, and business structure of other affiliates under common control, subsidiaries, and management services entities the veterinary practice (including the business type and the tax identification number of each); and
 - f. An analysis of trends in horizontal and vertical consolidation, disaggregated by business structure and provider type.
- C. The [State Board of Veterinary Medicine] may share information reported under this [Part] with the State Attorney General, other state agencies, and other state officials, to reduce or avoid duplication in reporting requirements or to facilitate oversight or enforcement pursuant to the laws of the state, provided that any tax ID numbers that are individual Social Security numbers may be shared with the State Attorney General, other state agencies, or other state officials that agree to maintain the confidentiality of such information. The [State Board of Veterinary Medicine] may, in consultation with the relevant state agencies, merge similar reporting requirements where appropriate.

SECTION 5. ENFORCEMENT

- A. Audit and inspection authority. The [State Board of Veterinary Medicine] is authorized to audit and inspect the records of any veterinary practice that has failed to submit complete information pursuant to this Part or if the [State Board of Veterinary Medicine] has reason to question the accuracy or completeness of the information submitted pursuant this Part.
- B. Random audits. The [State Board of Veterinary Medicine] shall conduct annual audits of a random sample of veterinary practices to verify compliance with, accuracy, and completeness of the reported information pursuant to this Part.

- C. **Penalty for Failure to Report.** If a veterinary practice fails to provide a complete report under Section 1, or submits a report containing false information, such entity shall be subject to a civil penalty as follows:
- a. Veterinary practices without any third-party ownership or control entities, with [4] or fewer veterinarians or less than [\$2 million] in annual revenue, the penalty shall not exceed [\$25,000] for each report not provided or containing false information.
 - b. For all other veterinary practices, the penalty shall not exceed [\$500,000] for each report not provided or containing false information.

PART III. REVIEW OF PROPOSED MATERIAL CHANGE TRANSACTIONS

[Note: States may decide whether to require notice to the Attorney General; the State Board of Veterinary Medicine; or a state oversight office or similar independent authority, or some combination of Attorney General + State Board of Veterinary Medicine. If two agencies participate in transaction oversight, generally, notice would go to both offices or allow sharing of notice between the offices. States may also want to bifurcate the responsibility to conduct the preliminary or comprehensive reviews — with both offices (Attorney General and State Board of Veterinary Medicine) conducting reviews in their respective areas of expertise. Alternatively, the state may delegate the preliminary and comprehensive review to the State Board of Veterinary Medicine that then makes a referral report to the Attorney General's Office for enforcement purposes.]

SECTION 1: NOTICE.

- A. Any veterinary practice shall, before consummating any material change transaction, submit written notice to the [Attorney General/State Board of Veterinary Medicine] not fewer than [180 days] before the date of the proposed material change transaction.
- B. Written notice shall include and contain the information the [Attorney General/ State Board of Veterinary Medicine] determines is required. The veterinary practice may include any additional information supporting the written notice of the material change transaction. Notice is complete when the [Attorney General/State Board of Veterinary Medicine] determines that all required information has been received.

[Note: States may define what information is required for notice by regulation, including, for example, any information submitted by the parties to federal antitrust authorities under the Hart-Scott-Rodino Act. State market oversight authorities should retain some discretion to request additional information that is more specific to the particular transaction and necessary to assess the market impact.]

- C. All the information provided by the submitter as part of the notice shall be treated as a public record unless the submitter designates documents or information as confidential when submitting the notice and the [Attorney General/State Board of Veterinary Medicine] concur with the designation in accordance with a process specified by regulation. Information that is otherwise publicly available, or that has not been confidentially maintained by the source, shall be considered public information. The [Attorney General/ State Board of Veterinary Medicine] shall maintain the confidentiality of all confidential information that are obtained in relation to a material change transaction, except that the [Attorney General/ State Board of Veterinary Medicine] may share confidential information with each other to carry out their respective authorities under this Part and may disclose any information to an expert or consultant under contract with the [Attorney General/State Board of Veterinary Medicine], provided that the expert or consultant is bound by the same confidentiality requirements as the [Attorney General/ State Board of Veterinary Medicine]. The confidential information and documents shall not be public records and shall be exempt from [state open records act].
- D. Within [10 days] of receiving written notice of a material change transaction, the [Attorney General/State Board of Veterinary Medicine] shall post on a publicly available website information about the material change transaction, including:
- a. A summary of the proposed transaction, including the identity of the parties to the transaction;
 - b. An explanation of the groups or individuals likely to be impacted by the transaction;
 - c. Information about services currently provided by the health care entity, commitments by the veterinary practice to continue such services, and any services that will be reduced or eliminated;
 - d. Details about any public hearings and how to submit comments; and
 - e. Any other information from the notice and other materials submitted by the veterinary practice that the Attorney General or the [State Board of Veterinary

Medicine] determines would be in the public interest, except for materials designated confidential under [paragraph 1(C), above].

- E. For purposes of calculating time periods in this Act, notice shall be considered received on the first business day after the [Attorney General/State Board of Veterinary Medicine] determines that notice is complete.

SECTION 2: PRELIMINARY REVIEW

- A. Within [30 days] after receiving a notice described in [Section 1 of this Part], the [Attorney General/ State Board of Veterinary Medicine] shall do one of the following:
 - a. Approve the material change transaction and notify the veterinary practice in writing that a comprehensive review is not required for the material change transaction;
 - b. Approve the material change transaction subject to conditions set by the [Attorney General/State Board of Veterinary Medicine] and notify the veterinary practice in writing of the conditions under which the transaction may be completed; or
 - c. Notify the veterinary practice in writing that the transaction is subject to a comprehensive review. The [Attorney General/State Board of Veterinary Medicine] may request additional information necessary to perform a comprehensive review under [Section 3 of this Part].
- B. A comprehensive review is required when any of the following apply to the material change transaction:
 - a. Will result in the transfer of assets valued above [\$20 million];
 - b. Occurs in a highly consolidated market for any line of services offered by any party to the material change transaction;
 - c. Will cause a significant change in market share, such that any resulting veterinary practice possesses market power upon completion;
 - d. Will otherwise lessen competition, including effects of vertical or cross-market transactions among different product or geographic markets;

- e. If either party to the material change transaction possesses market power prior to the transaction; or
 - f. If the [Attorney General/State Board of Veterinary Medicine], at their sole discretion, determines that the material change transaction is likely to have a material impact on the cost, quality, equity, or access to health care services in any region in the state.
- C. For purposes of [this section], “market power” means possessing 30 percent or more market share in any line of service in the relevant geographic area or under other criteria that the Attorney General may define by regulation

[Note: Policymakers may need to define some of these terms and specify how they are to be calculated in regulation. States may also use regulation to specify additional criteria that trigger comprehensive review. Additionally, the market power thresholds may not capture vertical or cross-market mergers, so policymakers may want to specify when non-horizontal mergers should trigger comprehensive review in regulation based on market conditions in the state.]

- D. Nothing in this section limits or infringes upon the existing authority of any state agency including the State Board of Veterinary Medicine, or the Attorney General to review any transactions.

[Note: This clause is intended to preserve existing review processes in a state by a Certificate of Need program, the State Board of Veterinary Medicine, and or by the Attorney General for transactions involving charitable trust concerns for non-profit transactions.]

SECTION 3: COMPREHENSIVE REVIEW PROCESS

- A. No later than [90 days] after determining a transaction is subject to a comprehensive review, the [Attorney General/State Board of Veterinary Medicine] shall conduct one or more public hearings or public meetings, one of which shall be in the county in which the veterinary practice is located, to hear comments from interested parties.

[Note: States can decide whom to authorize to conduct the Cost and Market Impact Review (CMIR). In states with a State Oversight Office, that is the natural entity to do so. Other states have an office within the State Board of Veterinary Medicine that conducts health market oversight or vest the authority entirely within the Attorney General’s Office.]

- B. The cost and market impact review (CMIR) may examine factors relating to the proposed transaction, transacting parties, their relative market position, including, but not limited to:
- a. The market share of any transacting party and the likely effects of the transaction on competition;
 - b. Any previous transaction involving either transacting party, including, but not limited to, acquisitions or mergers of similar veterinary medicine, whether or not in the same state;
 - c. The prices charged by either of the transacting parties for services, including their relative prices compared to others' prices for the same services in the same geographic area;
 - d. The quality of the services provided by any veterinary practice party to the transaction, including patient experience;
 - e. The cost and cost trends of the veterinary practice in comparison to total veterinary care expenditures statewide;
 - f. The availability and accessibility of services similar to those provided, or proposed to be provided, through the provider or provider organization within its primary service areas and dispersed service areas;
 - g. The impact of the material change transaction on competing options for the delivery of veterinary services within its primary service areas and dispersed service areas;
 - h. Consumer concerns, including, but not limited to, complaints or other allegations that the provider or provider organization has engaged in any unfair method of competition or any unfair or deceptive act or practice;
 - i. The parties' compliance with prior conditions and legal requirements related to competitive conduct, including without limitation, compliance with requirements under [Parts I and II] [or restrictions on anticompetitive contracting provisions];
 - j. The impact of the transaction on the veterinary workforce, including wages, staffing levels, and supply;

- k. The impact of a real estate sale or lease agreement on the financial condition of the veterinary practice and its ability to maintain animal care operations;
- l. In the case of a proposed closure or discontinuance of a veterinary practice, the impact of the closure on veterinary care access, outcomes, costs, and equity for those in the health care facility's service area, and the veterinary practice's plan for ensuring equitable access, quality, affordability, and availability of veterinary practices within the service area; and
- m. Any other factors that the [Attorney General/State Board of Veterinary Medicine] determines to be in the public interest.

[Note: Some states may have a statutory definition of “public interest.” In those states, lawmakers may want to consider defining “public interest” in this section or using a different term.]

- C. The [Attorney General/ State Board of Veterinary Medicine] may request additional information or documents from the transacting parties necessary to conduct a CMIR. Failure to respond or insufficient responses to requests for information by transacting parties may result in the extension of the deadline for the [Attorney General/ State Board of Veterinary Medicine] to complete the CMIR, the imposition of conditions for approval, or the disapproval of the material change transaction.
- D. The [Attorney General/ State Board of Veterinary Medicine] shall keep confidential all nonpublic information and documents obtained in [this section] and shall not disclose the confidential information or documents to any person without the consent of the party that produced the confidential information or documents, except that the [Attorney General/ State Board of Veterinary Medicine] may disclose any information to an expert or consultant under contract with the [Attorney General/ State Board of Veterinary Medicine] to review the proposed transaction, provided that the expert or consultant is bound by the same confidentiality requirements as the office of the [Attorney General/ State Board of Veterinary Medicine e]. The confidential information and documents and work product of the [Attorney General/ State Board of Veterinary Medicine] shall not be public records and shall be exempt from [state open records act].
- E. The [Attorney General/ State Board of Veterinary Medicine] may, in their sole discretion:
 - a. Contract with, consult, and receive advice from any state agency on those terms and conditions that the [Attorney General/State Board of Veterinary Medicine] deems appropriate.

- b. Contract with experts or consultants to assist in reviewing the proposed agreement or transaction.
- F. Not more than [90 days] after determining that the transaction is subject to a comprehensive review under [Section 3 of this Part], the [Attorney General/ State Board of Veterinary Medicine] shall produce a CMIR report, containing the findings and conclusions of the CMIR; provided that the veterinary practice has complied with the requests for information or documents pursuant [this section] within [21 days] of the request or by a later date set by mutual agreement of the health care entity and the [Attorney General/ State Board of Veterinary Medicine]. The CMIR report shall be posted publicly and shall not disclose confidential information.

[Note: Nothing in this section prevents policymakers from creating a streamlined process in regulation to conduct a smaller CMIR with reduced timelines to review smaller transactions with few competitive concerns or transactions involving a distressed provider in danger of closing. If such streamlined or expedited review is made available, it should not be a blanket exemption from all review or continued oversight, but merely an expedited process/ timeline for review. Moreover, nothing prevents the authorities conducting the CMIR to produce a nonpublic report containing confidential information for internal enforcement and oversight purposes.]

- G. The [Attorney General/ State Board of Veterinary Medicine] shall be entitled to [charge costs to or receive reimbursement from] the transacting parties for all actual, reasonable, direct costs incurred in reviewing, evaluating, and making the determination referred to in [this section], including, without limitation, administrative costs and costs of contracted experts or consultants in [paragraph (E)].

[Note: Lawmakers should follow existing state law regarding procurement practices when drafting this section to determine whether the Attorney General/ State Board of Veterinary Medicine should be reimbursed or whether the transacting parties should be billed directly. The Attorney General/ State Board of Veterinary Medicine should maintain complete discretion in choosing consultants or experts to review the transaction.]

SECTION 4: APPROVAL AUTHORITY

[Note: States may choose to vest approval authority in the Attorney General alone or in both the Attorney General and the State Board of Veterinary Medicine. The approval authority includes the authority to disapprove a transaction or place conditions upon a transaction without having to seek a court order to effectuate it.]

- A. The [Attorney General/ State Board of Veterinary Medicine shall have discretion to approve, conditionally approve, or disapprove of any material change transaction for which the [Attorney General/ State Board of Veterinary Medicine] receives notice under [Section 1 of this Part]. Any conditions imposed pursuant to this Section shall specify a time period for compliance, an expiration date, or that the condition applies indefinitely.
- a. [Notwithstanding the foregoing, in the case of a material change transaction involving a carrier that is subject to review and approval by the [Department of Insurance], the [State Board of Veterinary Medicine] shall make a recommendation to the [Department of Insurance] based on the [State Board of Veterinary Medicine]’s review whether the transaction should be approved, disapproved, or conditionally approved.]

[Note: If the state authorizes the State Board of Veterinary Medicine (as opposed to the Attorney General’s Office) to approve or disapprove of the transaction, there is an optional provision for communicating a recommendation with Department of Insurance (DOI) for insurance mergers subject to DOI review and approval. This would not be necessary if the Attorney General is the sole office with authority to approve transactions.]

- B. The [Attorney General/ State Board of Veterinary Medicine] shall inform the health care entity of the determination within [30 days of notice under Section 1 of this Part], or in the case of comprehensive review, within [60 days of the completion of the CMIR]. No proposed material change transaction may be completed before the [Attorney General/ State Board of Veterinary Medicine] has informed the veterinary practice of the determination.
- C. In making the determination, the [Attorney General/ State Board of Veterinary Medicine] may consider any factors that the [Attorney General/State Board of Veterinary Medicine] deems relevant, including, but not limited to:
- a. The likely impact, as described in the CMIR report where applicable, of the material change transaction on:
- i. Veterinary care costs, prices, and affordability;
- ii. The availability or accessibility of veterinary services to the affected community;
- iii. Provider cost trends;

- iv. Access to services in underserved areas;
 - v. The functioning and competitiveness of the markets for veterinary medicine;
 - vi. The potential effects of the transaction on animal health outcomes, quality, access, equity, or workforce for residents of this state; or
 - vii. The potential loss or change in access to essential services.
- b. whether the material change transaction is contrary to or violates any applicable law, including, without limitation, [state antitrust laws, laws restricting the corporate practice of veterinary care, consumer protection laws];
 - c. Whether the benefits of the transaction are likely to outweigh the anticompetitive effects from the transaction;
 - d. Whether the transaction is in the public interest.

[Note: Lawmakers should tailor this non-exhaustive list of factors to state priorities. Lawmakers may want to list specific services in Section 4 (C)(i)(g) or choose to define “essential services” in regulation and to help define when transactions are in the public interest. As above, lawmakers should note if their state has a statutory definition of “public interest” and if that definition is appropriate here. If not in legislation it may be worth defining the “public interest” in regulation and consider which policy goals best serve the public interest: preventing consolidation, preventing closures or loss of access, promoting equity, and improving affordability and how to balance these considerations when they conflict.]

- D. This section does not limit or alter any existing authority of the Attorney General or any state agency to enforce any other law, including state or federal antitrust law or to review non-profit transactions.

SECTION 5: POST-TRANSACTION OVERSIGHT

- A. Enforcement by the Attorney General.
 - a. The Attorney General may subpoena any records necessary to enforce any provisions of [this Part] or to investigate suspected violations of any provisions of [this Part] or any conditions imposed by conditional approval pursuant to [Section 4].

- b. The Attorney General may enforce any requirement of this [Part I] and any conditions imposed by a conditional approval pursuant to [Section 4] to the fullest extent provided by law, including damages. In addition to any legal remedies the Attorney General may have, the Attorney General shall be entitled to specific performance, injunctive relief, and other equitable remedies a court deems appropriate for any violations or imminent violation of any requirement of this [Part] or breach of any of the conditions and shall be entitled to recover its attorney's fees and costs incurred in remedying each violation.
- c. [In addition to the remedies set forth in paragraph (ii), the Attorney General may impose a statutory penalty of [\$10,000 per day] for any violation of this Part or of any conditions imposed pursuant to a conditional approval [Section 4] and may rescind or deny approval for any other past, pending, or future material change transactions involving the health care entity or an affiliate.]
- d. Nothing in this subsection shall narrow, abrogate, or otherwise alter the authority of the Attorney General to prosecute violations of antitrust or consumer protection requirements.

B. Enforcement by [State Board of Veterinary Medicine].

- a. The [State Board of Veterinary Medicine] may audit the books, documents, records, and data of any entity that is subject to a conditional approval under Section [4] to monitor compliance with the conditions.
- b. Any entity that violates any provision of this [Part], any rules adopted pursuant thereto, or any condition imposed pursuant to a conditional approval under [Section 4] shall be subject to an administrative penalty of [\$10,000 per day] for any violation of this Part.
- c. The [State Board of Veterinary Medicine] may refer any entity to the Attorney General to review for enforcement of any noncompliance with this Part and any conditions imposed by conditional approval pursuant to [Section 4].

C. In order to monitor effectively ongoing compliance with the terms and conditions of any transaction subject to prior notice, approval, or conditional approval under this Part, the [Attorney General/ State Board of Veterinary Medicine] may, in their sole discretion, conduct a review or audit and may contract with experts and consultants to assist in this regard.

- D. One year, two years, and five years following the completion of the material change transaction approved or conditionally approved by the [Attorney General/ State Board of Veterinary Medicine] after a comprehensive review under [Section 3 of this Part], and upon future intervals determined at the discretion of [Attorney General/ State Board of Veterinary Medicine] the health care entity or the person, corporation, partnership, or any other entity that acquired direct or indirect control over the veterinary practice shall submit reports to the [Attorney General/State Board of Veterinary Medicine] that:
- a. Demonstrate compliance with conditions placed on the transaction, if any;
 - b. Analyze cost trends and cost growth trends of the parties to the transactions; and
 - c. Analyze any changes or effects of the transaction on consumer access, availability of services, workforce, quality, or equity.
- E. The [Attorney General/ State Board of Veterinary Medicine] shall be entitled to charge costs to the transacting parties for all actual, reasonable, and direct costs incurred in monitoring ongoing compliance with the terms and conditions of the sale or transfer of assets, including contractor and administrative costs.

[Note: Lawmakers should follow existing state law regarding procurement practices when drafting this section to determine whether the Attorney General/ State Board of Veterinary Medicine] should be reimbursed or whether the transacting parties should be billed directly. The Attorney General should maintain complete discretion in choosing consultants or experts to review the transaction.]

SECTION 6: REGULATIONS

- A. The [Attorney General/ State Board of Veterinary Medicine] may adopt regulations as necessary to implement [this Part].



The American Economic Liberties Project is a non-profit and non-partisan organization fighting against concentrated corporate power to secure economic liberty for all. We do not accept funding from corporations. Contributions from foundations and individuals pay for the work we do.

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