

My Investigation and Questions: Concerning Some Farrier Related Hot Topics  
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The American Veterinary Medical Association (AVMA) recently proposed a number of changes to the Model Practice Act (MVPA), including the elimination of the farrier exemption from the definition of practice of veterinary medicine. Michael San Filippo, the AVMA Senior Media Relations Specialist stated in an email to the American Farriers Journal that the proposed changes are not an attempt to exert control over the equine hoof-care industry. "The proposed removal of 'farriery' from the exemption section (Section 6) of the MVPA is in no way an attempt to ban farriers from working independently or require a veterinarian to be involved in shoeing a horse. Rather, it is an acknowledgment that farriery exists well outside of the definition of veterinary medicine and does not need to be included in the MVPA." (1)

Due to the overwhelming number of unfavorable responses to remove the farrier exemption, the AVMA has dropped the proposed elimination of farriery from the MVPA Section 6. (2)

Even the American Association of Equine Practitioners (AAEP), an organization consisting of nearly 10,000 equine veterinarians, submitted its stance to the AVMA. "We have not put together an 'advisory piece' or anything for the public," according to Keith Kleine, the AAEP's director of industry relations, in an email to American Farriers Journal. "Rather, [the AAEP has] issued comments to the AVMA supporting the fact that farriery should remain exempt in the model veterinary practice act." (3)

With the AVMA's recent proposal to remove farriery from the MVPA, I decided to once again, go on an information gathering investigation in order to obtain some clarity about several farrier related hot topics. I had previously done this in 2007 as well.

## 1 - What is a Professional License

Generally speaking, a professional is a person who belongs to a learned profession or whose occupation requires a high level of training and proficiency (4) and a professional license is the legal permission to engage in a regulated activity and to utilize a profession title with the jurisdiction that issued that license. Each State issues professional licenses with many professional and licensing requirements that can vary greatly between the States. A professional license defines the parameters of a particular profession, outlines what the professional is and is not permitted to do, defines the education requirements necessary to receive the license and the continued education requirements needed to maintain the license and generally delineated how a member of that profession should act while carrying out their professional duties. (5)

What makes an occupation being identified a licensed profession include: The occupation becoming a full time profession; the establishment of a training school and/or university school; the establishment of local associations; the establishment of national associations; the introduction of codes of professional ethics; and the establishment of state licensing laws. Farriery does not meet these requirements and therefore can not be licensed in a State without establishing the above requirements (6,9)

There are no professional license requirements for, or oversight of, the farrier profession within the United States. (7) Per my telephone conversation with the New York State (NYS) Office of Professions, the States Office of Professions does not regulate or consider farriers a licensed profession as they do not meet the requirements. (7,8,9) The NYS Department of State, Division of Licensing Services does not license farriers. (7,10) Farriers that provide services to the racing industry (where applicable), receive permission to perform their duties from the State Department of Labor, Racing and Gaming Commission. (11) These State occupational licenses are not consider by the State Office of Professions to be a license because they do not meet the Professions requirements. Rather they are certificates, even though the issuing State Department may call it a license. (7,8,9,10)

When dealing with a non-licensed professional (not someone performing a licensed profession illegally rather a person in a non-licensed occupation) there really isn't any specific legal definition and is determined case-by-case and court-by-court. Characteristics or elements generally looked at by the court to help determine if a person is a professional are as follows: (13)

- is the person competent;
- does the person know their limitations;
- is the person discreet and respect confidentiality;
- does the person stick to promises and agreements;
- is the person loyal and honest towards colleagues;
- is the person strongly motivated by ethical values;
- is the person willing to be held accountable and to explain their actions;
- is the person willing to share knowledge and skills; and
- does the person foster professionalism in others, wherever they find it.

## 2 - Definition of practice of veterinary medicine

The AVMA's MVPA is intended to serve as a model set of guiding principle for those who are now or will be in the future preparing or revising a practice act under the codes and laws of an individual state (14). Under the AVMA MVPA, the "Practice of Veterinary Medicine" is defined as follow: "(a) To diagnose, prognose, treat, correct, change, alleviate, or prevent animal disease, illness, pain, deformity, defect, injury, or

other physical, dental, or mental conditions by any method or mode; including the: (i). performance of any medical or surgical procedure, or (ii). prescription, dispensing, administration, or application of any drug, medicine, biologic, apparatus, anesthetic, or other therapeutic or diagnostic substance, or (iii). use of complementary, alternative, and integrative therapies, or (iv). use of any procedure for reproductive management, including but not limited to the diagnosis or treatment of pregnancy, fertility, sterility, or infertility, or (v). determination of the health, fitness, or soundness of an animal, or (vi). rendering of advice or recommendation by any means including telephonic and other publicly or privately, an ability and willingness to do and act described in subsection 16(a). (c). To use any title, words, abbreviation, or letters in a manner or under circumstance that induce the belief that the person using them is qualified to do any act described in subsection 16(a)." (14)

The current MVPA exempts farriers (Section 6) from Section 2 - Definitions, subsection 15, which defines "Practice of veterinary medicine. (14)

According to the AVMA, Twenty Two States and the District of Columbia — Alabama, Arizona, California, Connecticut, Hawaii, Indiana, Kansas, Kentucky, Michigan, Missouri, Nebraska, New Jersey, New York, North Dakota, Oregon, South Carolina, South Dakota, Utah, Virginia, Washington, Wisconsin, Wyoming — make no mention of farriers, farriery, horseshoeing or livestock management practices in their respective Veterinary Practice Acts (VPA). (15)

Seventeen States VPA's specifically exempt farriery, horseshoeing, hoof trimming and trimming feet — Alaska, Arkansas, Florida, Georgia, Idaho, Iowa, Maine, Maryland, Minnesota, Mississippi, New Hampshire, North Carolina, Ohio, Oklahoma, Pennsylvania, Texas and Vermont. (15)

Another 11 State VPA's exempt livestock management practices and animal husbandry practices — Colorado, Delaware, Illinois, Louisiana, Massachusetts, Montana, Nevada, New Mexico, Rhode Island, Tennessee and West Virginia. (15)

The MVPA is not binding law; however, States use it as a guide when updating its respective veterinary practice acts. Many States follow the AVMA MVPA definition for the practice of veterinary medicine, some with distinctions specific to the respective State. (14)

In New York State, the practice of the profession of veterinary medicine is defined as diagnosing, treating, operating, or prescribing for any animal disease, pain, injury, deformity or dental or physical condition, or the subcutaneous insertion of a microchip intended to be used to identify an animal. "Animal" includes every living creature except a human being. Notwithstanding the foregoing provisions of this section, no provisions of this section shall be construed to include the floating of equine teeth as being within the practice of veterinary medicine. (16)

Anyone licensed by the State and in good standing, is authorized to perform any and all of the duties with the definition and hold themselves out as a doctor of veterinarian medicine (DVM or VMD). (17)

A commonly held misconception is that the definition of veterinarian medicine and the duties described therein applies to farriers. However, the definition and duties of veterinarian medicine set forth above apply only to the practice of veterinarian medicine and not to a farrier practice. This is why Michael San Filippo, the AVMA Senior Media Relations Specialist, stated about the proposed removal of farrier from the MVPA, "it is an acknowledgment that farriery exists well outside of the definition of veterinary medicine and does not need to be included in the MVPA." (1)

According to the NYS Department of Labor's definition of a farrier [Remember, these licenses are not consider by the State Office of Professions to be a license, rather certificates, even though the issuing State Department may call it a license(9)], the realm of that expertise includes removing worn or defective shoes from hooves using nail snippers and pincers; examining hooves to detect bruises and cracks; determining required trimming, trimming and shaping hooves using knives and snippers; measuring hooves using calipers and steel tape and selecting aluminum or steel shoes to match the hoof measurement and usage. In addition, farriers place leather pads, sponges, or oakum-pine tar mixtures on bruised or cracked hooves for protection, shape shoes to fit hooves using swage, forge, and hammer; nail shoes to hooves and file hooves flush with shoe. (18,19)

Race Track Farriers in NYS fall under the Standard Occupational Classification: 39-2021.00 - Nonfarm Animal Caretakers. Two interesting job descriptions for this classification are: (1) Examine and observe animals to detect signs of illness, disease, or injury, and (2) Provide treatment to sick or injured animals, or contact veterinarians to secure treatment. (20)

Per personal conversation with my own NYS Department of Education, Board of Professions, Veterinary Board, I was informed that no part of the duties and responsibilities set forth in the definition of veterinary medicine (Article 135) has been interpreted to include horseshoeing. Were applicable to my farrier practice and that a farrier could diagnosis and treat only those issues that fall within the realm of a farriers expertise. (21,22)

I will discuss more about farrier diagnosing below under topics 4 - Diagnosing and 7 - Radiology.

### 3 - Scope of Practice

The term “scope of practice” defines procedures, actions and processes that a practitioner is permitted to undertake in keeping with the terms of their professional license. In many cases, the scope is determined by laws within a particular jurisdiction and professional standards boards. In many areas, laws define the appropriate scope of practice for different professions. This is done to ensure that the public receives services only from those who are qualified to offer them. These laws are often developed in consultation with professionals who can advise lawmakers as to the expected competencies of individuals in a specific occupation. (5,16)

Since farriers do not have their own professional licensing, then it is up to the courts to determine what is the scope of practice. (23) The law will generally look at two categories in order to determine a person's scope of practice. (24,25,26) If requirements for practicing a skill or profession satisfy all the requirements then it is within that person's scope of practice:

**Realm of Experience (education and training)** — Has the person been educated academically or on-the-job and have documentation proving education to do the item in question? This is why documenting your education and continued education credits is important. (24,25,26)

**Scope of Practice (governing body)** — Does your state, district, province or federal government that oversees the skill or profession allow (or not explicitly disallow) the item in question? Since the farrier industry does not have an overseeing organization, it will look at what other farrier's of the same experience do within the farriery profession for comparison. (24,25,26)

### 4 - Diagnosing

Can farriers diagnosis? Many farriers will shrug their shoulders unknowingly where as many veterinarians will say that a farrier cannot make a diagnosis as by doing so is to commit the unauthorized practice of veterinary medicine which is practicing veterinarian medicine. However, when a farrier determines that a horse has contracted heels or underrun heels and long toes, isn't the farrier making a diagnosis? Yes, they are. Since we've already established what the NYS Veterinarian Practice Act does and does not cover, the simple answer is a farrier can diagnosis, as long as they stay within their scope of practice and level of experience. (19,21,22,27)

A farrier diagnosing a horse with colic may be acting in their scope of experience but diagnosing colic is not within the scope of farrier practice and therefore would be illegally practicing veterinarian medicine. Alternatively, a farrier diagnosing a horse with laminitis is acting within the farrier scope of practice for a farrier but may or may not be

within the scope of their experience. Diagnosing a horse with sheared heels is in the scope of farrier practice and should be within most farrier's level of experience.

Be mindful of your practice, noting that your level of expertise and the limitations that define the scope of your practice may be determined by what you can support and evidence in a court of law.

For instance, a horse that the farrier has examined and determined to have underrun heels, treated by trimming, and a shoe applied with extended heels, would fall under the practice of farriery and not veterinarian medicine despite the relative similarities of the defined duties within each definition. Therefore, even without a professional farrier license or occupational license/certification (7,8,9,10) these actions would be deemed permissible and legal by the NYS Veterinary Medicine Board.

Using different terminology until you get your own clarification, may be of benefit, in order to limit any conflicts or issues. Using words like examine, determine, detect or assessment are synonyms of diagnosis and can avoid possible issues with other professionals in the industry. (27,28,29)

## 5 - Farrier Prescriptions

Often a veterinarian will leave a trimming and/or shoeing prescription order (also known as an order of treatment) at the barn for a farrier. Does a farrier have to legally follow the veterinarians prescription order of treatment? No! A farrier is an independent contractor (30,31,32) and is legally responsible for their actions and the treatment they provide while they are attending to a horse regardless of the recommendation or who is providing the recommendation. The only time a farrier is required to follow a veterinarians prescription is if they are an employee of the veterinarian. This by no means doesn't suggest that the veterinarians advice is not valid or accurate rather, think of it as their professional recommendation. In a court of law, the judge will not care who told you to do what, rather you will be responsible for all that you do.

In the best interest of the animal, professional discussions between the veterinarian and farrier on how to best provide farrier treatment is imperative. In my opinion, a veterinarian leaving an order of treatment or prescription order with the owner or at the barn, without a verbal discussion with the farrier, is not the best way to foster a professional farrier-veterinarian relationship.

## 6 - Under the Veterinarians License

Under numerous occasions, while observing a farrier perform a resection or paring out an abscess, I have heard both farriers and veterinarians state that they are under the veterinarians license while executing the procedure. If the farrier is an employee of the veterinarian, the farrier is operating under the supervision and direction of the veterinarian and is likely covered by the veterinarian's malpractice policy. That aside, the farrier is an independent contractor (30,31,32) and is responsible for all of their actions, diagnosis and treatments they provide in their farrier practice.

The Veterinarian may provide direct or indirect supervision of the activity but by no means is the farrier "under their License."

## 7 - Radiology

It is the State Health Department that sets the standards for who can own and use x-ray equipment, not the State Veterinary Board. In most States, it is not against the law for any farrier to own and use an x-ray machine so long as it is legally registered. (33,34) There are some State differences that describe how it is to be used and notification of use.

The fact is, most states allow farrier's to be able to own, and take radiographs for their use within the farrier profession, as long as they have a valid state radiograph machine registration. There are a some States that radiographs have to be taken with veterinarian supervision (direct or indirect) or permission/authorization of some sort (New York State, Georgia and Pennsylvania for example). Some States have no requirement for supervision or permission/authorization (Ohio, West Virginia and Vermont for example).

States will register and categorize farrier equine x-ray equipment as Veterinary or Industrial or Other. Categorizations and requirements can vary greatly between the States. In some States, registrations for use of x-ray equipment will also be categorized as non-diagnostic. This is generally done to limit any misunderstanding that a non-medical professional degreed person (like a farrier), is not confused for a medical professional degreed person (DVM or VMD) taking and interpreting the radiographs.

Reviewing a set of radiographs and diagnosing the horse with hoof imbalances and long toes is within the scope of a farrier practice and should be within the confines of most farrier's expertise. (35) In most States, a farrier can review radiographs and to use them to assess, determine and to provide treatment based upon what is garnered from the radiographs, as long as the remedy falls in their scope of practice and expertise. (35)

I think the issue of farriers owning x-ray equipment is made out to be a bigger issue then it really is. The expense is far beyond most farriers budget. To date, I know of only four farrier's who are legally registered and authorized to utilize x-ray equipment in the United States.

In conclusion, there is a lot of misinformation about the above issues that is spread throughout our industry. Instead of accepting what is told to you and reiterating it to others, I would suggest you take the time to fact check as I did in order to obtain the correct information. If you have a question about how a particular state law provision applies to your individual circumstances in your state, please contact your state board of education, veterinary medical board, and your attorney.

#### Disclaimer:

The information provided does not, and is not intended to, constitute legal advice; instead, all information and content, are for general informational purposes only. Readers should contact their attorney to obtain advice with respect to any particular legal matter. No reader should act or refrain from acting on the basis of this information, without first seeking legal advice from counsel in the relevant jurisdiction. Only your individual attorney can provide assurances that the information contained herein – and your interpretation of it – is applicable or appropriate to your particular situation.

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For answers to questions concerning practice issues or continuing education requirements, contact: NY State Education Department, Office of the Professions, State Board for Veterinary Medicine, 89 Washington Avenue, Albany, New York, 12234-1000. Phone: 518-474-3817. E-mail: [vetmedbd@nysed.gov](mailto:vetmedbd@nysed.gov)

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