

Appendix 5

Procedures Governing Reconsideration of, and Appeals from, Adverse ABVS Decisions for current AVMA-recognized Veterinary Specialties or Specialty Organizations

1. Adverse Decisions.

a. The ABVS may make either of two adverse decisions with respect to a currently recognized RVSO or RVS: (i) assignment of probationary recognition status; or (ii) withdrawal of recognition.

b. An RVSO or RVS that is assigned probationary recognition status or that has had recognition withdrawn shall be notified by email. The notice shall include a description of the reasons for the adverse decision. All RVSOs and RVSs must agree, as a condition of recognition, to communicate with ABVS via email and provide and maintain a valid email address with ABVS for this purpose.

c. The ABVS may also grant continued recognition of an RVSO or RVS subject to notice that specific deficiencies must be corrected or addressed by a plan of correction within a specified time. This action shall not be considered an adverse decision and is not subject to reconsideration or appeal. However, the RVSO or RVS shall be notified by email. The notice shall include a description of the specific deficiencies and the time by which they must be addressed to the satisfaction of the ABVS.

2. Reconsideration

a. An RVSO or RVS that is the subject of an adverse decision may notify ABVS of its intent to seek reconsideration of the adverse decision by submitting a petition for reconsideration within 14 calendar days after the date of the email providing notice of the adverse decision.

b. The basis for a petition for reconsideration is limited to whether the adverse decision: 1) misapplied the ABVS Standards for Recognition, 2) failed to follow ABVS procedures, and/or 3) failed to adequately consider the evidence and documentation presented. The RVSO or RVS may also document any corrective action that it has taken to remedy the deficiencies on which the adverse decision was based.

c. The RVSO or RVS seeking reconsideration must submit all documents supporting its petition for reconsideration within 30 calendar days after the date of the email providing notice of the adverse decision. The petition may also include a request for a hearing.

d. The timely submission of a petition for reconsideration shall not stay any requirement for notification as specified in Section J of the ABVS Policies and Procedures by the RVSO or the RVS of the adverse decision.

e. In acting on a petition for reconsideration, the ABVS may, in its sole discretion, consider any corrective action that the RVSO or RVS has taken between the time of its initial 3-year report submission and the date of receipt by the ABVS of documents supporting the petition.

f. The ABVS shall determine, in its sole discretion, whether to grant a request for a hearing on the petition for reconsideration. If it grants a hearing, the ABVS will determine whether the hearing will be in person, by telephone, or by other electronic medium such as video conferencing. Within two weeks after deciding whether to grant a hearing, the ABVS shall notify the RVSO or RVS of its decision on the request for a hearing, including the time and place (or electronic hearing details) of any hearing.

g. The ABVS shall determine the length of time that representatives of the RVSO or RVS will be given to make its presentation – and shall also determine the procedure to be followed at the hearing. Prior to the hearing, ABVS shall notify the RVSO or RVS of the time that will be allotted for the presentation as well as the procedures to be followed.

h. The RVSO or RVS shall determine who will represent it at any hearing. It may, at its option, choose to be represented by counsel and/or by members of the RVSO or RVS. However, the ABVS may impose a limit on the number of individuals associated with the RVSO or RVS that can be present at the hearing.

i. Within 4 weeks after a hearing – or within 4 weeks after informing the RVSO or RVS that it has determined not to hold a hearing, the ABVS shall issue a written decision setting forth its ruling on the petition and the reasons for that ruling.

j. The RVSO or RVS shall bear all of its expenses associated with any petition for reconsideration, including costs associated with an in-person or electronic hearing.

3. Appeals

a. An RVSO or RVS that has petitioned for reconsideration and is dissatisfied with the decision on reconsideration may file an appeal. No appeal may be filed unless the RVSO or RVS has submitted a petition for reconsideration and received an adverse decision from the ABVS. The basis for the appeal will be limited to whether the adverse decision: 1) misapplied the ABVS Standards for Recognition, 2) failed to follow ABVS procedures, and/or 3) failed to adequately consider the evidence and documentation presented.

b. To file an appeal, an RVSO or RVS must send to the ABVS a notice of intent to appeal within 14 calendar days after the date of the written decision on the petition for reconsideration. The RVSO or RVS must submit all documents supporting its appeal within thirty calendar days after the date of the email providing notice of the decision on the petition for reconsideration. The appeal may also include a request for a hearing.

c. The submission of an intent to appeal will not stay any requirement for notification as specified in Section J of the ABVS Policies and Procedures by the RVSO or the RVS of the adverse decision.

d. Any appeal shall be considered by an Appeals Committee consisting of the AVMA Board of Governors.

e. An appeal is not a *de novo* review of the adverse decision, but a review of the decision based on the evidence before the ABVS at the time of its decision. The Appeals Committee may either affirm, amend, or reverse an adverse decision, or remand the adverse decision to the ABVS for further consideration. If the Appeals Committee reverses or amends the adverse decision, the Appeals Committee decision will provide the ABVS with specific instructions to implement the Appeals Committee decision. The adverse decision should not be reversed or amended by the Appeals Committee without sufficient evidence that the decision misapplied the ABVS Standards for recognition, was not in accordance with ABVS procedure, or was not based on substantial evidence. The Appeals Committee should not substitute its judgment for that of the ABVS merely because it would have reached a different decision had it considered the matter originally.

f. In ruling on an appeal, the Appeals Committee shall consider only those actions that were taken by the RVSO or RVS prior to submission of the petition for reconsideration.

f. The Appeals Committee shall determine, in its sole discretion, whether to hold a hearing on the appeal. If a hearing will be held, the Appeals Committee will determine whether the hearing will be in person, by telephone, or by other electronic medium such as video conferencing. Within two weeks after deciding whether to hold a hearing, the Appeals Committee shall notify the RVSO or RVS and the ABVS of its decision, including the time and place (or electronic hearing details) of any hearing.

g. The Appeals Committee shall determine the length of time that representatives of the RVSO or RVS and the ABVS will be given to make their presentations – and shall also determine the procedure to be followed at the hearing. Prior to the hearing, the Appeals Committee shall notify the RVSO or RVS and the ABVS

of the time to be allotted for the presentation as well as the procedures to be followed.

h. The RVSO or RVS and the ABVS shall determine who will represent them at any hearing. The parties may, at their option, choose to be represented by counsel and/or by members of the party. However, the Appeals Committee may impose a limit on the number of individuals associated with either party that can be present at the hearing.

i. Within 6 weeks after a hearing – or within 6 weeks after informing the parties that it has determined not to hold a hearing, the Appeals Committee shall issue a written decision to both parties setting forth its ruling on the appeal and the reasons for that ruling.

j. The RVSO or RVS shall bear all of its own expenses associated with any appeal, including costs associated with an in-person or electronic hearing.

k. There shall be no right of appeal to the Board of Directors of the AVMA. The decision of the Appeals Committee shall be final – except that the Appeals Committee shall report its decision to the Board of Directors of the AVMA. The Board of Directors of the AVMA shall have the right, in its sole discretion, to modify or reverse any decision of the Appeals Committee that is adverse to the RVSO or the RVS if the Board concludes that modification or reversal would be in the interests of justice.

l. An RVSO or RVS against whom an adverse action has been taken may not apply for removal from probationary status or reinstatement of recognition for a period of at least 12 months from the time of the final decision regarding the adverse action. The final decision may be on the petition for reconsideration or the appeal, if the RVS or RVSO files an appeal.