



NATIONAL VETERINARY LAW GROUP AT
MANDELBAUM BARRETT PC



NATIONAL VETERINARY LAW GROUP

The MSO Handbook:

A Guide to Management Services Organization
Structures for Veterinary Practices



Veterinary practices today face increasing challenges in balancing the demands of high-quality patient care with the growing complexity of managing a business. From staffing and payroll to marketing, billing, and compliance, the administrative burdens placed on veterinarians can be overwhelming—and often detract from their ability to focus on clinical work. To address this problem, many practices are turning to the Management Services Organization (MSO) model, a structure that separates professional veterinary services from non-clinical management functions.

The MSO structure has gained traction because it allows veterinarians to concentrate on patient care while leveraging professional management support to handle the operational side of the business. At the same time, it creates a pathway for non-veterinarian investors to participate in the veterinary industry without violating state laws that restrict ownership of clinical practices. This handbook explores how MSOs are structured, the functions they provide, and the agreements that govern the relationship between an MSO and a veterinary practice.

I. Introduction to the MSO Structure

A. About the MSO Structure

An MSO is a separate legal entity from your veterinary practice. Although the exact rules vary by state, veterinary practices are generally formed as either professional corporations (PCs) or professional limited liability companies (PLLCs), which are owned by licensed practitioners and specifically authorized by the state to provide professional veterinary services. This means that, in many states, only a licensed veterinarian is permitted to own the practice entity.

By comparison, the MSO is a general business entity, not a professional entity that is formed for the purpose of providing non-clinical (i.e., management) services for veterinary practices, as discussed below. The MSO is usually formed as a general business corporation (Inc. or Corp.) or a limited liability company (LLC), which can be owned by licensed veterinarians, non-veterinarian investors, or institutional investors, depending on the structure. In states that regulate the corporate practice of veterinary medicine, this flexibility in ownership structure provides non-veterinarian investors with the opportunity to indirectly invest in a practice without violating state law.

B. MSO Functions

Many states allow the MSO to control nearly all aspects of a practice's operations except for the clinical treatment provided by licensed veterinarians. Subject to each state's applicable statutes and regulations, the MSO can typically provide overall management, administrative and support services, lease facilities, handle staffing of non-professionals, own equipment, and order supplies on behalf of the practice.

Aside from allowing non-professionals to invest in veterinary practices, the goal of the MSO model is to ease the administrative burdens of practice ownership on the veterinarians, leaving the professionals free to focus on patient care. MSOs that provide administrative services to multiple practices can provide the additional advantage of reduced overhead costs and economies of scale by centralizing services and purchasing power. As a practice grows in size or acquires additional locations, the MSO should have the ability to expand to provide the necessary scope of services.

II. Regulatory Issues

Each state can have different rules for how to structure the relationship between a practice and an MSO. But the consistent rules in a majority of states are that (1) only licensed veterinarians may own veterinary practices and (2) MSOs generally should not receive a percentage of a veterinary practice's revenue or profits in states where such arrangements could be viewed as fee-splitting or evidence of control over the practice's professional services. These regulatory issues are discussed in further detail below.

A. Corporate Practice of Veterinary Medicine

In a small minority of states, a general business entity of any individual may own a veterinary practice. Under this rule, an MSO could be an owner of a veterinary practice as long as it employs a veterinarian licensed in the state and designated as a Medical Director or equivalent title to be responsible for managing all aspects of providing clinical care. But this rule only exists in a limited number of states.

By contrast, the majority of states prohibit the corporate practice of veterinary medicine. Under this legal concept, only a licensed veterinarian or a professional entity owned by licensed veterinarians can own and operate the veterinary practice.

As previously discussed, the MSO handles nearly all aspects of the veterinary practice's operations except the clinical aspects of care and treatment and employment of professional staff. While the distinction between clinical and non-clinical aspects may seem unambiguous in theory, it becomes blurred in practice and could create compliance concerns,

especially where states have differing approaches to making the distinction.

For example, capital expenditures illustrate how the distinction between clinical and non-clinical aspects may get blurred. Generally, MSOs prepare the veterinary practice's annual budget, which includes how much of the veterinary practice's revenue is dedicated to capital expenditures. But whether to make a capital expenditure for new clinical equipment could affect the level of clinical care and the scope of services the veterinary practice provides. Therefore, depending on where a state draws the line on the continuum between business/non-clinical and clinical matters, the Management Services Agreement (MSA) may need to state that preparation of the annual budget is a collaborative effort between the MSO and the veterinarian practice owners regarding budgetary matters affecting clinical care. And still other states focusing more generally on the overall relationship between the MSO and practice may clearly describe which end of the continuum individual matters like this fall on, such that these matters can either be exclusively decided by the MSO or the veterinarian practice owners must be the exclusive decision makers.

B. Fee Splitting and Kickbacks

In some few states, it is perfectly permissible for the MSO to be paid a percentage of the veterinary practice's revenue; provided that the amount is the fair market value for the facilities, goods and services the MSO provides. But other states consider this method of payment as one of the factors in determining whether the MSO has violated the prohibition on

the corporate practice of veterinary medicine. By statute, many states prohibit such payment method as the veterinary practice illegally splitting its fees for its professional services with the MSO. Essentially every state scrutinizes the MSO from being paid a percentage of the veterinary practice's revenue as its fee.

Furthermore, when a client seeks treatment of their pet at a particular practice because of the MSO's marketing/advertising services, the

MSO is considered as having referred the client to the practice. And when the MSO is paid a percentage of the practice's revenue for these services, it is considered an illegal kickback for these referrals precisely because the payments is calculated based upon the value and/or volume of these referrals. Consequently, in essentially every state, the MSO must charge a fixed fee, or an hourly rate based upon the time the MSO's staff spends in providing these marketing/advertising services.

III. Controlling Agreements

The relationship between the MSO and practice entity is purely contractual. To set up the MSO structure, the MSO and practice entity will enter into a series of agreements whereby the MSO will provide certain specified administrative services in exchange for a fee, which an experienced veterinary accountant can help to determine. The fact that this relationship is purely contractual is what allows non-licensed professionals to invest in practices where it would normally be prohibited by state law, and the structure affords the veterinarian owner(s) the practice entity the ability to amend the agreements to change the mix of services as the business changes over time. Each type of agreement that is typically utilized in creating the MSO structure is described in further detail below.

C. Management Services Agreement (MSA)

The main document governing the MSO structure is the MSA. The MSO will enter into the MSA with the practice entity, and the practice entity will appoint the MSO as its sole and exclusive provider of non-clinical management and administrative services.

The amount of control the MSO is allowed to have with respect to clinical decisions is a hallmark of its relationship with the practice entity: although the MSO can establish strategic planning for the practice entity, all clinical decisions must be strictly reserved for the veterinarians to avoid violating the prohibition against the corporate practice of veterinary medicine in states where it is prohibited by statute or regulation. The practice entity must have the opportunity to select which services it wants the MSO to provide, and the MSA will set forth the responsibilities of the MSO in providing such services. Nevertheless, the MSO's control of capital resources may give it significant influence over operational matters, subject to the requirement that all clinical decisions remain under the authority of licensed veterinarians. Examples of the types of services provided by the MSO to the practice entity include the following:

1. creating and executing a strategy for developing and growing the business;
2. developing an integrated marketing plan pursuant to a Marketing Services Agreement (discussed in more detail below);

3. establishing a capital and operating budget and preparing financial reports;
4. appointing one of the MSO's executive employees as the applicable practice's practice manager, who will be responsible for managing, supervising and otherwise administrating all aspects of operating the practice aside from veterinary services;
5. assisting the practice in the establishment of policies and procedures governing quality assurance, utilization review, risk management, reimbursement maximization, and other areas, ensuring that the applicable Veterinary Practice Entity retains total control over these policies and procedures;
6. providing all non-clinical personnel and human resource management of the practice entity's employees, including developing and implementing all personnel policies and procedures, compensation and benefit plans, and preparing and maintaining all personnel records;
7. providing payroll services for the practice entity's veterinarian employees and independent contractors (and for the practice's veterinary technicians in states where they must be employed by a professional entity);
8. providing an information technology system, with all software and systems remaining the exclusive property of the MSO;
9. maintaining a toll-free call center to field questions, provide information about the practice, and schedule appointments;
10. collecting, storing, and maintaining all clinical records of the veterinary services provided by the veterinarians;
11. providing financial administrative services necessary for the practice's operations, including accounting, bookkeeping, tax matters, accounts receivable and accounts payable processing;
12. providing all office clerical and operational services necessary in connection with the day-to-day operations of the practice;
13. conducting all billing and collections on behalf of the applicable Veterinary Practice Entity pursuant to a Billing Services Agreement (discussed in more detail below);
14. negotiating and executing all business agreements, contracts and other arrangements on behalf of the applicable Veterinary Practice Entity;
15. leasing non-professional support personnel to the practice entity (the practice entity will remain the employer of the licensed professionals);
16. leasing equipment to the practice entity; and
17. serving as the practice entity's attorney-in-fact pursuant to a Power of Attorney (discussed in more detail below).

To protect the MSO's interest in the associated practice, the MSA can contain restrictive covenants binding the veterinarian owners and those veterinarians employed by the practice entity, and indirect restrictions on any owner's ability to transfer an equity interest in the practice entity. The MSO can also be granted a security interest in all assets of the practice entity so long as any payment remains unpaid to the MSO, with broad default provisions allowing the MSO to exercise its security interest. There are additional provisions to protect the MSO's interest and control set forth in the Succession Agreement discussed below.

D. Marketing Services Agreement

The Marketing Services Agreement governs the MSO's obligation to develop and continually refine a comprehensive marketing and advertising plan to promote the practice entity, in turn creating another opportunity for the MSO to extract profits. In exchange, the practice entity will pay the MSO a fee for these services, which may not be stated as a percentage of the practice entity's collections for regulatory reasons. Instead, marketing services should be invoiced monthly, with the fee calculated using hourly rates, plus reimbursement for actual expenses. All marketing materials developed for the practice entity under the Marketing Services Agreement remain the property of the practice entity, but the MSO can be granted a security interest in those materials to protect the MSO's position.

E. Billing Services Agreement (BSA)

As mentioned above, the MSO is typically responsible for the billing of all services rendered by the practice entity and the collection of all accounts receivable. While the MSO must always remain responsible for its obligations under the BSA, the MSO is permitted to subcontract out the performance of these services. The responsibilities of the practice entity under the BSA will include services such as: (1) maintaining information relating to the practice entity and their clients/patients; (2) billing clients for services rendered by the practice entity; and (3) other miscellaneous responsibilities.

Under the BSA, the practice entity will pay the MSO a monthly fixed fee as well as a per-claim fee for payments processed by the MSO. Except in states where it is prohibited by statute

or regulation, the fee for billing services can alternatively be set as a percentage of the practice entity's fees collected by the MSO.

F. Power of Attorney

A document called a Power of Attorney can be utilized alongside the BSA to allow the MSO, as the practice entity's attorney-in-fact, to perform billing, collections and banking activities. The Power of Attorney will also grant the MSO the ability to endorse checks and other instruments on the practice entity's behalf and assist the practice entity in negotiating agreements, such as vendor contracts.

G. Supplemental Fee Agreement (SFA)

The SFA gives the MSO the ability to pull additional profits out of the practice entity outside of the standard fees contemplated in the MSA, Marketing Services Agreement and BSA. The SFA accomplishes this by giving the MSO the opportunity to earn a year-end bonus in the event that certain metrics are met. Typically, no one criterion controls, but the parties must negotiate in good faith to determine whether the bonus has been earned. If the parties cannot agree, then the MSO's regularly retained accountant will usually break the tie and make the decision. If the SFA is terminated prior to the end of any year, the parties can negotiate whether the MSO is entitled to any pro-rated bonus.

H. Veterinary Medical Director Agreement & Profits Interest Grant

Oftentimes, an important part of the MSO structure is the MSO's employment or engagement of one of the veterinarian owners of the practice entity as the veterinary

medical director of MSO, often referred to as a ‘friendly veterinarian’. This arrangement provides the MSO with effective control over the professional assets, without providing the MSO with direct ownership in the assets, which would violate the prohibition against the corporate practice of veterinary medicine in states that enforce such restrictions. Although the friendly veterinarian can be employed by the practice entity to provide clinical care for patients, in his or her capacity as medical director, the friendly veterinarian can only establish protocols and policies/procedures for the practice entity to follow. Examples of services provided by the friendly veterinarian in his or her capacity as veterinary medical director include: (1) overseeing the clinical care provided by other veterinarians, (2) advising on administrative services necessary for the proper and efficient operation of the practice, and (3) consulting/responding on cases and providing training and mentoring for new veterinarians. In sum, the friendly veterinarian can have three different positions and functions: (1) as the medical director employee of the MSO to perform the limited functions of this position as described in the above paragraph, (2) as the nominal owner of the practice entity, and (3) as an employee of the practice entity to provide clinical care.

In some cases, the friendly veterinarian can also be given a small, limited ownership interest in the MSO to ensure they are committed to the overall business arrangement. This ownership interest is typically structured as a “profits interest,” which is a special class of LLC equity that entitles the holder to only share in the LLC’s future profits, including liquidity proceeds, without giving them a share in the LLC’s asset values prior to the date that the profits interest is granted. Accordingly,

the profits interest is limited to the future increased income and value of the MSO to which the friendly veterinarian contributes. Giving the friendly veterinarian a profits interest in the MSO serves as further motivation for him or her to increase overall profits at the MSO level. This is a very common strategy for incentivizing the friendly veterinarian to work to increase the overall profits at the MSO level and to secure their loyalty to the arrangement, sometimes informally referred to as “*golden handcuffs*.”

I. Succession Agreement

In addition to the security interest granted by the practice entity in its respective professional/clinical assets to the MSO, the practice entity, MSO and the friendly veterinarian can also enter into a Succession Agreement to further secure the MSO’s position and ensure all parties are aligned in the MSO arrangement. The Succession Agreement will provide that, in the event of a default, the MSO has the right to direct that the friendly veterinarian’s ownership interest in the applicable practice entity be sold for a contractually predetermined amount to another licensed veterinarian designated by the MSO. Examples of events of default that would be considered a succession event include the friendly veterinarian’s death, complete disability, decision to retire, leave, sell or close the practice, loss of his or her license to practice veterinary medicine; or any attempt to terminate the MSA and the other agreements making up the MSO structure.

IV. Strategic Considerations and Conclusion

Veterinary practice owners considering an MSO structure should carefully

evaluate both the benefits and potential risks associated with the model.

V. Conclusion

While the MSO model can provide significant operational advantages—including professional management, access to capital, and the ability to scale administrative functions—it also requires careful structuring to ensure compliance with applicable state laws governing the corporate practice of veterinary medicine and fee-splitting. Veterinary practice owners should therefore approach the MSO model strategically, evaluating whether the structure aligns with their long-term ownership, operational, and growth objectives. Because the regulatory landscape

governing veterinary practices varies by state and continues to evolve, the design and implementation of an MSO structure requires careful planning and coordination among experienced legal, accounting, and veterinary industry advisors. When properly structured and thoughtfully implemented, the MSO model can provide veterinary practices with the administrative infrastructure and strategic support necessary to operate more efficiently while allowing veterinarians to remain focused on their primary mission—delivering high-quality care to their patients.







Peter H. Tanella, Esq.

3 Becker Farm Road, Suite 105
Roseland, NJ 07068

Tel: 973.736.4600

Fax: 973.325.7467

ptanella@mblawfirm.com
mblawfirm.com