WEST VIRGINIA BOARD OF VETERINARY MEDICINE

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WEST VIRGINIA VETERINARY PRACTICE ACT AND RULES AND REGULATIONS

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PRACTICE ACT

ARTICLE 10. VETERINARIANS.

§30-10-1. Unlawful acts.

(a) It is unlawful for any person to practice or offer to practice veterinary medicine, veterinary technology or animal euthanasia in this state without a license, registration or certificate issued under the provisions of this article, or advertise or use any title or description tending to convey the impression that they are a veterinarian, veterinary technician or animal euthanasia technician unless such person has been duly licensed, registered or certified under the provisions of this article.

(b) A business entity may not render any service or engage in any activity which, if rendered or engaged in by an individual, would constitute the practice of veterinary medicine, veterinary technology or animal euthanasia, except through a licensee, registrant or certificate holder.

§30-10-2. Applicable law.

The practice of veterinary medicine, veterinary technology and animal euthanasia, and the Board of Veterinary Medicine are subject to the provisions of article one of this chapter, the provisions of this article and the board's rules.

§30-10-3. Definitions.

As used in this article, the following words and terms have the following meanings:

(a) "Animal" means any animal other than human, and the term includes fowl, birds, amphibians, fish, and reptiles, wild or domestic, living or dead.

(b) "Animal control facility" means a municipal or county operated humane society or animal shelter incorporated and organized under the laws of this state, or a humane society or an animal shelter classified as 501(c)(3) by the Internal Revenue Service, with at least one certified animal euthanasia technician.

(c) "Applicant" means a person making application for a license, certificate, registration or permit, under the provisions of this article.

(d) "Board" means the West Virginia Board of Veterinary Medicine.

(e) "Business entity" means any firm, partnership, association, company, corporation, limited partnership, limited liability company or other entity performing veterinary medicine, veterinary technology or animal euthanasia.

(f) "Certificate" means an animal euthanasia technician certificate issued under the provisions of this article.

(g) "Certificate holder" means a person holding a certificate issued under the provisions of this article.

(h) "Certified animal euthanasia technician" means a person who is certified by the board to euthanize animals in accordance with the provisions of this article.

(i) "General supervision" means the supervising veterinarian is in the building where the animal is being treated, has given instructions for treatment and is quickly and easily available.

(j) "Indirect supervision" means the performance of procedures on the orders of a supervising veterinarian.

(k) "License" means a veterinary medicine license issued under the provisions of this article.

(l) "Licensee" means a person holding a license issued under the provisions of this article.

(m) "Permit" means a temporary permit to practice veterinary medicine issued by the board.

(n) "Permittee" means a person holding a permit issued under the provisions of this article.

(o) "Practice of veterinary medicine" means to diagnose, treat, correct, change, relieve or prevent any disease, deformity, defect, injury, or other physical or mental condition, of any animal, or to prescribe for or to administer to any animal any drug, medicine, biologic, apparatus, application, anesthetic or other therapeutic or diagnostic substance or technique, or to render advice or any recommendation with respect to any of the foregoing.

(p) "Practice of veterinary technology" means the science and art of providing all aspects of professional medical care, services and treatment for animals with the exceptions of diagnosis, prognosis, surgery, prescription and application of any treatments, drugs, medications or appliances, where a valid veterinarian-client-patient relationship exists.

(q) "Registered veterinary technician" means a person who is duly registered to practice veterinary technology under the provisions of this article.

(r) "Registrant" means a person holding a registration issued under the provisions of this article.

(s) "Registration" means a veterinary technician registration issued under the provisions of this article.

(t) "Supervising veterinarian" means a veterinarian, licensed under this article, who assumes responsibility for the professional care given to an animal by a person authorized by this article to work under his or her general or indirect supervision.

(u) "Veterinarian" means a person who is licensed to practice veterinary medicine under the provisions of this article.

(v) "Veterinary assistant" means a person who has not met the requirements for becoming a registered veterinary technician. The duties and tasks of a veterinary assistant are instructed from and directly supervised by a licensed veterinarian, who is accountable for the veterinary assistant's actions. The supervising veterinarian is responsible for determining the ability and competence of the veterinary assistant to perform the directed task or procedure.

(w) "Veterinarian-client-patient relationship" means a relationship between a veterinarian, a client and a patient, and exists when:

(1) A veterinarian assumes responsibility for medical judgments regarding the health of an animal and the client who is the owner or other caretaker of the animal agrees to follow the veterinarian's instructions; or

(2) A veterinarian, through personal examination of an animal or a representative sample of a herd or flock, obtains sufficient information to make at least a general or preliminary diagnosis of the medical condition of the animal, herd or flock, which diagnosis is expanded through medically appropriate visits to the premises where the animal, herd or flock is kept.

§30-10-3a.

Repealed.

Acts, 1967 Reg. Sess., Ch. 154.

§30-10-4. Board of Veterinary Medicine.

(a) The West Virginia Board of Veterinary Medicine is continued. The members of the board in office on July 1, 2010, shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and qualified.

(b) Prior to July 1, 2010, the Governor, by and with the advice and consent of the Senate, shall appoint:

(1) A registered veterinary technician for a term of five years; and

(2) A licensed veterinarian for a term of four years.

(c) Commencing July 1, 2010, the board shall consist of the following nine members, appointed by the Governor by and with the advice and consent of the Senate:

(1) Six members licensed to practice veterinary medicine in this state;

(2) One member registered to practice veterinary technology in this state; and

(3) Two citizen members, who are not licensed, registered, certified or permitted under the provisions of this article, and who do not perform any services related to the practice of the professions regulated under the provisions of this article.

(d) After the initial appointment term, the appointment term is five years. A member may not serve more than two consecutive terms. A member who has served two consecutive full terms may not be reappointed for at least one year after completion of his or her second full term. A member may continue to serve until his or her successor has been appointed and qualified.

(e) Each licensed or registered member of the board, at the time of his or her appointment, must have held a license or registration in this state for a period of not less than three years immediately preceding the appointment.

(f) Each member of the board must be a resident of this state during the appointment term.

(g) A vacancy on the board shall be filled by appointment by the Governor for the unexpired term of the member whose office is vacant.

(h) The Governor may remove any member from the board for neglect of duty, incompetency or official misconduct.

(i) A licensed or registered member of the board immediately and automatically forfeits membership to the board if his or her license or registration to practice is suspended or revoked.

(j) A member of the board immediately and automatically forfeits membership to the board if he or she is convicted of a felony under the laws of any jurisdiction or becomes a nonresident of this state.

(k) The board shall elect annually one of its members as chairperson and one member as secretary-treasurer who shall serve at the will and pleasure of the board.

(l) Each member of the board is entitled to receive compensation and expense reimbursement in accordance with article one of this chapter.

(m) A majority of the members of the board constitutes a quorum.

(n) A veterinary technician member may not be employed by a veterinarian on the board.

(o) The board shall hold at least one annual meeting. Other meetings shall be held at the call of the chairperson or upon the written request of three members, at the time and place as designated in the call or request.

(p) Prior to commencing his or her duties as a member of the board, each member shall take and subscribe to the oath required by section five, article four of the Constitution of this state.

§30-10-5. Powers and duties of the board.

The board has all the powers and duties set forth in this article, by rule, in article one of this chapter and elsewhere in law, including:

(1) Hold meetings, conduct hearings and administer examinations;

(2) Establish requirements for a license, permit, certificate and registration;

(3) Establish procedures for submitting, approving and rejecting applications for a license, permit, certificate and registration;

(4) Determine the qualifications of any applicant for a license, permit, certificate and registration;

(5) Establish the fees charged under the provisions of this article;

(6) Issue, renew, deny, suspend, revoke or reinstate a license, permit, certificate and registration;

(7) Prepare, conduct, administer and grade written, oral or written and oral examinations for a license, certificate and registration;

(8) Determine the passing grade for the examinations;

(9) Contract with third parties to administer the examinations required under the provisions of this article;

(10) Maintain records of the examinations the board or a third party administers, including the number of persons taking the examination and the pass and fail rate;

(11) Maintain an office, and hire, discharge, establish the job requirements and fix the compensation of employees and contract with persons necessary to enforce the provisions of this article;

(12) Investigate alleged violations of the provisions of this article, legislative rules, orders and final decisions of the board;

(13) Conduct disciplinary hearings of persons regulated by the board;

(14) Determine disciplinary action and issue orders;

(15) Institute appropriate legal action for the enforcement of the provisions of this article;

(16) Maintain an accurate registry of names and addresses of all persons regulated by the board;

(17) Keep accurate and complete records of its proceedings, and certify the same as may be necessary and appropriate;

(18) Establish, by legislative rule, the continuing education requirements for licensees, permitees, certificate holders and registrants;

(19) Propose rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article;

(20) Sue and be sued in its official name as an agency of this state;

(21) Confer with the Attorney General or his or her assistant in connection with legal matters and questions; and

(22) Take all other actions necessary and proper to effectuate the purposes of this article.

§30-10-6. Rule-making authority.

(a) The board shall propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the provisions of this article, including:

(1) Standards and requirements for a license, permit, certificate and registration;

(2) Educational and experience requirements;

(3) Procedures for examinations and reexaminations;

(4) Requirements for third parties to prepare, administer or prepare and administer examinations and reexaminations;

(5) The passing grade on the examination;

(6) Standards for approval of courses;

(7) Establish a certified animal euthanasia technician's program;

(8) Procedures for the issuance and renewal of a license, permit, certificate and registration;

(9) A fee schedule;

(10) Continuing education requirements;

(11) Set standards for ethical conduct;

(12) Establish procedures and requirements for facility inspections;

(13) Clarify the veterinarian-client-patient relationship;

(14) The procedures for denying, suspending, revoking, reinstating or limiting the practice of a licensee, permittee, certificate holder or registrant;

(15) Requirements for a revoked license, permit, certificate and registration; and

(16) Any other rules necessary to effectuate the provisions of this article.

(b) All of the board's rules in effect on July 1, 2010, shall remain in effect until they are amended, modified, repealed or replaced.

§30-10-7. Fees; special revenue account; administrative fines.

(a) All fees and other moneys, except fines, received by the board shall be deposited in a separate special revenue fund in the State Treasury designated the "Board of Veterinary Medicine Fund", which fund is continued. The fund is used by the board for the administration of this article. Except as may be

provided in article one of this chapter, the board shall retain the amounts in the special revenue account from year to year. Any compensation or expense incurred under this article is not a charge against the General Revenue Fund.

(b) The board shall deposit any amounts received as administrative fines imposed pursuant to this article into the General Revenue Fund of the State Treasury.

§30-10-8. Requirements for Veterinary License.

(a) To be eligible for a license to practice veterinary medicine under the provisions of this article, the applicant must:

(1) Be of good moral character;

(2) (A) Be a graduate of an accredited school approved by the board; or

(B) Be a graduate of a foreign veterinary school and hold a certificate of competence issued by a foreign veterinary graduate educational organization as approved by the board;

(3) Have passed the examinations required by the board;

(4) Be at least eighteen years of age;

(5) Be a citizen of the United States or be eligible for employment in the United States;

(6) Not have been convicted of a crime involving moral turpitude;

(7) Not have been convicted of a felony under the laws of any jurisdiction within five years preceding the date of application for licensure which conviction remains unreversed; and

(8) Not have been convicted of a misdemeanor or a felony under the laws of any jurisdiction at any time if the offense for which the applicant was convicted related to the practice of veterinary medicine or animal abuse or neglect.

(b) A person seeking a license under the provisions of this article shall submit an application on a form prescribed by the board and pay all applicable fees.

(c) An applicant from another jurisdiction shall comply with all the requirements of this article.

(d) A license to practice veterinary medicine issued by the board prior to July 1, 2010, shall for all purposes be considered a license issued under this article and may be renewed under this article.

(e) An application for a license to practice veterinary medicine submitted to the board prior to July 1, 2010, shall be considered in conformity with the licensing provisions of this article and the rules promulgated thereunder in effect at the time of the submission of the application.

§30-10-9. Scope of practice for a licensed veterinarian.

A person licensed to practice veterinary medicine may do the following:

(a) Prescribe or administer any drug, medicine, treatment, method or practice for an animal.

(b) Perform any operation or manipulation on or apply any apparatus or appliance to an animal.

(c) Give instruction or demonstration for the cure, amelioration, correction or reduction or modification of an animal condition, disease, deformity, defect, wound or injury.

(d) Diagnose or prognosticate an animal condition, disease, deformity, defect, wound or injury for hire, fee, reward or compensation that is directly or indirectly promised, offered, expected, received or accepted.

(e) Prescribe or administer any legally authorized drug, medicine, treatment, method or practice, perform any operation or manipulation, or apply any apparatus or appliance for the cure, amelioration, correction or modification of an animal condition, disease, deformity, defect, wound or injury for hire, fee, compensation or reward that is directly or indirectly promised, offered, expected, received or accepted.

§30-10-10. Requirements for a registered veterinary technician.

(a) To be eligible for a registration to practice veterinary technology under the provisions of this article, the applicant must:

(1) Be of good moral character;

(2) Have a degree in veterinary technology from an accredited school, approved by the board;

(3) Have passed the examinations required by the board;

(4) Be at least eighteen years of age;

(5) Be a citizen of the United States or be eligible for employment in the United States;

(6) Not have been convicted of a crime involving moral turpitude;

(7) Not have been convicted of a felony under the laws of any jurisdiction within five years preceding the date of application for registration which conviction remains unreversed; and

(8) Not have been convicted of a misdemeanor or a felony under the laws of any jurisdiction at any time if the offense for which the applicant was convicted related to the practice of veterinary technology or animal abuse or neglect.

(b) A person seeking registration under the provisions of this

article shall submit an application on a form prescribed by the board and pay all applicable fees.

(c) A person registered to practice veterinary technology issued by the board prior to July 1, 2010, shall for all purposes be considered registered under this article and may renew pursuant to the provisions of this article.

§30-10-11. Scope of practice for registered veterinary technician.

(a) A registered veterinary technician may do the following under general supervision:

(1) Administer anesthesia, including induction, intravenous sedation, and maintenance and recovery from anesthesia;

(2) Perform dental prophylaxis;

(3) Establish open airways;

(4) Administer resuscitative oxygen procedures;

(5) Administer resuscitative drugs, in the event of cardiac arrest;

(6) Administer immunizations that are not required by law to be administered by a licensed veterinarian;

(7) Prepare or supervise the preparation of patients for surgery;

(8) Assist the veterinarian in immunologic, diagnostic, medical, chemotherapeutic and surgical procedures; and

(9) Perform external suturing.

(b) A registered veterinary technician may do the following under either general or indirect supervision:

(1) Perform diagnostic imaging;

(2) Perform intravenous catheterization;

(3) Administer and apply medications and treatments by oral intramuscular, intravenous and subcutaneous routes;

(4) Apply bandages;

(5) Perform cardiac and respiratory monitoring;

(6) Perform appropriate procedures to control bleeding;

(7) Apply temporary splints or immobilizing bandages;

(8) Perform ear flushing;

(9) Collect specimens; and

(10) Perform laboratory procedures.

(c) A veterinary technician may, without supervision, use emergency treatment procedures when an animal has been placed in a life threatening condition and immediate treatment is necessary to sustain the animal's life. The registered veterinary technician shall immediately take steps to secure the general supervision of a veterinarian.

§30-10-12. Requirements to be a certified animal euthanasia technician.

(a) To be eligible to be a certified animal euthanasia technician a person must:

(1) Apply at least thirty days prior to the date the next written examinations are scheduled, using a form prescribed by the board;

(2) Have a high school diploma or GED;

(3) Pay application and examination fees;

(4) Complete the certified animal euthanasia technician's program established by the board;

(5) Pass the written and practical skills examinations;

(6) Pass the prescribed background check; and

(7) Complete all the other requirements established by the board.

(b) A certified animal euthanasia technician may practice animal euthanasia at a legally operated animal control facility.

(c) A person certified as an animal euthanasia technician by the board prior to July 1, 2010, shall for all purposes be considered certified under this article and may renew pursuant to the provisions of this article.

(d) A person certified by another state or jurisdiction with certification requirements equivalent to, or exceeding, the certification standards of this state may be issued a certification under this section upon the submission of a completed application and the appropriate fees, as established by the board in legislative rules.

§30-10-13. Requirements for certified animal euthanasia technicians program.

(a) The board shall create a certified animal euthanasia technician's program. The board shall design this program to teach applicants for certification record keeping and the legal, safety and practical information needed to become a certified animal euthanasia technician.

(b) (1) The board shall administer written examinations to an applicant for certification. The written examinations shall test the applicant's knowledge of the following:

(A) Animal restraint;

(B) Drug enforcement agency regulations;

(C) Record keeping requirements for controlled substances;

(D) Handling, inventory, security and proper storage of euthanasia drugs, solutions and syringes;

(E) The certification process;

(F) Legal requirements;

(G) Stress management;

(H) Approved animal euthanasia drug usage;

(I) Jurisprudence; and

(J) Other subject areas specified by the board in a legislative rule.

(2) The applicant shall pass the written examinations with a minimum correct score, as determined by the board, in order to be eligible to take the practical skills examination provided in subsection (c) of this section.

(c) In addition to the written examinations provided under subsection (b) of this section, the board shall administer a practical skills examination to an applicant who has successfully passed the written examinations. The board shall conduct the practical skills examination in a manner that tests an applicant's ability to properly restrain an animal, measure a correct dosage of euthanasia solution, locate an injection site and perform an injection. In order to pass the practical skills examination, an applicant shall exhibit to the board that he or she can locate an injection site and perform an injection and also perform euthanasia correctly and humanely.

(d) An applicant who successfully passes the written examinations and the practical skills examination required by this section shall sign a form authorizing the board to make inquiries through the United States Department of Justice, or any other legal jurisdiction or entity, for the purpose of determining the character and reputation of the applicant and other matters relating to the certification of the applicant.

§30-10-14. Scope of practice for an animal euthanasia technician.

(a) A certified animal euthanasia technician may euthanize animals assigned to the care of an animal control facility.

(b) A certified animal euthanasia technician shall practice euthanasia within the limitations imposed by this article and rules promulgated by the board under this article.

(c) A certified animal euthanasia technician may not practice or offer to practice his or her profession outside the direct authority of the animal control facility which employs him or her or otherwise contracts for his or her services.

(d) A certified animal euthanasia technician is not qualified and may not indicate that he or she is qualified to act in any capacity relative to animals beyond his or her specified and regulated authority to euthanize animals at the instruction of the animal control facility by which he or she is employed.

(e) Annually, before January 15, a certified animal euthanasia technician shall report to the board the number of animals euthanized at his or her facility during the previous calendar year.

§30-10-15. Renewal requirements.

(a) All persons regulated by the article shall annually or biennially before January 1, renew his or her license, registration or certification by completing a form prescribed by the board, paying all applicable fees and submitting any other information required by the board.

(b) At least thirty days prior to January 1, the board shall mail to every person regulated by the article an application for renewal.

(c) The board shall charge a fee for each renewal and a late fee for any renewal not properly completed and received with the appropriate fee by the due date.

(d) The board shall require as a condition of renewal that each licensee, registrant and certificate holder complete continuing education.

(e) The board may deny an application for renewal for any reason which would justify the denial of an original application.

(f) The board may authorize the waiving of the renewal fee of a licensed veterinarian or registered veterinarian technician during the period when he or she is on active duty with any branch of the armed services or the public health service of the United States or a declared emergency.

(g) After July 1, 2010, a previously certified animal euthanasia technician may renew his or her certification without having obtained a high school degree or GED.

§30-10-16. Temporary permits for a veterinarian.

(a) Upon completion of an application and payment of the applicable fees, the board may issue a temporary permit to a person to practice veterinary medicine in this state who has completed the educational requirements set out in this article, is waiting to take the state examination, and is working under a supervising veterinarian.

(b) The temporary permit is valid for a period not to exceed the next scheduled examination date first held following the issuance of the temporary permit and expires the day after the board gives written notice to the permittee of the results.

(c) A temporary permit may be revoked by a majority vote of the board without a hearing.

§30-10-17. Exemptions from article.

The following persons are exempt from licensing under the provisions of this article:

(a) An employee of the federal government performing his or her official duties, as defined by the employing agency;

(b) A student of a veterinary school working under the direct supervision of a licensed veterinarian;

(c) A person advising with respect to or performing acts which the board has prescribed by legislative rule as accepted livestock management practices;

(d) The owner of an animal, the owner's employees, or persons assisting the owner without any fee or compensation, caring for and treating the animal, except where the ownership of the animal was transferred for the purpose of circumventing the provisions of this article;

(e) A member of the faculty of a veterinary school performing his or her regular duties and functions, including lecturing, giving instructions or demonstrations, at a veterinary school or in connection with a board approved continuing education course or seminar;

(f) A person selling or applying a pesticide, insecticide or herbicide;

(g) A person engaging in bona fide scientific research which reasonably requires experimentation involving animals;

(h) A person engaging in bona fide scientific research in consultation with a licensed veterinarian in this state;

(i) A person treating or relieving a living animal in the case of an emergency for no fee or other compensation;

(j) A person who disposes of the carcass of a dead animal; and

(k) Veterinary assistants acting under the general supervision of a licensed veterinarian.

§30-10-18. Display of license, permit, registration and certificate.

(a) The board shall prescribe the form for a license, permit, registration and certificate and may issue a duplicate upon payment of a fee.

(b) Any person regulated by this article shall conspicuously display his or her license, permit, registration or certification at his or her principal business location.

§30-10-19. Complaints; investigations; due process procedure; grounds for disciplinary action.

(a) The board may upon its own motion and shall upon the written complaint of any person or based upon the quarterly report from the Board of Pharmacy as required by §60A-9-1 et seq. of this code cause an investigation to be made to determine whether grounds exist for disciplinary action under this article.

(b) Upon initiation or receipt of the complaint, the board shall provide a copy of the complaint to the licensee, permittee, registrant, or certificate holder.

(c) After reviewing any information obtained through an investigation, the board shall determine if probable cause exists that the licensee, permittee, registrant, or certificate holder has violated any provision of this article.

(d) Upon a finding that probable cause exists that the licensee, permittee, registrant, or certificate holder has violated this article, the board may enter into a consent decree or hold a hearing for the suspension or revocation of the license, permit, registration, or certificate or the imposition of sanctions against the licensee, permittee, registrant, or certificate holder. The hearing shall be held in accordance with the provisions of this article.

(e) Any member of the board or the executive director of the board may issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person regulated by this article.

(f) Any member of the board or its executive director may sign a consent decree or other legal document on behalf of the board.

(g) The board may, after notice and opportunity for hearing, deny, refuse to renew, suspend, or revoke the license, permit, registration, or certificate of, impose probationary conditions upon or take disciplinary action against, any licensee, permittee, registrant, or certificate holder for any of the following reasons:

(1) Obtaining a license, permit, registration, or certificate by fraud, misrepresentation, or concealment of material facts;

(2) Being convicted of a felony or other crime involving moral turpitude;

(3) Being guilty of unprofessional conduct;

(4) Intentional violation of this article or lawful order;

(5) Having had a license or other authorization to practice revoked or suspended, other disciplinary action taken, or an application for licensure or other authorization refused, revoked, or suspended by the proper authorities of another jurisdiction, irrespective of intervening appeals and stays; or

(6) Engaging in any act which has endangered or is likely to endanger the health, welfare, or safety of the public.

(h) For the purposes of §30-10-19(g) of this code, disciplinary action may include:

(1) Reprimand;

(2) Probation;

(3) Administrative fine, not to exceed $1,000 a day per violation;

(4) Mandatory attendance at continuing education seminars or other training;

(5) Practicing under supervision or other restriction;

(6) Requiring the licensee, permittee, registrant, or certificate holder to report to the board for periodic interviews for a specified period of time; or

(7) Other corrective action considered by the board to be necessary to protect the public, including advising other parties whose legitimate interests may be at risk.

§30-10-20. Procedures for hearing; right of appeal.

(a) Hearings shall be governed by the provisions of section eight, article one of this chapter.

(b) The board may conduct the hearing or elect to have an administrative law judge conduct the hearing.

(c) If the hearing is conducted by an administrative law judge, the administrative law judge shall prepare a proposed written order containing findings of fact and conclusions of law at the conclusion of a hearing. The proposed order may contain proposed disciplinary actions if the board so directs. The board may accept, reject or modify the decision of the administrative law judge.

(d) Any member or the executive director of the board has the authority to administer oaths, examine any person under oath and issue subpoenas and subpoenas duces tecum.

(e) If, after a hearing, the board determines the licensee, permittee, registrant or certificate holder has violated this article, a formal written decision shall be prepared which contains findings of fact, conclusions of law and a specific description of the disciplinary actions imposed.

§30-10-21. Judicial review; appeal to Supreme Court of Appeals.

Any licensee, permittee, registrant or certificate holder adversely affected by a decision of the board entered after a hearing may obtain judicial review of the decision in accordance with section four, article five, chapter twenty-nine-a of this code, and may appeal any ruling resulting from judicial review in accordance with article six, chapter twenty-nine-a of this code.

§30-10-22. Criminal proceedings; penalties.

(a) When, as a result of an investigation under this article or otherwise, the board has reason to believe that a person has knowingly violated this article, the board may bring its information to the attention of an appropriate law-enforcement official who may cause criminal proceedings to be brought.

(b) Any person violating a provision of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500 nor more than $1,000 or confined in jail not more than six months, or both fined and confined.

§30-10-23. Single act evidence of practice.

In any action brought or in any proceeding initiated under this article, evidence of the commission of a single act prohibited by this article is sufficient to justify a penalty, injunction, restraining order or conviction without evidence of a general course of conduct.

§30-10- 24. Telehealth practice.

(a) For purposes of this section, these terms have the following meaning:

(1) "Interstate telehealth services" means the provision of telehealth services to a patient located in West Virginia by a registered veterinary care professional located in any other state or commonwealth of the United States.

(2) "Personal examination" is a face to face, in person, examination of the patient.

(3) "Registration" means an authorization to practice veterinary medicine in the State of West Virginia pursuant to §30-10-1 *et seq.* of this code, which authorization is limited to providing interstate telehealth services within the registrant's scope of practice.

(4) "Registrant" means an individual who holds a valid registration with the board.

(5) "Telehealth services" means the use of synchronous or asynchronous telecommunications technology or audio only telephone calls by a veterinary care professional to provide veterinary care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; maintenance of medical data; patient and professional health-related education; public health services; and health administration. The term does not include internet questionnaires, email messages, or facsimile transmissions.

(6) Veterinary care professional means the official authorization by the board to engage in the practice of veterinary medicine.

(b) Telehealth Practice.

(1) The practice of veterinary medicine occurs where the patient is located at the time telehealth services are provided.

(2) To provide veterinary care in the State of West Virginia via interstate telehealth services, an individual not otherwise licensed by the board must first apply for and obtain registration with the board using the application materials provided by the board and paying a fee of $300.

(3) To obtain registration with the board, an individual must be a licensed veterinarian in good standing in all other states in which he or she is licensed and not currently under investigation or subject to an administrative complaint.

(4) A registration with the board is subject to annual renewal on or before December 31 including, but not limited to, the renewal fee of $250 and the submission of at least three patient records of West Virginia patients, if applicable.

(5) A veterinarian-client-patient relationship is required for providing veterinary care in the State of West Virginia via telehealth services. The veterinary care professional shall perform an in person exam within the 12 months prior, and at least every 12 months thereafter or the telehealth service shall no longer be available to the patient. Such relationship exists when:

(A) A veterinarian assumes responsibility for medical judgments regarding the health of an animal and the client who is the owner or owner's advocate of the animal consents to the veterinarian's treatment plan, and

(B) A veterinarian, through personal examination of an animal or a representative sample of a herd or flock, obtains sufficient information to make at least a general or preliminary diagnosis of the medical condition of the animal, herd or flock, which diagnosis is expanded through medically appropriate visits to the premises where the animal, herd or flock is kept.

(C) In the event of an imminent, life-threatening emergency veterinary care may be provided in this State via telehealth services without an existing veterinarian-client-patient relationship or without an in-person visit within 12 months.

(6) The standard of care for providing veterinary care in the State of West Virginia via telehealth services by a registrant or licensed veterinarian shall be the same as for in-person care. Such standard of care shall require that a veterinarian-client-patient relationship first exist before telehealth services are provided and that a patient visit a veterinarian licensed in another jurisdiction or licensed by the board, in-person and within 12 months of using the initial telemedicine service, or the telemedicine service shall no longer be available to the patient. Only in the event of an imminent, life-threatening emergency may veterinary care be provided in this state via telehealth services without an existing veterinarian-client-patient relationship or without an in-person visit within 12 months.

(7) A provider of telehealth services must ensure that the client is aware of the veterinarian's identity, location, and license number and licensure status and should provide to the client a clear mechanism to:

(A) Access, supplement, and amend client-provided contact information and health information about the patient;

(B) Register complaints with the board;

(C) Provide consent for the use of telemedicine and,

(D) Patient medical records must meet the requirements as specified in the Standard of Practice Rules.

(8) A registrant shall not prescribe any controlled substance listed in Schedule II of the Uniform Controlled Substance Act via interstate telehealth services.

(9) By registering to provide interstate telehealth services to patients in this state, a registrant is subject to:

(A) The laws, rules, and regulations regarding the practice of veterinary medicine in this state, including the state judicial system and all rules and standards of professional conduct contained within §30-10-1 *et seq.* of this code and the rules promulgated thereunder; and

(B) The standard of care for providing veterinary care in the State of West Virginia via telehealth services by a registrant or licensed veterinarian shall be the same as for in-person care. and
(C) The jurisdiction of the board, including, but not limited to, the board's complaint, investigation, and hearing processes.

(10) A registrant shall notify the board within 30 days of any restrictions placed upon, or actions taken against, his or her license to practice in any other state or jurisdiction.

(11) A registration with the board does not authorize a veterinary care professional to practice from a physical location within the State of West Virginia without first obtaining appropriate facility registration.

(12) A person currently licensed by the board is not subject to registration but shall practice telehealth in accordance with the provisions of §30-10-1 *et seq.* and the rules promulgated thereunder.

RULES AND REGULATIONS

SERIES 1

TITLE 26
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF VETERINARY MEDICINE

SERIES 1
ORGANIZATION AND OPERATION
AND LICENSING OF VETERINARIANS

§26-1-1. General.

1.1. Scope. -- This rule establishes guidelines for the organization and operation of the Board and the licensing of veterinarians by the West Virginia Board of Veterinary Medicine.

1.2. Authority. -- W. Va. Code 30-10-6.

1.3. Filing Date. -- April 1, 2020.

1.4. Effective Date. -- July 1, 2020.

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on July 1, 2030.

§26-1-2. Definitions.

2.1. "Board" means the West Virginia Board of Veterinary Medicine.

2.2. "Reportable contagious diseases" means all diseases currently listed by the United States Department of Agriculture and is located on the United States Department of Agriculture's website.

2.3. "Initial license" means obtaining a license in West Virginia for the practice of veterinary medicine for the first time.

2.4. "License" or "licensure" means the official authorization by the board to engage in the practice of veterinary medicine.

2.5. "Unreversed", as that term refers to a criminal conviction, means that a conviction has not been set aside, vacated, pardoned, or expunged.

§26-1-3. The Board Procedures.

3.1. The members of the board shall annually elect a Chairperson and a Secretary-Treasurer for a period of 1 year, both of whom shall hold their offices until their successors are elected. The Board shall hold elections each year.

3.2. A vacancy in the officers of the Board may be filled at any convened meeting of the Board.

3.3. The Board may employ an executive director, and any other administrative staff.

3.4. Before an action can be taken on any matter properly before the Board, at least a majority of the current members must be in attendance.

3.5. A member of the Board is entitled to receive compensation as specified in W. Va. Code §30-1-11.

§26-1-4. Applications and Examinations for Veterinarians.

4.1. Before a person may take the jurisprudence examination for a license to practice veterinary medicine, he or she shall submit an application along with the non-refundable required fees, or qualify for a waiver of fees, to the Board. The application shall contain the following information, which shall be retained in the applicant's file:

4.1.1. Applicant's name, address, and certified copy of the applicant's birth certificate or official record of birth;

4.1.2. Verification of US citizenship or written documentation of applicant's authority to reside and work in the United States;

4.1.3. Certified transcript showing applicant's educational qualifications, including the name, location of the school, and the date the degree was awarded;

4.1.4. Applicant shall indicate whether he or she has ever been denied a license or had a license restricted or disciplined in any other state or jurisdiction with the name of the state or jurisdiction;

4.1.5. Verification of applicant's status as a licensee from each state or jurisdiction where he or she now holds or ever held a license;

4.1.6. Certified written verifications of name changes;

4.1.7. A document provided in language other than English shall be accompanied by an English translation copy with the name and address of the translator listed;

4.1.8. A current photograph of the applicant. Applicant shall be alone in the photograph;

4.1.9. The applicant shall pay the required fees as contained in the Schedule of Fees, with the application.

4.2. The applicant shall state in the application that he or she will abide by the laws of this State regulating the practice of veterinary medicine and that he or she will abide by the rules of the Board.

4.3. The application shall be signed by the applicant.

4.4. An applicant furnishing false information in an application shall be denied the right to take the examination. If the applicant has been licensed before the Board becomes aware of the falseness of the information, the licensee is subject to disciplinary action.

4.5. An applicant who graduates from a foreign school or a school that is not accredited by the American Veterinary Medical Association (AVMA) must supply written verification from AVMA Education Commission for Foreign Veterinary Graduates (ECFVG) or the American Association of Veterinary State Boards Program for the Assessment of Veterinary Education Equivalence (PAVE) of receiving a certificate of competence and completion issued by ECFVG or PAVE.

4.6. Once the application is complete and all fees have been received, the Board will notify the applicant within 14 days of their eligibility to take the jurisprudence examination.

4.7. If an applicant is found not qualified to take the examination the Board shall notify the applicant in writing at the applicant's address as listed on the application, of the finding and the grounds upon which the finding is based. An applicant found not qualified may demand a hearing. The application fee of any applicant found not qualified to take the examination is non-refundable.

4.8. The applicant must complete the jurisprudence exam within 30 days of notice. The Board may waive this requirement upon written confirmation from a federal or state agency stating applicant has been called to immediate active duty.

4.9. An applicant must have a passing score on the National Board Examination (NBE) if the applicant graduated from veterinary school before 1993; the NBE and the Clinical Competency Test (CCT) if the applicant graduated 1993 through 2000 or the North American Veterinary Licensing Examination (NAVLE) if the applicant graduated after 2000. The authorized examination providers shall be the National Board of Veterinary Medical Examiners. The passing score for each of the required national veterinary exams as specified according to the graduation year of the candidate is 70 percent.

4.9.1. It is the applicant's responsibility to have the national score reporting service of the American Association of Veterinary State Boards (AAVSB) forward a copy of his or her scores directly to the Board at the applicant’s expense.

4.9.2. NAVLE applicants testing through WV, shall submit a completed WV NAVLE eligibility application and payment pursuant to the Schedule of Fees.

4.10. All evidence and information described in this section may be provided though AAVSB, where available through AAVSB.

4.11. Completed verification forms must be provided directly from selected institutions to the Board and not from the applicant, except where AAVSB is providing the information directly to the Board.

§26-1-5. Veterinarian Jurisprudence Examination Procedure.

5.1. Jurisprudence examinations shall be taken online.

5.2. Jurisprudence examinations shall cover the laws governing veterinary medicine in the State of West Virginia.

5.3. The Board shall notify the applicant of the jurisprudence examination results the day of the examination.

5.4. If an applicant fails the examination, the test may be retaken once within 30 days and no sooner than 7 days.

5.5. Examinations are the property of the Board and shall not be duplicated in any form.

§26-1-6. Veterinary Licenses.

6.1. The Board shall issue a license to a qualified candidate who passes the examinations and meets the requirements of the Board to practice the profession of veterinary medicine and upon payment of the licensure fee or qualify for a waiver of fees. If any veterinarian desires that a duplicate license be issued, the Board shall issue a duplicate license upon payment of the fee as set forth in the Schedule of Fees.

6.2. The license issued by the Board shall include the licensee's full name, a license number, the Board seal, the effective date and the expiration date and shall bear the signatures of the Chairperson and Secretary-Treasurer of the Board.

§26-1-7. Veterinary License Renewal

7.1. The Board shall notify each licensed veterinarian that his or her license will expire on December 31 but failure to receive the notification does not exempt a licensee from meeting the requirements of this rule. The Board shall issue a certificate of renewal to all licensees renewing their license under the provisions of this rule.

7.2. A veterinarian may renew his or her license starting October 1 through December 31 of each year, renew his or her license by completing the required license renewal, paying the annual renewal fee as specified in the Schedule of Fees and certify to the Board that he or she has completed all continuing education requirements.

7.3. A license that is not renewed will automatically be placed on expired status unless a specific request was made to place the license on inactive status.

7.3.1. To renew a license up to one year after the expiration date, the applicant must complete the required license renewal, pay the late renewal fee as specified in the Schedule of Fees, and submit evidence of completion of continuing education hours.

7.3.2. To reactivate an expired license exceeding 1 year, the applicant must meet the requirements of §26-1-4, pay the late renewal fee as specified in the Schedule of Fees, and submit evidence of completion of the required continuing education hours for each year the license has been expired, for a maximum of two years. The board may require additional documentation of clinical competency and professional activities.

7.4. A licensee may request that their license be placed on inactive status by completing the required license renewal, selecting the inactive option, and paying the inactive status fee as specified in the Schedule of Fees.

7.4.1. To reactivate an inactive license, the applicant must complete the required license renewal, pay the renewal fee, and certify to the Board that he or she has completed continuing education hours for each year the license has been expired, for a maximum of two years.

7.5. A licensee shall undertake at least 18 (50 minute) units of continuing education in the field of veterinary medicine during each calendar year. A minimum of 14 hours shall be related to the practice of veterinary medicine to include scientific, laboratory, regulatory, and medical record keeping. No more than 4 hours shall be related to practice management. Classroom or online courses are permitted. No

periods may be accumulated, carried forward, or held over past the calendar year in which the periods were completed.

7.5.1. Continuing Education approved providers/programs:

7.5.1.a. AVMA accredited colleges of veterinary medicine;

7.5.1.b. Board approved national veterinary associations;

7.5.1.c. AVMA approved official state veterinary associations;

7.5.1.d. State or federal government agencies;

7.5.1.e. Registry of Approved Continuing Education (RACE);

7.5.1.f. Reviewed and approved by the West Virginia Board of Veterinary Medicine once fee is received pursuant to the Schedule of Fees.

7.5.2. A Licensee is required to attest to compliance with continuing education requirements on his or her annual license renewal and is required to maintain original documents verifying the date and subject of the program or course, the number of continuing education hours or credits, and certification from an approved sponsor. Original documents must be maintained for a period of two years following renewal. The board shall conduct a random yearly audit to determine compliance. A Licensee selected for the audit shall provide all supporting documentation within 20 days of receiving notification of the audit.

7.5.2.a. If licensee is non-compliant to the continuing education audit, the board will initiate a complaint against the licensee and the licensee will be audited again the following year.

7.5.3. Continuing education hours required by disciplinary orders shall not be used to satisfy renewal requirements.

7.6. New graduates of the current year are exempt from the continuing education requirements until the beginning of the immediately succeeding reporting period after licensure.

7.7. The Board may grant continuing education hardship extensions by request of the licensee. The Board shall only consider hardship extensions from licensees who the Board determines were prevented from completing the required continuing education hours within the year due to verified medical emergencies or military obligations beyond the licensee's control. Requests for a hardship extension must be received in the Board's office by December 15.

7.8. If an extension is granted by the Board for completion of approved continuing education hours, the licensee shall file the renewal application with the renewal fee. The Board shall renew the license contingent upon the licensee completing the mandatory continuing education within a period determined by the Board from the current year's expiration date of December 31.

7.9. When a hardship license is issued, the renewal license shall be valid for the period required to complete the mandatory continuing education, and shall be extended to December 31 upon receipt of acceptable documentation of completing the continuing education. The continuing education hours completed during the extension period may not be applied toward satisfaction of continuing education

in the year completed and shall be separate from continuing education requirements for current year renewal requirements.

7.10. A licensee issued a hardship extension for completion of continuing education shall submit documentation of completion prior to the end of the Board approved extension period. Continued practice past the authorized extension period without a written renewal certificate from the Board constitutes the practice of veterinary medicine without a license.

7.11. By December 31 of each year, the licensee shall certify on the renewal application that he or she has successfully completed the continuing education requirement for that calendar year. It is the responsibility of the licensee to maintain evidence of meeting the continuing education requirements for license renewal for random audit by the Board.

7.12. Upon receipt of the completed renewal application and fee, the Board shall issue a renewal license.

7.13. Licenses issued by the Board shall be posted in a place conspicuous to the public at the establishment where veterinary services are being provided.

7.13.1. Licensees who do relief or temporary work in an establishment shall carry a license with them or post it at the establishment.

7.13.2. Ambulatory veterinary practices that do not have an office accessible to the public shall carry their licenses in their vehicles.

7.14. A licensee shall notify the Board in writing or online of any change of address, conviction of a misdemeanor or felony, and/or disciplinary action by another federal or state agency no later than the 30 days from the action.

§26-1-8. Veterinarian Disciplinary Action.

8.1. The Board may deny, revoke or suspend a license, impose a civil penalty, place a person's license on probation, reprimand a licensee, refuse to examine an applicant or issue a license or renewal of a license, as provided by law and as provided in these rules if it finds an applicant or licensee:

8.1.1. Has presented to the Board false or fraudulent evidence of qualification or has been found to be guilty of fraud or deception in the process of examination, or for the purpose of securing a license;

8.1.2. Is chronically or habitually intoxicated, has a chemical dependency or is addicted to drugs;

8.1.3. Has engaged in dishonest, unethical, or illegal practices in or connected with the practice of veterinary medicine, or has been convicted of a misdemeanor related to the practice of veterinary medicine or animal abuse or neglect;

8.1.4. Has been convicted of a felony under the laws of the State of West Virginia or any other state or jurisdiction of the United States or of the federal government of the United States;

8.1.5. Has engaged in practices or conduct in connection with the practice of veterinary medicine which violate the standards of professional conduct as established by the Board;

8.1.6. Has permitted or allowed another to use his or her authorization to practice veterinary medicine in this or any other state;

8.1.7. Has fraudulently issued a health certificate, vaccination certificate, test chart, or other blank form used in the practice of veterinary medicine that relates to the presence or absence of animal disease;

8.1.8. Has issued a false certificate relating to the sale for human consumption of inedible animal products;

8.1.9. Has committed fraud in the application or reporting of test of animal disease;

8.1.10. Has received any kickback for treating an animal or for referring a client to another provider of veterinary services or goods;

8.1.11. Has performed or prescribed unnecessary or unauthorized treatment;

8.1.12. Has refused to admit a representative of the Board to inspect the client and patient records and business premises of the veterinarian during regular business hours;

8.1.13. Has failed to keep his or her equipment and business premises in good operation and sanitary condition;

8.1.14. Has committed gross malpractice or is guilty of a pattern of acts indicating consistent malpractice, negligence, or incompetence in the practice of veterinary medicine;

8.1.15. Has received disciplinary action in another jurisdiction, including the suspension, probation, or revocation of a license to practice veterinary medicine issued by another jurisdiction;

8.1.16. Has refused to provide a valid prescription upon request from a client;

8.1.17. Has failed to release patient records when requested by the owner; a law-enforcement entity; or a federal, state, or local health regulatory agency; or

8.1.18. Fails to report a reportable contagious disease to the State Veterinarian with the West Virginia Department of Agriculture or any authorized reporting agent within twenty-four hours of diagnosis or discovery.

8.2. The Board may also suspend or revoke the license of a licensee who is found to be mentally incompetent by a court of competent jurisdiction. If the licensee is later determined to be mentally competent by a court, the Board may reinstate the license.

8.3. On conviction of or determination of conviction of a person licensed by the Board of any felony, the Board may, after an administrative hearing in which the facts of conviction are determined, suspend or revoke the person's license. The Board may not reinstate or reissue a license to a person whose license is suspended or revoked under this section except on an express determination of the Board based on substantial evidence contained in an investigative report, indicating that the reinstatement or

reissuance of the license is in the best interests of the public and of the person whose license has been suspended or revoked.

8.4. If a person violates this rule in a manner that constitutes grounds for disciplinary action by the Board, the Board may assess the costs of the investigation, hearing, hearing examiner, legal fees and all other reasonable and necessary costs incurred by or on behalf of the Board to the veterinarian who was the subject of the disciplinary action.

§26-1-9. Petition for Licensure Eligibility Determination.

9.1. An individual with a criminal record who has not previously applied for licensure may petition the Board at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license.

9.2. The petition shall be submitted on an application form prescribed by the Board and shall include sufficient details about the individual's criminal record to enable the Board to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction.

9.3. The applicant may submit with the petition evidence of rehabilitation, letters of reference, and any other information the applicant deems relevant to show fitness and the ability to practice veterinary medicine.

9.4. The Board shall provide the determination within 60 days of receiving the petition and the applicable fee from the applicant.

9.5. The fee for an applicant petitioning for a licensure eligibility determination is specified in the Schedule of Fees and upon acknowledgement of eligibility by the Board and upon the submission of an application for licensure, the eligibility fee shall be deducted from the applicable initial licensure application fee.

§26-1-10. Criminal History Record Check

10.1. Beginning July 1, 2018, and in addition to all of the requirements for licensure, an applicant for an initial license to practice as a veterinarian in West Virginia shall submit to a state and a national criminal history record check and authorize the release of information to the Board.

10.2. The purpose of the criminal history record check is to assist the Board in obtaining information that may relate to the applicant's fitness for licensure.

10.3. In addition to the State Police, the Board may contract with and designate a company specializing in the services required by this section instead of requiring the applicant to apply directly to the West Virginia State Police or similar out-of-state agency for the criminal history records checks; provided that any such company must utilize protocols consistent with standards established by the Federal Bureau of Investigation and the National Crime Prevention and Privacy Compact.

10.4. The applicant shall furnish to the State Police, or other organization designated by the Board, a full set of fingerprints and any additional information required to complete the criminal history record check.

10.5. The applicant is responsible for any fees required by the State Police, or other organization duly designated by the Board, for the actual costs of the fingerprinting and the actual costs of conducting a complete criminal history record check.

10.6. The Board may require the applicant to obtain a criminal history records check from a similar Board approved agency or organization in the state of the applicant's residence, if outside of West Virginia.

10.7. The applicant shall authorize the release of all records, not sealed, obtained by the criminal history record check to the Board. Criminal history record checks shall be verified by a source acceptable to the Board, other than the applicant.

10.8. A criminal history record check submitted in support of an application for licensure must have been requested by the applicant no earlier than twelve (12) months immediately prior to the Board's receipt of the application for licensure.

10.9. An initial licensure application is not complete until the Board receives the results of a state and a national criminal history record check conducted by the State Police or another entity duly authorized by the Board. The Board shall not grant an application for licensure submitted by any applicant who fails or refuses to submit the criminal history record check required by this section.

10.10. The Board may not disqualify an applicant from initial licensure because of a prior criminal conviction unless that conviction bears a rational nexus to the practice of veterinary medicine. The Board shall consider at a minimum:

10.10.1. The nature and seriousness of the crime;

10.10.2. The passage of time since the commission of the crime;

10.10.3. The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities attendant to the practice of veterinary medicine; and

10.10.4. Any evidence of rehabilitation or treatment undertaken by the applicant.

10.11. The results of the state and national criminal history record check may not be released to or by a private entity except:

10.11.1. To the individual who is the subject of the criminal history record check;

10.11.2. With the written authorization of the individual who is the subject of the criminal history record check; or

10.11.3. Pursuant to a court order.

10.12. Criminal history record checks and related records are not public records for the purposes of W.Va. Code §29B-1-1. *et seq.*

10.13. Notwithstanding any other provision to the contrary, if an applicant is disqualified from licensure because of a prior criminal conviction, the Board shall permit the applicant to apply for initial licensure if:

10.13.1. A period of five years has elapsed form the date of conviction or the date of release from incarceration, whichever is later;

10.13.2. The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

10.13.3. The conviction was not for an offense of a violent or sexual nature; Provided, that a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the Board.

SERIES 2

TITLE 26
PROCEDURAL RULES
WEST VIRGINIA BOARD OF
VETERINARY MEDICINE

SERIES 2
DISCIPLINARY AND COMPLAINT PROCEDURES OF THE WEST VIRGINIA BOARD OF VETERINARY MEDICINE

§26-2-1. General.

1.1. Scope. -- This establishes the procedures for the investigation and resolution of complaints against licensees.

1.2. Authority. -- W. Va. Code §30-10-1 et seq. and §30-1-1 et

seq. 1.3. Filing Date. -- July 27, 2026

1.4. Effective Date. -- September 1, 2026

§26-2-2. Application.

This rule applies to all licensees, registrants, and permittees under the regulatory authority of the board.

§26-2-3. Definitions.

The following words and phrases as used in this rule have the following meanings, unless the context otherwise requires:

3.1. "Board" means the West Virginia Board of Veterinary Medicine.

3.2. “License” means a veterinary license, temporary permit, registration of a veterinary technician or certification of an animal euthanasia technician, issued by the Board pursuant to W. Va. Code §30-10-1 et seq.3.3. “Licensee” means an individual who holds a license as specified in 3.2 of this section.

3.4. "Investigator" means a person hired by the Board for the purpose of reviewing and investigating complaints against licensees.

§26-2-4. Causes for Probation, Limitation, Discipline, Suspension or Revocation of License.

4.1. The Board may place a licensee on probation, limit, restrict, suspend or revoke any license issued by the Board, upon sufficient proof that a licensee has been convicted of a felony, or is, in his or her professional capacity, engaged in conduct, practices or acts constituting professional negligence, malpractice or a willful departure from accepted standards of professional conduct in violation of West Virginia Code §30-10-1 et seq. or the rules of the Board.

26-2-5. Disposition of Complaints.

5.1. Any person, firm, corporation, member of the Board, or public officer may make a complaint to the Board which charges a licensee with a violation of West Virginia Code §30-10-1 et seq. or of the rules of the Board. The Board may provide a form for that purpose, but a complaint may be filed in any written form, In addition to describing the alleged violation that prompted the complaint, the complaint shall

contain the following:

5.1.1. The name and address of the licensee against whom the complaint is lodged;

5.1.2. The dates of care;

5.1.3. The identity of any person who may have treated the animal after the alleged incident;

5.2. A complaint against a licensee shall allege that such person has been convicted of a felony or is, in his or her professional capacity, engaging in conduct, practices or acts constituting professional negligence, malpractice or a willful departure from accepted standards of professional conduct in violation of West Virginia Code §30-10-1 et. seq. or the rules of the Board.

5.3. Complainants are immune from liability for the allegations contained in their complaints filed with the Board unless the complaint is filed in bad faith or for a malicious purpose.

5.4. The Board shall maintain a complaint log which records the receipt of each complaint, its nature and its disposition.

5.5. The Board shall maintain a separate file on each complaint received, and each file shall have a number assigned to it.

5.6. Upon receipt of a complaint, the Board shall issue one of the following acknowledgments to the complainant.

5.6.1. That the matter will be reviewed by the Board.

5.6.2. That the complaint is outside the jurisdiction of the Board, with suggestions as to how the complainant might best obtain a resolution of his or her problem; or,

5.6.3. That more information will be required in order to adequately review the individual complaint.

5.7. The Board shall send a copy of the complaint, including any supporting documentation, by certified mail or another means providing proof of delivery. to the licensee in question for his or her written response, and he or she shall submit a written response to the Board within 30 days of the date of the Board's correspondence or shall in writing waive the right to do so.

5.8. Requests for comment on complaints sent to licensees shall be considered properly served when sent to their last known address. It is the responsibility of the licensee to keep the Board informed of his or her last known address.

5.9. After receipt and review of a complaint, unless the complaint is determined to fall within the provisions of sub-division 5.6.2 of this rule, the Board shall cause to be conducted any reasonable inquiry or investigation it considers necessary to determine the truth and validity of the allegations set forth in the complaint. The review of complaints or investigations thereof may, at the discretion of the Board, be assigned to a committee of the Board.

5.10. At any point in its investigation of a complaint, the complaint committee of the Board may, at its discretion, assign the matter to an investigator for review and investigation.

5.11. Upon receipt of a complaint from the Board, the investigator shall, within 60 days, unless the Board specifies another time period, review and investigate the same and provide the Board with a written report. The report shall contain a statement of the allegations, a statement of facts, and an analysis of the complaint, including a description of the care provided, the records reviewed, persons interviewed and a statement of the investigator's findings. The investigator shall, upon request, be afforded an opportunity to have an investigation interview with the licensee in question, or other involved parties, a report of which shall be placed in the investigation file at the office of the Board.

5.12. To facilitate the disposition of a complaint, the Board or the committee of the Board may request any person to attend an informal conference, or to appear at a regular meeting of the Board, at any time prior to the Board entering any order with respect to the complaint. The Board shall give notice of the conference, which notice shall include a statement of issues to be informally discussed. Statements made at a conference may not be introduced at any subsequent hearing on the merits without the consent of all parties to the hearing. No prejudice shall attach for failure to attend a conference pursuant to a request.

5.13. The Board complaint committee or chairperson, or the executive director may issue subpoenas and subpoenas duces tecum to complete the Board's investigation and to determine the truth or validity of complaints. The investigator may request the Board or its investigation committee to issue a subpoena or subpoena duces tecum. A brief written statement specifying the necessity for the same shall accompany any such request.

5.14. At any point in the course of the investigation or inquiry into a complaint, the Board may determine that there is not and will not be sufficient evidence to warrant further proceedings, or that the complaint fails to allege misconduct for which a licensee may be sanctioned by the Board: Provided, that in the event the review and investigation of a complaint is assigned to the committee or investigator, the committee or investigator shall make their respective findings and recommendations to the Board prior to the Board dismissing the complaint.

§26-2-6. Contested Case Hearings.

6.1. The Board may suspend a license or refuse to renew a license if it determines there is probable cause to believe that the licensee’s conduct, practices or acts constitute an immediate danger to the public.

SERIES 2A

TITLE 26
PROCEDURAL RULE
BOARD OF VETERINARY MEDICINE

SERIES 2A
CONTESTED CASE HEARING PROCEDURE

§26-2A-1. General.

1.1. Scope. -- This rule specifies the procedure for the adjudication of contested case hearings before the Board.

1.2. Authority. -- W. Va. Code §30-10-1 et seq. and §30-1-1 et seq.

1.3. Filing Date. November 24, 2010.

1.4. Effective Date. -- January 1, 2011.

§26-2A-2. Definitions.

The following words and phrases as used in this rule shall have the following meanings, unless the context otherwise requires:

2.1. "Board" means the West Virginia Board of Veterinary Medicine.

2.2. "Demanding party" means an individual who has been denied a license, permit, registration or certificate to practice a regulated profession as specified in §30-10-1 et seq. of W. Va. Code by the Board and who, as a result, demands that a hearing be held before the Board on the issue of such denial, which is not related to the requirements for such license, permit, registration or certificate as specified by W. Va. Code or the Rules of the Board.

2.3. The term “Charged party” means an individual who holds a license, permit, registration or certificate to practice a profession under the authority of the Board as specified in §30-10-1 et seq. of W. Va. Code and who has been charged by the Board as described in Section 3.4 of these rules.

2.4. “License” means a license to practice veterinary medicine issued by the Board pursuant to W. Va. Code §30-10-1 et seq.

2.5. The term "Licensee" means an individual who holds a license to practice veterinary medicine issued by the Board.

2.6. “Permit” means a temporary permit to practice veterinary medicine issued by the Board pursuant to W. Va. Code §30-10-1 et seq.

2.7. “Permittee” means a person holding a temporary permit to practice veterinary medicine.

2.8. “Registration” means a veterinary technician registration issued under the provisions of W. Va. Code §30-10-1 et seq.

2.9. “Registrant” means a person holding a registration as a veterinary technician.

2.10. “Certificate” means an animal euthanasia certificate issued under the provisions of W. Va. Code §30-10-1 et seq.

2.11. “Certificate holder” means a person holding a certificate to euthanize animals.

2.12. “Practice of veterinary medicine” means the practice of veterinary medicine as defined in W. Va. Code §30-10-1.

2.13. “Hearing committee” means those members of the Board assigned to hear a contested case. The hearing committee shall consist of a quorum of the members of the Board.

§26-2A-3. Hearing Procedure.

3.1. Any applicant for reasons other than non-compliance with the application completion requirements set by W. Va. Code and the Rules of the Board who is denied a license, permit, registration or certificate or any licensee, permittee, registrant or certificate holder who has had their license, permit, registration or certificate suspended by the Board who believes such denial or suspension was in violation of W. Va. Code §§30-1-1 et seq. and/or 30-10-1 et seq. shall be entitled to a hearing on the action denying or suspending such license, permit, registration or certificate.

3.2. Any person who desires a hearing for the reason described in subsection 3.1 of this section must present a written demand for such to the Board.

3.3. When the chair of the Board or his or her authorized designee is presented with such a demand for a hearing, he or she shall schedule a hearing within 45 days of receipt by him or her of such written demand, unless postponed to a later date by mutual agreement.

3.4. Charges may be instituted against any licensee, permittee, registrant or certificate holder by the Board when probable cause exists for believing that the licensee, permittee, registrant or certificate holder may have engaged in conduct, practices or acts in such condition that his or her license, permit, registration or certificate should be suspended, revoked or otherwise disciplined for one or more of the grounds set forth in W. Va. Code §30-10-19 et seq. or the Board's legislative rules. Charges may be based upon information received by way of a verified written complaint filed with the Board and further information gathered by the Board in the process of investigating such complaint. Charges may also be based upon information received solely through investigative activities undertaken by the Board.

3.5. Charges instituted against a licensee, permittee, registrant or certificate holder as described in subsection 3.4 of this section shall be set forth in a Complaint and Notice of Hearing issued in the name of the Board as the agency of the state regulating the profession. Such Complaint and Notice of Hearing shall designate the Board as the “Complainant", and shall designate the licensee, permittee, registrant or certificate holder involved in the proceeding as the “Respondent"; shall set out the substance of each offense charged with sufficient particularity to reasonably apprise the Respondent of the nature, time and place of the conduct or condition complained of therein; and shall state the date, time and place for the hearing.

3.6. Upon receipt of a demand for a hearing described in subsections 3.1 and 3.2 of this section, the chair or his or her designee shall provide the demanding party with a Complaint and Notice of Hearing issued in the name of the Board. Such Complaint and Notice of Hearing shall designate the demanding party as the "Complainant" and shall designate the Board as the “Respondent"; shall set out the substance of each and every reason that the Board has denied the demanding party a license, permit, registration or certificate with sufficient particularity to reasonably apprise the demanding party of the nature, time and place of the conduct or condition at issue therein or the deficiencies for completion of the application which caused the denial; and shall state the date, time and place for the hearing, if the reason for the hearing is unrelated to application requirements as specified by law.

3.7. The Board may amend the charges set forth in a Complaint and Notice of Hearing as it deems proper.

3.8. A Complaint and Notice of Hearing shall be served upon the demanding or charged party at least 30 days prior to the date of hearing.

3.9. Upon written motion received by the Board no later than 20 days prior to the date of hearing, a more definite statement of the matters charged or the reasons stated for denial of the license, permit, registration or certificate shall be provided to the demanding or charged party or his or her counsel, at least 15 days prior to the hearing date.

3.10. Hearings shall be conducted as follows:

3.10.1. Any party to a hearing shall have the right to be represented by an attorney-at-law, duly qualified to practice law in the state of West Virginia.

3.10.2. The Board shall be represented by the West Virginia Attorney General's Office.

3.10.3. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded from the hearing. Furthermore, the rules of evidence as applied in civil cases in the circuit courts of this state shall be followed. However, when necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible there under may be admitted, except where precluded by statute, if it is of a type, as determined by presiding member of the hearing committee that is commonly relied upon by reasonably prudent persons in the conduct of their affairs.

3.10.4. The rules of privilege recognized by the law of this state shall be followed.

3.10.5. Objections to evidentiary offers shall be noted in the record. Any party to the hearing may vouch the record as to any excluded testimony or other evidence.

3.10.6. Any party to a hearing may appear with witnesses to testify on his or her behalf; may be heard in person, by counsel or both; may present such other evidence in support of his or her position as deemed appropriate by the Board and, when appropriate, may cross-examine witnesses called by the Board in support of the charges or in defense of its decision to deny licensure.

3.10.7. The hearing shall be held at such time and place as is designated by the Board, but no hearing shall be conducted unless and until at least 30 days written notice thereof has been served upon the charged or demanding party and/or his or her attorney in person; or if he or she cannot be found, by delivering such notice at his or her usual place of abode, and giving written information of its purport, to his wife or her husband, or to any other person found there who is identified or identifies them self as a member of his or her family and above the age of 16 years; or if neither his wife or her husband nor any such person can be found there, and he or she cannot be found, by leaving such notice posted at the front door of such place of abode; or if he or she does not reside in this state, such notice may be served by the publication thereof once a week for three successive weeks in a newspaper published in this state; or such notice may by served by registered or certified mail.

3.10.8. The hearing shall be open to the general public.

3.10.9. Members of the Board and its officers, agents and employees shall be competent to testify at the hearing as to material and relevant matters: Provided, that no member of the Board who testifies at such hearing shall thereafter participate in the deliberations or decisions of the Board with respect to the case in which he testified.

3.10.10. A record of the hearing, including the complaint(s), if applicable, the notice of hearing, all pleadings, motions, rulings, stipulations, exhibits, documentary evidence, evidentiary depositions and the stenographic report of the hearing, shall be made and a transcript thereof maintained in the Board's files. Upon request, a copy of the transcript shall be furnished to any party at his or her expense.

3.10.11. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.

3.10.12. Where a hearing is held upon the instance of the Board after charges have been brought against a licensee, permittee, registrant or certificate holder pursuant to subsection 3.4 and 3.5 of this section, the Board shall have the burden of proof and shall present its evidence and/or testimony in support of the charges first.

3.10.13. Where a hearing is held upon demand under the provisions of subsections 3.1, 3.2, 3.3, and 3.6 of this action, the demanding party shall have the burden of proof and shall therefore be required to present his or her evidence first. The Board may require the person demanding the hearing to give security for the costs thereof.

3.10.14. Following the conclusion of the Board's presentation of evidence in accordance with subsection 3.10.13 of this section the Respondent or charged party shall have the right to submit his or her evidence in defense.

3.10.15. Following the conclusion of the demanding party's presentation of evidence in accordance with subsection 3.10.14 of this section, the Board shall have the right to offer its evidence in rebuttal.

3.10.16. The Board may call witnesses to testify in support of its decision to deny a license, permit, registration or certificate or in support of the charges instituted against a licensee, permittee, registrant or certificate holder; may present such other evidence to support its position; and, may cross-examine witnesses called by the demanding party or charged party in support of his or her position.

3.10.17. All parties shall have the right to offer opening and closing arguments, not to exceed 10 minutes for each presentation.

3.10.18. Hearings held by the Board as a result of charges instituted against a licensee, permittee, registrant or certificate holder may be continued or adjourned to a later date or different place by the Board or its designee by appropriate notice to all parties.

3.10.19. Motions for a continuance of a hearing may be granted upon a showing of good cause. Motions for continuance must be in writing and received in the office of the Board no later than 7 days before the hearing date. In determining whether good cause exists, consideration will be given by the Board to the ability of the party requesting the continuance to proceed effectively without a continuance. A motion for a continuance filed less than 7 days from the hearing date shall be denied unless the Board finds that the reason for the motion could not have been ascertained earlier. Motions for continuance filed prior to the date of the hearing shall be ruled on by the chair or executive director of the Board. All other motions after motions for continuance shall be ruled on by the Board member(s) who serve on the hearing committee or the member presiding over the hearing.

3.10.20. All motions related to a case set for hearing before the Board, except motions for continuance as set forth in 3.10.20 of this rule and those made during the hearing, shall be in writing and shall be received in the office of the Board at least 10 days before the hearing. Prehearing motions shall be heard at a prehearing conference or at the hearing prior to the commencement of testimony. The Board

member(s) presiding at the hearing shall hear the motions and the response from the non-moving party and shall rule on such motions accordingly.

§26-2A-4. Transcription of Testimony and Evidence in a Hearing.

4.1. All testimony, evidence, arguments and rulings on the admissibility of testimony and evidence shall be reported by stenographic notes and characters or by mechanical means.

4.2. All reported materials shall be transcribed. The Board shall have the responsibility to make arrangements for the transcription of the reported testimony and evidence.

4.3. Upon the motion of the Board or any party assigning error or omission in any part of any transcript, the Board chair or presiding member, if the Board chair is not serving on the hearing committee shall settle all differences arising as to whether such transcript truly discloses what occurred at the hearing and shall direct that the transcript be corrected and/or revised as appropriate so as to make it conform to the truth.

4.4. A transcript of the hearing shall be provided to all members of the Board for review at least 10 days before the vote is taken by the hearing committee on its decision in any licensure disciplinary matter.

§26-2A-5. Submission of Proposed Findings of Fact and Conclusions of Law.

5.1. Any party to a hearing may submit proposed findings of fact and conclusions of law at a time and manner designated by the Board.

§26-2A-6. Conferences; lnformal Disposition of Cases.

6.1. At any time prior to the hearing or thereafter, the Board or its designee may hold conferences for the following purposes:

6.1.1. To dispose of procedural requests, prehearing motions or similar matters;

6.1.2. To simplify or settle issues by consent of the parties; or,

6.1.3. To provide for the informal disposition of cases by stipulation or agreement.

6.2. The Board may cause such conferences to be held on its own motion or by the request of a party, with the approval of the hearing committee.

6.3. The Board may also initiate or consider stipulation or agreement proposals with regard to the informal disposition of cases and may enter into such stipulations and/or agreements without conference.

6.4. A written record or transcript of the agreed to stipulations or consent agreement shall be made by a transcriptionist or the executive director of the Board.

6.5. Any such conference or meeting for discussion of a settlement to avoid proceeding to a hearing shall, for the record, be noted in the record as such, to assure compliance with the requirements of this section.

§26-2A-7. Depositions.

7.1. Evidentiary depositions may be taken and read or otherwise included into evidence as in civil actions in the circuit courts of this state.

§26-2A-8. Subpoenas.

8.1. Subpoenas to compel the attendance of witnesses and subpoenas duces tecum to compel the production of documents may be issued by any member of the Board or its Executive Director. Such subpoenas and subpoenas duces tecum shall be issued pursuant to W. Va. Code §29A-5-1 (b).

8.2. Written requests by a party other than the Board for the issuance of subpoenas or subpoenas duces tecum as provided in subsection 8.1 of this section must be received by the Board no later than 10 days before a scheduled hearing. Any such party requesting the issuance of subpoenas or subpoenas duces tecum shall see that they are properly served in accordance with W. Va. Code §29A-5-1(b).

8.3. A person serving a subpoena or subpoena duces tecum at the request of the Board shall be authorized by law to render this service and his or her compensation for the service shall be in accordance with W. Va. Code §29A-5-1.(b).

§26-2A-9. Orders.

9.1. Any final order entered by the Board following a hearing conducted pursuant to these rules shall be made pursuant to the provisions of W. Va. Code §29A-5-3 and 30-1-8(d). Such orders shall be entered within 45 days following the submission of all documents and materials necessary for the proper disposition of the case, including transcripts, and shall contain findings of fact and conclusions of law.

9.2. The findings of fact and conclusions of law must be approved by a majority of the Board either by a written poll or vote at a regular meeting, before a final order is entered. A copy of the final order approved by a majority of the Board shall be served upon the demanding or charged party and/or his or her attorney of record, if any, within 10 days after entry by the Board by personal service or by registered or certified mail.

§26-2A-10. Appeal.

10.1. An appeal from any final order entered in accordance with these rules shall comply with the provisions of W. Va. Code §30-1-9 and W. Va. Code §29A-5-4 et seq.

SERIES 3

TITLE 26
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF VETERINARY MEDICINE

SERIES 3
REGISTRATION OF VETERINARY TECHNICIANS

§26-3-1. General.

1.1. Scope. -- This rule establishes the procedures by which Veterinary Technicians may be registered and regulated by the West Virginia Board of Veterinary Medicine.

1.2. Authority. -- W. Va. Code §30-10-6

1.3. Filing Date. -- April 1, 2020

1.4. Effective Date. -- July 1, 2020

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on July 1, 2030.

§26-3-2. Definitions.

2.1. “Board” means the West Virginia Board of Veterinary Medicine.

2.2. “Initial registration” means obtaining a registration in West Virginia for the practice of veterinary technology for the first time.

2.3. “Registration” or “registrant” means the official authorization by the board to engage in the practice of veterinary technology.

2.4. “Unreversed”, as that term refers to a criminal conviction, means that a conviction has not been set aside, vacated, pardoned, or expunged.

§26-3-3. Registration of Veterinary Technicians.

3.1. The West Virginia Board of Veterinary Medicine shall examine and register persons who have graduated with a degree in veterinary technology from a school approved by the Board.

3.2. No person may use the term, be addressed as or referred to with respect to veterinary medicine as a "veterinary technician" or a "technician" unless he or she has complied with the requirements for registration by the Board, and is currently authorized by the Board to use the title of "Registered Veterinary Technician, or "R.V.T."

§26-3-4. Applications and Examinations for Veterinary Technicians.

4.1. Before a person may take the jurisprudence examination for a registration to practice veterinary technology, he or she shall submit an application, along with the non-refundable required

fees, or qualify for a waiver of fees, to the Board. The application shall contain the following information, which shall be retained in the applicant's file:

4.1.1. Applicant's name, address, and certified copy of the applicant's birth certificate or official record of birth;

4.1.2. Verification of US citizenship or written documentation of applicants' authority to reside and work in the United States;

4.1.3. Certified transcript showing applicant's educational qualifications, including the name, location of the school, and the date the degree was awarded;

4.1.4. Applicant shall indicate whether he or she has ever been denied a registration or had a registration restricted or disciplined in any other state or jurisdiction with the name of the state or jurisdiction;

4.1.5. Verification of applicant's status as a registrant from each state or jurisdiction where he or she now holds or ever held a registration;

4.1.6. Certified written verifications of name changes;

4.1.7. A document provided in language other than English shall be accompanied by an English translation copy with the name and address of the translator listed;

4.1.8. A current photograph of the applicant. Applicant shall be alone in the photograph;

4.1.9. The applicant shall state in the application that he or she will abide by the laws of this State regulating the practice of veterinary technology and that he or she will abide by the rules of the Board;

4.1.10. The application shall be signed by the applicant.

4.2. An applicant furnishing false information in an application shall be denied the right to take the examination. If the applicant has been registered before the Board becomes aware of the falseness of the information, the registration is subject to disciplinary action.

4.3. Once the application is complete and all fees have been received, the Board will notify the applicant within 14 days of their eligibility to take the jurisprudence examination.

4.4. If an applicant is found not qualified to take the examination, the Board shall notify the applicant in writing at the applicant's address as listed on the application of the finding and the grounds upon which the finding is based. An applicant found not qualified may demand a hearing. The application fee of any applicant found not qualified to take the examination is non-refundable.

4.5. The applicant must complete the jurisprudence exam within 30 days of notice. The Board may waive this requirement upon written confirmation from a federal or state agency stating applicant has been called to immediate active duty.

4.6. An applicant must have a passing score on the Veterinary Technician National Examinations (VTNE). The authorized examination provider shall be the American Association of Veterinary State Boards (AAVSB).

4.7. It is the applicant's responsibility to have the national score reporting service of AAVSB forward a copy of his or her score directly to the Board at the applicant's expense.

4.8. Where available, all evidence and information required for application as described in this section may be provided though AAVSB.

4.9. Except where AAVSB is providing the information directly to the Board, completed verification forms must be provided directly from selected institutions to the Board and not from the applicant.

§26-3-5. Veterinary Technician Jurisprudence Examination Procedure.

5.1. Jurisprudence examinations shall be taken online.

5.2. Jurisprudence examinations shall cover the laws governing veterinary technology in the State of West Virginia.

5.3. The Board shall notify the applicant of the jurisprudence examination results the day of the examination.

5.4. If an applicant fails the examination, the test may be retaken once within 30 days and no sooner than 7 days.

5.5. Examinations are the property of the Board and shall not be duplicated in any form.

§26-3-6. Veterinary Technician Registrations.

6.1. The Board shall issue a certificate of registration to any person who has successfully completed the requirements of this rule. The registration shall be displayed in the principal office of the veterinary facility where the veterinary technician is employed. Any person registered has the right to use the title "Registered Veterinary Technician" and the abbreviation "R.V.T."

6.2. Upon payment of the registration fee or qualifying for a waiver of fees, the Board shall issue a registration to a qualified candidate who passes the examinations and meets the requirements of the Board to practice the profession of veterinary technology. If any veterinary technician desires that a duplicate registration certificate be issued, the Board shall issue such certificate upon payment of the duplicate registration certificate fee as set forth in the Schedule of Fees.

6.3. The registration certificate issued by the Board shall include the registrant's full name, a registration number, the Board seal, the effective date and the expiration date, and shall bear the signatures of the Chairperson and Secretary-Treasurer of the Board.

§26-3-7. Veterinary Technician Registration Renewal.

7.1. The Board shall notify each registered veterinary technician that his or her registration will expire on December 31. However, failure to receive the notification does not exempt a registrant from meeting the requirements of this rule. The Board shall issue a certificate of renewal to all registrants renewing their registrations under the provisions of this rule.

7.2. A veterinary technician may renew his or her registration from October 1 through December 31 of each year. Registration renewal requires completion of the required registration renewal form, payment of the annual renewal fee as specified in the Schedule of Fees, and certification to the Board that he or she has completed all continuing education requirements.

7.3. A registration that is not renewed will automatically be placed on expired status unless a specific request was made to place the registration on inactive status.

7.3.1. To renew a registration up to one year after the expiration date, the applicant must complete the required registration renewal form, pay the late renewal fee as specified in the Schedule of Fees, and submit evidence of completion of continuing education hours.

7.3.2. To reactivate an expired registration exceeding 1 year, the applicant must meet the requirements of §26-3-3, pay the late renewal fee as specified in the Schedule of Fees, and submit evidence of completion of the required continuing education hours, for a maximum of 16 hours. The board may require additional documentation of clinical competency and professional activities.

7.4. A registrant may request that their registration be placed on inactive status by completing the required registration renewal form, selecting the inactive option, and paying the inactive status fee as specified in the Schedule of Fees.

7.4.1. To reactivate an inactive registration, the applicant must complete the required registration renewal form, pay the renewal fee, and certify to the Board that he or she has completed continuing education hours for each year the registration has been expired, for a maximum of 16 hours.

7.5. A registrant shall undertake at least 8 (50 minute) units of approved continuing education in the field of veterinary technology during each calendar year. A minimum of 4 hours shall be related to the practice of veterinary technology to include scientific, laboratory, regulatory, and medical record keeping. No more than 4 hours shall be related to practice management. Classroom or online courses are permitted. No units may be accumulated, carried forward, or held over past the calendar year in which the hours of continuing education were completed.

7.5.1. Continuing Education approved providers/programs:

7.5.1.a. AVMA accredited colleges of veterinary technology;

7.5.1.b. Board approved national veterinary associations;

7.5.1.c. AVMA approved official state veterinary associations;

7.5.1.d. State or federal government agencies;

7.5.1.e. Registry of Approved Continuing Education (RACE);

7.5.1.f. Reviewed and approved by the West Virginia Board of Veterinary Medicine once fee is received pursuant to the Schedule of Fees.

7.5.2. A registrant is required to attest to compliance with continuing education requirements on his or her annual registration renewal and is required to maintain original documents verifying the date and subject of the program or course, the number of continuing education hours or credits, and certification from an approved sponsor. Original documents must be maintained for a period of two years following renewal. The Board shall conduct a random yearly audit to determine compliance. A registrant selected for the audit shall provide all supporting documentation within 20 days of receiving notification of the audit.

7.5.2.a. If registrant is non-compliant to the continuing education audit, the Board will initiate a complaint against the registrant and the registrant will be audited again the following year.

7.5.3. Continuing education hours required by disciplinary orders shall not be used to satisfy renewal requirements.

7.6. New graduates of the current year are exempt from the continuing education requirements until the beginning of the immediately succeeding reporting period after registration.

7.7. The Board may grant continuing education hardship extensions by request of the registrant. The Board shall only consider hardship extensions from registrants who the Board determines were prevented from completing the required continuing education hours within the year due to verified medical emergencies or military obligations beyond the registrant's control. Requests for a hardship extension must be received in the Board's office by December 15.

7.8. If an extension is granted by the Board for completion of approved continuing education hours, the registrant shall file the renewal application with the renewal fee. The Board shall renew the registration contingent upon the registrant completing the mandatory continuing education within a period determined by the Board from the current year's expiration date of December 31.

7.9. When a hardship registration is issued, the renewal registration shall be valid for the period required to complete the mandatory continuing education and shall be extended to December 31 upon receipt of acceptable documentation of completion of the required continuing education. The continuing education hours completed during the extension period may not be applied toward satisfaction of continuing education in the year completed and shall be separate from continuing education requirements for current year renewals.

7.10. A registered veterinary technician issued a hardship extension for completion of continuing education shall submit documentation of completion prior to the end of the Board approved extension period. Continued practice past the authorized extension period without a written renewal certificate from the Board constitutes the practice of veterinary technology without a registration.

7.11. By December 31 of each year, the registrant shall certify on the renewal application that he or she has successfully completed the continuing education requirement for that calendar year. It is the responsibility of the registrant to maintain evidence of meeting the continuing education requirements for registration renewal for random audit by the Board.

7.12. Upon receipt of the completed renewal application and fee, the Board shall issue a renewal registration.

7.13. A Registration issued by the Board shall be posted in a place conspicuous to the public at the establishment where veterinary technology is being provided.

7.14. A registrant shall notify the Board in writing or online of any change of address, conviction of a misdemeanor or felony, and/or disciplinary action by another federal or state agency no later than 30 days from the action.

§26-3-8. Registered Veterinary Technician Disciplinary Action.

8.1. The Board may deny, suspend or revoke a registration, impose a civil penalty, place a person's registration on probation, reprimand a registrant, refuse to examine an applicant or issue a registration or renew a registration, as provided by law and as provided in these rules if it finds an applicant or registrant:

8.1.1. Has presented to the Board false or fraudulent evidence of qualification or has been found to be guilty of fraud or deception in the process of examination, or for the purpose of securing a registration;

8.1.2. Is chronically or habitually intoxicated, has a chemical dependency or is addicted to drugs;

8.1.3. Has engaged in dishonest, unethical, or illegal practices in or connected with the practice of veterinary technology, or has been convicted of a misdemeanor related to the practice of veterinary technology or animal abuse or neglect;

8.1.4. Has been convicted of a felony under the laws of the State of West Virginia or any other state or jurisdiction of the United States or of the federal government of the United States;

8.1.5. Has engaged in practices or conduct in connection with the practice of veterinary technology which violate the standards of professional conduct as established by the Board;

8.1.6. Has permitted or allowed another to use his or her authorization to practice veterinary technology in this or any other state;

8.1.7. Has committed fraud in the application or reporting of a test of animal disease;

8.1.8. Has received any kickback for referring a client to another provider of veterinary services or goods;

8.1.9. Has performed unnecessary or unauthorized treatment;

8.1.10. Has been convicted of cruelty to animals;

8.1.11. Has committed an act or acts of unprofessional conduct;

8.1.12. Has committed gross malpractice or is guilty of a pattern of acts indicating consistent malpractice, negligence, incompetence in the practice of veterinary technology;

8.1.13. Has received disciplinary action in another jurisdiction, including the suspension, probation or revocation of a registration as a veterinary technician issued by another jurisdiction;

8.1.14. Has represented himself or herself as a specialist without completing the process of certification in a recognized veterinary technician specialty area.

8.2. The Board may also suspend or revoke the registration of a registrant who is found to be mentally incompetent by a court of competent jurisdiction. If the registrant is later determined to be mentally competent by a court, the Board may reinstate the registration.

8.3. On conviction of or determination of conviction of a person registered by the Board of any felony, the Board may, after an administrative hearing in which the facts of conviction are determined, suspend or revoke the person's registration. The Board may not reinstate or reissue a registration to a person whose registration is suspended or revoked under this section except on an express determination of the Board based on substantial evidence contained in an investigative report, indicating that the reinstatement or reissuance of the registration is in the best interests of the public and of the person whose registration has been suspended or revoked.

8.4. If a person violates this rule in a manner that constitutes grounds for disciplinary action by the Board, the Board may assess the costs of the investigation, hearing, hearing examiner, legal fees and all other reasonable and necessary costs incurred by or on behalf of the Board to the veterinary technician who was the subject of the disciplinary action.

§26-3-9. Petition for Registration Eligibility Determination.

9.1. An individual with a criminal record who has not previously applied for registration may petition the Board at any time for a determination of whether the individual’s criminal record will disqualify the individual from obtaining a registration.

9.2. The petition shall be submitted on an application form prescribed by the Board and shall include sufficient details about the individual’s criminal record to enable the Board to identify the jurisdiction where the conviction occurred, the date of the conviction, the date of the release from incarceration if applicable, and the specific nature of the conviction. Where the records are sealed, the applicant shall sign a waiver authorizing the Board to access the criminal records of the applicant in order for the Board to make the eligibility determination.

9.3. The applicant may submit with the petition evidence of rehabilitation, letters of reference, and any other information the applicant deems relevant to show fitness and the ability to practice veterinary technology.

9.4. The Board shall provide the determination within 60 days of receiving the petition and the applicable fee from the applicant.

9.5. The fee for an applicant petitioning for a registration eligibility determination is specified in the Schedule of Fees and upon acknowledgement of eligibility by the Board and upon the submission of an application for registration, the eligibility fee shall be deducted from the applicable initial registration application fee.

§26-3-10. Criminal History Record Check

10.1. Beginning July 1, 2020, and in addition to all of the requirements for registration, an applicant for an initial registration to practice as a veterinary technician in West Virginia shall submit to a State and a national criminal history record check and authorize the release of information to the Board.

10.2. The purpose of the criminal history record check is to assist the Board in obtaining information that may relate to the applicant's fitness for registration.

10.3. In addition to the State Police, the Board may contract with and designate a company specializing in the services required by this section instead of requiring the applicant to apply directly to the West Virginia State Police or similar out-of-state agency for the criminal history records checks. Provided, that any such company must utilize protocols consistent with standards established by the Federal Bureau of Investigation and the National Crime Prevention and Privacy Compact.

10.4. The applicant shall furnish to the State Police, or other organization designated by the Board, a full set of fingerprints and any additional information required to complete the criminal history record check.

10.5. The applicant is responsible for any fees required by the State Police, or other organization duly designated by the Board, for the actual costs of the fingerprinting and the actual costs of conducting a complete criminal history record check.

10.6. The Board may require the applicant to obtain a criminal history records check from a similar Board approved agency or organization in the state of the applicant's residence, if outside of West Virginia.

10.7. The applicant shall authorize the release of all records, not sealed, obtained by the criminal history record check to the Board. Criminal history record checks shall be verified by a source acceptable to the Board, other than the applicant.

10.8. A criminal history record check submitted in support of an application for registration must have been requested by the applicant no earlier than twelve (12) months immediately prior to the Board's receipt of the applicant's electronic application for registration.

10.9. An initial registration application is not complete until the Board receives the results of a state and a national criminal history record check conducted by the State Police or another entity duly authorized by the Board. The Board shall not grant an application for registration submitted by any applicant who fails or refuses to submit the criminal history record check required by this section.

10.10. The Board may not disqualify an applicant from initial registration because of a prior criminal conviction unless that conviction bears a rational nexus to the practice of veterinary technology. The Board shall consider at a minimum:

10.10.1. The nature and seriousness of the crime;

10.10.2. The passage of time since the commission of the crime;

10.10.3. The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities attendant to the practice of veterinary technology; and

10.10.4. Any evidence of rehabilitation or treatment undertaken by the applicant

10.11. The results of the State and national criminal history record check may not be released to or by a private entity except:

10.11.1. To the individual who is the subject of the criminal history record check;

10.11.2. With the written authorization of the individual who is the subject of the criminal history record check; or

10.11.3. Pursuant to a court order.

10.12. Criminal history record checks and related records are not public records for the purposes of W.Va. Code §29B-1-1. *et seq.*

10.13. Notwithstanding any other provision to the contrary, if an applicant is disqualified from registration because of a prior criminal conviction, the Board shall permit the applicant to apply for initial registration if:

10.13.1. A period of five years has elapsed form the date of conviction or the date of release from incarceration, whichever is later;

10.13.2. The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

10.13.3. The conviction was not for an offense of a violent or sexual nature; Provided, that a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from registration, to be determined by the Board.

SERIES 4

TITLE 26
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF VETERINARY MEDICINE

SERIES 4
STANDARDS OF PRACTICE

§26-4-1. General.

1.1. Scope. -- This rule establishes the standards of practice and professional conduct required of veterinarians licensed and regulated by the West Virginia Board of Veterinary Medicine.

1.2. Authority. -- W. Va. Code §30-10-1 et seq.

1.3. Filing Date. -- May 8, 2017

1.4. Effective Date. -- July 1, 2017.

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon the expiration of July 1, 2027.

§26-4-2. Definitions.

2.1. “Advertising” means communication designed to inform the public about the availability, nature, and prices of products or services, or to attract clients or business.

2.2. "Ambulatory practice" means a professional visit to the location of a patient or client and includes house calls and farm calls.

2.3. “Convenient access” means capable of being utilized without delay.

2.4. “Dental procedure" means the application or use of any instrument or device to any portion of an animal's tooth, gum or any related tissue for the prevention, cure or relief of any wound, fracture, injury, disease or other condition of an animal's tooth, gum or related tissue.

2.5. “Emergency clinic” means a facility that provides after hours or 24 hour emergency care.

2.6. “Exercise run” means an enclosed area under roof and climate controlled of sufficient size to allow for free ambulation for the comfort and exercise of patients or kenneled animals that are housed within the facility.

2.7. “General anesthesia” means the inducement of a complete absence of sensation and consciousness by the administration of injectable drugs or inhalation gas.

2.8. “Humane disposal” means euthanasia by or under the general supervision of a veterinarian or by an euthanasia technician.

2.9. “Immunization clinics” means an event conducted to provide easy access to the public for routine preventative health care for their animals. The clinics may occur at a veterinarian’s permanent

facility location or alternative sites for easy public access.

2.10. “Impervious” or “impervious surface” means incapable of being penetrated by water or other liquids.

2.11. “Prescription drugs” mean drugs that are approved by the U.S. Food and Drug Administration (FDA) and that are required by federal or state law to be dispensed to the public only on prescription by a licensed provider.

2.12. “Mobile” means a facility that may be transported or moved from one location to another. With this type of practice, the patient is examined and treated in the mobile unit.

2.13. “Sedation” means the calming of mental excitement or reduction of physical activity, by the administration of a drug.

2.14. “Stationary facility” means a fixed, non-moveable structure.

2.15. “Sterile surgery” means procedures in which aseptic technique is practiced in patient preparation, instrumentation, and surgical attire.

2.16. "Surgery" means that branch of veterinary medical science which uses operative measures for treating diseases, deformities, injuries, and for reproductive sterilization or elective operative procedures.

2.17. "Veterinarian" means a person who is licensed to practice veterinary medicine pursuant WV Code §30-10-1 *et. seq.*

2.18. “Veterinarian in charge" means a veterinarian who holds an active license in West Virginia and who is responsible for maintaining a veterinary practice within the standards set by the W. Va. Code §30-10-1 et seq. and W.Va. Code R. §26-1-1 *et. seq.*

2.19. “Veterinary practice” means any ambulatory, emergency, mobile, or stationary, practice wherein veterinary medicine or surgery is conducted.

§26-4-3. General Professional Ethics

3.1. It is unprofessional and a violation of this rule for any veterinarian to represent conflicting interests, except by express consent of all persons concerned, given after a full disclosure of the facts. Within the meaning of this rule, a veterinarian represents conflicting interests if, when employed by a buyer to inspect an animal for soundness, he or she accepts a fee from the seller. Acceptance of a fee from both the buyer and seller is prima facie evidence of fraud.

3.2. A veterinarian may not make any effort, direct or indirect, which in any manner is calculated to influence the sound professional judgment of another veterinarian. It is the right of any veterinarian, without fear or favor, to give proper advice to those seeking relief against unprofessional or neglectful veterinary services.

3.3. A veterinarian shall expose without fear or favor before the proper tribunal of the Board any and all malpractice, incompetence, corrupt or dishonest conduct in the profession.

3.4. A veterinarian shall not render any service or advice contrary to the law. A veterinarian shall also advise clients to observe the law.

3.5. A veterinarian shall not render any service or advice directed toward the corruption of any person or persons exercising a public office or private trust, or participate in deception, or betrayal of the public.

3.6. Any veterinarian who uses a present or past position, or an office of trust, deliberately to create an individual professional advantage, or to coerce, or to deceive the public is in violation of this section.

3.7. A veterinarian whose accreditation has been disciplined by state or federal authority may be subject to disciplinary action by the Board upon proof of removal of accreditation by that authority.

3.8. A veterinarian shall decide what medical cases will be accepted in his or her professional capacity. In the event the veterinarian chooses not to provide services, the client shall be notified.

3.9. The professional services of a veterinarian shall not be controlled or exploited by any lay agency, personal or corporate, which intervenes between the client and the veterinarian. A veterinarian shall avoid all relationships which could result in interference or intervention in the veterinarian's practice by any person or entity. A veterinarian is responsible for his or her own actions and is directly responsible to the client and for the proper care and treatment of the patient. This is to include information on how clients may receive emergency care when the veterinarian is not available.

3.10. A veterinarian shall exercise the same degree of humane care, skill, and diligence in treating patients as is ordinarily used in the same or similar circumstances by reasonable members of the veterinary medical profession.

3.11. A veterinarian in this State shall not issue a certificate of health unless he or she knows through actual inspection and appropriate tests of the animals, that the animals meet the requirements for the issuance of the certificates.

3.12. It is professionally dishonest for a veterinarian to guarantee a cure. A veterinarian shall avoid bold and confident assurances to clients.

3.13. A veterinarian shall conduct his or her practice with honesty, integrity, and fair dealing to clients in time and services rendered.

3.14. A veterinarian shall not violate his or her confidential relationship with the clients.

3.15. A veterinarian may represent himself or herself as a specialist only if they have completed the process of Board certification in a recognized veterinary specialty area. To become Board certified, a veterinarian must have a credential review and examinations set by the given specialty area. The Board shall annually, before the first of January, provide a list of AVMA approved veterinary specialty organizations for the next calendar year.

3.16. Veterinary Medical Records are considered privileged and confidential. Disclosure of records is prohibited unless the client has provided written or documented verbal consent. A veterinarian shall provide a client medical records within 30 days of request. However, records may be released by court

order, subpoena or compliance with local, state or federal law as deemed necessary to protect the animal or public health. Sharing of necessary medical information between veterinarians or facilities is allowed for treatment, Boarding and diagnosis without client consent. Reasonable cost for copying the medical record and or images may be charged.

3.17. A veterinarian may not initiate or knowingly participate in any form of advertising or solicitation that contains a false, deceptive or misleading statement or claim. In order to advertise 24 hour emergency service, a practice must be a facility that provides that service.

§26-4-4. Classification of Veterinary Practices

4.1. The following are classifications of veterinary practices:

4.1.a. Ambulatory

4.1.b. Emergency

4.1.c. Mobile

4.1.d. Stationary

§26-4-5. Mandatory Standards for the Practice of Veterinary Medicine

5.1. All classifications of veterinary practice as referenced or defined by §26-4-4 shall meet these mandatory standards.

5.1.a. A veterinarian shall deliver veterinary care in a competent and humane manner.

5.1.b. A veterinarian shall perform all aspects of veterinary medicine and surgery in a manner compatible with current veterinary medical practice.

5.1.c. Upon the formation of a veterinarian/client/patient relationship, in order for a veterinarian to exercise properly the rights granted by a veterinary license, the veterinarian shall:

5.1.c.1. Perform a physical examination of the animal. A group of animals of one species under single ownership may be considered as a single entity. A veterinarian/client/patient relationship is established for the whole group if a representative number of animals have been examined.

5.1.c.2. Discuss with the client a diagnostic assessment and treatment plan, including medications and follow up recommendations. This information shall be entered into the patient's medical record.

5.1.d. Licenses and permits issued by the Board shall be posted in a place conspicuous to the public at the establishment where veterinary services are being provided. Licensees who do relief or temporary work in an establishment shall carry a license with them or post it at the establishment. Ambulatory veterinary practices that do not have an office accessible to the public shall carry their licenses and permits in their vehicles.

5.1.e. The practice shall comply with federal, state, and local regulations in regards to the

maintenance and disposal of all chemical and pharmaceutical agents.

5.1.f. A veterinarian who performs euthanasia shall do so in a competent and humane manner.

5.1.g. A veterinarian shall provide and maintain sanitary methods for the disposal of deceased animals in compliance with the local, state and federal health rules and regulations, and provide refrigeration exclusively for carcasses of companion animals that require storage for 12 hours or more.

5.1.h. A veterinarian shall dispose of medical waste including sharps in accordance with local, state and federal laws.

5.1.i. Equipment currently in use shall be maintained in working order within manufacturer guidelines.

5.1.j. Current veterinary journals and textbooks or immediate internet access to the information provided by current veterinary journals and textbooks need to be available for ready reference.

5.1.k. A veterinarian shall have a method of correctly weighing an animal.

5.2. Medical Records

5.2.a. A veterinarian shall maintain individual records at his or her place of business in such a way that any veterinarian shall be able to proceed with the continuity of care and treatment of that patient which records shall include, but not be limited to, identification of the patient, the patient's medical history, immunization records, diagnostic procedures performed, diagnosis, and treatment plan.

5.2.b. The practice owner shall keep and maintain current patient records on the business premises for a period of 3 years beyond the last patient visit and the records are the responsibility and property of the owner of the veterinary practice. If the practice is closing or being sold and the location of the practice moving, clients shall be notified a minimum of four weeks prior to a permanent practice closing or moving as to how they may acquire a copy of their animal’s medical records. Records must be made available for client retrieval at convenient times and accessible locations for a period of no less than one month.

5.2.c. When appropriate, the words "herd", "flock", “litter”, or other collective group terms may be used in place of the word "patient" in subdivision a and b of this subsection. Records maintained on these animals may be kept in a daily log or the billing records; provided that the information that is entered is adequate to substantiate the identification and treatment of these animals.

5.3. Pharmacology

5.3.a. A veterinarian shall not prescribe, dispense or administer any prescription drug without the establishment of a veterinarian/client/patient relationship.

5.3.b. The veterinarian shall be responsible for assuring that any drugs, biological agents, or other products prescribed for use in the veterinary practice are properly administered.

5.3.c. The veterinarian shall be responsible for maintaining accurate records in the patient’s medical history which shall include the strength, dosage and quantity of all medications used or

prescribed.

5.3.d. The veterinarian shall provide appropriate instruction to clients on the storage and administration of drugs.

5.3.e. The veterinarian shall maintain all drugs and biological agents in compliance with state and federal laws. No drugs shall be dispensed that are beyond the date of expiration.

5.3.f. Special handling requirements for drugs (eg. refrigeration or light sensitive) shall be included in your instructions. A veterinarian shall store all repackaged drugs dispensed for animals in approved safety closure containers. This provision does not apply to drugs dispensed to a person who requests that the medication not be placed in these containers, or to drugs in such form or size that they cannot be dispensed reasonably in these containers.

5.3.g. All drugs dispensed, including repacked drugs, shall be labeled with the following:

5.3.g.1. The name, address and telephone number of the practice;

5.3.g.2. The name of the prescribing veterinarian;

5.3.g.3. The date dispensed;

5.3.g.4. The client's name;

5.3.g.5. The patient's name;

5.3.g.6. The directions for use;

5.3.g.7. The name of the drug;

5.3.g.8. The strength of the drug if more than one dosage form exists;

5.3.g.9. The quantity or volume dispensed;

5.3.g.10. The number of refills, if any; and

5.3.g.11. The expiration date.

5.3.h. A veterinarian that has a Federal Drug Enforcement Administration (DEA) number and uses, dispenses, administers or prescribes controlled substances shall comply with the federal and state laws pertaining to the dispensing, prescribing, storage and usage of controlled substances; including maintaining a register, which shall indicate the following:

5.3.h.1. The name of the prescribing veterinarian;

5.3.h.2. The name of the medication dispensed or prescribed;

5.3.h.3. The quantity dispensed or prescribed;

5.3.h.4. The dosage of the medication, if applicable;

5.3.h.5. The number of refills;

5.3.h.6. The date of the dispensing or prescribing;

5.3.h.7. The patient name and name of the client record;

5.3.h.8. The expiration date;

5.3.h.9. The method used for prescribing, such as written script, phone, fax or any other electronic means; and

5.3.h.10. The name and phone number of the pharmacy or pharmaceutical agent which received the script from the veterinarian, if not delivered directly to the client.

5.3.i. Veterinarians shall honor a client's request for a prescription in lieu of dispensing.

5.3.j. Prescriptions may be refilled for up to one year or the maximum number of refills prescribed from the examination date at the prescribing veterinarian's discretion. After 1 year, the patient shall be re-examined before an additional prescription is validated.

5.4. Laboratory Services

5.4.a. Each practice shall maintain laboratory services using either an in-house and/or an outside laboratory in order to meet the current standards of care for the profession.

5.5. Radiological Services (if performed)

5.5.a. A veterinarian shall store and maintain radiographs (including dental images), whether in film or digital format for a minimum of 3 years.

5.5.b. All radiographs in any format shall have a permanent identification bearing the client's name, the patient's name, the date and either left or right markers.

5.5.c. Diagnostic x-ray equipment shall be kept in compliance with state and federal laws, rules and regulations.

5.5.d. Practices using x-ray equipment must have:

5.5.d.1. Lead aprons and gloves;

5.5.d.2. Thyroid shields and;

5.5.d.3. Personal radiation exposure badges and corresponding monitoring reports.

5.6. Surgical Services (if performed):

5.6.a. A veterinarian shall practice surgery in accordance with species specific standard of care.

5.6.b. The following surgical technique and attire is required for aseptic surgery;

5.6.b.1. The disinfection of the surgeon's hands using a disinfecting solution; and

5.6.b.2. A veterinarian shall wear clean clothing and sterile gloves should be changed between patients.

5.6.b.3. Clean water shall be accessible to the sites of the surgical procedure.

5.6.b.4. Emergency drugs for cardiac and pulmonary resuscitation readily accessible.

5.6.c. A veterinarian shall use an acceptable method of sterilization of all appropriate equipment sufficient to kill spores on all instruments, packs, and equipment intended for use in sterile surgical procedures. A steam pressure sterilizer or an appropriate method of sterilizing instruments shall be used.

5.6.d. The use of sterilization indicators, both internal and external, are required on all surgical packs. A sterilized date shall be marked on all sterilized items.

5.6.e. The veterinarian shall provide a method for the client to obtain emergency advice pertaining to surgical and post treatment problems after the animal is released to the owner or agent following the completion of the surgery or treatment;

5.7. Dental Services (if performed)

5.7.a. All dental procedures shall be carried out by a veterinarian, technician or veterinary assistant under the general supervision of a veterinarian.

5.7.b. Dental instruments shall be clean and/or sterilized as appropriate between patients.

5.8. Anesthesia/Ventilation Services (if performed)

5.8.a. A method of respiratory monitoring, such as observing chest movements, watching the rebreathing bag, or use of a respirometer. Some method of cardiac monitoring is required, and may include use of a stethoscope or electrocardiographic monitor.

5.8.b. A veterinarian shall provide every animal with a pre-surgical assessment within 12 hours prior to the administration of an anesthetic, and the results of this examination shall be noted in the patient’s medical record.

5.8.c. A veterinarian or his or her assistant shall monitor every animal as long as the patient is under general anesthesia.

5.8.d. A veterinarian shall not release any patient from veterinary supervision to the owner or client until it is responsive and recovered from anesthesia. A veterinarian is not required to comply with the provisions of this subdivision if the client demands to take the animal home against the veterinarian’s advice and judgment. In this case, the veterinarian shall request that the client sign a release form stating that the client has been advised to leave the animal; realizes the risks involved; and

is taking the animal against the advice and judgment of the attending veterinarian.

§26-4-6. Mobile and Stationary Mandatory Facility Standards

6.1. In addition to the requirements of §26-4-5, mobile and stationary facilities must meet the following facility standards:

6.1.a. A reception room and office, or a combination of the two;

6.1.b. An examination area, species suitable, which is separate from other areas of the facility of sufficient size to accommodate the veterinarian, technician or assistant, patient, and client. The area shall also at a minimum have:

6.1.b.1. Lighting adequate to perform a thorough physical examination;

6.1.b.2. Convenient access to a sink with hot and cold running water.

6.1.c. Indoor lighting sufficient for the safety of staff and patients.

6.1.d. A kennel, stall, or housing area where animals can be retained for treatment and post surgical observation. This area shall have separate compartments for each animal which shall be maintained in a sanitary manner and allow for the comfort of the animal.

6.1.e. If animals are housed overnight, an isolation area with the proper protocol to handle infectious diseases.

6.1.f. Examination table with an impervious surface which can be easily cleaned and disinfected. An examination table is optional in large animal mobile practices.

6.1.g. All floors, counter tops, and wall surfaces in the traffic or working areas of the hospital constructed with an impervious material that can be easily washed, and disinfected.

6.1.h. Small animal practices which house animals overnight must have at least 1 exercise run maintained in a clean and sanitary condition. The surfaces (walls and flooring) shall be impervious so that they can be sanitized and disinfected.

6.1.i. Surgical Services

6.1.i.1. A room designated solely for surgery, separated by doors, and distinct from all other rooms. The room shall have at a minimum:

6.1.i.2. Lighting adequate to perform surgery. A surgery room shall be equipped with either a ceiling mounted or free standing surgery light with a light source capable of being adjusted or redirected. Backup emergency lighting is required of sufficient intensity to conclude surgery in case of power outage;

6.1.i.3. A surgery table with an impervious surface which can be cleaned and easily disinfected.

6.1.i.4. An illuminated X-ray viewer or a device to view digital images readily accessible to the surgery room;

6.1.i.5. Walls, floors, and counter tops constructed with an impervious material capable of being cleaned and routinely disinfected.

6.2. In addition to the mandatory standards, emergency facilities shall have:

6.2.a. An electrical cardio graphic monitoring device.

6.2.b. A veterinarian on the premises at all times during the posted hours of operation.

§26-4-7. Veterinarian in Charge

7.1. The veterinarian-in-charge of a veterinary establishment is responsible for:

7.1.a. Being on site as necessary to provide routine oversight to the veterinary establishment for patient safety and compliance with law and regulation.

7.1.b. Performing or overseeing the biennial controlled substance inventory and ensuring compliance at the facility with any federal or state law relating to controlled substances. The performance of the biennial inventory may be delegated to another licensee, provided the veterinarian-in-charge signs the inventory and remains responsible for its content and accuracy.

7.1.c. Notifying the Board in writing of the closure of the permitted facility 10 days prior to closure.

7.1.d. Notifying the Board immediately if no longer acting as the veterinarian-in-charge.

7.1.e. Ensuring the establishment maintains a current and valid permit issued by the Board.

7.2. Upon any change in veterinarian-in-charge, these procedures shall be followed:

7.2.a. The veterinarian-in-charge registered with the Board remains responsible for the establishment and the stock of controlled substances until a new veterinarian-in-charge is registered or for five days, whichever occurs sooner.

7.2.b. An application for a new permit, naming the new veterinarian-in-charge, shall be made five days prior to the change of the veterinarian-in-charge. If no prior notice was given by the previous veterinarian-in-charge, an application for a new permit naming a new veterinarian-in-charge shall be filed as soon as possible but no more than 10 days after the change.

7.2.c. The previous establishment permit is void on the date of the change of veterinarian-in-charge and shall be returned by the former veterinarian-in-charge to the Board five days following the date of change.

7.2.d. Prior to the opening of the business, on the date of the change of veterinarian-in-charge, the new veterinarian-in-charge shall take a complete inventory of all Schedule II-V drugs on-hand. He shall date and sign the inventory and maintain it on-premises for three years. That inventory may be designated as the official biennial controlled substance inventory.

§26-4-8. Facility Inspections and Registration

8.1. A new veterinary facility shall be inspected by the Board prior to opening. The Board, shall grant an authorization to begin operation while the facility awaits its initial inspection if this inspection is delayed for reasons not associated with the practice or its operators.

8.2. A registered veterinary facility shall be inspected by the Board on a rotating basis every 2 years, except when the Board requires a re-inspection due to the facility not meeting all requirements for that type of facility at the routine inspection. Additionally, the Board may inspect a facility at any time for just cause. Only after the Board determines that the facility meets the respective provisions for operation under this rule may it lawfully operate.

8.3. Should a veterinary facility change ownership, the new owner shall notify the Board within 5 days of such purchase and will be subject to re-inspection.

8.4. An owner of veterinary practices operating shall complete and file annually, on or before June 30, on a form approved by the Board, an annual veterinary practice registration, and shall pay the veterinary practice annual permit fee, as prescribed by 26CSR6.

8.5. If the owner of a veterinary practice does not file an annual veterinary practice registration by June 30 and the Board performs inspections in the region without knowledge of the existence of the facility, the veterinary practice is liable for the additional trip to inspect the non-compliant practice, and the fee for inspection is double the usual and customary fee for practice inspection as specified in the Schedule of Fees.

8.6. The Board shall not issue a renewal license to a veterinarian who is an owner of a veterinary facility situated in this state that has not filed an annual facility registration, or that has refused to allow a representative of the Board to inspect the veterinary facility during the facilities regular business hours.

8.7. The Board may revoke or suspend a facility registration for not being in compliance with this Rule.

§26-4-9. Abandoned Animals

9.1. An "abandoned animal" means any animal placed for treatment or boarding by its owner or an agent of the owner in the care and custody of a veterinarian, which is not retrieved by the owner or agent of the owner from the veterinarian within 72 hours of the veterinarians specified release date of a hospitalized animal or the scheduled release date of a boarded animal. The owner or agent of the owner shall be sent a certified letter to his or her last known address, return receipt requested, informing him or her that the animal is available for pickup. The letter to the owner or agent of the owner shall also state the amount owed, if any, to the veterinarian for the treatment and care of the animal, set by the W.Va. Code R. §26-4-9.2. that the veterinarian may elect the humane disposal of an abandoned animal

no sooner than 7 days after the veterinarian has mailed a certified letter.

9.2. A veterinarian may elect the humane disposal of an abandoned animal no sooner than 7 days after the veterinarian has mailed a certified letter to the owner or agent of an abandoned animal indicating his or her intent to humanely dispose of the animal. In the event the owner or agent cannot be notified by certified mail, return receipt requested, the veterinarian may elect humane disposal any time after 7 days following the mailing of the certified letter, providing the veterinarian has a posted receipt from the mailing entity verifying the mailing date of the certified letter. The veterinarian shall keep an accurate record of the date and method of disposal, and the name, address and telephone number of the person or shelter receiving the animal, if it is not destroyed.

9.3. The humane disposal of abandoned animal shall not relieve the owner or agent of any financial obligation incurred for treatment, boarding or care by the veterinarian. Alternatively, an animal may be placed in a suitable home or animal shelter, which shall not include any home or shelter which engages in animal experimentation or, by sale or otherwise, makes animals available for the purpose of animal experimentation.

9.4. Notification and humane disposal as provided in this section relieves the veterinarian of any further liability regarding the abandoned animal.

9.5. The veterinarian shall post a copy of this section in a conspicuous location at the veterinary facility.

§26-4-10. Immunization Clinics

10.1. Immunization clinics shall be operated by a veterinarian licensed by the Board who has a registered veterinary practice in the county or adjoining counties where the clinic is being held. Any immunizations provided at the clinic other than rabies vaccinations shall be administered by a veterinarian or a registered veterinary technician supervised by the veterinarian on site.

§26-4-11. Non-Typical Emergency and Disaster Situations

11.1. In the event of a natural disaster or local malfunction of utilities, veterinary practices may temporarily operate their businesses outside of these standards of practice if the veterinarian makes amends to alleviate as much as possible the problems associated with the temporary loss of facilities, utilities, or transportation. All efforts are directed to keep patients safe while continuing to provide needed veterinary and lifesaving services. Every effort will be made by the practice owner to bring the facility into full compliance with the standards of practice as quickly as possible.

SERIES 5

TITLE 26
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF VETERINARY MEDICINE

SERIES 5
CERTIFIED ANIMAL EUTHANASIA TECHNICIANS

§26-5-1. General.

1.1. Scope. -- This rule establishes guidelines for the training, examination and procedures by which animal euthanasia technicians may be certified by the West Virginia Board of Veterinary Medicine and establishes approved methods of animal euthanasia and expands as well as defines qualifications for certified animal euthanasia.

1.2. Authority. -- W. Va. Code §30-10-6.

1.3. Filing Date. -- April 23, 2018.

1.4. Effective Date. -- July 1, 2018.

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on July 1, 2028.

§26-5-2. Application for Certified Animal Euthanasia Technicians.

2.1. Before any person may take the examination for certification in the state of WV, he or she shall submit an application along with the non-refundable fees to the Board. The application shall contain the following information, which shall be retained in the applicant's file:

2.1.a. Applicant's name, address, and certified copy of the applicant's birth certificate or official record of birth;

2.1.b. Verification of US citizenship or documentation of applicant's authority to reside and work in the United States;

2.1.c. Proof of high school diploma or equivalent;

2.1.d. Certified written verification of name changes;

2.1.e. A current photograph. Applicant shall be alone in the photo;

2.1.f. Applicant shall indicate whether he or she has ever been denied a certification or had a certification restricted or disciplined in any other state or jurisdiction with the name of the state or jurisdiction;

2.1.g. Verification of applicant's status as a certification from each state or jurisdiction where he or she now holds or ever held a certificate;

2.1.h. The applicant shall tender the required fees as contained in the Schedule of Fees with the application;

2.1.i. The applicant shall certify that he or she will abide by the laws of this State regulating the practice of animal euthanasia technology and that he or she will abide by the rules of the Board;

2.1.j. The application shall be signed by the applicant.

2.2. An applicant furnishing false information in an application shall be denied the right to take the examination. If the applicant has been certified before the Board becomes aware of the falseness of the information, the certificate is subject to disciplinary action including, but not limited to, suspension, and or revocation.

2.3. Once the application is complete and all fees have been received, the Board will notify the applicant of their eligibility to take the written practical, practical skills, and jurisprudence examinations.

2.4. If an applicant is found not qualified to take the examination, the Board shall notify the applicant in writing at the applicant's address as listed on the application, of the finding and the grounds upon which the finding is based. An applicant found not qualified may demand a hearing. The application fee of any applicant found not qualified to take the examination is non-refundable.

§26-5-3. Certified Animal Euthanasia Technicians Program.

3.1. The Board may formulate and administer programs to teach applicants the legal, safety and practical information necessary to perform the duties of a certified animal euthanasia technician. The Board may also approve programs sponsored by professional training organizations to provide the training for certified animal euthanasia technicians.

3.2. The administration of the program sponsored by a professional training organization shall be in accordance with the laws, rules, practices, policies, or procedures prescribed by the Board or its designees. The Certified Animal Euthanasia Technician Training Manual is incorporated by reference.

3.3. The Board shall annually appoint a minimum of 1 or a maximum of 2 board members who are veterinarians for the purpose of administering the practical skills examination to applicants for certification as an animal euthanasia technician, or may assign administration of the examination to a veterinarian or veterinarians licensed to practice in this state.

3.4. The Board member or members, or authorized veterinarian shall conduct the practical skills examination to determine the applicants' ability in meeting the requirements for animal euthanasia technology in the State of WV.

3.5. The Board member or members or authorized veterinarian who administer the practical examination shall determine failure or passing of the practical examination.

3.6. The Board shall offer the certified animal euthanasia technician training program and the written and practical skills examination at least once a year.

§26-5-4. Certified Animal Euthanasia Technician Jurisprudence Examination.

4.1. Jurisprudence examinations shall cover the laws governing animal euthanasia technology in the State of West Virginia.

4.2. Examinations are the property of the Board and shall not be duplicated in any form.

§26-5-5. Certified Animal Euthanasia Technician Certificate Holder.

5.1. The Board shall issue a certificate to a qualified candidate who passes the examinations and meets the requirements of the Board to practice the profession of animal euthanasia technology and upon payment of the certification fee. If any certified animal euthanasia technician desires that a duplicate registration be issued, the Board shall issue a duplicate registration upon payment of the fee as set forth in the Schedule of Fees.

5.2. The certificate issued by the Board shall include the certificate holder's full name, registration number, the Board seal, the effective date and the expiration date and shall bear the signatures of the Chairperson and Secretary-Treasurer of the Board.

§26-5-6. Certified Animal Euthanasia Technician Registration Renewal.

6.1. The Board shall notify each certified animal euthanasia technician that his or her certification will expire on December 31 but failure to receive the notification does not exempt a certificate holder from meeting the requirements of this rule.

6.2 A certified animal euthanasia technician who desires to continue to be certified shall, starting October 1 through December 31 of each year, renew his or her certification by completing the required certification renewal, paying the annual renewal fee as specified in the Schedule of Fees, and certify to the Board that he or she has completed all continuing education requirements.

6.3. A certified animal euthanasia technician who desires to continue his or her certification in good standing to practice animal euthanasia technology shall undertake at least 6 (50 minute) units of Board approved continuing education units in the field of animal euthanasia technology during each calendar year. Classroom or online courses will be permitted. No periods may be accumulated, carried forward, or held over past the calendar year in which the hours of continuing education were completed.

6.4. The Board may provide a continuing education course annually for certified animal euthanasia technicians as specified in the Schedule of Fees.

6.5. Certificate holders are required to maintain original documents verifying the date and subject of the program or course, the number of continuing education hours or credits, and certification from an approved sponsor. Original documents must be maintained for a period of two years following renewal.

6.6. The Board may grant continuing education hardship extensions by request of the certificate holder. The Board shall only consider hardship extensions from certificate holders who the Board determines were prevented from completing the required continuing education hours within the year due to verified medical emergencies or military obligations beyond the certificate holder's control. Requests for a hardship extension must be received in the Board's office by December 15.

6.7. If an extension is granted by the Board for completion of approved continuing education hours, the technician shall file the renewal application with the renewal fee. The Board shall renew the certificate contingent upon the certificate holder completing the mandatory continuing education within a period determined by the Board from the current year's expiration date of December 31.

6.8. The renewal certificate in hardship extension, shall be issued for the period required to complete the mandatory continuing education, and shall be extended to December 31 upon receipt of acceptable written documentation of completing the continuing education. The continuing education hours completed during the extension period shall not be applied toward satisfaction of continuing education in the year completed and shall be separate from continuing education requirements for current year renewals.

6.9. An animal euthanasia technician issued a hardship extension for completion of continuing education shall submit documentation of completion prior to the end of the Board approved extension period. Continued practice past the authorized extension period without a written renewal certificate from the Board constitutes the practice of animal euthanasia technology without a certificate.

6.10. Upon receipt of the completed renewal application and fee, the Board shall issue a renewal certificate bearing the number of the certification, the period for which the certification is renewed, and any other information the Board considers necessary.

6.11. Certifications issued by the Board shall be posted in a place conspicuous to the public at the establishment where animal euthanasia technology is being provided.

6.12. Certified animal euthanasia technicians shall notify the Board of any change of address, and forward the notice to the Board no later than the effective date of the change of address.

§26-5-7. Chemical Restraint Drugs.

7.1. Chemical Restraint Drugs are those drugs approved by the Board for administration prior to lethal injection of an animal to reduce aggressiveness and/or mobility of the animal being euthanized.

7.2. Recordkeeping requirements for approved chemical restraint drugs shall be identical to the recordkeeping requirements for animal euthanasia drugs.

§26-5-8. Animal Euthanasia Technician Disciplinary Action.

8.1. The Board may deny, suspend or revoke a certification, impose a civil penalty, place a person's certificate on probation, reprimand a certificate holder, refuse to examine an applicant or issue a certification or renew a certification, as provided by law and as provided by this rule if it finds an applicant or certificate holder:

8.1.a. Has presented to the Board false or fraudulent evidence of qualification or has been found to be guilty of fraud or deception in the process of securing a certificate;

8.1.b. Is chronically or habitually intoxicated, has a chemical dependency or is addicted to drugs;

8.1.c. Has engaged in dishonest, unethical, or illegal practices in or connected with the practice of animal euthanasia technology, or has been convicted of a misdemeanor related to the practice of animal euthanasia technology or animal abuse or neglect;

8.1.d. Has been convicted of a felony under the laws of state, jurisdiction, or federal government of the United States or any other crime involving moral turpitude;

8.1.e. Has engaged in practices or conduct in connection with the practice of animal euthanasia technology which violate the standards of professional conduct as established by the Board;

8.1.f. Has permitted or allowed another to use his or her certification to practice animal euthanasia in this or any other state;

8.1.g. Has committed fraud in the application or record keeping of any animal;

8.1.h. Has failed to maintain records at the place of business of the certified animal euthanasia technician which shall include, but not be limited to those specified in Section 9 of this rule;

8.1.i. Has performed unnecessary or unauthorized treatment;

8.1.j. Has participated in any unlawful, unethical or inhumane act;

8.1.k. Used Sodium Pentobarbital, Sodium Pentobarbital compounds or any other Board approved euthanasia solutions, sedatives, or tranquilizers for pre-euthanasia administration for any purpose other than humane animal euthanasia or that the permitted facility has failed to abide by the rules for the safe and efficient purchase, possession, or administration of Board approved euthanasia solutions, sedatives, or tranquilizers for pre-euthanasia administration; or

8.1.l. Has received disciplinary action in another jurisdiction, including the suspension, probation or revocation of a certificate holder as an animal euthanasia technician issued by another jurisdiction.

8.2. The Board may also suspend or revoke the certificate of a certificate holder who is found to be mentally incompetent by a court of competent jurisdiction. If the certificate holder is later determined to be mentally competent by a court, the Board may reinstate the certificate.

8.3. On conviction of or determination of conviction of a person certified by the Board of a felony, the Board may, after an administrative hearing in which the facts of conviction are determined, suspend or revoke the person's certificate. The Board may not reinstate or reissue a certificate holder to a person whose certification is suspended or revoked under this section except on an express determination of the Board based on substantial evidence contained in an investigative report, indicating that the reinstatement or reissuance of the certificate holder is in the best interests of the public and of the person whose certification has been suspended or revoked.

8.4. If a person violates this rule in a manner that constitutes grounds for disciplinary action by the Board, the Board may assess the costs of the investigation, hearing, hearing examiner, legal fees, and all other reasonable and necessary costs incurred by or on behalf of the Board to the certificate holder who was the subject of the disciplinary action.

8.5. The Board may inspect an animal control facility, animal shelter or humane society which employs a certified animal euthanasia technician to determine if it complies with the requirements for possession, administration, purchase or storage of approved euthanasia solutions, or sedatives or tranquilizers for pre-euthanasia administration, as established by the Board.

§26-5-9. Record keeping.

9.1. Certified animal euthanasia technicians that have a Federal Drug Enforcement Administration (DEA) number and administer controlled substances shall comply with the federal and state laws pertaining to the usage of controlled substances; including maintaining a register, which shall indicate the following:

9.1.a. Identification of the animals euthanized;

9.1.b. Method utilized for the euthanasia of each animal;

9.1.c. Drugs administered, including dosage;

9.1.d. Date of euthanasia;

9.1.e. Method of sanitary disposal of animal's remains; and

9.1.f. An inventory of all receipts, administrations and distributions of all euthanasia solutions, sedatives and tranquilizers.

9.2. The certified animal euthanasia technician and the administrators of the animal control facility, humane society or animal shelter shall maintain the records on the business premises for a period of 3 years.

9.3. In the case of the cancellation of certification of an animal euthanasia technician, the records shall be maintained by the facility's administrators.

§26-5-10. Storage.

10.1. The certified animal euthanasia technician shall maintain all controlled substances, sedatives and tranquilizers under his or her authority in a properly secure and locked storage container when the Certified Animal Euthanasia Technician is not in the same room with the drug.

10.2. Only the certified animal euthanasia technician shall have access to the drug storage container.

10.3. The manufacturers' instructions shall be followed in the preparation of all lethal injections or chemical restraint drugs.

10.4. Needles shall be of medical quality, and shall not be used if they are dirty, clogged, barbed, or might otherwise cause unnecessary discomfort for the animal. Needles may not be used more than 5 times.

10.5. Syringes shall be of medical quality. They may be reused if they are properly cleaned.

10.6. Needles and syringes shall be kept in the same secure storage as the lethal drugs and chemical restraint drugs.

10.7. Needles and syringes shall be disposed of in a proper container, as required by state law.

§26-5-11. Facility Inspections and Registration.

11.1. A new animal euthanasia facility shall submit a facility registration application along with the non-refundable required fee to the Board.

11.2. A registered animal euthanasia facility that is euthanizing animals shall be inspected by the Board on a rotating basis every 2 years, except when the Board requires a re-inspection due to the facility not meeting all requirements for that type of facility at the routine inspection. Additionally, the Board may inspect a facility at any time for just cause ~~a~~fter the Board determines that the facility meets the respective provisions for operation under this rule may it lawfully operate.

11.3. A registered animal euthanasia facility operating shall complete and file annually, on or before June 30, on a form approved by the Board, an annual animal euthanasia facility registration, and shall pay the animal euthanasia facility annual permit fee, as prescribed in the Schedule of Fees.

11.4. The Board shall not issue a renewal certificate to an animal euthanasia technician of an animal euthanasia facility that has not filed an annual facility registration, or that has refused to allow a representative of the Board to inspect the euthanasia facility during the facility's regular business hours.

11.5. The Board may revoke or suspend a facility registration for not being in compliance with this Rule.

§26-5-12. Termination of Employment.

12.1. Certified animal euthanasia technicians who cease employment with the animal control facility or humane society listed on their DEA registration shall notify the Board in writing immediately, regardless of the reason.

§26-5-13. Criminal History Record Check.

13.1. Beginning July 1, 2018, and in addition to all of the requirements for certification, an applicant for an initial certification to practice as an animal euthanasia technician in West Virginia shall request and submit to the Board the results of a state and a national criminal history record check.

13.2. The purpose of the criminal history record check is to assist the Board in obtaining information that may relate to the applicant's fitness for certification.

13.3. In addition to the State Police, the Board may contract with and designate a company specializing in the services required by this section instead of requiring the applicant to apply directly to the West Virginia State Police or similar out-of-state agency for the criminal history records checks; provided, that any such company must utilize protocols consistent with standards established by the Federal Bureau of Investigation and the National Crime Prevention and Privacy Compact.

13.4. The applicant shall furnish to the State Police, or other organization designated by the Board, a full set of fingerprints and any additional information required to complete the criminal history record check.

13.5. The applicant is responsible for any fees required by the State Police, or other organization duly designated by the Board, for the actual costs of the fingerprinting and the actual costs of conducting a complete criminal history record check.

13.6. The Board may require the applicant to obtain a criminal history records check from a similar Board approved agency or organization in the state of the applicant's residence, if outside of West Virginia.

13.7. The applicant shall authorize the release of all records obtained by the criminal history record check to the Board.

13.8. A criminal history record check submitted in support of an application for certification must have been requested by the applicant no earlier than twelve (12) months immediately prior to the Board's receipt of the application for certification.

13.9. An initial certification application is not complete until the Board receives the results of a state and a national criminal history record check conducted by the State Police or another entity duly authorized by the Board. The Board shall not grant an application for certification submitted by any applicant who fails or refuses to submit the criminal history record check required by this section.

13.10. Should criminal offenses be reported on an applicant’s criminal history record check, the board will consider the nature, severity, and recency of offenses, as well as rehabilitation and other factors on a case by case basis for certification. Criminal history record checks shall be verified by a source acceptable to the Board, other than the applicant.

13.11. The results of the state and national criminal history record check may not be released to or by a private entity except:

13.11.a. To the individual who is the subject of the criminal history record check;

13.11.b. With the written authorization of the individual who is the subject of the criminal history record check; or

13.11.c. Pursuant to a court order.

13.12. Criminal history record checks and related records are not public records for the purposes of chapter 29B of the West Virginia Code.

SERIES 6

TITLE 26
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF VETERINARY MEDICINE

SERIES 6
SCHEDULE OF FEES

§26-6-1. General.

1.1. Scope. -- This rule establishes the fees to be charged by the Board.

1.2. Authority. -- W. Va. Code §30-1-23. and W. Va. Code §30-10-6.

1.3. Filing Date. -- April 1, 2020.

1.4. Effective Date. -- July 1, 2020.

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on July 1, 2030.

§26-6-2. Definitions.

2.1. “Initial” means obtaining a license in West Virginia for the practice of veterinary medicine, veterinary technology, or animal euthanasia technology for the first time.

2.2 "Local labor market" means every county in West Virginia, and any county outside of West Virginia if any portion of that county is within fifty miles of the border of West Virginia, pursuant to W.Va. Code §21-1C-2.

2.3. “Low-income individual” means an individual in the local labor market, whose household adjusted gross income is below 130 percent of the federal poverty line. This term also includes any person enrolled in a state or federal public assistance program including, but not limited to, the Temporary Assistance for Needy Families Program, Medicaid, or the Supplemental Nutrition Assistance Program.

2.4. “Military families” means any person who serves as an active member of the armed forces of the United States, the National Guard, or a reserve component as described in 38 U. S. C. §101, honorably discharged veterans of those forces, and their spouses. This term also includes surviving spouses of deceased service members who have not remarried.

§26-6-3. Schedule of Fees.

3.1. Veterinary application, examination and license fee $300.00

3.2. Veterinary license renewal fee..... $250.00

3.3. Veterinary inactive license fee $75.00

3.4. Veterinary inactive license reactivation fee $250.00

3.5. North America Veterinary License Exam (NAVLE) eligibility processing fee..... $75.00

3.6. Veterinary Technician application, examination and registration fee $10.00

3.7. Veterinary Technician registration renewal fee..... $5.00

3.8. Veterinary Technician inactive registration fee $2.00

3.9. Veterinary Technician inactive registration reactivation fee $6.00

3.10. Certified Animal Euthanasia Technician application, Rules and Practice Act, examination and certification fee..... $110.00

3.11. Certified Animal Euthanasia Technician training program fee $225.00

3.12. Certified Animal Euthanasia Technician certification renewal fee $50.00

3.13. Certified Animal Euthanasia Technician continuing education program fee $250.00

3.14. Animal Euthanasia Facility initial registration and renewal fee $50.00

3.15. Inspection of a facility which employs a Certified Animal Euthanasia Technician and is performing euthanasia $250.00

3.16. Veterinary facility inspection fee..... $300.00

3.17. Veterinary ambulatory inspection fee… $200.00

3.18. Veterinary facility re-inspection fee $400.00

3.19. Veterinary facility initial registration and renewal fees $100.00

3.20. Continuing education program review and evaluation… $50.00

3.21. Rules and Practice Act Booklet

3.21.a. Office Generated $35.00

3.21.b. Online ..... No fee

3.22. Written confirmation of licensure, registration, or certification $25.00

3.23. Duplicate license, registration, or certification certificate

3.23.a. Office Generated $25.00

3.23.b. Online ..... No fee

3.24. Veterinary application petitioning for a licensure eligibility… $150.00

3.25. Veterinary technician application petitioning for a registration eligibility…..... $50.00

3.26. All fees shall be payable to the West Virginia Board of Veterinary Medicine by check, cashier's check, money order, credit card or electronic transfer, if and when such credit card or electronic transfer services are available.

3.27. All fees not received by the due date shall be assessed a penalty to be determined by the Board, not to exceed 25% of the original fee required.

§26-6-4. Application for Waiver of Fees.

4.1. The Board may issue a license to an applicant who meets the requirements of W. Va. Code §30-31-1 *et seq*. and the rules promulgated by the Board, and the Board shall waive the initial licensure fee if the applicant qualifies as a "low-income individual" or as a member of one or more "military families" as defined in this rule.

4.2. Low-income individuals, as defined in this rule, may seek a waiver of the initial licensure, registration, or certification fee by submitting with their complete application a low-income waiver of initial licensure fee form, provided by the Board at www.wvbvm.org, and all required verification documents as prescribed by the Board. The Board shall review the application and issue a decision within 30 days of receipt of the complete application.

4.3. Military families, as defined in this rule, may seek a waiver of the initial licensure or renewals of licensure, registration, or certification fee by submitting by submitting with their complete application a military service verification form, provided by the Board at www.wvbvm.org, and all required verification documents as prescribed by the Board. The Board shall review the application and issue a decision within 30 days of receipt of the complete application.

4.4. An honorably discharged military veteran and/or their accompanying spouse may seek a waiver of the inspection fee for a veterinary facility solely owned by the honorably discharged military veteran or their accompanying spouse for one year following their discharge from active duty by submitting with their complete application a military service verification form, provided by the Board at www.wvbvm.org, and all required verification documents as prescribed by the Board. The Board shall review the application and issue a decision within 30 days of receipt of the complete application.