

**WEST VIRGINIA  
SECRETARY OF STATE  
BETTY IRELAND  
ADMINISTRATIVE LAW DIVISION**

Form #4

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2005 OCT -7 P 4: 12

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: West Virginia Board of Veterinary Medicine TITLE NUMBER: 26

CITE AUTHORITY: §30-10-4 (c)

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 1

TITLE OF RULE BEING AMENDED: Organization and Operation

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



Authorized Signature

TITLE 26  
LEGISLATIVE RULE  
WEST VIRGINIA BOARD OF VETERINARY MEDICINE

FILED

2005 OCT 21 P 3:15

SERIES 1  
ORGANIZATION AND OPERATION

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**26-1-1. General.**

- 1.1. Scope. -- This rule establishes guidelines for the organization, operation and licensing of veterinarians by the West Virginia Board of Veterinary Medicine.
- 1.2. Authority. -- W. Va. Code 30-10-4.
- 1.3. Filing Date. -- ~~May 31, 2005~~
- 1.4. Effective Date. -- ~~June 1, 2005~~

**26-1-2. Definitions.**

- 2.1. "Board" means the West Virginia Board of Veterinary Medicine.
- 2.2. "Negative background check" means an official fingerprint check through the West Virginia State Police or other authorized processor, which has been checked through the National Crime Information Center which indicates the applicant is not the person specified on the application or that the person has been convicted of a felony in any jurisdiction.
- 2.3. "Reportable contagious disease" means any disease capable of spreading to any animal or human.
- 2.4. "Board approved continuing education" means either continuing education reviewed and approved by the Registry of Approved Continuing Education (RACE), or by the West Virginia Board of Veterinary Medicine.

**26-1-3. The Board; Procedures.**

- 3.1. Officers of the Board - The members of the board shall annually elect as officers of the Board one (1) member to serve for a period of one (1) year as President of the Board; and, one (1) member to serve for a period of one (1) year as Secretary-Treasurer of the Board, both of whom shall hold their offices until their successors are elected. The Board shall hold elections in the month of June each year.
- 3.2. Vacancy- Any vacancy in the officers of the Board may be filled at any duly convened meeting of the Board.

3.3. Board employees; duties - The Board may, in its discretion, employ an executive director, executive secretary, and any other administrative staff members as the Board considers necessary. These Board employees may do all things and discharge all duties required of the Board pursuant to West Virginia law and this rule.

3.4. Meetings of the Board - The Board shall hold at least two (2) meetings each year. ~~There shall be at least one (1) meeting per calendar year at which examinations for licensure are given.~~ The Board may hold any necessary additional meetings which shall be called at the direction of the President or upon the written request of any three (3) members of the Board.

3.5. Quorums - Before any action can be taken on any matter properly before the Board, at least a majority of the current members must be in attendance at the place and time set for the meeting of the Board. A majority vote of the members in attendance is required before any motion is passed.

3.6. Compensation of members; expenses - Every member of the Board shall receive \$150.00 for each day actually spent in attending the sessions of the Board or of its committees and the travel necessary thereto. Every member shall be similarly reimbursed at the stated per diem amount plus expenses for attending all activities approved by the Board and while performing all activities which are pertinent to the operation and function of the Board, and for all reasonable and necessary expenses incurred in carrying out the provisions of W. Va. Code §30-10-1 et seq.

#### **26-1-4. Applications and Examinations.**

4.1. Before any person may take the examination for a license to practice veterinary medicine in State, he or she shall submit a written application on the Board's application form, which shall be supplied by the Board upon written request, setting forth his or her name, address, date and place of birth, citizenship, a detailed history of his or her educational qualifications, and showing the name, place and the length of time that the applicant attended schools. The applicant shall also state in this application whether he or she has taken any other State Board examinations and the results of the examinations and whether or not he or she has actively engaged in the practice of veterinary medicine in any other state or jurisdiction. The applicant shall also have written verification of his or her status as a licensee submitted to the Board from each state or jurisdiction where he or she now holds or has ever held a license. A copy of the applicants' birth certificate or official record of birth shall be submitted, as well as written verification of any name changes. The applicant shall include a current photograph of himself or herself, approximately 2 inches by 2 inches in size. The applicant shall be alone in the photograph, and his or her signature shall be on the back of the photograph. The applicant shall tender the application fee ~~as established in the schedule of fees as contained in Board of Veterinary Medicine's Rule~~ Rule Schedule of Fees, 26 CSR 6 with the written 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 adopted by the Board.

4.3. The application shall be signed by the applicant and sworn by him or her before a

notary public or any officer legally qualified to administer oaths.

4.4. Any applicant furnishing false information in an application shall be denied the right to take the examination, or if the applicant has been licensed before the Board becomes aware of the falseness of the information, the license is subject to suspension, revocation or cancellation.

4.5. Certified transcripts of records from the schools or colleges of veterinary medicine attended by the applicant shall accompany each application. The certified transcripts of record shall show the total number of hours of attendance, the subjects studied, the grades given and the date of graduation. If the official transcripts submitted do not indicate graduation, a copy of the applicants diploma affirmed by a notary public to be an exact copy of the original document with notary signature and seal may serve as verification of graduation.

4.6. The applicant shall file the completed application form and application fee with the Board at least thirty (30) days prior to the examination date unless otherwise accepted in the discretion of the Board or its executive director. In the event an applicant intends to retake the examination, the fee and the notice of his or her intention to retake the examination must also be in the Boards office thirty (30) days prior to the examination date. The applicant shall mail the application, records and fees to the Board.

4.7. If the Board determines that an applicant possesses the proper qualifications, it shall admit the applicant to the next examination. If an applicant is found not qualified to take the examination the Secretary-Treasurer shall notify the applicant in writing, at the applicant's address 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 in accordance with the provisions of W. Va. Code §30-10-12. The Board shall refund the application fee of any applicant found not qualified to take the examination.

4.8. Failure of an applicant to appear at a scheduled examination by the Board, after the application has been received by the Board, shall result in a determination that the applicant has taken the examination but without grades. The Board may waive this determination upon written confirmation from the federal or a state government agency stating applicant has been called to immediate active duty.

4.9. National Veterinary Board Examination: All applicants must have received a passing score on a national veterinary examination or examinations. The authorized examination providers shall be determined by the Board. The passing score for the national veterinary exams is seventy percent (70%). It is the applicant's responsibility to have the national testing service forward a copy of his or her scores to the Board at his or her expense.

#### **26-1-5. Examination Procedure.**

5.1. Examinations for veterinary licensure shall be held at least once a year. The Board shall advertise the West Virginia Veterinary Board examination dates and shall specify a deadline for receipt of the completed application and application fee. The Board shall publish public notice for the application credentials deadline and examination dates in the Journal of the American Veterinarian Medical Association, or any other national

veterinarian oriented publication, under Notices Of Examinations To Be Given.

5.2. Examinations shall be on subjects pertaining to veterinary medicine that are regularly taught at reputable schools of veterinary medicine, and/or on the laws governing veterinary medicine in the State of West Virginia.

5.3. Procedures concerning the preparation, administration and grading of examinations shall be prescribed by the Board. Examinations shall be designed to test the examinee's knowledge of, and proficiency in, the subjects and techniques commonly taught in veterinary schools, or required for practice of the profession in this state. To pass the examination, the applicant must demonstrate knowledge sufficient to prove himself or herself a competent person to practice veterinary medicine in the judgment of the Board. All applicants shall be tested by a written examination, supplemented by any oral interviews and practical demonstrations as considered necessary by the Board.

5.4. The Secretary-Treasurer shall notify the applicant of the examination results not later than 45 days after the date on which the Board has received the applicants' national examination scores and the state examination results.

5.5. If requested in writing by an applicant who fails the examination, the Board may furnish the applicant with a review of his or her performance on the examination. The Board shall conduct the review at its main office. The Board shall not supply the applicant with a copy of the examination for security reasons.

5.6. All veterinary applicants must pass both national and West Virginia Board examinations. National examination score reports must be sent to the Board directly from the national score reporting service.

5.7. At the beginning of an examination, each applicant shall be assigned a number by the Boards administrator, who shall have in his or her possession the only code showing the number assigned to each applicant, and he or she may not reveal the number assigned to any other applicant or to any member of the Board until after the examination is completed and the applicant's exam has been graded. Applicants shall use the number assigned to them for purposes of identification throughout the examination and no applicant shall enter his or her name or other identifying mark, other than his or her number on any paper containing answers to the questions of any examination.

5.8. When examination papers are delivered to the Board, they become the property of the Board and shall not be returned to the applicant or delivered to any other person. The Boards executive director is custodian of the examination papers which shall be preserved for a period of thirty (30) days after final grading.

5.9. At the direction of the president, the Board may conduct the examination without a quorum of the Board being present.

#### **26-1-6. Licenses.**

6.1. A license to practice the profession of veterinary medicine in this State shall be mailed to an applicant examined and found qualified at his or her address of record.

6.2. The Board shall issue a license to any person who passes the examinations and meets the requirements of the Board to practice the profession of veterinary medicine in this State upon payment of the licensure fee. The license fee is set forth in the Board of Veterinary Medicine's Rule Schedule of Fees, 26 CSR 6. If any duly licensed veterinarian ~~in this State~~ desires that a duplicate license be issued, the Board shall issue a duplicated license upon payment of the duplicate license fee as set forth in the Board of Veterinary Medicine Schedule of Fees, 26 CSR 6.

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

6.4. Every person practicing veterinary medicine in this State shall display his or her license and current renewal certificate in his or her principal office, and a current renewal certificate within view of the public in each facility where he or she practices veterinary medicine in this state.

#### **26-1-7. License Renewals.**

7.1. A licensed veterinarian who desires to continue in active practice shall, on or before December 31 of each year, renew his or her license by completing the required license renewal form and by paying the annual renewal fee as specified in the Board of Veterinary Medicine's Rule Schedule of Fees 26 CSR 6 ~~of these rules~~ and certify to the Board that he or she has completed all continuing education requirements.

On or before December 1 of each year, the Board shall mail a notice to each licensed veterinarian advising the veterinarian that his or her license will expire on December 31 and shall provide him or her with a form for renewal of the license. The Board shall issue a certificate of renewal to all licensees renewing their licenses under the provisions of this rule.

7.2. Any person may renew an expired license within five years of the date of its expiration by ~~making written application for renewal~~ completing the annual renewal applications for the current year and all expired years and paying the current renewal fee plus all delinquent renewal fees. After five years have elapsed from the date of expiration, a license may not be renewed, and the former licensee must make application for a new license and take and pass the license examination. The renewal is not retroactive to the date of expiration, but is effective from the date the Board receives all required articles and fees.

7.3. A licensee shall pay all renewal fees to the Board on or before the thirty-first day of December of each year.

7.4. Continuing Education - . Each licensee who desires to continue his or her license in good standing to practice veterinary medicine in the State of West Virginia shall undertake at least eighteen (18) 50 minute periods of continuing education in the field of veterinary medicine during each calendar year. Hours claimed for listening to audio, viewing video devices, reading journals or participating in telecommunications presentations shall be limited to no more than four (4) hours. A minimum of ~~twelve (12)~~ fourteen (14) hours shall be in Board approved classroom scientific education relative to the practice of veterinary medicine. ~~Two (2) hours of the annual mandatory continuing education may be completed in formats which are not classroom.~~ No periods may be accumulated, carried forward, or held over past the calendar year in which the periods were completed.

7.5. New licensees who acquire licensure at the June examinations are exempt from the continuing education requirements of this rule until the beginning of the immediately succeeding reporting period after licensure. Those licensees who obtain veterinary license at the January examinations are required to obtain the continuing education required in the year licensed.

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

7.7. If such an extension is granted by the Board for completion of approved continuing education hours, the licensee shall file the renewal form with the renewal fee. The Board shall licensee will then be permitted to renew his or her 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 thirty first.

7.8. ~~Such~~ The renewal certificates shall be issued for the period to complete the mandatory continuing education, and shall be extended to December thirty first upon receipt of acceptable written documentation of completing the continuing education. Such ~~The extension for completion of continuing education hours shall 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.~~

7.9. ~~It shall be the responsibility of a~~ Any licensee issued a hardship extension for completion of continuing education to 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 shall constitutes the practice of veterinary medicine without a license.

7.6. ~~During each reporting period, every licensee is required to successfully complete at least six (6) 50 minute periods of classroom instruction or seminar study that has been approved by the Board as fulfilling the continuing education required under this section.~~

~~7.7. During each reporting period, the remaining two (2) 50 minute periods of continuing education may be fulfilled by a thorough and diligent review of audio and/or video educational materials that have been approved by the Board as fulfilling the continuing education required under this section.~~

~~7.8. 10.~~ By December 31 of each year, every licensee shall certify to the Board on forms to be provided by the Board, that he or she has successfully completed the continuing education requirement for that calendar year.

~~7.9~~<sup>11.</sup> The Board shall not issue a renewal license to a licensee who does not present to the Board sufficient proof that the licensee has successfully undertaken and completed the required hours of continuing education, or who has failed to fully complete the renewal form or pay the required renewal fee .

~~7.40~~<sup>12.</sup> ~~"Board approved continuing education" means either continuing education reviewed and approved by the Registry of Approved Continuing Education (RACE), or by the West Virginia Board of Veterinary Medicine.~~ Upon receipt of the renewal fee and sufficient proof of the completion of the continuing education requirements, the Board shall issue an annual a renewal license card bearing the number of the license, the period for which the license is renewed, and any other information the Board considers necessary.

~~7.44~~<sup>13.</sup> The Board shall make every reasonable effort to notify all licensees of the renewal clause set forth in W. Va. Code §30-10-10, but failure to receive the notification does not exempt a licensee from meeting the requirements of this rule.

~~7.42~~<sup>14.</sup> Every licensee shall display his or her renewal license in a conspicuous place in the principal office where he or she practices veterinary medicine. If a licensee practices his or her profession in more than one (1) office, he or she shall have an additional renewal certificate for each office, obtained upon request and payment to the Board of a the fee as specified in the Board of Veterinary Medicine's Rule Schedule of Fees 26 CSR 6 ~~to the Board~~. Every licensee shall notify the Board of any branch office and address.

~~7.43~~<sup>15.</sup> Each licensee shall notify the Board of any change of address, and forward the notice and fee to the Board no later than the effective date of the change of address.

#### **26-1-8. Temporary Permits.**

8.1. The West Virginia Board of Veterinary Medicine may issue, without examination, a temporary permit to practice veterinary medicine or a temporary relief permit. The Board may issue a temporary permit to a qualified applicant for license pending examination who is under the supervision of a West Virginia licensed veterinarian. The term "supervision" as used in this rule shall not require that the supervising veterinarian be present on the premises at all times. The Board may not issue a temporary permit for a period of more than 60 consecutive days, but may renew the permit for additional sixty day periods, not to exceed the date of the next scheduled veterinary license examination

date. The Board may not extend a Temporary permits may not be extended past the next scheduled veterinary license examination date.

~~8.2. Applicants for a temporary permit shall, in addition to all other application requirements, provide three original letters of recommendation from persons who verify the applicant's reputation for good moral character. Each letter shall bear a current date; have the original signature of the person attesting to the applicant's character, with his or her full address and contact numbers.~~

8.32. Each licensee may not employ more than two individuals who have obtained a temporary permit under this rule at one time. An applicant for a temporary permit must associate himself or herself with a qualified licensed veterinarian and his or her labors are limited to the practice of the licensed veterinarian. An application for a permit shall be countersigned by the licensed veterinarian with whom the applicant will be associated.

8.43. An applicant for temporary permit shall complete all requirements for full licensure before the Board makes a determination on the temporary permit request. However, the Board may issue the temporary permit while awaiting the background check report.

8.54. A temporary permit may be summarily revoked by a majority vote of the Board without a hearing, or upon receipt of negative background check report.

8.65. A temporary permit, of whatever nature or character, is not transferable.

8.76. The fee for a temporary permit is as set forth in the Board's of Veterinary Medicine's Rule Schedule of Fees 26 CSR 6.

8.87. A temporary permittee who fails to renew the temporary permit and who continues the practice of veterinary medicine after the expiration date of the temporary permit is guilty of the practice of veterinary medicine without a license.

8.98. Temporary relief permit - A ~~non-resident~~ veterinarian validly licensed in another state, district or territory of the United States ~~or foreign country~~ may take charge temporarily of the practice of a licensee in this State during his or her absence from the practice. ~~The temporary This permit shall be known as~~ The Board may issue a "relief permit", and which is limited to two (2) consecutive week's duration, and may be renewed upon application to the Board.

8.10. To be eligible for a relief permit, an applicant shall:

a. have adequate a minimum of three years of licensed active clinical experience prior to the date of application;

b. complete an application for a review of credentials veterinary licensure and pay the relief permit fee required fees set forth in the Board of Veterinary Medicine's Rule Schedule of Fees 26 CSR 6;

c. ~~submit three notarized certifications of experience regarding the~~

~~applicant from veterinarians actively licensed and practicing in the same jurisdiction(s) for which the experience is certified. The certification shall indicate the type of experience acquired (bovine, exotic, equine, small animal or other), shall certify to the applicant's good moral character, and shall provide a critical evaluation of the applicant's ability to practice along with the professional recommendation for licensure. The certification shall be sent to the Board by the certifying veterinarian;~~

d. c. submit a certification from every state in which the applicant is has been licensed, verifying that the applicant now holds or held a valid, unsuspended and unrevoked license to practice in that state ; and

e. d. submit other pertinent information which the Board in its discretion may require.

8.11. The Board in its discretion may issue an emergency relief permit to any veterinarian who is known to the Board to be in substantial compliance with this rule. The permit shall be limited to thirty days (30) duration, and may be extended at the discretion of the Board.

8.12. A All relief permits is are not transferable.

#### **26-1-9. Disciplinary Action.**

9.1. The Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, reprimand a licensee, refuse to examine an applicant or issue a license or renewal of a license, after notice and hearing as provided by law and as provided by this rule if it finds an applicant or licensee:

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

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

c. has engaged in dishonest or illegal practices in or connected with the practice of veterinary medicine;

d. has been convicted of a felony under the laws of this or any other State of the United States or of the federal government of the United States or any other crime involving moral turpitude;

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

f. has permitted or allowed another to use his or her license or certificate to practice veterinary medicine in this or any other state;

g. 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 ;

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

i. has committed fraud in the application or reporting of any test of animal disease;

j. has paid or received any kickback, rebate, bonus, or other remuneration for treating an animal or for referring a client to another provider of veterinary services or goods ;

k. has performed or prescribed unnecessary or unauthorized treatment;

l. 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 ;

m. has failed to keep his or her equipment and business premises in a sanitary condition ;

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

o. ~~is subject to~~ has received disciplinary action in another jurisdiction, including the suspension, probation, or revocation of a license to practice veterinary medicine issued by another jurisdiction.

9.2. 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.

9.3. 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.

9.4. Following notice and hearing, the Board may suspend or revoke a license, place a license on probation, or reprimand a licensee who knowingly 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. Reportable contagious diseases include, but are not limited to;

Equine Piroplasmosis,  
Bovine Piroplasmosis or Splenetic Fever,  
Scabies in cattle,  
Hog Cholera,  
Acute Swine Erysipelas,  
Tuberculosis,  
Paratuberculosis,  
Brucellosis,  
Scrapie,  
Bluetongue,  
Anthrax,  
Psittacosis or Ornithosis,  
Newcastle Disease,  
Foot-and-Mouth Disease,  
Rinderpest,  
African Swine Fever,  
Teschin Disease,  
Contagious Bovine Pleuropneumonia,  
European Fowl Pest,  
Dourine,  
Vesicular Exanthema,  
Screwworms and Glanders,  
Scabies in sheep,  
Bovine Spongiform Encephalopathy (BSE),  
West Nile Virus,  
Eastern Equine Encephalitis (EEE),  
Western Equine Encephalitis (WEE),  
Classical Swine Fever,  
Asian Influenza,  
Monkey Pox,  
Vesicular Stomatitis

9.5. 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.

TITLE 26  
LEGISLATIVE RULE  
WEST VIRGINIA BOARD OF VETERINARY MEDICINE

SERIES 1  
ORGANIZATION AND OPERATION

FILED  
2005 OCT -7 P 4:12  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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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 adopted by the Board.

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notary public or any officer legally qualified to administer oaths.

4.4. Any applicant furnishing false information in an application shall be denied the right to take the examination, or if the applicant has been licensed before the Board becomes aware of the falseness of the information, the license is subject to suspension, revocation or cancellation.

4.5. Certified transcripts of records from the schools or colleges of veterinary medicine attended by the applicant shall accompany each application. The certified transcripts of record shall show the total number of hours of attendance, the subjects studied, the grades given and the date of graduation. If the official transcripts submitted do not indicate graduation, a copy of the applicants diploma affirmed by a notary public to be an exact copy of the original document with notary signature and seal may serve as verification of graduation.

4.6. The applicant shall file the completed application form and application fee with the Board at least thirty (30) days prior to the examination date unless otherwise accepted in the discretion of the Board or its executive director. In the event an applicant intends to retake the examination, the fee and the notice of his or her intention to retake the examination must also be in the Boards office thirty (30) days prior to the examination date. The applicant shall mail the application, records and fees to the Board.

4.7. If the Board determines that an applicant possesses the proper qualifications, it shall admit the applicant to the next examination. If an applicant is found not qualified to take the examination the Secretary-Treasurer shall notify the applicant in writing, at the applicant's address 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 in accordance with the provisions of W. Va. Code §30-10-12. The Board shall refund the application fee of any applicant found not qualified to take the examination.

4.8. Failure of an applicant to appear at a scheduled examination by the Board, after the application has been received by the Board, shall result in a determination that the applicant has taken the examination but without grades. The Board may waive this determination upon written confirmation from the federal or a state government agency stating applicant has been called to immediate active duty.

4.9. National Veterinary Board Examination: All applicants must have received a passing score on a national veterinary examination or examinations. The authorized examination providers shall be determined by the Board. The passing score for the national veterinary exams is seventy percent (70%). It is the applicant's responsibility to have the national testing service forward a copy of his or her scores to the Board at his or her expense.

#### **26-1-5. Examination Procedure.**

5.1. Examinations for veterinary licensure shall be held at least once a year. The Board shall advertise the West Virginia Veterinary Board examination dates and shall specify a deadline for receipt of the completed application and application fee. The Board shall publish public notice for the application credentials deadline and examination dates in the Journal of the American Veterinarian Medical Association, or any other national

veterinarian oriented publication, under Notices Of Examinations To Be Given.

5.2. Examinations shall be on subjects pertaining to veterinary medicine that are regularly taught at reputable schools of veterinary medicine, and/or on the laws governing veterinary medicine in the State of West Virginia.

5.3. Procedures concerning the preparation, administration and grading of examinations shall be prescribed by the Board. Examinations shall be designed to test the examinee's knowledge of, and proficiency in, the subjects and techniques commonly taught in veterinary schools, or required for practice of the profession in this state. To pass the examination, the applicant must demonstrate knowledge sufficient to prove himself or herself a competent person to practice veterinary medicine in the judgment of the Board. All applicants shall be tested by a written examination, supplemented by any oral interviews and practical demonstrations as considered necessary by the Board.

5.4. The Secretary-Treasurer shall notify the applicant of the examination results not later than 45 days after the date on which the Board has received the applicants' national examination scores and the state examination results.

5.5. If requested in writing by an applicant who fails the examination, the Board may furnish the applicant with a review of his or her performance on the examination. The Board shall conduct the review at its main office. The Board shall not supply the applicant with a copy of the examination for security reasons.

5.6. All veterinary applicants must pass both national and West Virginia Board examinations. National examination score reports must be sent to the Board directly from the national score reporting service.

5.7. At the beginning of an examination, each applicant shall be assigned a number by the Boards administrator, who shall have in his or her possession the only code showing the number assigned to each applicant, and he or she may not reveal the number assigned to any other applicant or to any member of the Board until after the examination is completed and the applicant's exam has been graded. Applicants shall use the number assigned to them for purposes of identification throughout the examination and no applicant shall enter his or her name or other identifying mark, other than his or her number on any paper containing answers to the questions of any examination.

5.8. When examination papers are delivered to the Board, they become the property of the Board and shall not be returned to the applicant or delivered to any other person. The Boards executive director is custodian of the examination papers which shall be preserved for a period of thirty (30) days after final grading.

5.9. At the direction of the president, the Board may conduct the examination without a quorum of the Board being present.

#### **26-1-6. Licenses.**

6.1. A license to practice the profession of veterinary medicine in this State shall be mailed to an applicant examined and found qualified at his or her address of record.

6.2. The Board shall issue a license to any person who passes the examinations and meets the requirements of the Board to practice the profession of veterinary medicine in this State upon payment of the licensure fee. The license fee is set forth in the Board of Veterinary Medicine's Rule Schedule of Fees, 26 CSR 6. If any duly licensed veterinarian in this State desires that a duplicate license be issued, the Board shall issue a duplicated license upon payment of the duplicate license fee as set forth in the Board of Veterinary Medicine Schedule of Fees, 26 CSR 6.

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

6.4. Every person practicing veterinary medicine in this State shall display his or her license and current renewal certificate in his or her principal office, and a current renewal certificate within view of the public in each facility where he or she practices veterinary medicine in this state.

#### **26-1-7. License Renewals.**

7.1. A licensed veterinarian who desires to continue in active practice shall, on or before December 31 of each year, renew his or her license by completing the required license renewal form and by paying the annual renewal fee as specified in the Board of Veterinary Medicine's Rule Schedule of Fees 26 CSR 6 ~~of these rules~~ and certify to the Board that he or she has completed all continuing education requirements.

On or before December 1 of each year, the Board shall mail a notice to each licensed veterinarian advising the veterinarian that his or her license will expire on December 31 and shall provide him or her with a form for renewal of the license. The Board shall issue a certificate of renewal to all licensees renewing their licenses under the provisions of this rule.

7.2. Any person may renew an expired license within five years of the date of its expiration by ~~making written application for renewal~~ completing the annual renewal applications for the current year and all expired years and paying the current renewal fee plus all delinquent renewal fees. After five years have elapsed from the date of expiration, a license may not be renewed, and the former licensee must make application for a new license and take and pass the license examination. The renewal is not retroactive to the date of expiration, but is effective from the date the Board receives all required articles and fees.

7.3. A licensee shall pay all renewal fees to the Board on or before the thirty-first day of December of each year.

7.4. Continuing Education - . Each licensee who desires to continue his or her license in good standing to practice veterinary medicine in the State of West Virginia shall undertake at least eighteen (18) 50 minute periods of continuing education in the field of veterinary medicine during each calendar year. Hours claimed for listening to audio, viewing video devices, reading journals or participating in telecommunications presentations shall be limited to no more than four (4) hours. A minimum of twelve (12) fourteen (14) hours shall be in Board approved classroom scientific education relative to the practice of veterinary medicine. Two (2) hours of the annual mandatory continuing education may be completed in formats which are not classroom. No periods may be accumulated, carried forward, or held over past the calendar year in which the periods were completed.

7.5. New licensees who acquire licensure at the June examinations are exempt from the continuing education requirements of this rule until the beginning of the immediately succeeding reporting period after licensure. Those licensees who obtain veterinary license at the January examinations are required to obtain the continuing education required in the year licensed.

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

7.7. If such an extension is granted by the Board for completion of approved continuing education hours, the licensee shall file the renewal form with the renewal fee. The Board shall licensee will then be permitted to renew his or her 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 thirty first.

7.8. Such The renewal certificates shall be issued for the period to complete the mandatory continuing education, and shall be extended to December thirty first upon receipt of acceptable written documentation of completing the continuing education. Such- The extension for completion of continuing education hours shall 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.

7.9. It shall be the responsibility of aAny licensee issued a hardship extension for completion of continuing education to- 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 shall constitutes the practice of veterinary medicine without a license.

7.6. During each reporting period, every licensee is required to successfully complete at least six (6) 50 minute periods of classroom instruction or seminar study that has been approved by the Board as fulfilling the continuing education required under this section.

~~7.7. During each reporting period, the remaining two (2) 50-minute periods of continuing education may be fulfilled by a thorough and diligent review of audio and/or video educational materials that have been approved by the Board as fulfilling the continuing education required under this section.~~

~~7.8. 10.~~ By December 31 of each year, every licensee shall certify to the Board on forms to be provided by the Board, that he or she has successfully completed the continuing education requirement for that calendar year.

~~7.9. 11.~~ The Board shall not issue a renewal license to a licensee who does not present to the Board sufficient proof that the licensee has successfully undertaken and completed the required hours of continuing education, or who has failed to fully complete the renewal form or pay the required renewal fee.

~~7.10-12. "Board approved continuing education" means either continuing education reviewed and approved by the Registry of Approved Continuing Education (RACE), or by the West Virginia Board of Veterinary Medicine. Upon receipt of the renewal fee and sufficient proof of the completion of the continuing education requirements, the Board shall issue an annual a renewal license card bearing the number of the license, the period for which the license is renewed, and any other information the Board considers necessary.~~

~~7.14. 13.~~ The Board shall make every reasonable effort to notify all licensees of the renewal clause set forth in W. Va. Code §30-10-10, but failure to receive the notification does not exempt a licensee from meeting the requirements of this rule.

~~7.12. 14.~~ Every licensee shall display his or her renewal license in a conspicuous place in the principal office where he or she practices veterinary medicine. If a licensee practices his or her profession in more than one (1) office, he or she shall have an additional renewal certificate for each office, obtained upon request and payment to the Board of a the fee as specified in the Board of Veterinary Medicine's Rule Schedule of Fees 26 CSR 6 to the Board. Every licensee shall notify the Board of any branch office and address.

~~7.13. 15.~~ Each licensee shall notify the Board of any change of address, and forward the notice and fee to the Board no later than the effective date of the change of address.

#### **26-1-8. Temporary Permits.**

8.1. The West Virginia Board of Veterinary Medicine may issue, without examination, a temporary permit to practice veterinary medicine or a temporary relief permit. The Board may issue a temporary permit to a qualified applicant for license pending examination who is under the supervision of a West Virginia licensed veterinarian. The term "supervision" as used in this rule shall not require that the supervising veterinarian be present on the premises at all times. The Board may not issue a temporary permit for a period of more than 60 consecutive days, but may renew the permit for additional sixty day periods, not to exceed the date of the next scheduled veterinary license examination

date. The Board may not extend a Temporary permit may not be extended past the next scheduled veterinary license examination date.

~~8.2. Applicants for a temporary permit shall, in addition to all other application requirements, provide three original letters of recommendation from persons who verify the applicant's reputation for good moral character. Each letter shall bear a current date; have the original signature of the person attesting to the applicant's character, with his or her full address and contact numbers.~~

8.32. Each licensee may not employ more than two individuals who have obtained a temporary permit under this rule at one time. An applicant for a temporary permit must associate himself or herself with a qualified licensed veterinarian and his or her labors are limited to the practice of the licensed veterinarian. An application for a permit shall be countersigned by the licensed veterinarian with whom the applicant will be associated.

8.43. An applicant for temporary permit shall complete all requirements for full licensure before the Board makes a determination on the temporary permit request. However, the Board may issue the temporary permit while awaiting the background check report.

8.54. A temporary permit may be summarily revoked by a majority vote of the Board without a hearing, or upon receipt of negative background check report.

8.65. A temporary permit, of whatever nature or character, is not transferable.

8.76. The fee for a temporary permit is as set forth in the Board's Rule Schedule of Fees 26 CSR 6.

8.87. A temporary permittee who fails to renew the temporary permit and who continues the practice of veterinary medicine after the expiration date of the temporary permit is guilty of the practice of veterinary medicine without a license.

8.98. Temporary relief permit - A ~~non-resident~~ veterinarian validly licensed in another state, district or territory of the United States ~~or foreign country~~ may take charge temporarily of the practice of a licensee in this State during his or her absence from the practice. ~~The temporary This permit shall be known as~~ The Board may issue a "relief permit", and which is limited to two (2) consecutive week's duration, and may be renewed upon application to the Board.

8.10. To be eligible for a relief permit, an applicant shall:

a. have adequate a minimum of three years of licensed active clinical experience prior to the date of application;

b. complete an application for a review of credentials veterinary licensure and pay the relief permit fee required fees set forth in the Board of Veterinary Medicine's Rule Schedule of Fees 26 CSR 6;

~~c. submit three notarized certifications of experience regarding the~~

~~applicant from veterinarians actively licensed and practicing in the same jurisdiction(s) for which the experience is certified. The certification shall indicate the type of experience acquired (bovine, exotic, equine, small animal or other), shall certify to the applicant's good moral character, and shall provide a critical evaluation of the applicant's ability to practice along with the professional recommendation for licensure. The certification shall be sent to the Board by the certifying veterinarian;~~

d c. submit a certification from every state in which the applicant is has been licensed, verifying that the applicant now holds or held a valid, unsuspended and unrevoked license to practice in that state ; and

e d. submit other pertinent information which the Board in its discretion may require.

8.11. The Board in its discretion may issue an emergency relief permit to any veterinarian who is known to the Board to be in substantial compliance with this rule. The permit shall be limited to thirty days (30) duration, and may be extended at the discretion of the Board.

8.12. A All relief permits is are not transferable.

#### **26-1-9. Disciplinary Action.**

9.1. The Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, reprimand a licensee, refuse to examine an applicant or issue a license or renewal of a license, after notice and hearing as provided by law and as provided by this rule if it finds an applicant or licensee:

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

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

c. has engaged in dishonest or illegal practices in or connected with the practice of veterinary medicine;

d. has been convicted of a felony under the laws of this or any other State of the United States or of the federal government of the United States or any other crime involving moral turpitude;

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

f. has permitted or allowed another to use his or her license or certificate to practice veterinary medicine in this or any other state;

- g. 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 ;
- h. has issued a false certificate relating to the sale for human consumption of inedible animal products;
- i. has committed fraud in the application or reporting of any test of animal disease;
- j. has paid or received any kickback, rebate, bonus, or other remuneration for treating an animal or for referring a client to another provider of veterinary services or goods ;
- k. has performed or prescribed unnecessary or unauthorized treatment;
- l. 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 ;
- m. has failed to keep his or her equipment and business premises in a sanitary condition ;
- n. has committed gross malpractice or is guilty of a pattern of acts indicating consistent malpractice, negligence, or incompetence in the practice of veterinary medicine ; or
- o. ~~is subject to~~ has received disciplinary action in another jurisdiction, including the suspension, probation, or revocation of a license to practice veterinary medicine issued by another jurisdiction.

9.2. 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.

9.3. 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.

9.4. Following notice and hearing, the Board may suspend or revoke a license, place a license on probation, or reprimand a licensee who knowingly 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. Reportable contagious diseases include, but are not limited to;

Equine Piroplasmosis,  
Bovine Piroplasmosis or Splenic Fever,  
Scabies in cattle,  
Hog Cholera,  
Acute Swine Erysipelas,  
Tuberculosis,  
Paratuberculosis,  
Brucellosis,  
Scrapie,  
Bluetongue,  
Anthrax,  
Psittacosis or Ornithosis,  
Newcastle Disease,  
Foot-and-Mouth Disease,  
Rinderpest,  
African Swine Fever,  
Teschin Disease,  
Contagious Bovine Pleuropneumonia,  
European Fowl Pest,  
Dourine,  
Vesicular Exanthema,  
Screwworms and Glanders,  
Scabies in sheep,  
Bovine Spongiform Encephalopathy (BSE),  
West Nile Virus,  
Eastern Equine Encephalitis (EEE),  
Western Equine Encephalitis (WEE),  
Classical Swine Fever,  
Asian Influenza,  
Monkey Pox,  
Vesicular Stomatitis

9.5. 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.

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Organization and Operation

Type of Rule:  Legislative  Interpretive  Procedural

Agency: West Virginia Board of Veterinary Medicine

Address: 5509 Big Tyler Road, Suite 3  
Cross Lanes, WV 25313

Phone Number: (304) 776-8032 Email: wgoodwin@wvnet.edu

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

This measure will have no effect on costs and revenues of state government.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: Organization and Operation

Rule Title: Organization and Operation

3. **Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

None

### MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

This legislative rule applies to operations and procedures of the Board of Veterinary Medicine and has no language added, deleted or modified which would have any fiscal impact on this or any other entity of state government.

Date: October 7, 2005

Signature of Agency Head or Authorized Representative

*Frank Gordon*

## **STATEMENT OF CIRCUMSTANCES**

**Proposed Legislative Rule Change Filed June, 2005 for 2006 Legislature**

**Title 26, Series 1 Organization and Operation**

**There have been concerns as the current rules make no reference to or allowance for extensions of time for completing continuing education in cases of extreme unavoidable hardship such as illness. We have had to deny license renewals in the past due to this. We are attempting to create language to allow extensions of time for completion under such circumstances.**

**Also, we have held veterinary license exams only once annually though 2004. Such exam and license issuance was in June of each year, so such licensees were not required to complete c.e. in the year license was acquired in order to renew for the next year. However, beginning in 2005, we offer the veterinary license exam in January and June. We did not wish to exempt those who acquire license in January from c.e. for the entire year, so reference to this is added to the language in Series 1.**

**We also needed to clarify the reference to c.e., as old language was not removed when the new language was added regarding the number of hours required annually. In addition, the Board wished to clarify the number of hours authorized for classroom study, etc., in the new language.**

## **BRIEF SUMMARY**

**Proposed Legislative Rule Change Filed June, 2005 for 2006 Legislature**

**Series 1- Organization and Operation**

**The proposed rule changes to Series 1 are for purposes of clarifying language relative to continuing education requirements and to establish that new graduates who acquire license other than in June are required to complete continuing education in the year license is granted.**

**Language is also added to authorize the Board to allow extension on completing the mandatory annual continuing education for hardship causes. The requirement for letters of recommendation is deleted from temporary permit requirements to conform with the application requirements for full licensure.**