

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #3

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**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

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

CITE AUTHORITY: §30-10-4

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 RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

SCANNED

TITLE 26
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF VETERINARY MEDICINE

SERIES 1
ORGANIZATION AND OPERATION

§26-1-1. General.

1.1. Scope. -- These rules establish 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. -- ~~April 28, 1992~~

1.4. ~~1.4.~~ Effective Date. -- ~~April 28, 1992~~

§26-1-2. Definitions.

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

2.2. "Negative background check" is 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 applicant is not the person as specified on the application or that the person has been convicted of a felony in any jurisdiction.

2.3. "Reportable contagious disease" is any disease capable of spreading to any animal or human.

§26-1-23. The Board; Procedures.

~~32.21.~~ 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-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. Any vacancy in the officers of the Board may be filled at any duly convened meeting of the Board.

~~The secretary treasurer shall execute a surety bond, in an amount to be determined by the Board, which bond shall be approved by the attorney general as to form, and by the auditor as to sufficiency, and when so approved, shall be filed and recorded in the office of the Secretary of State. The Board shall pay the premium on the bond.~~

32.3. The Board may, in its discretion, employ an executive director, executive secretary, and any other administrative staff members as the Board may consider necessary. These Board employees shall be empowered to do all things and discharge all duties required of the Board ~~and the secretary treasurer of the Board~~ pursuant to West Virginia law and these rules.

32.4. 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 additional meetings at which examinations for licensure are given. In addition, it may hold~~ such additional meetings as may be necessary which shall be called ~~by the secretary treasurer at the~~

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direction of the President or upon the written request of any three (3) members of the Board.

32.5. 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.

32.6. Location of Office - The official office of the Board is, unless otherwise designated by the Board, located at the office of the executive ~~secretary~~ director.

32.7. Disposition of moneys; report of auditor - The ~~secretary-treasurer~~ of the Board shall receive and account for all moneys derived by virtue of the provisions of W. Va. Code §30-10-1 et seq., and shall pay the moneys into the State Treasury, ~~monthly on or before the tenth day of the month after the calendar month during which the moneys were received.~~ The ~~secretary-treasurer~~ shall also, ~~on the first day of January and first day of July of each year or within five (5) days thereafter, certify to the State Auditor a detailed statement of all moneys received during the preceding six (6) months.~~

32.8. Compensation of members; expenses - Every member of the Board shall receive ~~\$100.00~~ \$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.

3.9. All authorized compensation and all expenses certified by the Board as reasonably and necessarily incurred in the discharge of the member's duties shall be paid out of the State Treasury from funds appropriated for that purpose by the Board on warrants of the State Auditor issued on requisitions signed by the ~~secretary-treasurer~~ of the Board, or the Board's executive ~~secretary~~ director.

32.910. Record of proceedings; registration of applicants; certified copies of record prima facie evidence; report to Governor - The ~~secretary-treasurer~~ of the Board shall keep a record of its proceedings and a register of all applicants for license or registration, showing for each, the date of his or her application, his or her name, age, educational and other qualifications, place of residence, whether an examination was required, whether the applicant was rejected or whether a certificate of license or certificate of registration was granted, the date of such action, the license or registration number, if required, and any suspension or revocation of a license or registration. The books and register of the Board shall be open to public inspection at all reasonable times, and the books and register, or a copy of any part thereof, certified by the ~~secretary-treasurer~~ and attested by the seal of the Board, are prima facie evidence of all matters recorded therein.

3.11. As soon as possible after the close of each fiscal year, the Board shall submit to the Governor a report of its transactions for the preceding year, together with an itemized statement of its receipts and disbursements, and a full list of the names of all persons licensed or registered by it during such period. This report shall also be certified by the ~~secretary-treasurer~~ and shall be filed with the Secretary of State.

32.4012. Roster of licensed or registered practitioners - The ~~secretary-treasurer~~ of the Board shall prepare and maintain a complete roster of the names and office addresses of all persons licensed or registered within this State, arranged alphabetically by name.

32.413. The Board shall not employ any administrative staff member, nor an executive director or executive secretary who is related by blood or marriage to any member of the Board.

§26-1-34. Applications and Examinations.

43.1. Before any person may take the examination for a license to practice veterinary medicine in this State, he or she shall submit a written application on the Board's application form, which shall be supplied by the ~~secretary-treasurer~~ of 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 their 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 applicants birth certificate or official record shall be submitted, as well as written verification of any name changes. The applicant shall include ~~two (2)~~ a current photographs of himself or herself, approximately 2 inches by 2 inches in size. 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 26 CSR 6 with the written application.

~~3.2. The application shall contain the signatures of three (3) persons who attest to the good moral character of the applicant and in addition to these signatures a letter from each of these individuals shall accompany the application form. Each signature on the application form shall be sworn before a notary public or any officer legally qualified to administer oaths.~~

43.32. 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 and regulations adopted, or hereafter adopted by the Board.

43.43. 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.

43.54. Any person 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.

43.65. ~~Certified copies of the transcripts of records from the schools or colleges of veterinary medicine attended by the applicant shall accompany each application, which 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 diploma affirmed by a notary public to be an exact copy of the original document with notary signature and seal may satisfy verification of graduation.~~

43.76. The applicant must file the completed application form and application fee with the ~~secretary-treasurer of the Board not later than ten at least thirty (10) (30) days prior to the first day of the examination dates 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 ~~secretary-treasurer's~~ Board's office ten (10) thirty (30) days prior to the examination dates. The applicant shall mail the application, records and fees to the ~~secretary-treasurer Board.~~

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

43.98. If the Board determines that an applicant possesses the proper qualifications, it shall admit the applicant to the next examination, ~~or if the applicant is eligible for a license without a written examination under the provisions of W. Va. Code §30-10-8, the Board may grant a license.~~ If an applicant is found not qualified to take the examination ~~or is not qualified for a license without a written examination,~~ the ~~secretary-treasurer Board~~ shall notify the applicant in writing, at the applicant's address listed on the application, of the finding and the grounds therefor. 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 fifty percent of the application fee of any applicant found not qualified.

~~43.109.~~ National Veterinary Board Examination: All veterinary applicants, ~~unless qualified for license without written examination,~~ must have received a passing score on the ~~National Veterinary Board's~~ national veterinary examination or examinations. Such authorized examination providers shall be determined by the Board. The passing score for the ~~National Veterinary Board~~ will be the 1.5 standard deviation from the mean of the criterion group. ~~national veterinary exams shall be seventy percent (70%).~~ It is the applicant's expense and responsibility to have the national testing service forward a copy of his or her ~~National Board~~ scores to the ~~secretary-treasurer of the Board.~~

§26-1-45. Examination Procedure.

54.1. The Board shall advertise the West Virginia Veterinary Board examination dates and shall specify a deadline for receipt by the ~~secretary-treasurer~~ 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.

54.2. Examinations shall be on subjects pertaining to veterinary medicine, ~~and may include veterinary anatomy, veterinary pathology, chemistry, veterinary obstetrics, public health, veterinary practice, veterinary jurisprudence, veterinary physiology and bacteriology, and such other subjects as are regularly taught at reputable schools of veterinary medicine, or on the laws governing veterinary medicine in the State of West Virginia.~~

54.3. 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 examinee must demonstrate ~~scientific and practical~~ knowledge sufficient to prove himself or herself a competent person to practice veterinary medicine in the ~~judgement~~ judgment of the Board. All examinees, ~~unless exempted by W. Va. Code §30-10-8,~~ shall be tested by a written examination, supplemented by such oral interviews and practical demonstrations as the Board may consider necessary.

54.4. The Board shall notify the examinee of the examination results not later than 45 days after the date on which the Board has received the ~~Examinee's National Board~~ examination scores and the state oral and written examination results.

54.5. If requested in writing by a person who fails the examination, the Board may furnish the person with a review of the person's performance on the examination. The Board shall conduct the review at its main office. A copy of the examination shall not be supplied for reasons of security of the examination.

54.6. All veterinary applicants, ~~unless qualified for license without written examination,~~ must pass both the ~~National~~ national and the West Virginia Board examinations.

54.7. At the beginning of an examination, each applicant shall be assigned a number by the ~~secretary-treasurer of the Board's~~ 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, ~~and then only during a meeting of the Board.~~ 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.

54.8. When examination papers are delivered to the ~~secretary-treasurer or presiding examiner~~ Board, they become the property of the Board and shall not be returned to the applicant or delivered to any other person. The ~~secretary-treasurer or his authorized representative~~ Board's executive director is custodian of the examination papers which must be preserved for a period of thirty (30) days after final grading.

54.9. At the direction of the president, the ~~secretary-treasurer or his appointed representative~~ Board may conduct the examination without a quorum of the Board being present.

§26-1-56. Licenses.

65.1. When an applicant is examined by the Board and found qualified to practice the profession of veterinary medicine in this State, he or she will be notified and a license will be mailed to the address of record for the applicant. ~~by letter by the secretary-treasurer. In this letter, the secretary-treasurer will also advise the applicant of the required fees as set out in the schedule of fees, 26 CSR 6. If the applicant fails to pay the required fees within ninety (90) days, his or her records will be so marked and he or she will not be listed as a licensed veterinarian in this State. The secretary-treasurer shall make every effort to locate the applicant and send a certified letter with return receipt requested to the address given by the applicant.~~

65.2. 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. This license fee shall be as stated in the 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 stated in the schedule of fees, 26 CSR 6.

65.3. The license issued by the Board will include the licensee's name in full, a ~~certificate registration~~ license number, the Board seal, the effective date of the ~~certificate~~ license and ~~the~~ shall bear the signatures of the President and ~~sSecretary-t~~ Treasurer of the Board.

65.4. 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.

§26-1-67. License Renewals.

76.1. All licensed veterinarians who desire to continue in active practice shall, on or before December 31 of each year, renew their licenses by completing the required license renewal form and by paying the annual renewal fee as specified in the schedule of fees, Series 6 of these rules and certify to the Board that he or she has completed all continuing education requirements. On or about December 1 of each year, the ~~secretary-treasurer~~ Board shall mail a notice to each licensed veterinarian advising such veterinarian that his or her license will expire on December 31 and shall provide him or her with a form for renewal thereof. The ~~secretary-treasurer~~ Board shall issue a certificate of renewal to all persons renewing their licenses under the provisions of this rule.

76.2. Any person may renew an expired license within five years of the date of its expiration by making written application for renewal 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. Such renewal shall not provide retroactive license from the date of expiration, but shall be effective from date of receipt of all requirements and fees.

76.3. All renewal fees shall be paid to ~~the secretary-treasurer~~ of the Board on or before the thirty-first day of December of each year.

6.4. ~~The secretary-treasurer of the Board shall notify any veterinarian, by January 31, by certified mail, of his or her failure to submit an annual renewal fee to the Board by December 31 of the previous year.~~

~~76-54.~~ Continuing Education - ~~Beginning 1992,~~ Each veterinarian 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 eight (8) 50 minute periods of continuing education in the field of veterinary medicine during each calendar year. No periods may be accumulated, carried forward, or held over past the calendar year in which such periods were completed.

7.5. New licensees are exempt from the continuing education requirements of this rule until the beginning of the immediately succeeding reporting period after licensure.

7.6.6. During each reporting period, every veterinarian 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 this continuing education requirement.

7.6.7. 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 this continuing education requirement.

7.6.8. By December 31 of each year, every veterinarian 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. ~~The certification shall be sworn by him or her before a notary public or any officer legally qualified to administer oaths.~~

~~6.9. If the Board does not receive certification of the completion of the continuing education requirement by December 31 of each year from any licensed veterinarian, the secretary treasurer shall notify the veterinarian by certified mail, at his or her last known address, by January 31. The notice shall instruct each veterinarian to whom it is sent to comply with the continuing education reporting requirement by March 31, and shall state that failure to so report may result in that veterinarian's license being suspended or revoked. The same notice shall also serve as a temporary renewal certificate until March 31 of the current year.~~

7.9. ~~6.10.~~ The Board shall not issue a renewal license to a veterinarian who does not present to the Board sufficient proof that such veterinarian 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.

~~7.6.11~~ 7.6.10. Upon receipt of the renewal fee and sufficient proof of the completion of the continuing education requirements, the ~~secretary treasurer~~ Board shall issue an annual renewal license card bearing the number of the license, the ~~year~~ period for which renewed, and such other information as the Board may consider necessary.

~~6.7.11~~ 6.7.11. The ~~secretary treasurer~~ of the Board shall make every reasonable effort to notify all veterinarians of the renewal clause as set forth in W. Va. Code §30-10-10, but failure to receive such notification does not exempt anyone from meeting the requirements of this rule.

~~6.7.12~~ 6.7.12. Every veterinarian shall display his or her renewal license in a conspicuous place in the principal office where he or she practices veterinary medicine. If a veterinarian practices his or her profession in more than one (1) office, he shall have an additional renewal certificate for each office, obtained upon request and payment of fee ~~to the secretary treasurer~~ Board. Every veterinarian shall notify the ~~secretary treasurer~~ Board of any branch office and address.

~~6.7.13~~ 6.7.13. It is the responsibility of each veterinarian to notify the Board of any change of address, and to forward the notice and fee to the Board no later than the effective date of the change of address.

§26-1-7-8 Temporary Permits.

8.7.1. The West Virginia Board of Veterinary Medicine may issue, without examination, a temporary

permit to practice veterinary medicine or a temporary relief permit as defined in section 7.6. The Board may issue a temporary permit:

~~a. to a veterinarian validly licensed in another state, territory, or district of the United States or foreign country. The Board shall not issue a temporary permit to a non-resident veterinarian for a period of more than 60 consecutive days, but may renew the permit.~~

~~b. to a West Virginia resident who is a qualified applicant for license pending examination and 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.~~

8.2. Applicants for temporary license shall, in addition to all other application requirements, provide three original letters of recommendation from persons who verify applicants reputation for good moral character. These letters shall bear current dates, have original signature of person so attesting, with their full address and contact numbers.

87.23. A licensed veterinarian may not employ more than two individuals who have obtained a temporary permit under these rules 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.

8.4. Applicants for temporary license shall complete all requirements for full licensure before determination shall be made on the temporary permit request. However, the Board may allow the temporary permit to be issued while awaiting the background check report.

87.35. 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.

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

87.57. The fee for a temporary permit is as stated in the schedule of fees-- 26 CSR 6.

8.8. Failure to submit confirmation of continuation of temporary licensees employment and sponsorship by the expiration date of the temporary permit shall constitute the practice of veterinary medicine without a license, if the practice of veterinary medicine continues past the expiration date of the temporary permit.

87.69. 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 lawfully qualified veterinarian of this State during his or her absence from such practice. Such temporary permit shall be known as a "relief permit", and is limited to two (2) consecutive weeks 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 years of licensed active clinical experience prior to the date of application;
- b. complete an application for a review of credentials and pay the relief permit fee as set out in the 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, which

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; and

d. submit a certification from every state in which the applicant is licensed, verifying that the applicant holds a valid, unsuspended and unrevoked license to practice in that state.

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

~~87.711.~~ 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 such subsections 7.5 (a), (b), and (c), (d), and (e), of this rule. The permit shall be limited to ~~two (2) consecutive weeks~~ thirty days (30) duration, and may be ~~renewed upon application to~~ extended at the discretion of the Board.

~~87.812.~~ A relief permit is not transferable.

~~§26-1-8. Reciprocity.~~

~~8.1. In order for an applicant to obtain a license to practice veterinary medicine in the State of West Virginia by reciprocity, he or she must:~~

~~a. obtain an application from the Board;~~

~~b. complete and return the application, along with the required enclosures, to the Board within the time specified therein, and pay the reciprocal application fee set out in the schedule of fees, 26 CSR 6;~~

~~c. provide proof that he or she has successfully passed the examination for licensure by his or her licensing state, and complied with all other provisions of the reciprocating agreement with his or her licensing state;~~

~~d. have his or her licensing state board forward a letter or other document affixed with the seal of such reciprocating state board stating that the applicant is licensed in that state by virtue of an examination, that such applicant's license is in good standing, and that the West Virginia Board shall further be entitled to, and be advised of, any derogatory information which exists in their licensing state's files concerning the applicant;~~

~~e. have each and every licensing board by which the applicant is, or has been licensed, submit a letter of good standing, or in the event applicant is no longer licensed in any state where the applicant has been licensed, submit a letter indicating that the applicant was in good standing while licensed in such other state, and the reason the applicant is no longer licensed. All letters indicating licensure or prior licensure shall be affixed with the seal of the state's licensing board.~~

~~8.2. Upon receipt of a satisfactory application and the required enclosures, and upon receipt of the necessary information from their licensing state board, the West Virginia Board of Veterinary Medicine shall schedule a personal interview for the applicant. This personal interview may be conducted by the Board, or by any person or persons delegated to act for the Board.~~

~~8.3. The Board may waive the requirement of National Board scores for applicants by reciprocity.~~

~~8.4. All applicants for license by reciprocity are hereby advised that the granting of licensure by reciprocity is by privilege, not by right, and the granting of the license rests solely in the discretion of the West Virginia Board of Veterinary Medicine.~~

§26-1-9-9. Disciplinary Action.

9-9.1. 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 these rules 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 disciplinary action in another jurisdiction, including the suspension, probation, or revocation of a license to practice veterinary medicine issued by another jurisdiction.

9-9.2. 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.

9-9.3. 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.

9-9.4. 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 within twenty-four hours of diagnosis or discovery. ~~Reportable contagious diseases include:~~

~~equine piroplasmosis,
bovine piroplasmosis or splenetic fever,
scabies in cattle,
hog cholera,
acute swine erysipelas,
tuberculosis,
paratuberculosis,
brucellosis,
scraper,
bluetongue,
anthrax,
psittacosis or ornithosis,
Newcastle disease,
foot and mouth disease,
rinderpest,
African swine fever,
Teschen disease,
contagious bovine pleuropneumonia,
European fowl pest,
dourine,
vesicular exanthema,
screwworms and glanders,
scabies in sheep.~~

9-9.5. 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(s), hearing examiner, 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.

§26-1-10-10. Severability.

If any rule or regulation promulgated pursuant to W. Va. Code §30-10-1, et seq., or the application thereof to any person or circumstance is held unconstitutional or invalid, unconstitutionality or invalidity shall not affect other provisions or applications of these rules and regulations, and to this end the complete rules and regulations of the Board are severable.

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APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Organization and Operations

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Board of Veterinary Medicine

Address: 1900 Kanawha Blvd., E., Charleston, WV 25305-0119

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	0	0	0	0	0
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of Above Estimates:

No changes in income or expenses due to rule changes proposed.

3. Objectives of These Rules:

Modify archaic references to Secretary-Treasurer to more appropriate Board references. Update specifications for veterinary licensure and modify reportable contagious diseases (outdated) to more current reference.

Rule Title: Organization and Operations

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

None

C. Economic Impact on Citizens/Public at Large.

None

Date: August 11, 2003

Signature of Agency Head or Authorized Representative:

Frank Goodwin

Brief Summary

Series 1, Title 26

Organization and Operation

These rules have not been modified since originally created in 1992. They improperly instruct the secretary-treasurer to handle matters, which are the responsibility of the staff of the Board, not an officer. There is a discrepancy in the rules which specifies that the veterinarians have until March 31st to submit their renewal forms, when the practice act specifies December 31st. Also, the listing of reportable contagious diseases is outdated, and many of the new diseases are not listed. We therefore felt it better to refer to the Dept. of Agriculture for these diseases.

Facts and Circumstances

Series 1, Title 26

Organization and Operations

Changes approved by vote of the Board to modify archaic references to duties of Secretary-Treasurer, which are duties of the Board office. Also, change specific listing of reportable diseases to a reference for such, as diseases are subject to constant changes.

On advice of counsel, removing requirement to notify those who have not renewed their license that they are no longer authorized to practice. This is something they are already aware of, as the renewal certificates and renewal notices clearly specify the authorization ending period. Also, removing confusing reference to allowing until March 31st for renewals, when the practice act specifies the license period ends December 31st.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: August 11, 2003

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No) West Virginia Board of Veterinary Medicine
1900 Kanawha Blvd., E.
Charleston, WV 25305-0119
Phone 558-2016

LEGISLATIVE RULE TITLE: Organization and Operations

1. Authorizing statute(s) citation 30-10-4

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 30, 2003

b. What other notice, including advertising, did you give of the hearing?

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 30-2003

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received None

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Wanda Goodwin: Executive Director
1900 Kanawha Blvd., E.

Charleston, WV 25305-0119

Phone 558-2016 Fax 558-0891

g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached
