

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

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1991 JUL 15 AM 9 35

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #7

Effective Date

July 15, 1991 *je*

NOTICE OF AN EMERGENCY RULE

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

CITE AUTHORITY: W. Va. Code Sec 30-10-1-et seq.

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES _____ NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED _____

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: Series 1

TITLE OF RULE BEING FILED AS AN EMERGENCY: _____

Organization and operation of the West Virginia Board of Veterinarian Med.

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 35TH DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

West Virginia Code 30-10-1 et seq requires the Board to maintain on file rules and regulations with the Secretary of State to govern their operations as a professional licensing Board. This Board's rules have lapsed since the Boards inception, Therefore, these rules are needed for the thorough operation of the Board. The public's interest rests upon the successful filing of these rules.

4.20

Use Additional Sheets If Necessary.

Albert C. Dennis
Signature

JUN 17 1991

FISCAL NOTE FOR PROPOSED RULES ATTORNEY GENERAL

Rule Title: Title 26
RULES AND REGULATIONS GOVERNING VETERINARY PROFESSION

Type of Rule: X Legislative Interpretive Procedural

Agency: WV BOARD OF VETERINARY MEDICINE Address 712 MACCORKLE AVE., S. CHAS WV
25303

1. Effect of Proposed Rule:	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	New	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services	15,000		20,000	20,000	20,000
Current Expense					
Repairs and Alterations					
Equipment					
Other					

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2. Explanation of above estimates:

UNDER PERSONAL SERVICES, INCREASE ESTIMATED FOR INSPECTION OF VETERINARY FACILITIES UNDER NEW RULES AND REGULATIONS. ESTIMATED 100 INSPECTIONS AT \$150.00 EACH WILL COVER THIS EXPENSE. ALSO ANNUAL LICENSE RENEWAL FEE WILL GO FROM \$25.00 TO \$100.00

3. Objectives of these rules:

TO ESTABLISH RULES AND REGULATIONS TO ENFORCE THE VETERINARY PRACTICE ACT AND BRING IT INTO COMPLIANCE WITH NATIONAL STANDARDS.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

None

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

The Public's interest is best served by establishing standards for ~~the practice of veterinary medicine, thereby, making those individuals~~ licensed under the act more responsible for their actions and providing ~~qualifications for the issuance of licenses to practice veterinary medicine~~

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM:

EMERGENCY RULE TITLE: 26

1. Date of filing: July 12, 1991

2. Statutory authority for promulgating the emergency rule:
West Virginia Code 30-10-1 et seq, 29A-3-15

3. Date of filing of proposed legislative rule: July 12, 1991

4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?

New Language

5. Has the same or similar emergency rule previously been filed and expired?

No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare

The Board of Veterinaeay Medicine has been operating without the benefit of established legislative rules and regulations, therefore, the filing of these rules will enable the Board to comply more completely with their enabling legislation and to also adopt standards of the National Boards of Veterinary Medicine.



STATE OF WEST VIRGINIA
OFFICE OF THE ATTORNEY GENERAL
CHARLESTON 25305

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SECRETARY OF STATE

MARIO J. PALUMBO
~~XXXXXXXXXXXXXX~~
ATTORNEY GENERAL

(304) 348-2522

CONSUMER HOTLINE
(800) 368-8808

MEMORANDUM

TO: Secretary of State
Legislative Rule-making Review Committee

FROM: Albert C. Dunn, Jr.

DATE: July 12, 1991

RE: Proposed legislative rules of the Board of Veterinary
Medicine

This is to serve as a very brief summary of the attached Title 26, Series 1, Proposed legislative rule entitled Organization and Operation of the West Virginia Board of Veterinarian Medicine. This series establishes, pursuant to W. Va. Code, the make-up of the Board, provisions for meetings of the Board, and provisions for applications and examinations for licensure in order for individuals to become licensed to practice veterinary medicine. These rules also contain a provision for disciplinary action on behalf of the Board for certain enumerated acts performed by licensed veterinarians.

TITLE 26
LEGISLATIVE RULES
WEST VIRGINIA BOARD OF
VETERINARY MEDICINE

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SERIES 1

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

ORGANIZATION AND OPERATION OF WEST VIRGINIA
BOARD OF VETERINARIAN MEDICINE

26-1-1 General

- 1.1 Scope - These rules establish the organization, operation and licensing of veterinarians by the West Virginia Board of Veterinary Medicine.
- 1.2 Authority - West Virginia Code 30-10-1 et seq.
- 1.3 Filing Date _____.
- 1.4 Effective Date _____.

26-1-2 The Board; Procedures

- 2.1. Board in general - The Board of Veterinary Medicine, known as the "West Virginia Board of Veterinary Medicine", shall consist of seven (7) members, five (5) veterinarians and two (2) lay members, all of whom shall be appointed by the governor, with the advice and consent of the Senate. Each veterinarian member of the Board, at the time of his or her appointment, shall be a citizen and a licensed veterinarian of the State of West Virginia and shall have been licensed to practice veterinary medicine in this state for at least three years immediately preceding his or her appointment.
- 2.2 Officers of the Board - The members of the board shall annually elect as officers of said Board one (1) member to serve for a period of one (1) year as President of said Board; and, one (1) member to serve for a period of one (1) year as secretary-treasurer of said Board, both of whom shall hold their offices until their successors are elected. Elections shall be held in the month of June each year.

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 premium on said bond shall be regarded as a proper and necessary expense of the Board.

- 2.3 The Board may, in its discretion, employ an executive director, executive secretary, and any other administrative staff members as the Board may deem necessary, which 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.
- 2.4 **Meetings of the Board** - The Board shall hold at least two (2) meetings each year, and it may hold such other meetings as it might deem appropriate. There shall be at least one (1) meeting per calendar year at which examinations for licensure are given. Additional meetings at which examinations for licensure are given may be held as deemed appropriate by the Board. In addition, it may hold such additional meetings as may be necessary which shall be called by the secretary-treasurer at the direction of the President or upon the written request of any three (3) members of the Board.
- 2.5 **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.
- 2.6 **Location of Office** - The official office of the Board is, unless otherwise designated by the Board, located at the office of the executive secretary.
- 2.7 **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 West Virginia Code 30-10-1 et seq., and shall pay such moneys into the State Treasury monthly on or before the tenth day of the month after the calendar month during which such moneys are 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 such moneys received during the preceding six (6) months.
- 2.8 **Compensation of members; expenses** - Every member of the Board shall receive \$100.00 for each day actually spent in attending the sessions of the Board or of its committees and the travel necessary thereto, and 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 West Virginia Code 30-10-1 et seq.

All authorized compensation and all expenses certified by the Board as reasonably and necessarily incurred in the discharge of its 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.

- 2.9 **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 thereof. The books and register of the Board shall be open to public inspection at all reasonable times, and such books and register, or a copy of any part thereof, certified by the secretary-treasurer and attested by the seal of the Board, shall be prima facie evidence of all matters recorded therein.

As soon as possible after the close of each fiscal year in which the Legislature meets in regular session, 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, certified by the secretary-treasurer. A copy of this report shall be filed with the Secretary of State.

- 2.10 **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 or this State, arranged alphabetically by name. The Board may call for and require a registration whenever it deems it necessary or expedient to secure an accurate roster.

2.11 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.

26-1-3 Applications and Examinations

- 3.1 Before any person shall be permitted to 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 request, setting forth his or her name, address, date and place of birth, citizenship, a detailed history of his or her educational qualifications, showing the name, the place where and the length of time that the applicant attended schools. The applicant shall also state in such 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. The applicant shall include two (2) current photographs of himself, approximately 2 inches by 2 inches in size. The application fee as established in the schedule of fees, Series 6 of these rules should be tendered with the written application.
- 3.2 Such 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.
- 3.3 In such application the applicant shall state 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 shall be adopted, by the Board.
- 3.4 Such 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.
- 3.5 Any person furnishing false information in such application shall be denied the right to take the examination, or if the applicant has been licensed before the Board becomes or is made aware of the falseness of such information, such license shall be subject to suspension, revocation or cancellation.

- 3.6 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.
- 3.7 The completed application form and application fee must be filed with the secretary-treasurer of the Board not later than ten (10) days prior to the first day of the examination dates unless otherwise accepted in the discretion of the Board. In the event an applicant intends to retake said examination, the fee and the notice of his or her intention to retake said examination must also be in the secretary-treasurer's office ten (10) days prior to the examination dates. The completed application, records and fees are to be mailed to the secretary-treasurer and all transcripts, when so designated, are to be left sealed.
- 3.8 If an application has been received by the secretary-treasurer and the records processed for the applicant's qualification to take the examination and if an examination has been prepared, failure of the applicant to appear will constitute the same as taking the examination but without grades.
- 3.9 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 West Virginia 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 shall notify the applicant in writing at the applicant's address listed on the application of such finding and the grounds therefor. An applicant found not qualified may demand a hearing in accordance with the provisions of West Virginia Code 30-10-12. The application fee of any applicant found not qualified shall be refunded to such applicant.

26-1-4 Examination Procedure.

- 4.1 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. Unless otherwise accepted in the discretion of the Board, a completed application and application fee must be received by the

board ten (10) days prior to the examination date, exclusive of the examination date. Public notice for the application credentials deadline and examination dates shall be published in the Journal of the American Veterinarian Medical Association, or any other national veterinarian oriented publication under notices of examinations to be given.

- 4.2 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.
- 4.3 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. 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 of the Board. All examinees, unless exempted by West Virginia Code 30-10-8, shall be tested by a written examination, supplemented by such oral interviews and practical demonstrations as the Board may deem necessary.
- 4.4 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 scores and the examination results.
- 4.5 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 such review at its main office.
- 4.6 **National Veterinary Board Examination:** All veterinary applicants, unless qualified for license without written examination, must have received a passing score on the National Veterinary Boards. The passing score for the National Veterinary Board will be the 1.5 standard deviation from the mean of the criterion group. It shall be the applicant's responsibility to forward a certified copy, or have the national testing service forward a copy of his or her National Board scores to the secretary-treasurer of the Board.

- 4.7 All veterinary applicants, unless qualified for license without written examination, must pass both the National and the West Virginia Board examinations.
- 4.8 At the beginning of an examination each applicant shall be assigned a number by the secretary-treasurer of the Board who shall have in his possession the only code showing the number assigned to each applicant and he is hereby forbidden to reveal the number assigned to any applicant or to any member of the Board until after the examination is completed and such 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.
- 4.9 When examination papers are delivered to the secretary-treasurer or presiding examiner 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 shall be custodian of the examination papers which must be preserved for a period of thirty (30) days after final grading.
- 4.10 At the direction of the president, the secretary-treasurer or his appointed representative shall be empowered to conduct the examination without a quorum of the Board being present.

26-1-5 Licenses

- 5.1 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 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, Series 6 of these rules. If the applicant fails to pay the required fees after 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 will make every effort to locate such applicant and will send a registered letter with return-receipt requested to the address given by the applicant.
- 5.2 Any person who passes the examination and meets the requirements of the Board shall be issued a license 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, Series 6 of these rules. If any duly licensed veterinarian in this State desires that a duplicate license be issued, upon payment of the duplicate license fee as stated in the schedule of fees, Series 6 of these rules, said duplicate license shall be issued.

- 5.3 The license issued by the Board will include the licensee's name in full, a certificate registration number, the Board seal, the effective date of the certificate and the signatures of the President and secretary-treasurer of the Board.
- 5.4 Every person practicing veterinary medicine in this State shall display his or her license and renewal certificate in his or her principal office.

26-1-6 License Renewals

- 6.1 All licensed veterinarians who desire to continue in active practice shall, on or before December 31 of each year, renew their licenses upon payment of 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 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 shall issue a certificate of renewal to all persons renewing their licenses under the provisions of this rule.
- 6.2 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 and after the date of expiration, a license may not be renewed, but the former licensee must make application for a new license and take and pass the license examination.
- 6.3 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 When a veterinarian has failed to pay the annual renewal fee that was due on December 31, by January 31 of the next year, it shall be the duty of the secretary-

treasurer to notify this veterinarian by certified mail at his or her last known address of the deficiency.

- 6.5 **Continuing Education** - It shall be required of each veterinarian who desires to continue his or her good standing and license to practice veterinary medicine in the State of West Virginia that such veterinarian 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.
- New licensees shall be exempt from the continuing education requirements of this rule until the beginning of the immediately succeeding reporting period after licensure.
- 6.6 The first reporting period for purposes of the continuing education requirement for license renewal shall begin with calendar year 1992.
- 6.7 Every veterinarian shall be required to successfully complete at least six (6) 50 minute periods of classroom instruction or seminar study during each reporting period, that has been approved by the Board as fulfilling this continuing education requirement.
- 6.8 The remaining two (2) 50 minute periods of continuing education may be satisfied by a thorough and diligent review of audio and/or video educational materials during each reporting period that have been approved by the Board as fulfilling this continuing education requirement.
- 6.9 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. Such certification shall be sworn by him or her before a notary public or any officer legally qualified to administer oaths.
- 6.10 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 such veterinarian by certified mail at his or her last known address by January 31. Such 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.

- 6.11 A renewal certificate shall not be issued 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.
- 6.12 Upon receipt of the renewal fee and sufficient proof of the completion of the continuing education requirements, the secretary-treasurer shall issue an annual renewal certificate card bearing the number of the license, the year for which renewed and such other information as the Board may deem necessary.
- 6.13 The secretary-treasurer of the Board shall make every reasonable effort to notify all veterinarians of the renewal clause as set forth in West Virginia Code 30-10-10, but failure to receive such notification does not exempt anyone should he or she not receive such notification and should he or she not meet the qualifications as set forth.
- 6.14 Every veterinarian shall display his or her renewal certificate 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 be required to have an additional renewal certificate for each office, obtained upon request to the secretary-treasurer. Every veterinarian shall be required to notify the secretary-treasurer of any branch office and address.
- 6.15 It shall be the responsibility of each veterinarian to notify the Board of any change of address, and such notice shall be forwarded to the Board no later than the effective date of such change of address.

26-1-7 Temporary Permits

- 7.1 The West Virginia Board of Veterinary Medicine may issue without examination a temporary permit to practice veterinary medicine:
 - a. to a veterinarian validly licensed in another state, territory, or district of the United States or foreign country. A temporary permit shall not be issued to a non-resident veterinarian for a period of more than 60 consecutive days but may be renewed in the discretion of the Board.

- 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. A temporary permit shall not be issued for a period of more than 60 consecutive days but may be renewed in the discretion of the Board.
- 7.2 A licensed veterinarian may employ not more than two individuals who have obtained a temporary permit under these rules. An applicant for such temporary permit must associate himself or herself with a qualified licensed veterinarian and his or her labors shall be limited to the practice of the licensed veterinarian. Application for such permit shall be countersigned by the licensed veterinarian with whom the applicant will be associated.
 - 7.3 A temporary permit may be summarily revoked by majority vote of the Board without a hearing.
 - 7.4 A temporary permit, of whatever nature or character, shall not be transferable.
 - 7.5 The fee for a temporary permit shall be as stated in the schedule of fees, Series 6 of these rules.
 - 7.6 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 shall be limited to two (2) consecutive weeks duration, and may be renewed upon application to the Board.

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, Series 6 of these rules;
- 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, shall provide a critical evaluation of the applicant's ability to practice along with the professional recommendation for licensure. Such 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.

7.7 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 section 7.5 (a), (b), and (c), (d), and (e), above. Such permit shall be limited to two (2) consecutive weeks duration, and may be renewed upon application to the Board.

7.8 A relief permit shall not be 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 do the following:

- a. obtain an application on a form to be provided by the Board;
- b. complete and return such application, along with the required enclosures, to the Board within the time specified therein, and pay the reciprocal application fee, as set out in the schedule of fees, Series 6 of these rules;
- c. provide proof that he or she has successfully passed the examination for licensure by the reciprocating state, and complied with all other provisions of the reciprocal agreement with the reciprocating state;
- d. have the reciprocating state board forward a letter or other document stating that the applicant is licensed in that state by virtue of an examination, that such applicant's license is in good standing, and affixed with the seal of such reciprocating state board; and that the West Virginia Board shall further be entitled to, and be advised of, any derogatory information which exists in the

reciprocating state's files concerning the applicant;

- e. have each and every licensing board in 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 such license no longer exists. All such 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 the reciprocating 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 requirement of National Board scores for applicants by reciprocity may be waived in the discretion of the Board.
- 8.4 All applicants for license by reciprocity are hereby advised that the granting of license by reciprocity is by privilege, not by right; and the granting of such license rests solely in the discretion of the West Virginia Board of Veterinary Medicine.

26-1-9 Disciplinary Action

- 9.1 The Board shall have the power to revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a licensee, or may refuse to examine an applicant or to 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,
- e. has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board,
- f. has permitted or allowed another to use his 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.

- 9.2. 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 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 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 based on substantial evidence contained in an investigative report indicating that the reinstatement or reissue 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. Reportable contagious diseases are as follows:
- 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,
 - Teschen disease,
 - contagious bovine pleuropneumonia,
 - European fowl pest,
 - dourine,
 - vesicular exanthema,
 - screwworms and glanders,
 - scabies in sheep.
- 9.5 If a person violates these rules in a manner that constitutes grounds for disciplinary action by the Board, the Board may assess a civil penalty against that person, in addition to assessing the costs of the investigation,

hearing(s), hearing examiner, and all other reasonable and necessary costs incurred by or on behalf of the Board.

- 9.6 The Board may assess a civil penalty in an amount not to exceed \$2,500.00. In determining the amount of the penalty, the Board shall consider the seriousness of the violation.

26-1-10 Severability

If any rule or regulation promulgated pursuant to West Virginia Code 30-10-1, et seq, or the application thereof to any person or circumstance is held unconstitutional or invalid, such 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 declared to be severable.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

SHEREE COHEN
Special Assistant

(Plus all the volunteer
help we can get)

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE July 15, 1991
ADMINISTRATIVE LAW DIVISION

July 15, 1991

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

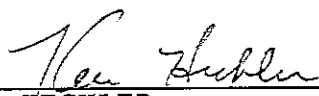
AGENCY: Board of Veterinary Medicine

RULE: New Rule, Series 1, Organization and Operation of the West Virginia Board of Veterinarian Medicine

DATE RULE FILED AS AN EMERGENCY RULE: July 15, 1991

DECISION NO. 61-91

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.


KEN HECHLER
Secretary of State

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Secretary of State

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DECISION

EMERGENCY RULE DECISION (ERD 61-91)

AGENCY: Board of Veterinary Medicine
RULE: New Rule, Series 1, Organization and Operation of the West Virginia Board of Veterinarian Medicine
FILED AS EMERGENCY RULE: July 15, 1991

- par. 1 The Board of Veterinary Medicine (Board) has filed the above new rule as an emergency rule.
- par. 2 West Virginia Code 29A-3-a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [(29A-3-a(a))].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.

par. 6 The Board filed this emergency rule with supporting documents with the Secretary of State July 15, 1991 and with the LRMRC July 15, 1991.

par. 7 It is the determination of the Secretary of State that the Board has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- WV Code §30-10-4(i) reads:

(i) Promulgate, amend or repeal reasonable rules and regulations, in accordance with the provisions of §29A-1-1 et seq. of this code, to implement the provisions of this article, including rules and regulations establishing standards of professional conduct for the practice of veterinary medicine.

par. 9 It is the determination of the Secretary of State that the Board has not exceeded its statutory authority in promulgating this emergency rule.

par. 10 (C) Emergency WV Code 29A-3-15(g) defines "emergency" as follows:

(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 12 The facts and circumstances as presented by the Board are as follows:

West Virginia Code §30-10-1 et seq. requires the Board to maintain on file rules and regulations with the Secretary of State to govern their operations as a professional licensing Board. This Board's rules have lapsed since the Board's inception. Therefore, these rules are needed for the thorough operation of the Board. The public's interest rests upon the successful filing of these rules.

par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in §29A-3-15(g). . . "prevent substantial harm to public interest."

par. 14 This decision shall be cited as Emergency Rule Decision 61-91 or ERD 61-91 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the Division of Public Safety, the Attorney General and the Legislative Rule Making Review Commission.



KEN HECHLER
Secretary of State

Entered _____

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE July 15, 1991
ADMINISTRATIVE LAW DIVISION