

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

x #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 X

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 3

TITLE OF RULE BEING FILED AS AN EMERGENCY: _____

Registration of Veterinary technicians

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 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.

Albert C. Dennis

FISCAL NOTE FOR PROPOSED RULES ^{VETERINARY} ATTORNEY GENERAL

Title 26
Rule Title: 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	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services	15,000		20,000	20,000	20,000
Current Expense					
Repairs and Alterations					
Equipment					
Other					

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.



STATE OF WEST VIRGINIA
OFFICE OF THE ATTORNEY GENERAL
CHARLESTON 25305

MARIO J. PALUMBO
~~XXXXXXXXXXXXXXXXXX~~
ATTORNEY GENERAL

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(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 Board of Veterinary
Medicine

This will serve as a brief summary of Title 26, Series 3, Proposed rule entitled Registration of Veterinary Technicians. These legislative rules provide for the registration of veterinary technicians, the requirement of an examination, and the establishment of the approved acts of veterinary technicians.

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.

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

TITLE 26
LEGISLATIVE RULES
WEST VIRGINIA BOARD OF
VETERINARY MEDICINE

SERIES 3
REGISTRATION OF VETERINARY TECHNICIANS

26-3-1 General

- 1.1 Scope - These rules establish the procedures by which Veterinary Technicians may be registered and regulated by the West Virginia Board of Veterinary Medicine.
- 1.2 Authority - West Virginia Code 30-10-7 et seq.
- 1.3 Filing Date _____
- 1.4 Effective Date _____

26-3-2 Registration of Veterinary Technicians

- 2.1 As used in these rules, unless otherwise provided, the term "Registered Veterinary Technician" shall mean a person registered by the Board to work under the direct supervision of a licensed veterinarian on the premises. A technician's principal function is to assist the veterinarian. Veterinary Technicians shall not perform surgery, make diagnoses, nor prescribe medications.
- 2.2 The West Virginia Board of Veterinary Medicine shall examine and register persons who are skilled in the science of Veterinary Technology.

The Board shall have exclusive jurisdiction:

- (a) To determine the eligibility of applicants for registration;
- (b) To enter into agreements of reciprocal registration with registration agencies of other states;
- (c) To determine the content and frequency of examinations for registration;
- (d) To grant, suspend, revoke or refuse to grant registration upon a showing of proper cause as hereinafter provided;
- (e) To promulgate, amend and repeal such reasonable rules and regulations regarding ethical standards of conduct, which said rules and regulations shall be promulgated, amended, or repealed in accordance

with the provisions of West Virginia Code 29A-3-1, et seq.

2.3 Registration requirements - Any person desiring registration as a veterinarian technician shall complete and file an application along with the required fee, the form of which shall be prescribed by the Board, and shall submit proof satisfactory to the Board of the following:

- (a) That the applicant is at least eighteen years of age;
- (b) That the applicant has successfully completed high school or its equivalent;
- (c) That the applicant is of good moral character;
- (d) That the applicant is a citizen of the United States or has made application for citizenship; and
- (e) That the applicant has successfully completed a two-year course in veterinarian technology at a school approved by the Board.

The Board shall, by January 1 of each year, prepare and update a list of approved schools of veterinary technology. If an applicant under this rule has completed his or her two-year course in veterinary technology at a school that does not appear on the Board's list of approved schools, such applicant may petition the Board in writing for appropriate relief.

The Veterinarian Technician application fee shall be as set out in the schedule of fees, Series 6 of these rules.

2.4 Except as is provided in the next section, each applicant shall be required to pass an examination, the content of which shall be prescribed by the Board. An applicant failing an examination shall be eligible for reexamination.

2.5 Written examination exemption - Written examination shall not be required of any applicant who:

- (a) Holds a valid certificate of registration from another state or territory which has a reciprocal registration agreement with this state, provided that the applicant satisfies all the provisions of the reciprocal agreement of the reciprocating state, or;

(b) Has been engaged in the performance of the skills and duties of an veterinary technologist under the responsible supervision of a licensed veterinarian for at least three years within five years prior to the effective date of these rules.

- 2.6 The Veterinarian Technician application fee shall be as set out in the schedule of fees, Series 6 of these rules.
- 2.7 **Title** - Any person who has successfully completed the requirements of this Series of rules shall be issued a certificate of registration by the Board. Such certificate shall be displayed in the principal work area of the person to whom it is issued. Any person so registered shall have the right to use the title "Registered Veterinary Technician" and the abbreviation "R.V.T." No other person shall use such title, abbreviation or any other works, letters, signs or figures to indicate they are a skilled technician in the science of veterinary technology nor shall any other person perform, advertise or offer himself for employment in a manner indicative that he or she is so skilled or trained.

Any person formerly titled as an Animal Technician Registered, an "A.T.R.", may and henceforth shall be allowed to assume the abbreviation "R.V.T." as used in these rules.

- 2.8 **Restrictions** - No person registered as a veterinary technician shall in any manner indicate or imply that he/she is a licensed veterinarian. Persons registered as veterinary technicians shall be permitted to perform the skills of veterinary technology under the direct supervision of a licensed practicing veterinarian physically present on the premises. No such person shall perform surgery, make diagnoses or prescribe medication.
- 2.9 **Removal of Registration** - The Board shall have the power to deny, suspend or revoke a certificate of registration or to take other disciplinary action for a violation of the provisions of these rules, for a violation of the rules and regulations of the Board or for a determination that the person:
- a. has presented to the Board dishonest 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 certificate of registration,

- b. is chronically or habitually intoxicated, has a chemical dependency or is addicted to drugs,
- c. 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,
- d. has permitted or allowed another to use his or her certificate of registration to practice veterinary technology in this or any other state,
- e. has issued a false certificate relating to the sale for human consumption of inedible animal products:
- f. has committed fraud in the application or reporting of any test of animal disease,
- g. 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,
- h. has performed or prescribed unnecessary or unauthorized treatment,

2.10 Any person who is denied a certificate of registration and who requests a hearing within thirty days of notification of such denial or any person against whom disciplinary action, suspension or revocation is instituted shall be afforded a hearing thereon, which said hearing shall be conducted in accordance with the provisions of these rules.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

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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

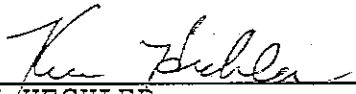
AGENCY: Board of Veterinary Medicine

RULE: New Rule, Series 3, Registration of Veterinary Technicians

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

DECISION NO. 62-91

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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MARY P. RATLIFF
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DECISION

EMERGENCY RULE DECISION (ERD 62-91)

AGENCY: Board of Veterinary Medicine
RULE: New Rule, Series 3, Registration of Veterinary Technicians
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 62-91 or ERD 62-91 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