

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

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Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: WV Board of Veterinary Medicine TITLE NUMBER: 26

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 4

TITLE OF RULE BEING AMENDED: Standards of Practice

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB2639

SECTION 64-9-7, PASSED ON March 18, 2011

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: June 16, 2011



Authorized Signature

TITLE 26
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF VETERINARY MEDICINE

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 4
STANDARDS OF PRACTICE

§26-4-1. General.

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

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

1.3. Filing Date. -- June 16, 2011

1.4. Effective Date. -- June 16, 2011

§26-4-2. Definitions.

A. "Advertising" means the use of any form of communication designed to inform the public about the availability, nature, and prices of products or services, or to attract clients or business.

B. "Dental operation" means:

- 1) The application or use of any instrument or device to any portion of an animal's tooth, gum or any related tissue for the prevention, cure or relief of any wound, fracture, injury, disease or other condition of an animal's tooth, gum or related tissue; and
- 2) Preventive dental procedures including, but not limited to, the removal of calculus, soft deposits, plaque and stains or the smoothing, filing or polishing of tooth surfaces.

C. "Exercise run" means that portion of a veterinary facility specifically used for the comfort and exercise of patients or kennel animals that are housed within the facility.

D. "General anesthesia" means the inducement of a complete absence of sensation and consciousness by the administration of intravenous or inhalation gas.

E. "Humane disposal" means euthanasia by or under the general supervision of a licensed veterinarian or placement in a suitable home or animal shelter, which shall not include any home or shelter which engages in animal experimentation or, by sale or otherwise, makes animals available for the purpose of animal experimentation.

F. "Immediate access" means capable of being utilized without delay.

G. "Impervious" or "impervious surface" means incapable of being penetrated by water or other liquids.

H. "Legend drugs" means a drug which a United States federal government agency has approved for use in veterinary medicine only upon the authorization of a licensed veterinarian.

I. "Minor surgery" means surgery that does not require or involve general anesthesia or respiratory assistance during the surgical procedure.

J. "Mobile veterinary practice" means that form of clinical veterinary practice that may be transported or moved from one location to another for delivery of service. Mobile veterinary practice may be general service or limited service.

1) "General mobile veterinary practice" means the provision of a wide range of medical or surgical services in a movable trailer or mobile home type of vehicle modified to function as a veterinary practice facility.

2) "Limited service mobile veterinary practice" means the public or private delivery of preventive health care, such as mass or group vaccinations, and is represented as limited to that type of practice.

K. "Secondary outpatient facilities" means veterinary facilities which offer only outpatient service, provide no or only minor surgery, are not the primary veterinary facility in this state of the licensed veterinarian operating the outpatient service, and are in operation no more than 20 hours per week.

L. "Sterile surgery" means procedures in which aseptic technique is practiced in patient preparation, instrumentation, and surgical attire.

M. "Surgery" means that branch of veterinary medical science which treats by mechanical or operative measures for healing diseases, deformities, injuries, reproductive sterilization or elective surgical procedures.

§26-4-3. General Professional Ethics.

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

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

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

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

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

3.6. No abuse of position of trust. Any veterinarian who uses a present or past position, or an office of trust, deliberately to create an individual professional advantage, or to coerce, or to deceive the public is in violation of this section.

3.7. Maintenance of accreditation. A licensed veterinarian whose accreditation has been revoked by state or federal authority is subject to disciplinary action by the Board upon proof of removal of accreditation by that authority.

3.8. Responsibility for acceptance of medical care. A veterinarian shall decide what medical cases will be accepted in his or her professional capacity, and what course of treatment will be followed once a patient has been accepted. The veterinarian is responsible for advising the client as to the treatment to be provided.

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

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

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

3.12. Avoidance of guaranteeing cures. It is professionally dishonest for a licensed veterinarian to guarantee a cure. A veterinarian shall avoid bold and confident assurances to clients, especially where employment may depend upon that assurance.

3.13. Honesty, integrity, and fair dealing. A licensed veterinarian shall conduct his or her practice with honesty, integrity, and fair dealing to clients in time and services rendered, and in the amount charged for services, facilities, appliances, and drugs.

3.14. Observance of confidentiality. A licensed veterinarian shall not violate his or her confidential relationship with the clients.

§26-4-4. Minimum Standards of Practice.

4.1. A veterinarian shall deliver veterinary care in a competent and humane manner. A veterinarian shall perform all aspects of veterinary medicine in a manner compatible with current veterinary medical practice.

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

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

B. Discuss with the client a diagnostic assessment and treatment plan, including recommendations and medications, and shall enter the plan into the patient's medical record. A group of animals of one species under a single ownership may be considered as a single entity, when a representative number of the animals have been examined sufficient to enable the veterinarian to obtain a reasonable medical judgment with regard to a diagnostic assessment and treatment plans, and

C. Discuss follow up recommendations with the client.

4.3. Radiological Services.

A. A radiograph is the property of the veterinarian or the veterinary facility which originally ordered it to be prepared.

B. A veterinarian shall store and maintain radiographs, whether in film or digital format for a minimum of 3 years. All exposed radiographs in any format shall have a permanent identification bearing the clients name, the patients name, the date and either left or right exposure.

4.4. Pharmacological Services.

A. A veterinarian shall not prescribe, dispense or administer any drug or biological agent that bears the legend "Caution: Federal Law restricts this drug to use by or on the order of a licensed veterinarian" or any other term which specifies the medication as a legend drug without the establishment of a veterinarian/client/patient relationship.

B. The veterinarian in charge is responsible for assuring that any legend drugs and biological agents prescribed for use in the veterinary facility are properly administered, for maintaining accurate records in the patients medical history which shall include the strength, dosage and quantity of all medications used or prescribed, and for providing appropriate instruction to clients on the administration of drugs when the veterinarian will not be providing supervision.

C. The veterinarian shall maintain all drugs and biological agents in compliance with state and federal laws.

D. A veterinarian shall store all repackaged legend drugs dispensed for animals in approved safety closure containers. This provision does not apply to drugs dispensed to any person who requests that the medication not be placed in these containers, or to drugs in such form or size that they cannot be dispensed reasonably in these containers.

E. All repackaged legend drugs dispensed shall be labeled with the following:

- 1) The name, address and telephone number of the facility;
- 2) The client's name;
- 3) The patient's name;
- 4) The date dispensed;

- 5) The directions for use;
- 6) The name of the drug and its strength (if more than one dosage form exists);
- 7) The name of the prescribing veterinarian; and
- 8) The number of refills, if any.

F. The veterinarian shall maintain records of all medications prescribed and dispensed for any animal in that animal's individual file. The pharmaceutical record information may be transferred, in whole or in part, from one veterinarian to another, in writing or by telephone, when necessary to continue treatment or disease prevention by medication started by the original attending veterinarian.

G. A veterinarian that has a Federal Drug Enforcement Administration (DEA) number and uses, dispenses, administers or prescribes controlled substances shall comply with the federal and state laws pertaining to the dispensing, prescribing, storage and usage of controlled substances.

H. All controlled substances dispensed or prescribed shall be recorded in a controlled substance register. Each veterinarian who maintains a DEA registration shall maintain a controlled substance register. This register shall indicate the following:

- 1) The name of the prescribing veterinarian;
- 2) The name of the medication dispensed or prescribed;
- 3) The quantity dispensed or prescribed;
- 4) The dosage of the medication, if applicable;
- 5) The number of refills;
- 6) The date of the dispensing or prescribing;
- 7) The patient name and name of the client record;
- 8) The method used for prescribing, such as written script, phone, fax or any other electronic means; and

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

4.5. General anesthetic, ventilation and resuscitation equipment:

A. The minimum amount of support equipment required for the delivery of assisted ventilation is: (1) resuscitation bags of appropriate volumes, and (2) an assortment of endotracheal tubes of various sizes in working condition.

B. A veterinarian shall have an oxygen supply available at all times.

C. A veterinarian shall use at all times some method of respiratory monitoring, such as observing chest movements, watching the rebreathing bag, or use of a respirometer. Some method of cardiac monitoring is recommended, and may include use of a stethoscope or electrocardiographic monitor.

D. A veterinarian shall give every animal a physical examination within 12 hours prior to the administration of an anesthetic, and the results of this examination shall be noted in the patient's medical record.

E. A veterinarian or his or her assistant shall continually observe every animal as long as the patient is under general anesthesia.

F. A veterinarian shall maintain anesthetic equipment in proper working condition.

G. A veterinarian shall not release any patient from veterinary supervision to the owner or client until it is ambulatory unless it is not ambulatory for reasons unrelated to anesthesia or surgery. A veterinarian is not required to comply with the provisions of this subdivision if the client demands to take the animal home against the veterinarian's advice and judgment. In this case, the veterinarian shall request that the client sign a release form stating that the client has been advised to leave the animal; realizes the risks involved; and is taking the animal against the advice and judgment of the attending veterinarian.

4.6. Surgical Services. A veterinarian shall practice sterile surgery in all cases in which sterile surgery is demanded by the profession.

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

1) The disinfection of the surgeon's hands by scrubbing with a disinfecting surgical scrub solution;

2) A sterilized surgical gown with long sleeves is recommended. A veterinarian shall wear clean clothing and sterile gloves;

3) Sterilization of all appropriate equipment. A veterinarian shall use an acceptable method of sterilization sufficient to kill spores on all instruments, packs, and equipment intended for use in sterile surgical procedures;

4) The use of sterilization indicators on all surgical packs is required to monitor sterilization efficiency. The pack shall indicate the date it was sterilized.

B. Running water shall be accessible to the sites of the surgical procedure.

4.7. Dental Operations.

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

B. Nothing in this rule prohibits any person from using cotton swabs, gauze, dental floss, dentifrice, toothbrushes or similar items to clean an animal's teeth.

4.8. Embryo Transfer.

Only a licensed veterinarian may perform the procedure commonly known as an embryo transfer.

4.9. Patient Record Keeping.

A. A veterinarian shall maintain individual records at his or her place of business which shall include, but not be limited to, identification of the patient, the patient's medical history, immunization records, and diagnostic procedures performed.

B. The veterinarian who owns the facility shall keep and maintain current patient records on the business premises for a period of 3 years and the records are the responsibility and property of the owner of the facility or the veterinarian. If the facility is closed, the clients shall be notified prior to the closing as to how they may acquire a copy of the patient records on their animals.

C. When appropriate, the words "herd", "flock", or other collective group terms may be used in place of the word "patient" in subdivision A and B of this subsection. Records maintained on these animals may be kept in a daily log or the billing records; provided that the treatment information that is entered is adequate to substantiate the identification of these animals and the medical case do the provisions of this subdivision eliminate the requirement to maintain drug records as specified by state and federal law.

4.10. Advertising.

A veterinarian may not initiate or knowingly participate in any form of advertising or solicitation that contains a false, deceptive or misleading statement or claim.

4.11. Specialist Practitioners.

A veterinarian may represent himself or herself as a specialist only if he or she is board certified. A veterinarian shall restrict claims for specialization to those disciplines for which there is a specialty board approved by a certifying agency recognized by the Board. A veterinarian may not use the term specialist for an area of practice for which there is not recognized certification. A diplomate of any certifying organization recognized by the Board may claim only a specialty for the class of animals in which he or she specializes, and not for medical specialties in which he or she is not board-certified. The Board shall annually, before January one, provide a list of approved certifying agencies for the next full calendar year.

4.12. Euthanasia

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

4.13. Disposal of Deceased Animals.

A veterinarian shall provide and maintain sanitary methods for the disposal of deceased animals in compliance with the local, state and federal health rules and regulations.

4.14. Disposal of Veterinary Waste.

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

§26-4- 5. Minimum Veterinary Facility Standards.

5.1. Equipment. All equipment required for veterinary facilities shall be maintained in working order.

5.2. Veterinary Care Facilities. All locations where veterinary medicine is practiced shall be adequate for the maintenance of good hygiene and the practice of veterinary medicine. All areas of the facility shall be maintained in a neat, clean, inoffensive, odor free condition at all times. At a minimum, facilities where veterinary medicine is practiced shall have;

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

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

- 1) Lighting adequate to perform a basic and thorough physical examination;
- 2) Immediate access to a sink with hot and cold running water; and

- 3) An examination table with impervious surface which can be easily cleaned and disinfected;

C. Indoor lighting sufficient for the safety of staff and patients;

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

E. Current veterinary journals and textbooks or immediate internet access to the information provided by current veterinary journals and textbooks available on the premises for ready reference;

F. If surgery is performed, a surgery room separate and distinct from all other rooms. The room shall have at a minimum:

- 1) Lighting adequate to perform surgery. A surgery room shall be equipped with either a ceiling mounted or free standing surgery light with a light source capable of being adjusted or redirected;

- 2) A surgery table with an impervious surface which can be cleaned and easily disinfected;

- 3) An available oxygen supply;

- 4) Ventilation/resuscitation support equipment maintained in working order. At a minimum this shall include (a) resuscitation bags of appropriate volume, (b) an assortment of endotracheal tubes of various sizes;

- 5) An illuminated X-ray viewer available for use in the surgery room;

- 6) Emergency drugs for cardiac and pulmonary resuscitation readily accessible to the surgery room;

7) Walls, floors, and counter tops constructed with an impervious material capable of being cleaned and routinely disinfected; and

8) Access to hot and cold running water.

G. A diagnostic X-ray machine and development equipment kept in compliance with state and federal laws, rules and regulations, or a written contract with a facility that will provide radiological services to this facility;

H. A clinical laboratory area containing the following basic equipment:

1) A microscope with an attached light source capable of performing basic routine veterinary diagnostic procedures;

2) A centrifuge;

3) Equipment to obtain hemoglobin or hematocrit value; and

4) Diagnostic laboratory equipment test kits and materials needed to render necessary tests, or a contract with an outside diagnostic laboratory facility capable of returning critical diagnostic results in a timely manner consistent with generally accepted current veterinary medical standards.

I. If animals are kept, a kennel or housing area where animals can be retained for treatment and post surgical observation. This area shall have at a minimum:

1) Separate compartments for each animal, maintained in a comfortable and sanitary manner; and

2) An exercise run or runs maintained in a clean and sanitary condition. The facility shall have at least 1 exercise run. The run or runs shall be under roof within the veterinary facility. The surfaces (walls and flooring) shall be impervious so they can be sanitized and disinfected;

J. A list of these minimum standards shall be posted prominently in the waiting rooms of the facility.

5.3. Emergency Care Facilities. All of the requirements specified in subsection 5.2 of this section apply to emergency care facilities. In addition, emergency care facilities shall have:

A. A diagnostic X-ray machine and development equipment area kept in compliance with state and federal rules and regulations;

B. An electrical cardiographic monitoring device.

C. Inhalation gas anesthesia

D. A licensed veterinarian on the premises at all times during the posted hours of operation. Provided, that the Board may grant a written exception to an emergency care facility to have a veterinarian on immediate call. It is within the Board's discretion as to the amount of time and distance away an on-call veterinarian may be from the emergency care facility during its hours of operation.

5.4. Mobile Veterinary Facility. All of the requirements specified in subsection 5.2 of this section apply to general mobile veterinary practices.

A. General mobile veterinary practice facilities shall also comply with the following standards:

1) The veterinarian at the mobile veterinary facility shall provide some method for the client to obtain advice pertaining to surgical and post treatment problems on a 24 hour basis after the animal is released to the owner or agent following the completion of the surgery or treatment;

2) If a general mobile veterinary practice does not completely meet all of the requirements as specified in subsection 5.2. of this section, the board in its determination that the mobile veterinary practice has no need for particular requirements may waive one or more of the requirements for that facility type; and

3) It is within the sole determination of the Board as to the time and distance that a mobile veterinary practice may operate within the requirements of this section.

B. Limited service mobile veterinary practices are;

1) Public immunization clinics for public health protection operated by a veterinarian licensed by the Board who has a permanent office and facilities in the county in which the limited service mobile veterinary services are offered, or in any of the adjoining counties in this state of the county in which the mobile facilities are located; or

2) Private limited service mobile veterinary practices restricted to the delivery of animal health protection through vaccinations, physical examinations, minimal treatments and/or minor diagnostic testing.

C. The licensed veterinarian practicing from a mobile veterinary facility shall provide some method for the client to obtain advice pertaining to post vaccinal or treatment reactions on a 24 hour basis from the time of vaccination or treatment.

D. All house call veterinary practices that are not extensions of a fixed veterinary care facility shall have written affiliation with a veterinary care facility in the same region of this state.

E. Limited service mobile veterinary practices are exempt from section 4, subsections 4.5 and 4.6 of this rule and subdivision 5.2 (F) of this section.

F. Large animal or farm practice mobile units are not considered mobile clinics for the purpose of this rule.

5.5. Secondary Outpatient Facilities. All of the requirements as specified in subsection 5.2 of this section shall apply to secondary outpatient facilities except subdivision 5.2 (F).

A. Secondary outpatient facilities are exempt from the requirements of section 4, subsections 4.5 and 4.6 of this rule and subdivision 5.2 (F) of this section.

5.6. The Board may revoke or suspend a license or discipline a licensee for not being in compliance with this Rule.

5.7. All veterinary facilities shall be inspected by the Board every 2 years, except when the Board requires a re-inspection due to the facility not meeting all requirements for that type of facility at the routine inspection. Only after the Board determines that the facility meets the respective provisions for operation under this rule may it lawfully operate. The Board at its discretion may grant authorization to begin operation while the facility awaits its initial inspection if this inspection is delayed for reasons not associated with the practice or its operators.

5.8. All owners of veterinary facilities operating in this state shall complete and file annually, on or before June 30, on a form approved by the Board, an annual veterinary facility registration, and shall pay the veterinary facility annual permit fee, as prescribed by the Board's Rule, Schedule of Fees, 26CSR6.

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

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

§26-4-6. Abandoned Animals.

6.1. An "abandoned animal" means any animal placed for confined treatment or boarding by its owner or an agent of the owner in the care and custody of a veterinarian, which is not retrieved by the owner or agent of the owner from the veterinarian within 72 hours of the veterinarians specified release date of a hospitalized animal or the scheduled release date of a boarded animal. The owner or agent of the owner shall be sent a certified letter to his or

her last known address, return receipt requested, informing him or her that the animal is available for pickup. The letter to the owner or agent of the owner shall also state the amount owed, if any, to the veterinarian for the treatment and care of the animal.

6.2. A veterinarian may elect the humane disposal of an abandoned animal no sooner than 14 days after the veterinarian has mailed a certified letter to the owner or agent of an abandoned animal indicating his or her intent to humanely dispose of the animal. In the event the owner or agent cannot be notified by certified mail, return receipt requested, the veterinarian may elect humane disposal any time after 14 days following the mailing of the certified letter, providing the veterinarian has a posted receipt from the mailing entity verifying the mailing date of the certified letter. The veterinarian shall keep an accurate record of the date and method of disposal, and the name, address and telephone number of the person or shelter receiving the animal, if it is not destroyed.

6.3. The humane disposal of an abandoned animal shall not relieve the owner or agent of any financial obligation incurred for treatment, boarding or care by the veterinarian.

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

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