

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

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SECRETARY OF STATE

#7

Effective Date

July 15, 1991

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 4

TITLE OF RULE BEING FILED AS AN EMERGENCY: Standards of practice

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.

ALL FILED IN

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:	TOTAL		FISCAL YEAR		
	Increase	Decrease	Current	New	Transfer
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services	15,000		20,000	20,000	20,000
Current Expense					
Repairs and Alterations					
Supplies					
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.



STATE OF WEST VIRGINIA
OFFICE OF THE ATTORNEY GENERAL
CHARLESTON 25305

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SECRETARY OF STATE

MARIO J. PALUMBO
~~XXXXXXXXXXXXXX~~
ATTORNEY GENERAL

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MEMORANDUM

TO: Secretary of State
Legislative Rule-making Review Committee

FROM: ALbert C. Dunn, Jr.

DATE: July 12, 1991

RE: Proposed Legislative rule of the Board of Veterinary
Medicine

This will serve as a summary of the standards of practice of the Board of Veterinary Medicine as adopted in Title 26, series 4, entitled Standards of Practice. This legislative rule establishes the general professional ethics and minimum standards of practice to be followed by license veterinarians. These rules cover all aspects of the day to day practice of veterinary medicine. There are also provisions concerning minimum quality standards for veterinary facilities and the procedures to utilize in caring for unretrieved animals.

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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 sec. 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 Veterminaey 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 4
STANDARDS OF PRACTICE

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26-4-1 General

- 1.1 Scope - These rules establish the standards of practice required of veterinarians licensed and regulated 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 _____

26-4-2 General Professional Ethics

2.1 AVOIDANCE OF CONFLICTS OF INTEREST

It is unprofessional and a violation of these rules to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this rule, a member 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.

2.2 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 unfaithful or neglectful veterinary services, generally after communication with the veterinarian of whom the complaint is made.

2.3 EXPOSURE OF CORRUPT OR DISHONEST CONDUCT

Veterinarians should expose without fear or favor before the proper tribunal or the State Board of Veterinary Medicine any and all corrupt or dishonest conduct in the profession.

2.4 ADHERENCE TO THE LAW

No veterinarian shall render any service or advice involving disloyalty to the law. A veterinarian must also observe and advise clients to observe the law.

2.5 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.

2.6 NO ABUSE OF POSITION OR 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 shall be in violation of the rules of professional conduct.

2.7 MAINTENANCE OF ACCREDITATION

A licensed veterinarian whose accreditation has been revoked by State or Federal authority is subject to disciplinary action by the West Virginia Board of Veterinary Medicine upon proof of removal of accreditation by said authority.

2.8 RESPONSIBILITY FOR ACCEPTANCE OF MEDICAL CARE

Veterinarians must decide what medical cases will be accepted in his/her professional capacity, and what course of treatment will be followed once a patient has been accepted. The responsibility for advising the client as to the treatment to be provided rests upon the veterinarian.

2.9 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 not allow a non-licensed person or entity to interfere or intervene with the veterinarian's practice of veterinary medicine; nor shall the veterinarian submit to such interference or intervention by a non-licensed person or entity. A veterinarian shall avoid all relationships which could result in interference or intervention in the veterinarian's practice by a non-licensed person or entity. A veterinarian shall be responsible for his/her

own actions and is directly responsible to the client and for the proper care and treatment of the patient.

2.10 PROFESSIONAL STANDARD OF HUMANE TREATMENT

Veterinarians 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 in good standing in the locality or community in which they practice, or in similar communities.

2.11 ISSUANCE OF CERTIFICATES OF HEALTH THROUGH DIRECT KNOWLEDGE ONLY

Licensed veterinarians in this State shall not issue a certificate of health unless they know of their own knowledge, by actual inspection and appropriate tests of the animals, that said animals meet the requirements for the issuance of such certificates.

2.12 AVOIDANCE OF GUARANTEEING CURES

It is professionally dishonest for a licensed veterinarian to guarantee a cure. A veterinarian must avoid bold and confident assurances to clients, especially where employment may depend upon such assurance.

2.13 HONESTY, INTEGRITY, AND FAIR DEALING

Licensed veterinarians shall conduct their 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.

2.14 OBSERVANCE OF CONFIDENTIALITY

A licensed veterinarian shall not violate the confidential relationship between self and client.

26-4-3 Minimum Standards of Practice

3.1 The delivery of veterinary care shall be provided in a competent and humane manner. All aspects of veterinary medicine shall be performed in a manner compatible with current veterinary medical practice.

3.2 A veterinarian/client/patient relationship exists if:

A. A veterinarian assumes responsibility for medical judgments regarding the health of an animal, and a

client who is the owner or other caretaker of the animal agrees to follow the veterinarian's instructions; or

- B. A veterinarian, through personal examination of an animal or a representative sample of a herd or flock, obtains sufficient information to make at least a general or preliminary diagnosis of the medical condition of the animal, herd, or flock, which is expanded through medically appropriate visits to the premises where the animal, herd, or flock is kept.

3.3 Upon the formation of the veterinarian/client/patient relationship, for a veterinarian to exercise properly the rights granted by a veterinary license, the veterinarian shall perform:

- A. A physical examination of an 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 will be considered to have been established for the whole group if a representative number of animals have been examined.
- B. A diagnostic assessment and treatment plan, to include recommendations and medications, shall be discussed with the client and shall be entered into the patient's medical record. When a group of animals of one species is under a single ownership, it may be considered as a single entity, and when a representative number of said animals have been examined sufficient to enable the examining veterinarian to obtain a reasonable medical judgment with regard to a diagnostic assessment and treatment plan, then one record shall be sufficient as to the entire group of animals.
- C. Follow up recommendations should be discussed with the client.

3.4 Radiological Services

- A. A radiograph is the property of the veterinarian or the veterinary facility which originally ordered it to be prepared.
- B. Radiographs should be stored and maintained for a minimum of three years. All exposed radiographic films shall have a permanent identification.

3.5 Pharmacological Services

- A. No drug or biological agent that bears the legend "Caution: Federal Law restricts this drug to the use by or on the order of a licensed veterinarian" (hereinafter "legend drugs") shall be prescribed, dispensed or administered 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 hospital are properly administered, for maintaining accurate records to include strength, dosage and quantity of all medications used or prescribed, and for instruction to clients on the administration of drugs when the veterinarian will not be providing direct supervision.
- C. All drugs and biological agents shall be maintained, administered, dispensed and prescribed in compliance with state and federal laws.
- D. All repackaged legend drugs dispensed for companion animals shall be stored in approved safety closure containers, except that this provision shall not apply to drugs dispensed to any person who requests that the medication not be placed in such containers, or in such form or size that it cannot be dispensed reasonably in such containers.
- E. All repackaged legend drugs dispensed shall be labeled with the following:
 - 1) Name, address and telephone number of the facility;
 - 2) Client's name;
 - 3) Patient's name;
 - 4) Date dispensed;
 - 5) Directions for use;
 - 6) Name of drug, strength (if more than dosage form exists);
 - 7) Name of prescribing veterinarian.
- F. Records shall be maintained of all medications prescribed and dispensed for any animal in that

animal's individual file. Such pharmacy records 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 D.E.A. number and uses or dispenses controlled substances must comply with the federal regulations pertaining to the dispensing, storage and usage of controlled substances.

3.6 Anesthesia Services

- A.
 - 1) Anesthetic equipment in accordance with the level of surgery performed will be available at all times. The minimum amount of support equipment required for the delivery of assisted ventilation will be: (a) resuscitation bags of appropriate volumes, and (b) an assortment of endotracheal tubes in working condition.
 - 2) Oxygen equipment will be available at all times.
 - 3) Some method of respiratory monitoring is mandatory, 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.
- B. Every animal shall be given a physical examination within twelve (12) hours prior to the administration of an anesthetic.
- C. ~~The animal under general anesthesia shall be under~~ continual observation until at least the swallowing reflex has returned.
- D. Anesthetic equipment will be maintained in proper working condition.
- E. No patient shall be released from veterinary supervision to the owner/client until it is ambulatory unless it is not ambulatory for reasons unrelated to anesthesia. The only exception to this rule would be the case where the client demands to take the animal home against the advice and judgment of the attending veterinarian. In this case the

veterinarian should have the client sign a release form stating that they have been advised to leave the animal; they realize the risks involved; and that they are taking the animal against the advice and judgment of the attending veterinarian.

3.7 Surgical Services - Sterile surgery shall be practiced in all cases in which sterile surgery is demanded by the profession. Sterile surgery shall be defined as procedures in which aseptic technique is practiced in patient preparation, instrumentation, and surgical attire.

A. Surgical attire and technique for aseptic surgery:

1) Disinfection of surgeon's hands by scrubbing with a disinfecting surgical scrub solution.

2) Sterilized surgical gown with long sleeves is recommended but not required. Clean clothing and sterilized gloves must be worn.

3) Sterile surgery requires sterilization of all appropriate equipment. An acceptable method of sterilization sufficient to kill spores must be used on all instruments, packs, and equipment intended for use in sterile surgical procedures.

4) External use of heat sensitive tape type indicators on surgical gowns, packs, and re-sterilized gloves or the use of "steam clock" type indicators deep in surgical packs shall be required to monitor sterilization efficiency. The date the items were sterilized must be indicated.

5) Ancillary personnel in the surgery room shall wear clean clothing and footwear.

B. Hot and cold running water shall be readily accessible to the situs of the surgical procedure.

3.8 Dental Operations

A. The term "dental operation" as used in these rules 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, stains or the smoothing, filing or polishing of tooth surfaces.

3) Nothing in these rules shall prohibit, however, any person from utilizing cotton swabs, gauze, dental floss, dentifrice, toothbrushes or similar items to clean an animal's teeth.

3.9 Embryo Transfer

- A. The procedure commonly known as an embryo transfer shall only be performed as a duty of a licensed veterinarian.

3.10 Patient Record Keeping

- A. Individual records shall be maintained at the place of business and shall include, but shall not be limited to, identification of patient, patient history, immunization records, and diagnostic procedures performed.
- B. Patient records shall be current and maintained on the business premises for a period of three (3) years and are the responsibility and property of the employing veterinarian.
- C. When appropriate, the words "herd", "flock", or other collective group terms may be used in place of the word "patient" in Subsections A and B of this section. 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 care provided. In no case does this eliminate the requirement to maintain drug records as specified by state and federal law and Board rules.

3.11 Advertising

- A. Advertising shall be defined as 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.

- B. 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.

3.12 Specialist Practitioners

- A. A veterinarian may be allowed to designate himself as a specialist in any field of veterinary medicine if he meets the requirements for his or her designated field.
- B. A specialist may represent himself as such only if he or she is a board-certified specialist. Claims for specialization shall be restricted to those disciplines for which there is a specialty board approved by the American Veterinary Medical Association (AVMA), or any other certifying agency recognized by the Board. A veterinarian may not use the term specialist for an area of practice for which there is not AVMA recognized certification. A diplomate of the American Board of Veterinary Practitioners can claim only a specialty for the class of animals in which he specializes, not for medical specialties unless he is board-certified in those medical specialties.
- C. The term "specialty" or "specialists" is not permitted to be used in the name of a veterinary hospital unless all veterinary staff are board certified specialists.

3.13 Euthanasia - Euthanasia shall be performed in a competent and humane manner.

3.14 Disposal of Deceased Animals - Sanitary methods for the disposal of deceased animals shall be provided and maintained in compliance with the local and state health regulations.

3.15 Disposal of Veterinary Waste - Contaminated hospital waste such as syringes, needles, surgical blades, and contaminated materials shall be disposed of in accordance with local, state and federal laws.

26-4-4 Minimum Veterinary facility standards

4.1 Hospital Facilities - In order to be classified as, advertised as, or the word "hospital" to be used in the name of a veterinary facility, the following minimum standards and requirements shall be met:

- A. A reception room and office, or a combination of the two.
- B. An examination room separate from other areas of the facility of sufficient size to accommodate the doctor, assistant, patient, and client. The room shall also have the following minimum requirements:
 - 1) Lighting adequate to perform a basic and thorough physical examination.
 - 2) Immediate access to a sink with hot and cold running water.
 - 3) Examination table with impervious surface which can be easily cleaned and disinfected.
- C. A surgery room shall be separate and distinct from all other rooms. The room shall have the following minimum requirements:
 - 1) Lighting adequate to perform surgery. A surgery room must 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 inhalation anesthetic machine kept and maintained in working order.
 - 4) Oxygen readily available.
 - 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.
 - 8) Immediate access to hot and cold running water.
- D. A diagnostic X-ray machine and development equipment area kept in compliance with state and federal regulations.

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

- 1) Microscope with attached light source capable of performing basic routine veterinary diagnostic procedures.
- 2) Centrifuge.
- 3) Equipment to obtain a rapid hemoglobin and hematocrit value.
- 4) Diagnostic laboratory equipment test kits and materials needed to render necessary tests or an outside diagnostic laboratory facility capable of returning critical diagnostic results in 24 hours.

F. A kennel or housing area where animals can be retained for treatment and post surgical observation. This area shall comply with the following minimum standards:

- 1) Separate compartments for each animal, maintained in a comfortable and sanitary manner.
- 2) Exercise runs which provide and allow effective separation of animals and their waste products. The surfaces (walls and flooring) must be impervious so that they can be sanitized and disinfected.

G. Indoor lighting for halls, wards, reception areas, examining rooms and surgical rooms shall be adequate for their intended purpose.

H. All floors and wall surfaces in the traffic or working areas of the hospital shall be constructed with a material that can be washed and disinfected.

J. The facility should be maintained in a professional manner. It should have a neat, orderly appearance and a sanitary environment.

K. A library of current veterinary journals and textbooks shall be available on the premises for ready reference.

L. If the hospital advertises that it is a 24-hour emergency facility, it must have a staff person or

veterinarian available, or a telephone recording or answering service shall be employed to inform a client as to when they could expect to receive professional care and a telephone number of the nearest veterinary facility where they can receive emergency service.

- M. If the hospital advertises that the hospitalized animal has 24 hour supervision, a staff person or veterinarian must be in the facility at all times.

4.2 Clinic Facilities - In order to be classified as, advertised as, or the words "veterinary clinic" to be used in the name of a veterinary facility, the following minimum standards and requirements must be met:

- A. A reception room and office, or a combination of the two.
- B. An examination room separate from other areas of the facility of sufficient size to accommodate the doctor, assistant, patient, and client. The room shall also have the following minimum requirements:
 - 1) Lighting adequate to perform a basic and thorough physical examination.
 - 2) Immediate access to a sink with hot and cold running water.
 - 3) Examination table with impervious surface which can be easily cleaned and disinfected.
- C. Indoor lighting for halls, wards, reception areas, examining rooms and surgical rooms shall be adequate for their intended purpose.
- D. All floors and wall surfaces in the traffic or working areas of the hospital shall be constructed with a material that can be washed and disinfected.
- E. The facility should be maintained in a professional manner. It should have a neat, orderly appearance and a sanitary environment.
- F. A library of current veterinary journals and textbooks shall be available on the premises for ready reference.

If surgery is performed, all of the following standards shall apply:

- G. A surgery room separate and distinct from all other rooms. The room shall have the following minimum requirements:
 - 1) Lighting adequate to perform surgery. A surgery room must 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 inhalation anesthetic machine kept and maintained in working order.
 - 4) Oxygen readily available.
 - 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.
 - 8) Immediate access to hot and cold running water.
- H. Diagnostic X-ray machine and development equipment area kept in compliance with state and federal regulations.
- J. A clinical laboratory area containing the following basic equipment:
 - 1) Microscope with attached light source capable of performing basic routine veterinary diagnostic procedures.
 - 2) Centrifuge.
 - 3) Equipment to obtain a rapid hemoglobin and hematocrit value.
 - 4) Diagnostic laboratory equipment test kits and materials needed to render necessary tests or

an outside diagnostic laboratory facility capable of returning critical diagnostic results in 24 hours.

If animals are kept, all of the following standards shall apply:

K. A kennel or housing area where animals can be retained for treatment and post surgical observation. This area shall comply with the following minimum standards:

- 1) Separate compartments for each animal, maintained in a comfortable and sanitary manner.
- 2) Exercise runs which provide and allow effective separation of animals and their waste products. The surfaces (walls and flooring) must be impervious so that they can be sanitized and disinfected.

4.3 Emergency Care Facilities - In order to be classified as, advertised as, or the titles "24 hour emergency care", "emergency hospital" or, "emergency clinic", to be used or implied in the name of a veterinary facility the following minimum standards and requirements must be met.

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

B. An examination room separate from other areas of the facility and of sufficient size to accommodate the doctor, assistant, patient, and client. The room shall also have the following minimum requirements:

- 1) Lighting adequate to perform a basic and thorough physical examination.
- 2) Immediate access to a sink with hot and cold running water.
- 3) An examination table with impervious surface which can be easily cleaned and disinfected.

C. A surgery room separate and distinct from all other rooms. The room shall have the following minimum requirements:

- 1) Lighting adequate to perform surgery. A surgery room must 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 inhalation anesthetic machine kept and maintained in working order.
 - 4) Oxygen readily available.
 - 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.
 - 8) Immediate access to a hot and cold running water.
- D. A diagnostic X-ray machine and development equipment area kept in compliance with state and federal regulations.
- E. A clinical laboratory area containing the following basic equipment:
- 1) Microscope with attached light source capable of performing basic routine veterinary diagnostic procedures.
 - 2) Centrifuge.
 - 3) Equipment to obtain a rapid hemoglobin and hematocrit value.
 - 4) Diagnostic laboratory equipment test kits and materials needed to render necessary tests or an outside diagnostic laboratory facility capable of returning critical diagnostic results in 24 hours.
- F. A kennel or housing area where animals can be retained for treatment and post surgical observation. This area shall comply with the following minimum standards:

- 1) Separate compartments for each animal, maintained in a comfortable and sanitary manner.
 - 2) Exercise runs which provide and allow effective separation of animals and their waste products. The surfaces (walls and flooring) must be impervious so that they can be sanitized and disinfected.
- G. Indoor lighting for halls, wards, reception areas, examining rooms and surgical rooms shall be adequate for their intended purpose.
- H. All floors and wall surfaces in the traffic or working areas of the hospital shall be constructed with a material that can be washed and disinfected.
- J. The facility should be maintained in a professional manner. It should have a neat, orderly appearance and a sanitary environment.
- K. A library of current veterinary journals and textbooks shall be available on the premises for ready reference.
- L. The emergency facility must have an electrical cardiographic monitoring device.

The minimum staffing requirements for an emergency facility shall include a licensed veterinarian on the premises at all times during the posted hours of operation. The board may grant special authority to have a veterinarian on immediate call with written permission of the Board. It is of the discretion of the board as to the amount of time and distance away an on-call veterinarian may be for the staffing of an emergency facility.

4.4 Mobile Veterinary Practice - Mobile veterinary practice is 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, limited service, and/or outcall service. It is within the discretion of the Board as to the time and distance with which a mobile veterinary practice may be operated within the requirements of this section.

- A. General mobile veterinary practice may be defined as providing 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. A general mobile veterinary practice must comply with all regulations listed for veterinary clinics with the exception of Subsection F. The practice must also have some method or provision for the client to obtain advice pertaining to surgical and post treatment problems on a 24 hour basis. If a mobile veterinary practice doesn't completely met the requirements of a veterinary clinic, the board may have the authority to waive one or more of those requirements.

B. Limited service mobile veterinary practice may be defined as the public or private delivery of preventive health care, such as mass or group vaccinations, and is represented as limited to such practice.

1). Public immunization clinics are practices for public health protection, and shall be operated by a veterinarian licensed by the West Virginia Board of Veterinary Medicine who has a permanent office and facilities in the county in which such limited service mobile veterinary services are offered or in any of the adjoining counties of the county in which such permanent facilities are situate.

2). Private limited service mobile veterinary practices are practices restricted to the delivery of animal health protection through vaccination and/or minor diagnostic testing. The limited service mobile veterinary practices must have some method or provision for the client to obtain advice pertaining to post vaccinal reactions on a 24 hour basis.

C. An outcall service is an ambulatory extension of a general service veterinary practice.

1). It is located within the same region as the related general service practice, but is physically removed from the practice premises. It provides vaccinations, physical examinations, minimal treatments, and minimal diagnostic screening.

2). All house call veterinary practices that are not extensions of a fixed veterinary facility must have an affiliation with a general service facility in the same region.

- D. Large animal or farm practice mobile units are not considered mobile clinics for purposes of these rules.
- 4.5 The Board shall establish deadlines for compliance with Section 26-4-4, which shall not exceed 5 years in any case.
- 4.6 All veterinary facilities, including those specifically mentioned above such as, hospitals, clinics, emergency care, and mobile practice, shall be affirmed in operation by the board only after a determination that said facility meets the respective provisions for operation under these rules.
- 4.7 The Board shall have the power to revoke, suspend a license, reprimand a licensee or other individuals, or impose civil penalties for anyone not in compliance with Section 26-4-4 of these rules.

26-4-5 Unretrieved animals

- 5.1 "Unretrieved animal" means any animal placed for confined treatment or boarding by its owner or an agent thereof in the care and custody of a veterinarian, which animal is not retrieved by the owner or agent thereof from the veterinarian within 72 hours of the receipt by said owner or agent of a certified letter, return receipt requested, sent by the veterinarian, or within 72 hours of the return of the unsigned certified mail receipt. Said certified letter shall state that the unretrieved animal is available for pick up by the owner or his agent, and shall state the amount owed, if any, to the veterinarian.
- 5.2 "Humane disposal" means euthanasia by or under the direct supervision of a 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.
- 5.3 A veterinarian may elect the humane disposal of an unretrieved animal no sooner than 10 days after the owner or agent thereof has signed or refused to sign for the receipt of a certified letter from the veterinarian indicating his intent to humanely dispose of the animal, which letter shall be sent to the owner's or agent's last known address. In the event the owner cannot be notified by certified mail, return receipt requested, the veterinarian may elect humane disposal any time after 10 days following return of the certified mail receipt. 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.

- 5.4 The humane disposal of an unretrieved animal shall not relieve the owner or agent thereof of any financial obligation incurred for treatment, boarding or care by the veterinarian.
- 5.5 Notification and humane disposal as provided in this act shall relieve the veterinarian of any further liability regarding the unretrieved animal.
- 5.6 The veterinarian shall post in a conspicuous location in the hospital or kennel a copy or a resume of the provisions of this rule 26-4-5 through 26-4-5.6.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
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STATE OF WEST VIRGINIA

SECRETARY OF STATE

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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 4, Standards of Practice

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

DECISION NO. 63-91

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.



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Secretary of State

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DECISION EMERGENCY RULE DECISION (ERD 63-91)

AGENCY: Board of Veterinary Medicine
RULE: New Rule, Series 4, Standards of Practice
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.

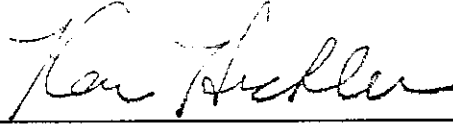
par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the 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 63-91 or ERD 63-91 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