

Handa Goodwin

QUESTIONNAIRE

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

DATE: July 30, 2012

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Board of Veterinary Medicine
5509 Big Tyler Road, Suite 3
Cross Lanes, WV 25313

LEGISLATIVE RULE TITLE: Organization and Operation and Licensing of Veterinarians

1. Authorizing statute(s) citation 30-10-6

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

June 28, 2012

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

c. Date of Public Hearing(s) *or* Public Comment Period ended:

July 30, 2012

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

Attached _____ No comments received 0

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

July 30, 2012

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

Wanda Goodwin: Executive Director

5509 Big Tyler Road, Suite 3

Cross Lanes, WV 25313

Ph: 304-776-8032, Fax: 304-776-8256 email: wgoodwin@wvnet.edu

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

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

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

b. Date of hearing or comment period:

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

d. Attach findings and determinations and reasons:

Attached

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title:

Organization and Operation and Licensing of Veterinarians

Type of Rule:

☒ Legislative ☐ Interpretive ☐ Procedural

Agency:

West Virginia Board of Veterinary Medicine

Address:

5509 Big Tyler Road, Suite 3
Cross Lanes, WV 25313

Phone Number:

304-776-8032

Email: wgoodwin@wvnet.edu**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure
will have on costs and revenues of state government.

There are no fees that would be affected in this rule.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of
Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses	0.00	0.00	0.00
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	500.00	0.00	0.00

Organization and Operation and Licensing of Veterinarians

Rule Title:

Rule Title: _____

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

No fees are affected in this rule.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: July 30, 2012

Signature of Agency Head or Authorized Representative

Karla Good

FILED

TITLE 26

LEGISLATIVE RULE

2012 JUL 30 PM 3:02

WEST VIRGINIA BOARD OF VETERINARY MEDICINE

SERIES 1

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ORGANIZATION AND OPERATION
AND LICENSING OF VETERINARIANS

26-1-1. General.

1.1. Scope. -- This rule establishes guidelines for the organization and operation of the Board and the licensing of veterinarians by the West Virginia Board of Veterinary Medicine.

1.2. Authority. - W. Va. Code 30-10-5.

1.3. Filing Date. - ~~June 16, 2011~~

1.4. Effective Date. - ~~June 16, 2011~~

26-1-2. Definitions.

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

2.2. "Board approved continuing education" means continuing education approved by the West Virginia Board of Veterinary Medicine or its authorized representative organization that is provided by an entity in compliance with the continuing education requirements for veterinarians as specified in section 1-7.5 of this rule.

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

26-1-3. The Board; Procedures.

3.1. Officers of the Board - The members of the board shall annually elect officers. One member to serve for a period of 1 year as Chairperson; and 1 member to serve for a period of 1 year as Secretary-Treasurer, both of whom shall hold their offices until their successors are elected. The Board shall hold elections in June each year.

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

3.3. Board employees; duties - The Board may, in its discretion, employ an executive director, and any other administrative staff as the Board considers necessary.

~~3.4. Meetings of the Board - The Board shall hold at least 2 meetings each year. The Board may hold additional meetings as needed, which shall be called at the direction of the Chairperson or upon the written request of any 4 members of the Board.~~

3.5. 4. 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.

3.6. 5. Compensation of members; expenses - Every member of the Board is entitled to receive compensation as specified in W. Va. Code §30-1-11 for each day spent in attending the sessions of the Board or of its committees. Every member shall be compensated at the stated per diem amount and reimbursed for the expenses of attending all activities approved by the Board, in the performance of activities which are pertinent to the operation and function of the Board, and for all reasonable and necessary expenses incurred in carrying out the provisions of W. Va. Code §30-10-1 et seq.

26-1-4. Applications and Examinations for Veterinarians.

4.1. Before any person may take the examination for a license to practice veterinary medicine in State, he or she shall submit a written application on the Board's application form, which shall be supplied by the Board upon written request or from the website of the Board. The application shall require the applicant to provide the following information, which shall be retained in the applicants' file:

- a. His or her name, address, date and place of birth;
- b. Verification of US citizenship or provide written documentation of applicants' authority to reside and work in the United States;
- c. A certified transcript showing his or her educational qualifications, including the name, location and length of time that the applicant attended school. The certified transcript shall also bear the date of matriculation and the degree awarded;
- d. If the applicant has not graduated when the certified transcript is submitted, after graduation he or she shall provide a dated letter bearing original signature of the Dean of the school indicating under seal that the applicant has graduated, or the applicant shall provide a copy of his or her diploma bearing a statement from a notary public that the copy submitted is a true and exact copy of the original diploma;
- e. Applicant shall state whether he or she has applied for licensure in another state or jurisdiction, and the results of such applications;
- f. Applicant shall indicate whether he or she has ever been denied a license or had a license restricted or disciplined in any other state or jurisdiction with the name of the state or jurisdiction;
- g. The applicant shall have written verification of his or her status as a licensee submitted to the Board from each state or jurisdiction where he or she now holds or ever held a license;
- h. A certified copy of the applicants' birth certificate or official record of birth;
- i. Certified written verifications of any and all name changes;
- j. Any documents provided in language other than English shall be accompanied by an English translation copy with the name and address of the translator listed;

k. A current photograph of the applicant, approximately 2 inches by 2 inches in size. Applicant shall be alone in the photo, and his or her signature shall be on the back of the photograph;

l. The applicant shall tender the required fees as contained in the Board of Veterinary Medicine's Rule Schedule of Fees, 26 CSR 6, with the written application.

4.2. The applicant shall state in the application that he or she will abide by the laws of this State regulating the practice of veterinary medicine and that he or she will abide by the rules of the Board.

4.3. The application shall be signed by the applicant and sworn by him or her before a notary public or any officer legally qualified to administer oaths.

4.4. Any applicant furnishing false information in an application shall be denied the right to take the examination. If the applicant has been licensed before the Board becomes aware of the falseness of the information, the license is subject to suspension, revocation or cancellation.

4.5. Certified transcripts from the schools or colleges of veterinary medicine attended by the applicant shall accompany each application. The certified transcripts shall show the total number of hours of attendance, the subjects studied, the grades given and the date of graduation. If the certified transcripts submitted do not indicate graduation, a copy of the applicants diploma affirmed by a notary public to be an exact copy of the original document with notary signature and seal may serve as verification of graduation.

4.6. Applicants who graduate from a foreign school or a school that is not accredited by the American Veterinary Medical Association must supply written verification from ECFVG or PAVE of receiving a certificate of competence and completion issued by the AVMA Education Commission for Foreign Veterinary Graduates (ECFVG) or the American Association of Veterinary State Boards Program for the Assessment of Veterinary Education Equivalence (PAVE).

4.7. The applicant shall file the completed application form and application fee with the Board at least 30 days prior to the examination date unless otherwise accepted in at the discretion of the Board or its executive director. In the event an applicant intends to retake the examination, the fee and the notice of his or her intention to retake the examination must also be in the Boards office 30 days prior to the examination date.

4.8. If the Board determines that an applicant possesses the proper qualifications, it shall admit the applicant to the next examination. If an applicant is found not qualified to take the examination the Board shall notify the applicant in writing at the applicant's address as listed on the application, of the finding and the grounds upon which the finding is based. An applicant found not qualified may demand a hearing. The application fee of any applicant found not qualified to take the examination is non-refundable.

4.9. Failure of an applicant to appear at a scheduled examination by the Board shall result in a determination that the applicant has taken the examination but without grades. The Board may waive this determination upon written confirmation from the federal or a state government agency stating applicant has been called to immediate active duty.

4.10. National Veterinary Board Examinations: All applicants must have a passing score on a the nNational veterinary Board eExamination (NBE) if the applicant graduated from veterinary school before 1993; the NBE and the Clinical Competency Test (CCT) if the applicant graduated 1993 through 2000 or the North American Veterinary Licensing Examination (NAVLE) if the applicant graduated after 2000. ~~or examinations.~~ The authorized examinations providers shall be the National Board of Veterinary Medical Examiners until and unless changed in this Rule determined by the Board. The passing score for each of the required national veterinary exams as specified according to the graduation year of the candidate is 70 percent. It is the applicant's responsibility to have the national score reporting service of the American Association of Veterinary State Boards forward a copy of

his or her scores directly to the West Virginia Board of Veterinary Medicine at the applicant's expense.

4.11. Any application not completed within 90 days after the state examination date shall be closed and no license will be issued on that application.

26-1-5. Veterinarian Examination Procedure.

5.1. Examinations for veterinary licensure shall be held at least once a year. The Board shall advertise the West Virginia Veterinary Board examination dates and shall specify a deadline for receipt of the completed application and the application fee. The Board shall publish public notice for the application credentials deadline and examination dates in any national veterinarian oriented publication, under Notices Of Examinations To Be Given or on the Board's website.

5.2. Examinations shall be on subjects pertaining to veterinary medicine that are regularly taught at accredited schools of veterinary medicine, and/or on the laws governing veterinary medicine in the State of West Virginia.

5.3. Examinations shall be designed to test the examinee's knowledge of, and proficiency in the subjects and techniques required for practice of the profession in this state. To pass the examination, the applicant must demonstrate knowledge sufficient to prove himself or herself a competent person to practice veterinary medicine in the judgment of the Board. All applicants shall be tested by a written examination, supplemented by any other exams as considered necessary by the Board.

5.4. The Board shall notify the applicant of the examination results not later than 45 days after the date on which the Board has received the applicants' national examination scores and the state examination results.

5.5. If requested in writing by an applicant who fails the examination, the Board may furnish the applicant with an interview of his or her performance on the examination. The Board shall conduct the interview at its main office. The Board

shall not supply the applicant with a copy of the examination for security reasons.

5.6. All veterinary applicants must pass the national and the West Virginia Board examinations. National examination score reports must be sent to the Board directly from the national score reporting service.

5.7. At the beginning of the state examination, each applicant shall be assigned a number by the Boards administrator, who shall have in his or her possession the only code showing the number assigned to each applicant, and he or she may not reveal the number assigned to any other applicant or to any member of the Board until after the examination is completed and the applicant's exam has been graded. 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.

5.8. When examination papers are delivered to the Board, they become the property of the Board and shall not be returned to the applicant or delivered to any other person. The Boards executive director is custodian of the examination papers which shall be preserved for a period of at least 30 days after final grading.

5.9. At the direction of the Chairperson, the Board may conduct the examination without a quorum of the Board being present. At the discretion of the Board, the state examination may also be administered by the executive director.

26-1-6. Veterinary Licenses.

6.1. A license to practice veterinary medicine shall be mailed to an applicant whose file is complete and who has been examined and found qualified for licensure at his or her address of record.

6.2. The Board shall issue a license to a qualified candidate who passes the

examinations and meets the requirements of the Board to practice the profession of veterinary medicine in this State and upon payment of the licensure fee. The license fee is set forth in the Board of Veterinary Medicine's Rule Schedule of Fees, 26 CSR 6. If any licensed veterinarian desires that a duplicate license be issued, the Board shall issue a duplicated license indicating it is a duplicate license upon payment of the duplicate license fee as set forth in the Board of Veterinary Medicine Schedule of Fees, 26 CSR 6.

6.3. The license issued by the Board shall include the licensee's full name, a license number, the Board seal, the effective date and the expiration date and shall bear the signatures of the Chairperson and Secretary-Treasurer of the Board.

26-1-7. Veterinary License Renewals.

7.1. A licensed veterinarian who desires to continue to be licensed shall, on or before December 31 of each year, renew his or her license by completing the required license renewal form and by paying the annual renewal fee as specified in the Board of Veterinary Medicine's Rule Schedule of Fees 26 CSR 6 and certify to the Board that he or she has completed all continuing education requirements.

7.2. On or before December 1 of each year, the Board shall mail a notice to each licensed veterinarian advising the veterinarian that his or her license will expire on December 31 and shall provide him or her with a form for renewal of the license. The Board shall issue a certificate of renewal to all licensees renewing their licenses under the provisions of this rule.

7.3. A person may renew an expired license within 5 years of the date of its expiration by completing the annual renewal applications for the current year and all expired years, providing documentation of having completed the required continuing education in each delinquent year, and paying the current renewal fee plus all delinquent renewal fees. After 5 years have elapsed from the date of expiration, a license may not be renewed, and the former licensee must make application for a new license. The renewal is not retroactive to the date of expiration, but is effective from the date the Board receives all required articles and fees.

7.4. A licensee shall pay all renewal fees to the Board on or before December 31 of each year.

7.5. Continuing Education - Each licensee who desires to continue his or her license in good standing to practice veterinary medicine in the State of West Virginia shall undertake at least 18 50 minute hours of continuing education in the field of veterinary medicine during each calendar year. Hours claimed for listening to audio, ~~viewing video devices, or~~ reading journals ~~or participating in telecommunications presentations~~ shall be limited to no more than 4 hours. Approved continuing education programs are those conducted by AVMA accredited colleges of veterinary medicine, Board approved national veterinary associations, the AVMA approved official state veterinary associations, or the classes must be reviewed and approved by the Registry of Approved Continuing Education (RACE) or the West Virginia Board of Veterinary Medicine. A minimum of 14 hours such hours shall be in ~~Board approved classroom scientific education~~ or webinar continuing education programs with a scientific curriculum relative to the practice of veterinary medicine. No periods may be accumulated, carried forward, or held over past the calendar year in which the periods were completed.

7.6. New licensees who acquire licensure at the June examinations are exempt from the continuing education requirements of this rule until the beginning of the immediately succeeding reporting period after licensure. Those licensees who obtain veterinary license prior to the June examinations are required to complete the continuing education required in the year licensed.

7.7. The Board may grant continuing education hardship extensions by request of the licensee. The Board shall only consider hardship extensions from licensees who the Board determines were prevented from completing the required continuing education hours within the year due to verified medical or military emergencies beyond the licensee's control. Requests for a hardship extension must be received in the Board's office by December 15.

7.8. If an extension is granted by the Board for completion of approved continuing education hours, the licensee shall file the renewal form with the renewal fee. The Board shall renew the license contingent upon the licensee completing the mandatory continuing education within a period determined by the Board from the current year's expiration date of December 31.

7.9. The renewal license shall be issued for the period to complete the mandatory continuing education, and shall be extended to December 31 upon receipt of acceptable written documentation of completing the continuing education. The extension for completion of continuing education hours may not be applied toward satisfaction of continuing education in the year completed and shall be separate from continuing education requirements for current year renewal requirements.

7.10. Any licensee issued a hardship extension for completion of continuing education shall submit documentation of completion prior to the end of the Board approved extension period. Continued practice past the authorized extension period without a written renewal certificate from the Board constitutes the practice of veterinary medicine without a license.

7.11. By December 31 of each year, every licensee 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.

7.12. The Board shall not issue a renewal license to a licensee who does not present to the Board sufficient proof that the licensee has successfully undertaken and completed the required hours of continuing education, or who has failed to fully complete the renewal form or pay the required renewal fee.

7.13. Upon receipt of the renewal form and fee and sufficient proof of the completion of the continuing education requirements, the Board shall issue a renewal license card bearing the number of the license, the period for which the license is renewed, and any other information the Board considers necessary.

7.14. The Board shall make every reasonable effort to notify all licensees of the renewal clause set forth in W. Va. Code §30-10-15, but failure to receive the notification does not exempt a licensee from meeting the requirements of this rule.

7.15. Every licensee shall display his or her renewal license in a conspicuous place in the principal office where he or she practices veterinary medicine. If a licensee practices his or her profession in more than 1 office, he or she shall have a duplicate renewal certificate issued by the Board for each office, obtained upon request and payment to the Board of the fee as specified in the Board of Veterinary Medicine's Rule Schedule of Fees 26 CSR 6. Every licensee shall notify the Board of any branch office and address.

7.16. Each licensee shall notify the Board in writing of any change of address, and forward the notice and fee to the Board no later than the effective date of the change of address.

26-1-8. Temporary Permits for Veterinarians.

8.1. The Board may issue, without examination, a temporary permit to practice veterinary medicine. The Board may issue a temporary permit to an applicant who has met all the requirements for license except for sitting for and passing the state examination, who is under the indirect or general supervision of a West Virginia licensed supervising veterinarian. During the period of supervision of a temporary permittee, the supervising veterinarian must remain within one hour's physical access to the location where the temporary permittee is rendering veterinary care. The Board may not issue a temporary permit for a period exceeding the next exam date after the permit is issued.

8.2. A licensee may not employ more than two permittees at one time. An applicant for a temporary permit must associate himself or herself with a qualified licensed veterinarian and his or her labors are limited to the practice of the licensed

veterinarian. A letter of support for a permit shall be countersigned by the licensed veterinarian with whom the applicant will be associated, and shall state the supervising veterinarian's willingness to sponsor the permittee.

8.3. An applicant for a temporary permit shall complete all requirements for licensure, except for sitting for the state exam before the Board makes a determination on the temporary permit application. The Board may issue the temporary permit while awaiting the next state exam administered after the application is filed.

8.4. A temporary permit may be revoked by a majority vote of the Board without a hearing.

8.5. A temporary permit is not transferable.

8.6. The fee for a temporary permit is as set forth in the Board of Veterinary Medicine's Rule Schedule of Fees 26 CSR 6.

8.7. A temporary permittee who continues the practice of veterinary medicine after the expiration date of the temporary permit is guilty of the practice of veterinary medicine without a license.

26-1-9. Veterinarian Disciplinary Action.

9.1. The Board may revoke or suspend a license, impose a civil penalty, place a person's license on probation, reprimand a licensee, refuse to examine an applicant or issue a license or renewal of a license, as provided by law and as provided by this rule if it finds an applicant or licensee:

a. has presented to the Board false or fraudulent evidence of qualification or has been found to be 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 unethical 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 or jurisdiction of the United States or of the federal government of the United States or any other crime involving moral turpitude;

e. has engaged in practices or conduct in connection with the practice of veterinary medicine which violate the standards of professional conduct as duly established by the Board;

f. has permitted or allowed another to use his or her license or permit 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 received any kickback 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 good operation and 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. has received 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 or determination of conviction of a person licensed by the Board of any felony, the Board may, after an administrative hearing in which the facts of conviction are determined, suspend or revoke the person's license. The Board may not reinstate or reissue a license to a person whose license is suspended or revoked under this section except on an express determination of the Board based on substantial evidence contained in an investigative report, indicating that the reinstatement or reissuance of the license is in the best interests of the public and of the person whose license has been suspended or revoked.

9.4. Following notice and hearing, the Board may suspend or revoke a license, place a license on probation, or reprimand a licensee who knowingly fails to report a reportable contagious disease to the State Veterinarian with the West Virginia Department of Agriculture or any authorized reporting agent within twenty-four hours of diagnosis or discovery. Reportable contagious diseases include, but are not limited to;

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,
Bovine Spongiform Encephalopathy (BSE),
West Nile Virus,
Eastern Equine Encephalitis (EEE),
Western Equine Encephalitis (WEE),
Classical Swine Fever,
Asian Influenza,
Monkey Pox,
Vesicular Stomatitis

9.5. If a person violates this rule in a manner that constitutes grounds for disciplinary action by the Board, the Board may assess the costs of the investigation, hearing, hearing examiner, legal fees and all other reasonable and necessary costs incurred by or on behalf of the Board to the veterinarian who was the subject of the disciplinary action.