



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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9/28/2016 4:42:06 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 4 -- NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY **Veterinary Medicine**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **26-04**
RULE NAME **Standards of Practice**

CITE AUTHORITY **30-10-6**

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Patricia A Holstein -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 26-04



Rule Id: 10050



Document: 30037



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY **Veterinary Medicine**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **26-04**
RULE NAME **Standards of Practice**

CITE AUTHORITY **30-10-6**

PRIMARY CONTACT

Patricia Holstein
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Cross Lanes, STATE ZIP

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SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

There will be no financial impact.

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

AGENCY **Veterinary Medicine**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **26-04**
RULE NAME **Standards of Practice**

CITE AUTHORITY **30-10-6**

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.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
--------------------	--	---------------------------------------	---

**ESTIMATED
TOTAL COST**

PERSONAL SERVICES

CURRENT EXPENSES

**REPAIRS AND
ALTERATIONS**

ASSETS

OTHER

**ESTIMATED
TOTAL REVENUES**

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

AGENCY **Veterinary Medicine**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **26-04**
RULE NAME **Standards of Practice**

CITE AUTHORITY **30-10-6**

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

N/A

Patricia A Holstein -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 26-04



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)

AGENCY **Veterinary Medicine**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **26-04**
RULE NAME **Standards of Practice**

CITE AUTHORITY **30-10-6**

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.

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Patricia A Holstein -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 26-04



Rule Id: 10050



Document: 30037

TITLE 26
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF VETERINARY MEDICINE

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.~~

1.5. Sunset Provision: This rule shall terminate and have no further force or effect upon the expiration of _____ years from its effective date.

§26-4-2. Definitions.

2.1. "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.

2.2. "Ambulatory practice" means a professional visit to the location of a patient or client and includes house calls and farm calls.

2.3. "Convenient access" means capable of being utilized without delay.

~~2.24. "Dental operation procedure" means:~~ 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.

~~2.2.a. 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~~

~~2.2.b. 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.~~

2.5. "Emergency clinic" means a facility that provides after hours or 24 hour emergency care.

~~2.36. "Exercise run" means~~ an enclosed area under roof and climate controlled of sufficient size to allow for free ambulation ~~that portion of a veterinary facility specifically used~~ for the comfort and exercise of patients or kennel animals that are housed within the facility.

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

2.58. "Humane disposal" means euthanasia by or under the general supervision of a ~~licensed~~ veterinarian or ~~placement in a~~

26CSR4

~~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 by an euthanasia technician.~~

~~2.6. "Immediate access" means capable of being utilized without delay.~~

~~2.9. "Immunization clinics" means an event conducted to provide easy access to the public for routine preventative health care for their animals. The clinics may occur at a veterinarian's permanent facility location or alternative sites for easy public access.~~

~~2.710. "Impervious" or "impervious surface" means incapable of being penetrated by water or other liquids.~~

~~2.811. "Legend Prescription drugs" means a drugs which a United States federal government agency has approved for use in veterinary medicine only upon the authorization of a licensed veterinarian, that are approved by the U.S. Food and Drug Administration (FDA) and that are required by federal or state law to be dispensed to the public only on prescription by a licensed provider.~~

~~2.9. "Minor surgery" means surgery that does not require or involve general anesthesia or respiratory assistance during the surgical procedure.~~

~~2.10. "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.~~

~~2.10.a. "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.~~

~~2.10.b. "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.~~

~~2.11. "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.~~

~~2.12. "Mobile" means a facility that may be transported or moved from one location to another. With this type of practice, the patient is examined and treated in the mobile unit.~~

~~2.13. "Sedation" means the calming of mental excitement or reduction of physical activity, by the administration of a drug.~~

~~2.14. "Stationary facility" means a fixed, non-moveable structure.~~

~~2.125. "Sterile surgery" means procedures in which aseptic technique is practiced in patient preparation, instrumentation, and surgical attire.~~

~~2.136. "Surgery" means that branch of veterinary medical science which ~~treats by mechanical or~~ uses operative measures for ~~healing~~ treating diseases, deformities, injuries, and for reproductive sterilization or elective operative surgical procedures.~~

~~2.17. "Veterinarian" means a person who is licensed to practice veterinary medicine pursuant WV Code §30-10-1 et. seq.~~

~~2.18. "Veterinarian in charge" means a veterinarian who holds an active license in West Virginia and who is responsible for maintaining a veterinary practice within the standards set by the W. Va. Code §30-10-1 et seq. and W.Va. Code R. §26-1-1 et. seq.~~

~~2.19. "Veterinary practice" means any ambulatory, emergency, mobile, or stationary, practice wherein veterinary medicine or surgery is conducted.~~

§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 improper conduct.~~ A veterinarian shall expose without fear or favor before the proper tribunal of the Board any and all malpractice, incompetence, 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 participate in 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~~ disciplined by state or federal authority is may be 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. In the event the veterinarian chooses not to provide services, the client shall be notified.~~

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. This is to include information on how clients may receive emergency care when the veterinarian is not available.

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.

3.15. ~~Specialty Area.~~ A veterinarian may represent himself or herself as a specialist only if they have completed the process of Board certification in a recognized veterinary specialty area. To become Board certified, a veterinarian must have a credential review and examinations set by the given specialty area. The Board shall annually, before the first of January, provide a list of AVMA approved veterinary specialty organizations for the next calendar year.

3.16. ~~Release of Records.~~ Veterinary Medical Records are considered privileged and confidential. Disclosure of records is prohibited unless the client has provided written or documented verbal consent. A veterinarian shall provide a client medical records within 30 days of request. However, records may be released by court order, subpoena or compliance with local, state or federal law as deemed necessary to protect the animal or public health. Sharing of necessary medical information between veterinarians or facilities is allowed for treatment, Boarding and diagnosis without client consent. Reasonable cost for copying the medical record and or images may be charged.

3.17. ~~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. In order to advertise 24 hour emergency service, a practice must be a facility that provides that service.

§26-4-4. Classification of Veterinary Practices

4.1. The following are classifications of veterinary practices:

4.1.a. Ambulatory

4.1.b. Emergency

4.1.c. Mobile

4.1.d. Stationary

§26-4-45. Minimum Mandatory Standards for the Practice of Veterinary Medicine

5.1. All classifications of veterinary practice as referenced or defined by §26-4-4 shall meet these mandatory standards.

~~4.1. 5.1.a.~~ 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.~~

5.1.b. A veterinarian shall perform all aspects of veterinary medicine and surgery in a manner compatible with current veterinary medical practice.

~~4.2. 5.1.c.~~ 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:

~~4.2.a~~5.1.c.1. Perform a physical examination of the animal. ~~When a~~ 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;

~~4.2.b~~5.1.c.2. Discuss with the client a diagnostic assessment and treatment plan, including ~~recommendations and medications, and follow up recommendations.~~ 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~~ This information shall be entered into the patient's medical record.

~~4.2.c. Discuss follow up recommendations with the client.~~

~~4.3. Radiological Services.~~

~~4.3.a. A radiograph is the property of the veterinarian or the veterinary facility which originally ordered it to be prepared.~~

~~4.3.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.~~

5.1.d. Licenses and permits issued by the Board shall be posted in a place conspicuous to the public at the establishment where veterinary services are being provided. Licensees who do relief or temporary work in an establishment shall carry a license with them or post it at the establishment. Ambulatory veterinary practices that do not have an office accessible to the public shall carry their licenses and permits in their vehicles.

5.1.e. The practice shall comply with federal, state, and local regulations in regards to the maintenance and disposal of all chemical and pharmaceutical agents.

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

5.1.g. 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, and provide refrigeration exclusively for carcasses of companion animals that require storage for 12 hours or more.

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

5.1.i. Equipment currently in use shall be maintained in working order within manufacturer guidelines.

5.1.j. Current veterinary journals and textbooks or immediate internet access to the information provided by current veterinary journals and textbooks need to be available for ready reference.

5.1.k. A veterinarian shall have a method of correctly weighing an animal.

5.2. Medical Records

5.2.a. A veterinarian shall maintain individual records at his or her place of business in such a way that any veterinarian shall be able to proceed with the continuity of care and treatment of that patient which records shall include, but not be limited to, identification of the patient, the patient's medical history, immunization records, diagnostic procedures performed, diagnosis, and treatment plan.

5.2.b. The practice owner shall keep and maintain current patient records on the business premises for a period of 3 years beyond the last patient visit and the records are the responsibility and property of the owner of the veterinary practice. If the practice is closing or being sold and the location of the practice moving, clients shall be notified a minimum of four weeks prior to a permanent practice closing or moving as to how they may acquire a copy of their animals' medical records. Records must be made available for client retrieval at convenient times and accessible locations for a period of no less than one month.

5.2.c. When appropriate, the words "herd", "flock", "litter", 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 information that is entered is adequate to substantiate the identification and treatment of these animals.

~~4.4. Pharmacological Services.~~ 5.3. Pharmacology

~~4.45.3.a. A veterinarian shall not prescribe, dispense or administer any legend prescription 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.~~

~~4.45.3.b. The veterinarian ~~in charge is~~ shall be responsible for assuring that any ~~legend drugs, and biological agents, or other products~~ prescribed for use in the veterinary ~~facility practice~~ are properly administered, ~~for maintaining accurate records in the patient's 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.~~~~

~~4.45.3.c. The veterinarian shall be responsible for maintaining all drugs and biological agents in compliance with state and federal laws accurate records in the patient's medical history which shall include the strength, dosage and quantity of all medications used or prescribed.~~

5.3.d. The veterinarian shall provide appropriate instruction to clients on the storage and administration of drugs.

5.3.e. The veterinarian shall maintain all drugs and biological agents in compliance with state and federal laws. No drugs shall be dispensed that are beyond the date of expiration.

~~4.4.d.5.3.f. Special handling requirements for Drugs (eg. refrigeration or light sensitive) shall be included in your instructions. 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~~ a 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.~~

~~4.4.e.5.3.g. All ~~repackaged legend~~ drugs dispensed, including repacked drugs, shall be labeled with the following:~~

~~4.4.e.1. 5.3.g.1. The name, address and telephone number of the ~~facility practice~~;~~

~~5.3.g.2. The name of the prescribing veterinarian;~~

~~5.3.g.3. The date dispensed;~~

~~4.4.e.2. 5.3.g.4. The client's name;~~

~~4.4.e.3. 5.3.g.5. The patient's name;~~

~~4.4.e.4. The date dispensed;~~

~~4.4.e.5. 5.3.g.6. The directions for use;~~

~~4.4.e.6. 5.3.g.7. The name of the drug ~~and its strength (if more than one dosage form exists)~~;~~

~~5.3.g.8. The strength of the drug if more than one dosage form exists;~~

~~5.3.g.9. The quantity or volume dispensed;~~

~~4.4.e.7. The name of the prescribing veterinarian; and~~

~~4.4.e.8. 5.3.g.10. The number of refills, if any; and~~

~~5.3.g.11. The expiration date.~~

~~4.4.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.~~

~~4.4.g~~5.3.h. 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; including maintaining a register, which shall indicate the following:

~~4.4.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:~~

~~4.4~~5.3.h.1. The name of the prescribing veterinarian;

~~4.4~~5.3.h.2. The name of the medication dispensed or prescribed;

~~4.4~~5.3.h.3. The quantity dispensed or prescribed;

~~4.4~~5.3.h.4. The dosage of the medication, if applicable;

~~4.4~~5.3.h.5. The number of refills;

~~4.4~~5.3.h.6. The date of the dispensing or prescribing;

~~4.4~~5.3.h.7. The patient name and name of the client record;

~~5.3.h.8.~~ The expiration date;

~~4.4.h.~~5.3.h.9. The method used for prescribing, such as written script, phone, fax or any other electronic means; and

~~4.4.h.~~5.3.h.10. 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.

5.3.i. Veterinarians shall honor a client's request for a prescription in lieu of dispensing.

5.3.j. Prescriptions may be refilled for up to one year or the maximum number of refills prescribed from the examination date at the prescribing veterinarian's discretion. After 1 year, the patient shall be re-examined before an additional prescription is validated.

5.4. Laboratory Services

5.4.a. Each practice shall maintain laboratory services using either an in-house and/or an outside laboratory in order to meet the current standards of care for the profession.

5.5. Radiological Services (if performed)

5.5.a. A veterinarian shall store and maintain radiographs (including dental images), whether in film or digital format for a minimum of 3 years.

5.5.b. All radiographs in any format shall have a permanent identification bearing the clients name, the patients name, the date and either left or right markers.

5.5.c. Diagnostic x-ray equipment shall be kept in compliance with state and federal laws, rules and regulations.

5.5.d. Practices using x-ray equipment must have:

5.5.d.1. Lead aprons and gloves;

5.5.d.2. Thyroid shields and;

5.5.d.3. Personal radiation exposure badges and corresponding monitoring reports.

5.6. Surgical Services (if performed):

5.6.a. A veterinarian shall practice surgery in accordance with species specific standard of care.

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

5.6.b.1. The disinfection of the surgeon's hands using a disinfecting solution; and

5.6.b.2. A veterinarian shall wear clean clothing and sterile gloves should be changed between patients.

5.6.b.3. Clean water shall be accessible to the sites of the surgical procedure.

5.6.b.4. Emergency drugs for cardiac and pulmonary resuscitation readily accessible.

5.6.c. A veterinarian shall use an acceptable method of sterilization of all appropriate equipment sufficient to kill spores on all instruments, packs, and equipment intended for use in sterile surgical procedures. A steam pressure sterilizer or an appropriate method of sterilizing instruments shall be used.

5.6.d. The use of sterilization indicators, both internal and external, are required on all surgical packs. A sterilized date shall be marked on all sterilized items.

5.6.e. The veterinarian shall provide a method for the client to obtain emergency advice pertaining to surgical and post treatment problems after the animal is released to the owner or agent following the completion of the surgery or treatment;

5.7. Dental Services (if performed)

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

5.7.b. Dental instruments shall be clean and/or sterilized as appropriate between patients.

5.8. Anesthesia/Ventilation Services- (if performed)

5.8.a. A method of respiratory monitoring, such as observing chest movements, watching the rebreathing bag, or use of a respirometer. Some method of cardiac monitoring is required, and may include use of a stethoscope or electrocardiographic monitor.

5.8.b. A veterinarian shall provide every animal with a pre-surgical assessment 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.

5.8.c. A veterinarian or his or her assistant shall monitor every animal as long as the patient is under general anesthesia.

5.8.d. A veterinarian shall not release any patient from veterinary supervision to the owner or client until it is responsive and recovered from anesthesia. 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.

~~4.5. General anesthetic, ventilation and resuscitation equipment:~~

~~4.5.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.~~

~~4.5.b. A veterinarian shall have an oxygen supply available at all times.~~

~~4.5.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.~~

~~4.5.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.~~

~~4.5.e. A veterinarian or his or her assistant shall continually observe every animal as long as the patient is under general anesthesia.~~

~~4.5.f. A veterinarian shall maintain anesthetic equipment in proper working condition.~~

~~4.5.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.~~

~~4.6.a. The following surgical attire and technique is required for aseptic surgery;~~

~~4.6.a.1. The disinfection of the surgeon's hands by scrubbing with a disinfecting surgical scrub solution;~~

~~4.6.a.2. A sterilized surgical gown with long sleeves is recommended. A veterinarian shall wear clean clothing and sterile gloves;~~

~~4.6.a.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;~~

~~4.6.a.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.~~

~~4.6.b. Running water shall be accessible to the sites of the surgical procedure.~~

~~4.7. Dental Operations.~~

~~4.7.a. All dental operations shall be carried out by a licensed veterinarian, technician or veterinary assistant under the general supervision of a licensed veterinarian.~~

~~4.7.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.~~

~~4.9.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.~~

~~4.9.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.~~

~~4.9.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.~~

§26-4-56. Minimum Veterinary Facility Mobile and Stationary Mandatory 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;~~

6.1. In addition to the requirements of §26-4-5, mobile and stationary facilities must meet the following facility standards:

~~5.26.1.a. A reception room and office, or a combination of the two;~~

~~5.26.1.b. An examination ~~room~~ area, species suitable, which is separate from other areas of the facility of sufficient size to accommodate the veterinarian, technician or assistant, patient, and client. The ~~room~~ area shall also at a minimum have:~~

~~5.26.1.b.1. Lighting adequate to perform a ~~basic~~ and thorough physical examination;~~

~~5.26.1.b.2. ~~Immediate~~ Convenient access to a sink with hot and cold running water; ~~and~~~~

~~5.2.b.3. An examination table with impervious surface which can be easily cleaned and disinfected;~~

~~5.26.1.c. Indoor lighting sufficient for the safety of staff and patients;~~

~~5.2.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;~~

~~5.2.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;~~

~~5.2.f. If surgery is performed, a surgery room separate and distinct from all other rooms. The room shall have at a minimum:~~

~~5.2.f.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;~~

~~5.2.f.2. A surgery table with an impervious surface which can be cleaned and easily disinfected;~~

~~5.2.f.3. An available oxygen supply;~~

~~5.2.f.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;~~

~~5.2.f.5. An illuminated X-ray viewer available for use in the surgery room;~~

~~5.2.f.6. Emergency drugs for cardiac and pulmonary resuscitation readily accessible to the surgery room;~~

~~5.2.f.7. Walls, floors, and counter tops constructed with an impervious material capable of being cleaned and routinely disinfected; and~~

~~5.2.f.8. Access to hot and cold running water.~~

~~5.2.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;~~

~~5.2.h. A clinical laboratory area containing the following basic equipment:~~

~~5.2.h.1. A microscope with an attached light source capable of performing basic routine veterinary diagnostic procedures;~~

~~5.2.h.2. A centrifuge;~~

~~5.2.h.3. Equipment to obtain hemoglobin or hematocrit value; and~~

~~5.2.h.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.~~

~~5.2.i.6.1.d. If animals are kept, a A kennel, stall, or housing area where animals can be retained for treatment and post surgical observation. This area shall have at a minimum: separate compartments for each animal which shall be maintained in a sanitary manner and allow for the comfort of the animal.~~

6.1.e. If animals are housed overnight, an isolation area with the proper protocol to handle infectious diseases.

~~5.2.i.1. Separate compartments for each animal, maintained in a comfortable and sanitary manner; and~~

~~5.2.i.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;~~

~~5.2.j. A list of these minimum standards shall be posted prominently in the waiting rooms of the facility.~~

6.1.f. Examination table with an impervious surface which can be easily cleaned and disinfected. An examination table is optional in large animal mobile practices.

6.1.g. 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.

6.1.h. Small animal practices which house animals overnight must have at least 1 exercise run maintained in a clean and sanitary condition. The surfaces (walls and flooring) shall be impervious so that they can be sanitized and-disinfected.

6.1.i. Surgical Services

6.1.i.1. A room designated solely for surgery, separated by doors, and distinct from all other rooms. The room shall have at a minimum:

6.1.i.2. 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. Backup emergency lighting is required of sufficient intensity to conclude surgery in case of power outage;

6.1.i.3. A surgery table with an impervious surface which can be cleaned and easily disinfected.

6.1.i.4. An illuminated X-ray viewer or a device to view digital images readily accessible to the surgery room;

6.1.i.5. Walls, floors, and counter tops constructed with an impervious material capable of being cleaned and routinely disinfected.

6.2. In addition to the mandatory standards, emergency facilities shall have:

6.2.a. An electrical cardio graphic monitoring device.

6.2.b. A veterinarian on the premises at all times during the posted hours of operation.

~~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:~~

~~5.3.a. A diagnostic X-ray machine and development equipment area kept in compliance with state and federal rules and regulations;~~

~~5.3.b. An electrical cardiographic monitoring device;~~

~~5.3.c. Inhalation gas anesthesia;~~

~~5.3.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.~~

~~5.4.a. General mobile veterinary practice facilities shall also comply with the following standards:~~

~~5.4.a.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;~~

~~5.4.a.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~~

~~5.4.a.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.~~

~~5.4.b. Limited service mobile veterinary practices are;~~

~~5.4.b.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 or the county in which the mobile facilities are located; or~~

~~5.4.b.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.~~

~~5.4.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.~~

~~5.4.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.~~

~~5.4.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.~~

~~5.4.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.~~

~~5.5.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.~~

§26-4-7. Veterinarian in Charge

7.1. The veterinarian-in-charge of a veterinary establishment is responsible for:

7.1.a. Being on site as necessary to provide routine oversight to the veterinary establishment for patient safety and compliance with law and regulation.

7.1.b. Performing or overseeing the biennial controlled substance inventory and ensuring compliance at the facility with any federal or state law relating to controlled substances. The performance of the biennial inventory may be delegated to another licensee, provided the veterinarian-in-charge signs the inventory and remains responsible for its content and accuracy.

7.1.c. Notifying the Board in writing of the closure of the permitted facility 10 days prior to closure.

7.1.d. Notifying the Board immediately if no longer acting as the veterinarian-in-charge.

7.1.e. Ensuring the establishment maintains a current and valid permit issued by the Board.

7.2. Upon any change in veterinarian-in-charge, these procedures shall be followed:

7.2.a. The veterinarian-in-charge registered with the Board remains responsible for the establishment and the stock of controlled substances until a new veterinarian-in-charge is registered or for five days, whichever occurs sooner.

7.2.b. An application for a new permit, naming the new veterinarian-in-charge, shall be made five days prior to the change of the veterinarian-in-charge. If no prior notice was given by the previous veterinarian-in-charge, an application for a new permit naming a new veterinarian-in-charge shall be filed as soon as possible but no more than 10 days after the change.

7.2.c. The previous establishment permit is void on the date of the change of veterinarian-in-charge and shall be returned by the former veterinarian-in-charge to the Board five days following the date of change.

7.2.d. Prior to the opening of the business, on the date of the change of veterinarian-in-charge, the new veterinarian-in-charge shall take a complete inventory of all Schedule II-V drugs on-hand. He shall date and sign the inventory and maintain it on-premises for three years. That inventory may be designated as the official biennial controlled substance inventory.

§26-4-8. Facility Inspections and Registration

8.1. A new veterinary facilities shall be inspected by the Board prior to opening. The Board, shall grant an 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.

8.2. A registered veterinary facilities shall be inspected by the Board on a rotating basis 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. Additionally, the Board may inspect a facility at any time for just cause. Only after the Board determines that the facility meets the respective provisions for operation under this rule may it lawfully operate.

8.3. Should a veterinary facility change ownership, the new owner shall notify the Board within 5 days of such purchase and will be subject to re-inspection.

8.4. A owners of veterinary practices operating shall complete and file annually, on or before June 30, on a form approved by the Board, an annual veterinary practice registration, and shall pay the veterinary practice annual permit fee, as prescribed by 26CSR6.

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

8.6. The Board shall not issue a renewal license to a veterinarian who is an owner 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 during the facilities regular business hours.

8.7. The Board may revoke or suspend a facility registration for not being in compliance with this Rule.

§26-4-69. Abandoned Animals,

69.1. 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, set by the W.Va. Code R. §26-4-9.2. that the veterinarian may elect the humane disposal of an abandoned animal no sooner than 7 days after the veterinarian has mailed a certified letter.

69.2. A veterinarian may elect the humane disposal of an abandoned animal no sooner than ~~14~~ 7 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~~ 7 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.

69.3. 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. Alternatively, an animal may be placed 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.

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

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

§26-4-10. Immunization Clinics

10.1. Immunization clinics shall be operated by a veterinarian licensed by the Board who has a registered veterinary practice in the county or adjoining counties where the clinic is being held. Any immunizations provided at the clinic other than rabies vaccination shall be administered by a veterinarian or a registered veterinary technician supervised by the veterinarian on site.

§26-4-11. Non-Typical Emergency and Disaster Situations

11.1 In the event of a natural disaster or local malfunction of utilities, veterinary practices may temporarily operate their businesses outside of these standards of practice if the veterinarian makes amends to alleviate as much as possible the problems associated with the temporary loss of facilities, utilities, or transportation. All efforts are directed to keep patients safe while continuing to provide needed veterinary and lifesaving services. Every effort will be made by the practice owner to bring the facility into full compliance with the standards of practice as quickly as possible.