



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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7/18/2017 2:04:14 PM

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-  
MAKING REVIEW COMMITTEE**

AGENCY: Veterinary Medicine TITLE-SERIES: 26-05  
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: 26-05 Certified Animal Euthanasia Technicians

**PRIMARY CONTACT**

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CITE STATUTORY AUTHORITY: 30-10-6

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

- 1) Standards and requirements for a license, permit, certificate and registration;
- (2) Educational and experience requirements;
- (3) Procedures for examinations and reexaminations;
- (4) Requirements for third parties to prepare, administer or prepare and administer examinations and reexaminations;
- (5) The passing grade on the examination;
- (6) Standards for approval of courses;
- (7) Establish a certified animal euthanasia technician's program;
- (8) Procedures for the issuance and renewal of a license, permit, certificate and registration;
- (9) A fee schedule;
- (10) Continuing education requirements;
- (11) Set standards for ethical conduct;
- (12) Establish procedures and requirements for facility inspections;
- (13) Clarify the veterinarian-client-patient relationship;
- (14) The procedures for denying, suspending, revoking, reinstating or limiting the practice of a licensee, permittee, certificate holder or registrant;
- (15) Requirements for a revoked license, permit, certificate and registration; and
- (16) Any other rules necessary to effectuate the provisions of this article.

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/12/2017

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/13/2017

COMMENTS RECEIVED:

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

Posted on our website and mailed postcards.

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

The purpose of the Rule change is to update the Rule and to be in compliance with W. Va. Code §30-1D-1(d) authorizing the Board to promulgate rules which set forth the requirements and procedures for applicant criminal history checks. West Virginia Code §29A-3-19(b) requires the incorporation of a sunset provision in existing rules which are modified after April 1, 2016.

§26-5-2. Application for Certified Animal Euthanasia Technicians.  
Added application requirements

§26-5-3. Certified Animal Euthanasia Technicians Program.  
Moved §26-5-5. Practical skills examination language to this section.  
Moved §26-5-6. Testing date language to this section.

§26-5-5. Certified Animal Euthanasia Technician Certificate Holder.  
Added duplicate certification and certificate requirements.

§26-5-6. Certified Animal Euthanasia Technician Renewal.  
Moved §26-5-11.- Continuing education requirement language to this section.  
Moved §26-5-12.- Certification annual renewal language to this section.

§26-5-7. Chemical Restraint Drugs.  
Removed the approved chemical restraint drugs since the drugs could change at any time.

§26-5-8. Requirements for animal euthanasia by carbon monoxide.  
Removed since we no longer register facilities that euthanize by carbon monoxide.

§26-5-9. Inspection requirements for animal euthanasia gas chambers.  
Removed since we no longer register facilities that euthanize by carbon monoxide.

§26-5-108. Animal Euthanasia Technician Disciplinary Action.  
Added reasons for disciplinary actions:  
oFraudulent evidence of qualification.  
oHas engaged in dishonest, unethical, or illegal practices in or connected with the practice of animal euthanasia technology, or has been convicted of a misdemeanor related to the practice of animal euthanasia technology or animal abuse or neglect.  
oHas been convicted of a felony or any other crime involving moral turpitude.  
oHas violated the standards of professional conduct as duly established by the Board.  
oUsed euthanasia drugs for any other purpose other than humane animal euthanasia.  
oHas disciplinary in another jurisdiction.  
oMentally incompetent by a court of competent jurisdiction.  
oConviction of a felony.

Added the Board may assess cost for disciplinary actions.

§26-5-11. Facility Inspections and Registration.

Added inspection requirements:

oA facility registration application along with the non-refundable fees are required.

oA facility shall be inspected by the Board on a rotating basis every 2 years,

oThe Board may inspect a facility at any time for just cause.

oThe Board shall not issue a renewal certificate to any animal euthanasia technician of an animal euthanasia facility that has not filed an annual facility registration.

oThe Board may revoke or suspend a facility registration for not being in compliance.

Changed the renewal period from October December to April June 30 to match the veterinary facility

§26-5-13. Termination of Employment.

The Board shall be notified of cease of employment.

§26-5.14. Criminal History Record Check

Requiring criminal history record checks for new applicants.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

The purpose of the Rule change is to update the Rule and to be in compliance with W. Va. Code §30-1D-1(d) authorizing the Board to promulgate rules which set forth the requirements and procedures for applicant criminal history checks. West Virginia Code §29A-3-19(b) requires the incorporation of a sunset provision in existing rules which are modified after April 1, 2016

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

Since the WV Board of Veterinary Medicine is a non-appropriated Board and we fall under the special revenue fund; therefore, there is no impact on the revenues to state government.

B. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

Since the WV Board of Veterinary Medicine is a non-appropriated Board and we fall under the special revenue fund; therefore, there is no economic impact to state government no its residents.

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2017 Increase/Decrease (use "-")	2018 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
<b>2. Estimated Total Revenues</b>			

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

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

TITLE 26  
LEGISLATIVE RULE  
WEST VIRGINIA BOARD OF VETERINARY MEDICINE

SERIES 5  
CERTIFIED ANIMAL EUTHANASIA TECHNICIANS

**§26-5-1. General.**

1.1. Scope. -- This rule establishes guidelines for the training, examination and procedures by which animal euthanasia technician may be certified by the West Virginia Board of Veterinary Medicine. Further, it establishes approved methods of animal euthanasia and expands as well as defines qualifications for certified animal euthanasia technicians. W. Va. Code §30-1D-1(d) authorizes the Board to promulgate rules which set forth the requirements and procedures for applicant criminal history checks. West Virginia Code §29A-3-19(b) requires the incorporation of a sunset provision in existing rules which are modified after April 1, 2016.

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

1.3. Filing Date. -- ~~April 16, 2014.~~

1.4. Effective Date. -- ~~May 30, 2014.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon the expiration of 10 years from its effective date.

**§26-5-2. Application for Certified Animal Euthanasia Technicians.**

~~2.1. Payment. An applicant shall pay the application, examination and certification fee, as well as the fees for the training program, background check and printed copy of the practice act and rules as set forth in the Board's rule, Schedule of Fees, 26CSR6 prior to the training program. Before any person may take the examination for certification in the state of WV, he or she shall submit an application along with the non-refundable fees to the Board. The application shall contain the following information, which shall be retained in the applicant's file:~~

~~2.2. Refunds. Fees are non-refundable.~~

2.1.a. Applicant's name, address, and certified copy of the applicant's birth certificate or official record of birth;

2.1.b. Verification of US citizenship or documentation of applicant's authority to reside and work in the United States;

2.1.c. Proof of high school diploma or equivalent;

2.1.d. Certified written verification of any and all name changes;

2.1.e. A current photograph, approximately 2 inches by 2 inches in size. Applicant shall be alone in the photo;

2.1.f. The applicant shall tender the required fees as contained in the Schedule of Fees with the application;

2.1.g. The applicant shall state in the application that he or she will abide by the laws of this State regulating the practice of animal euthanasia technology and that he or she will abide by the rules of the Board;

2.1.h. The application shall be signed by the applicant.

2.2. Any applicant furnishing false information in an application shall be denied the right to take the examination. If the applicant has been certified before the Board becomes aware of the falseness of the information, the certificate is subject to disciplinary action including, but not limited to, suspension, and or revocation.

2.4. Once the application is complete and all fees have been received, the Board will notify the applicant of their eligibility to take the written practical, practical skills, and jurisprudence examinations.

2.5. The applicant must complete and successfully pass the written practical, practical skills, and jurisprudence examinations.

2.6. 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.

### **§26-5-3. Certified Animal Euthanasia Technicians Program.**

3.1. The Board may formulate and administer programs to teach applicants the legal, safety and practical information necessary to perform the duties of a ~~Certified Animal Euthanasia Technician~~. The Board may also approve programs sponsored by professional training organizations to provide the training for ~~Certified Animal Euthanasia Technicians~~.

3.2. The administration of the program sponsored by a professional training organization shall be in accordance with the laws, rules, practices, policies, or procedures prescribed by the Board or its designees.

~~3.3. Applicants for certification as animal euthanasia technicians shall complete the required training program within 6 months preceding the written and practical examinations.~~

3.3. The Board shall annually appoint a minimum of 1 or a maximum of 2 board members who are veterinarians for the purpose of administering the practical skills examination to applicants for certification as an animal euthanasia technician, or may assign administration of the examination to a veterinarian or veterinarians licensed to practice in this state.

3.4. The Board member or members, or authorized veterinarian shall conduct the practical skills examination to determine the applicants' ability in meeting the requirements for animal euthanasia

Commented [11]: ?

technology in the State of WV.

3.5. The Board member or members who administer the practical examination shall determine failure or passing of the practical examination.

3.6. The Board shall offer the certified animal euthanasia technician training program and the written and practical skills examination at least once a year.

**§26-5-4. Certified Animal Euthanasia Technician Jurisprudence Examination ~~Written examination.~~**

~~4.1. The written examination shall test the applicants knowledge on the subjects set forth in W. Va. Code §30-10-13 as well as the provisions of W. Va. Code §30-10-1 et. seq. pertaining to Certified Animal Euthanasia Technicians. Jurisprudence examinations shall cover the laws governing animal euthanasia technology in the State of West Virginia.~~

~~4.2. The minimum passing score on the written examinations for Certified Animal Euthanasia Technicians is 70 percent.~~

4.2. Examinations are the property of the Board and shall not be duplicated in any form.

**§26-5-5. Practical skills examination.**

~~5.1. The Board shall annually appoint from its membership a minimum of 1 or a maximum of 2 board members who are veterinarians for the purpose of administering the practical skills examination to applicants for certification as an Animal Euthanasia Technician, or may assign administration of the exam to a veterinarian or veterinarians licensed to practice in this state.~~

~~5.2. The Board member or members, or authorized veterinarian shall conduct the practical skills examination to determine the applicants' ability in meeting the requirements in W. Va. Code §30-10-1 et seq.~~

~~5.3. The Board member or members who administer the practical examination shall determine failure or passing of the practical examination following report of scores by the test administrator or administrators.~~

**§26-5-6. Testing date.**

~~6.1. The Board shall offer the Certified Animal Euthanasia Technician training program at least once a year.~~

~~6.2. The Certified Animal Euthanasia Technician written and practical skills examinations shall be conducted at least once a year. The examinations shall consist of written examinations, followed by a practical examination.~~

~~6.3. An applicant who fails any portion or portions of the Certified Animal Euthanasia Technician examination is ineligible to be certified as a Certified Animal Euthanasia Technician.~~

~~6.4. Any application not completed within 90 days after the state examination is administered shall be closed with no issuance of certification.~~

**Commented [W2]:** This is supposed to mean that they cannot take the practical exam if they haven't passed the written exam.

**Commented [I3]:** ?

**Commented [W4]:** They do not have to have the application complete prior to testing; but will need all the requirements within 90 days of the test.

**Commented [I5]:** ? Does the application not need to be complete to take the exam?

**§26-5-5. Certified Animal Euthanasia Technician Certificate Holder.**

5.1. The Board shall issue a certificate to a qualified candidate who passes the examinations and meets the requirements of the Board to practice the profession of animal euthanasia technology and upon payment of the certification fee. If any certified animal euthanasia technician desires that a duplicate registration be issued, the Board shall issue a duplicate registration upon payment of the fee as set forth in the Schedule of Fees.

5.2. The certificate issued by the Board shall include the certificate holder's full name, registration 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.

**§26-5-6. Certified Animal Euthanasia Technician Registration Renewal.**

6.1. The Board shall notify each certified animal euthanasia technician that his or her certification will expire on December 31 but failure to receive the notification does not exempt a certificate holder from meeting the requirements of this rule. The Board shall issue a certificate of renewal to all certificate holders renewing their certification under the provisions of this rule.

6.2. A certified animal euthanasia technician who desires to continue to be certified shall, starting October 1 through December 31 of each year, renew his or her certification by completing the required certification renewal, paying the annual renewal fee as specified in the Schedule of Fees, and certify to the Board that he or she has completed all continuing education requirements.

6.3. Each certified animal euthanasia technician who desires to continue his or her certification in good standing to animal euthanasia technology in the State of West Virginia shall undertake at least 6 (50 minute) units of Board approved continuing education units in the field of animal euthanasia technology during each calendar year. Classroom or online courses will be permitted. No periods may be accumulated, carried forward, or held over past the calendar year in which the hours of continuing education were completed.

6.4. The Board may provide a continuing education course annually for certified animal euthanasia technicians as specified in the Schedule of Fees.

Commented [16]: We may still want to afterwards

6.5. Certificate holders are required to attest to compliance with continuing education requirements on their annual certification renewal and are required to maintain original documents verifying the date and subject of the program or course, the number of continuing education hours or credits, and certification from an approved sponsor. Original documents must be maintained for a period of two years following renewal.

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

6.7. If an extension is granted by the Board for completion of approved continuing education hours, the technician shall file the renewal application with the renewal fee. The Board shall renew the certificate

contingent upon the certificate holder completing the mandatory continuing education within a period determined by the Board from the current year's expiration date of December 31.

6.8. The renewal certificate in hardship extension, shall be issued for the period required 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 continuing education hours completed during the extension period shall not be applied toward satisfaction of continuing education in the year completed and shall be separate from continuing education requirements for current year renewals.

6.9. Any animal euthanasia technician 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 animal euthanasia technology without a certificate.

6.10. Upon receipt of the completed renewal application and fee, the Board shall issue a renewal certificate bearing the number of the certification, the period for which the certification is renewed, and any other information the Board considers necessary.

6.11. Certifications issued by the Board shall be posted in a place conspicuous to the public at the establishment where animal euthanasia technology is being provided.

6.12. Certified animal euthanasia technicians shall notify the Board of any change of address, and forward the notice to the Board no later than the effective date of the change of address.

**§26-5-7. Chemical Restraint Drugs.**

7.1. Chemical Restraint Drugs are those drugs approved by the Board for administration prior to lethal injection of an animal to reduce aggressiveness and/or mobility of the animal being euthanized. ~~The approved chemical restraint drugs for use in animal euthanasia are:~~

~~7.1.a. Injectable acetylpromazine (acepromazine)~~

~~7.1.b. Oral acetylpromazine (acepromazine).~~

7.2. Recordkeeping requirements for approved chemical restraint drugs shall be identical to the recordkeeping requirements for animal euthanasia drugs.

**~~§26-5-8. Requirements for animal euthanasia by carbon monoxide.~~**

~~8.1. Any county which has a gas chamber manufactured and installed by August 27, 2009, may continue to use such method for animal euthanasia, if desired.~~

~~8.2. Animal control facilities that euthanize animals with a gas chamber must be inspected annually by a Board approved health and safety organization, with knowledge of safety requirements for a carbon monoxide gas chamber. This inspection must provide proof that the chamber is properly sealed with no leaks or cracked seals, and is capable of rapidly achieving a uniform carbon monoxide concentration of at least 6% after the animals are placed in the chamber. A copy of the inspection form and certification must be submitted to the Board of Veterinary Medicine by the Certified Animal Euthanasia Technician~~

~~responsible for the chamber within 30 days of the inspection.~~

~~8.3. Euthanasia of animals by use of a gas chamber must meet the following requirements:~~

~~8.3.a. The person administering the euthanasia by use of the gas chamber must be a Certified Animal Euthanasia Technician in this state;~~

~~8.3.b. All such gas chambers in operation for animal euthanasia shall be registered with the Board of Veterinary Medicine;~~

~~8.3.c. The gas chamber must be in compliance with all the following requirements in order to be in operation, and shall at a minimum;~~

~~8.3.c.1. Be properly constructed and maintained;~~

~~8.3.c.2. Be a commercially manufactured and installed, purpose built chamber;~~

~~8.3.c.3. Be constructed of durable and easily cleanable material;~~

~~8.3.c.4. Have sufficient external and internal lighting in conjunction with at least 1 clean and transparent viewing port or window for use by the Certified Animal Euthanasia Technician to directly observe and monitor the animals during euthanasia to ensure that the euthanasia is occurring properly and humanely;~~

~~8.3.c.5. Be properly sealed, with such seals being properly maintained to enable at least a 6% concentration of carbon monoxide to be attained in the chamber within 20 seconds, and to maintain this gas concentration in the chamber until death has occurred;~~

~~8.3.c.6. Be located in a well ventilated area, preferably out of doors where the toxic hazards of gas exposure to the Certified Animal Euthanasia Technician, the animal control facility personnel and other animals will be avoided. If the chamber is located inside the animal control facility, OSHA approved monitors, with an alarm system are required to warn personnel of hazardous concentrations. The alarm system must sound both in the room where the chamber is located and elsewhere in the facility where other staff may be.~~

~~8.3.c.7. Be operated outside the open business hours of the animal control facility.~~

~~8.3.c.8. Any electrical equipment such as lights and fans that may be exposed to the CO gas shall be explosion proof.~~

~~8.3.c.9. Utilize only commercial grade carbon monoxide gas, dispensed from a cylinder.~~

~~8.3.c.11. Have the carbon monoxide gas stored in a well ventilated area, where the toxic hazards of gas exposure to the Certified Animal Euthanasia Technician operating the chamber, the other animal control facility staff and animals will be avoided.~~

~~8.3.c.12. Utilize pre-anesthesia sedation approved for this use by the Board for use as deemed necessary or appropriate.~~

**Commented [W7]:** Just the approved drugs as deemed necessary

**Commented [18]:** Are we saying that all animals should be sedated or if they are they need to use approved drugs?

~~8.3.c.13. Must allow for the separation of individual animals by partitions or by placing individual animals in separate cages or carriers within the chamber. All partitions, cages or carriers used shall have solid bottoms, with the sides of the partitions, cages or carriers being solid or a small mesh to minimize contact and stress.~~

~~8.3.c.14. Have all partitions, cages and carriers used in the chamber thoroughly cleaned after each use before placing another animal into them, to minimize the animal's fear and stress.~~

~~8.3.d. All animals euthanized using a carbon monoxide gas chamber shall:~~

~~8.3.d.1. Be healthy and free of any major injury or disease which could interfere with the animals' ability to breathe and properly circulate oxygen and carbon monoxide.~~

~~8.3.d.2. Be at least 16 weeks of age.~~

~~8.3.d.3. Be placed in the chamber only with compatible animals of the same species.~~

~~8.3.d.4. Not be placed into the chamber with other animals that have already been euthanized.~~

~~8.3.e. The Certified Animal Euthanasia Technician administering the carbon monoxide into the gas chamber shall:~~

~~8.3.e.1. Leave the animals in the chamber for at least 10 minutes after death has occurred before opening the chamber.~~

~~8.3.e.2. Open the door only in a well-ventilated area, and leave the animals in the chamber for another 10 minutes after the chamber is opened before trying to remove the animals.~~

~~8.3.e.3. Carefully examine the animals for cardiac standstill to ensure that death has indeed occurred prior to disposal of the carcass.~~

~~§26-5-9. Inspection requirements for animal euthanasia gas chambers.~~

~~9.1. All animal control facilities in this state which have a gas chamber in operation for euthanasia of animals shall have the gas chamber inspected annually by an inspector that is authorized by the board to conduct such inspections.~~

~~9.2. The report on the gas chamber inspection shall be submitted by the inspector to the board and shall be received no later than 30 days after the inspection.~~

~~9.3. The cost of the gas chamber inspection is to be paid directly to the inspector by the animal control facility within 30 days of the inspection. Failure to pay the required inspection fee may result in termination of authority to operate the gas chamber.~~

~~9.4. The board shall charge a fee as set forth in 26CSR6 Schedule of Fees to the animal control facility for the implementation, recordkeeping and administrative duties of the board in the processing of the gas chamber inspection. This fee shall be paid to the board no later than 30 days from the inspection.~~

**Commented [19]:** Do they mail it to the inspector or to the board?

**Commented [W10]:** The person that inspects the gas chamber is not associated with the board; so ,we do not take the payment.

~~9.5. If the gas chamber does not pass the inspection, the board shall immediately be notified by the inspector. The board shall proceed without delay to notify the animal control facility that use of the gas chamber shall cease at once.~~

~~9.6. The inspector shall file a written notice of the results of the inspection which shall be received by the board within four working days after the inspection.~~

~~9.7. The board shall notify any other entities of federal or state government which require such notification of the infractions and/or shutdown of an animal euthanasia gas chamber.~~

~~9.8. Upon the correction of any deficiencies in the gas chamber a reinspection shall be conducted on the orders of the board and the costs of the reinspection shall be paid to the inspector within 30 days of the reinspection.~~

~~9.9. A certified animal euthanasia technician who continues to euthanize animals in a gas chamber that has been ordered shut down either temporarily or permanently shall be suspended from certification as an animal euthanasia technician by the board. This emergency action is due to the potential hazards in the continued operation of the gas chamber that may result in extreme risks or death to humans and animals.~~

Commented [I11]: Be consistent in capitalizing

~~§26-5-108. Revocations, suspensions~~ **Animal Euthanasia Technician Disciplinary Action.**

~~108.1. Removal of Certification~~ The Board ~~has the power to~~ may deny, suspend or revoke a certification ~~as an Animal Euthanasia Technician or to take other disciplinary action for a violation of the provisions of the law or this rule. It may deny, suspend or revoke a certification if the person, impose a civil penalty, place a person's certificate on probation, reprimand a certificate holder, refuse to examine an applicant or issue a certification or renew a certification, as provided by law and as provided by this rule if it finds an applicant or certificate holder:~~

8.1.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 securing a certificate;

~~10-18.1.a.b.~~ 8.1.a.b. Is chronically or habitually intoxicated, has a chemical dependency or is addicted to drugs;

8.1.c. Has engaged in dishonest, unethical, or illegal practices in or connected with the practice of animal euthanasia technology, or has been convicted of a misdemeanor related to the practice of animal euthanasia technology or animal abuse or neglect;

8.1.d. Has been convicted of a felony under the laws of this or any other state, jurisdiction, or federal government of the United States or any other crime involving moral turpitude;

8.1.e. Has engaged in practices or conduct in connection with the practice of animal euthanasia technology which violate the standards of professional conduct as duly established by the Board;

~~10-1-b8.1.f.~~ 8.1.f. Has permitted or allowed another to use his or her certification to practice animal euthanasia in this or any other state;

~~10-1-e8.1.g.~~ 8.1.g. Has committed fraud in the application or record keeping of any animal;

~~10.1.d~~8.1.h. Has failed to maintain records at the place of business of the Certified Animal Euthanasia Technician which shall include, but not be limited to those specified in Section 9 of this rule; or

~~10.1.e~~8.1.i. Has performed unnecessary or unauthorized treatment;

8.1.j. Has participated in any unlawful, unethical or inhumane ~~act~~;

8.1.k. Used Sodium Pentobarbital, Sodium Pentobarbital compounds or any other Board approved euthanasia solutions, sedatives, or tranquilizers for pre-euthanasia administration for any purpose other than humane animal euthanasia or that the permitted facility has failed to abide by the rules for the safe and efficient purchase, possession, or administration of Board approved euthanasia solutions, sedatives, or tranquilizers for pre-euthanasia administration.

**Commented [112]:** Something more general so that if something comes up that is not on the previous list we are covered.

8.1.l. has received disciplinary action in another jurisdiction, including the suspension, probation or revocation of a certificate holder as an animal euthanasia technician issued by another jurisdiction.

8.2. The Board may also suspend or revoke the certificate of a certificate holder who is found to be mentally incompetent by a court of competent jurisdiction. If the certificate holder is later determined to be mentally competent by a court, the Board may reinstate the certificate.

8.3. On conviction of or determination of conviction of a person certified 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 certificate. The Board may not reinstate or reissue a certificate holder to a person whose certification 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 certificate holder is in the best interests of the public and of the person whose certification has been suspended or revoked.

8.4. 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 certificate holder who was the subject of the disciplinary action.

~~10.2. The Board shall afford a hearing to any applicant who is denied certification and who requests a hearing within 30 days of notification of the denial, or to any person against whom disciplinary action has been taken by the Board. The Board shall conduct the hearing in accordance with the provisions of Board Rule titled "Contested Case Hearing Procedure" 26CSR2A.~~

~~10.3. The Board may revoke or suspend the certification of any Certified Animal Euthanasia Technician if the Board determines that Sodium Pentobarbital, Sodium Pentobarbital compounds or any other Board approved euthanasia solutions, or sedatives or tranquilizers for pre-euthanasia administration are being used for any purpose other than humane animal euthanasia or that the permitted facility has failed to abide by the rules for the safe and efficient purchase, possession, or administration of Board approved euthanasia solutions, or sedatives or tranquilizers for pre-euthanasia administration.~~

~~10.4~~8.5. The Board may inspect any animal control facility, animal shelter or humane society which

employs a certified animal euthanasia technician to determine if it complies with the requirements for possession, administration, purchase or storage of approved euthanasia solutions, or sedatives or tranquilizers for pre-euthanasia administration, as established by the Board.

**~~§26-5-11. Continuing education requirement.~~**

~~11.1. All Certified Animal Euthanasia Technicians shall complete at least 6 hours of classroom continuing education or webinar continuing education in courses approved by the Board during each calendar year. No hours may be accumulated, carried forward, or held over past the calendar year in which the hours were completed.~~

~~11.2. The Board may provide continuing education courses annually for Certified Animal Euthanasia Technicians in meeting the requirements of this section. The fee for such continuing education is set forth in the Board's Rule Schedule of Fees 26CSR6.~~

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~~11.3. By December 31 of each year, each Certified Animal Euthanasia Technician 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.~~

~~11.4. The Board shall not issue a certification renewal to an animal euthanasia technician who does not present to the Board sufficient proof that he or she has successfully undertaken and completed the required hours of continuing education.~~

~~11.5. The Board may grant continuing education hardship extensions by written appeal to the office of the Board. The Board shall only consider hardship extensions from certified animal euthanasia technicians who were prevented from completing the required continuing education hours within the year due to verified medical emergencies or military obligations beyond the certificate holder's control. Requests for hardship extension must be received in the Board's office by December 15.~~

**~~§26-5-12. Certification annual renewal.~~**

~~12.1. The Board shall make every reasonable effort to notify Certified Animal Euthanasia Technicians of the renewal requirements as set forth in W. Va. Code §30-10-15, but failure to receive notification does not exempt anyone from meeting the requirements of this rule.~~

~~12.2. Certified Animal Euthanasia Technicians shall notify the Board of any change of address, and forward the notice to the Board no later than the effective date of the change of address.~~

**~~§26-5-139. Record keeping.~~**

~~139.1. Certified Animal Euthanasia Technicians shall maintain records at their place of business including, but not limited to; that have a Federal Drug Enforcement Administration (DEA) number and administer controlled substances shall comply with the federal and state laws pertaining to the usage of controlled substances; including maintaining a register, which shall indicate the following:~~

~~139.1.a. Identification of the animals euthanized;~~

~~9.1.b. Method utilized for the euthanasia of each animal;~~

~~139.1.c. The dDrugs administered, and its including dosage;~~

~~139.1.e.d. The dDate of euthanasia;~~

~~139.1.d.e. The mMethod of sanitary disposal of animal's remains; and~~

~~139.1.ef. An inventory of all receipts, administrations and distributions of Sodium Pentobarbital and/or Sodium Pentobarbital compound or the approved replacement drug of choice; and all euthanasia solutions, sedatives and tranquilizers.~~

~~13.1.f. The method utilized for the euthanasia of each animal.~~

139.2. The certified animal euthanasia technician and the administrators of the animal control facility, humane society or animal shelter shall maintain the records on the business premises for a period of 3 years.

139.3. In the case of the cancellation of certification of an animal euthanasia technician, the records shall be maintained by the facility's administrators.

#### **§26-5-1410. Storage.**

1410.1. The certified animal euthanasia technician shall maintain all controlled substances, sedatives and tranquilizers under his or her authority in a properly secure and locked storage container when the Certified Animal Euthanasia Technician is not in the same room with the drug.

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1410.2. Only the certified animal euthanasia technician shall have access to the drug storage container.

1410.3. The manufacturers' instructions shall be followed in the preparation of all lethal injections or chemical restraint drugs.

1410.4. Needles shall be of medical quality, and shall not be used if they are dirty, clogged, barbed, or might otherwise cause unnecessary discomfort for the animal. Needles may not be used more than 5 times.

1410.5. Syringes shall be of medical quality. They may be reused if they are properly cleaned.

1410.6. Needles and syringes shall be kept in the same secure storage as the lethal drugs and chemical restraint drugs.

1410.7. Needles and syringes shall be disposed of in a proper container, as required by state law.

#### **§26-5-11. Facility Inspections and Registration.**

11.1. A new animal euthanasia facility shall submit a facility registration application along with the non-refundable required fee to the Board.

11.2. A registered animal euthanasia facility that is euthanizing animals 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.

11.3. A registered animal euthanasia facility operating shall complete and file annually, on or before June 30, on a form approved by the Board, an annual animal euthanasia facility registration, and shall pay the animal euthanasia facility annual permit fee, as prescribed in the Schedule of Fees.

11.4. The Board shall not issue a renewal certificate to any animal euthanasia technician of an animal euthanasia 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 euthanasia facility during the facility's regular business hours.

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

**§26-5-152. Minimum standards.**

152.1. The certified animal euthanasia technician shall maintain all controlled substances, chemical restraint drugs, needles and syringes in compliance with state and federal laws.

**§26-5-13. Termination of Employment.**

13.1. Certified animal euthanasia technicians who cease employment with the animal control facility or humane society listed on their DEA registration shall notify the Board in writing immediately, regardless of the reason.

**§26-5-14. Criminal History Record Check.**

9.1. Beginning July 1, 2018, and in addition to all of the requirements for certification, all applicants for an initial certification to practice as an animal euthanasia technician in West Virginia shall request and submit to the Board the results of a state and a national criminal history record check.

9.2. The purpose of the criminal history record check is to assist the Board in obtaining information that may relate to the applicant's fitness for certification.

9.3. In addition to the State Police, the Board may contract with and designate a company specializing in the services required by this section instead of requiring the applicant to apply directly to the West Virginia State Police or similar out-of-state agency for the criminal history records checks; provided, that any such company must utilize protocols consistent with standards established by the Federal Bureau of Investigation and the National Crime Prevention and Privacy Compact.

9.4. The applicant shall furnish to the State Police, or other organization duly designated by the Board, a full set of fingerprints and any additional information required to complete the criminal history record check.

9.5. The applicant is responsible for any fees required by the State Police, or other organization duly designated by the Board, for the actual costs of the fingerprinting and the actual costs of conducting a complete criminal history record check.

9.6. The Board may require the applicant to obtain a criminal history records check from a similar Board approved agency or organization in the state of the applicant's residence, if outside of West Virginia.

9.7. The applicant shall authorize the release of all records obtained by the criminal history record check to the Board.

9.8. A criminal history record check submitted in support of an application for certification must have been requested by the applicant no earlier than twelve (12) months immediately prior to the Board's receipt of the application for certification.

9.9. An initial certification application is not complete until the Board receives the results of a state and a national criminal history record check conducted by the State Police or another entity duly authorized by the Board. The Board shall not grant an application for certification submitted by any applicant who fails or refuses to submit the criminal history record check required by this section.

9.10. Should criminal offenses be reported on an applicant's criminal history record check, the board will consider the nature, severity, and recency of offenses, as well as rehabilitation and other factors on a case by case basis for certification. Criminal history record checks shall be verified by a source acceptable to the Board, other than the applicant.

9.11. The results of the state and national criminal history record check may not be released to or by a private entity except:

9.11.a. To the individual who is the subject of the criminal history record check;

9.11.b. With the written authorization of the individual who is the subject of the criminal history record check; or

9.11.c. Pursuant to a court order.

9.12. Criminal history record checks and related records are not public records for the purposes of chapter 29B of the West Virginia Code.