



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

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

AGENCY: Veterinary Medicine TITLE-SERIES: 26-03
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 26-03 Registration of Veterinary 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:

§30-10-6. Rule-making authority.

(a) The board shall propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the provisions of this article, including:

- Statutory Authority - §30-10-6.a.1. Standards and requirements for a license, permit, certificate and registration;
- §26-3-9. Petition for Registration Eligibility Determination.
- §26-3-10. Criminal History Record Check
- Statutory Authority §30-10-6.a.11. Set standards for ethical conduct;
- §26-3-8. Registered Veterinary Technician Disciplinary Action.
- Statutory Authority §30-10-6.a.14. The procedures for denying, suspending, revoking, reinstating or limiting the practice of a licensee, permittee, certificate holder or registrant;
- §26-3-8. Registered Veterinary Technician Disciplinary Action.
- Statutory Authority §30-10-6.a.16. Any other rules necessary to effectuate the provisions of this article.
- §26-3-2. Definitions.

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 8/7/2019

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 9/8/2019

COMMENTS RECEIVED: No

(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?

Emails to practitioners and posted the notice on the Board's website.

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

MODIFIED:

§26-3-2. Definitions.

Added Initial Registration definition.

Added Registration or registrant definition.

Added Unreversed definition.

§26-3-8. Registered Veterinary Technician Disciplinary Action.

Removed crime involving moral turpitude

§26-3.10. Criminal History Record Check.

Added criminal conviction language.

ADDED:

§26-3-9. Petition for Registration Eligibility Determination.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

The purpose of the Rule change is to update the Rule to be in compliance with HB118, §30-1-24. Use of criminal records as disqualification from authorization to practice.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/A

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

N/A

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2019 Increase/Decrease (use "-")	2020 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			

2. Estimated Total Revenues

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

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 26
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF VETERINARY MEDICINE

SERIES 3
REGISTRATION OF VETERINARY TECHNICIANS

§26-3-1. General.

1.1. Scope. -- This rule establishes the procedures by which Veterinary Technicians may be registered and regulated by the West Virginia Board of Veterinary Medicine.

1.2. Authority. -- W. Va. Code §§~~30-10-6-1 and 30-10-5~~.

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.

§26-3-2. Definitions.

~~2.1. As used in this rule, unless otherwise provided, the following terms have the meaning set forth in this section. "Board" means the West Virginia Board of Veterinary Medicine.~~

~~2.21.a. "Direct veterinary supervision" means that the licensed veterinarian must be physically present and within adequate visual and audible distance to direct the procedure that is being undertaken by the registered veterinary technician.~~

~~2.21.b. "External suturing" means the closing of a skin incision by a registered veterinary technician, with the application of the appropriate method and materials following the veterinarian's completion of a surgical procedure."~~

2.3. "Initial registration" means obtaining a registration in West Virginia for the practice of veterinary technology for the first time.

2.4. "Registration" or "registrant" means the official authorization by the board to engage in the practice of veterinary technology.

2.5. "Unreversed", as that term refers to a criminal conviction, means that a conviction has not been set aside, vacated, pardoned, or expunged.

§26-3-3. Registration of Veterinary Technicians.

3.1. The West Virginia Board of Veterinary Medicine shall examine and register persons who ~~are skilled in the science of Veterinary Technology, and verify that the applicant has~~ have graduated with a degree in veterinary technology from a school approved by the Board.

3.2. No person may use the term, be addressed as or referred to with respect to veterinary medicine as a "veterinary technician" or a "technician" unless he or she has complied with the requirements for registration by the Board, and is currently authorized by the Board to use the title of "Registered Veterinary Technician, or "R.V.T."

~~§26-3-4. Board's Authority.~~

~~4.1. The Board has exclusive jurisdiction:~~

~~4.1.a. To determine the eligibility of applicants for registration;~~

~~4.1.b. To determine the content and frequency of the state examination for registration;~~

~~4.1.c. To grant, suspend, revoke or refuse to grant registration upon a showing of proper cause as provided in W. Va. Code §30-10, et seq. and this rule;~~

~~4.1.d. To promulgate, amend and repeal such reasonable rules regarding ethical standards of conduct, which shall be promulgated, amended, or repealed in accordance with the provisions of W. Va. Code §29A-3-1, et seq.~~

~~§26-3-54. Registration requirements. Applications and Examinations for Veterinary Technicians.~~

~~4.1. Before Any a person may take the jurisprudence examination for a registration to practice veterinary technology, he or she shall submit ~~desiring to be registered as a veterinary technician shall complete and file an application, on a form provided by the Board,~~ along with the non-refundable required fees to the Board. The application shall contain the following information, which shall be retained in the applicant's file: ~~Such fees are not refundable. Any application not completed within 90 days after the state examination date shall be closed with no issuance of registration on the application.~~~~

~~4.1.a. Applicant's name, address, and certified copy of the applicant's birth certificate or official record of birth;~~

~~4.1.b. Verification of US citizenship or written documentation of applicants' authority to reside and work in the United States;~~

~~4.1.c. Certified transcript showing applicant's educational qualifications, including the name, location of the school, and the date the degree was awarded;~~

~~4.1.d. Applicant shall indicate whether he or she has ever been denied a registration or had a registration restricted or disciplined in any other state or jurisdiction with the name of the state or jurisdiction;~~

~~4.1.e. Verification of applicant's status as a registrant from each state or jurisdiction where he or she now holds or ever held a registration;~~

~~4.1.f. Certified written verifications of name changes;~~

~~4.1.g. A document provided in language other than English shall be accompanied by an English translation copy with the name and address of the translator listed;~~

4.1.h. A current photograph of the applicant. Applicant shall be alone in the photograph;

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

4.1.j. The application shall be signed by the applicant.

4.2. An applicant furnishing false information in an application shall be denied the right to take the examination. If the applicant has been registered before the Board becomes aware of the falseness of the information, the registration is subject to disciplinary action.

4.3. Once the application is complete and all fees have been received, the Board will notify the applicant within 14 days of their eligibility to take the jurisprudence examination.

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

4.5. The applicant must complete the jurisprudence exam within 30 days of notice. The Board may waive this requirement upon written confirmation from a federal or state agency stating applicant has been called to immediate active duty.

4.6. An applicant must have a passing score on the Veterinary Technician National Examinations (VTNE). The authorized examination provider shall be the American Association of Veterinary State Boards (AAVSB).

4.7. It is the applicant's responsibility to have the national score reporting service of the American Association of Veterinary State Boards (AAVSB) forward a copy of his or her score directly to the Board at the applicant's expense.

4.8. Where available, all evidence and information required for application as described in this section may be provided through AAVSB.

4.9. Except where AAVSB is providing the information directly to the Board, completed verification forms must be provided directly from selected institutions to the Board and not from the applicant.

~~§26-3-6. Approved Schools.~~

~~The Board shall, before January 1 of each year, prepare and update a list of approved schools of veterinary technology for the next full calendar year.~~

~~§26-3-75. Veterinary Technician Jurisprudence Examination Procedure.~~

~~Each applicant is required to pass the national veterinary technology examination and the state examination. The content of the state examination is prescribed by the Board. An applicant failing the state examination is eligible for reexamination, but shall pay for the reexamination and file a new~~

~~application. An applicant may have a new national exam score transferred to this state under the current application no later than one year from the application filing date.~~

~~7.1. To be eligible for the state examination, applicants shall be a graduate of, or within 1 year or less of graduating from an approved veterinary technology school with a degree in veterinary technology.~~

~~7.2. Applicants for the national veterinary technology examination must have a degree from an accredited veterinary technology program.~~

5.1. Jurisprudence examinations shall be taken online.

5.2. Jurisprudence examinations shall cover the laws governing veterinary technology in the State of West Virginia.

5.3. The Board shall notify the applicant of the jurisprudence examination results the day of the examination.

5.4. If an applicant fails the examination, the test may be retaken once within 30 days and no sooner than 7 days.

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

§26-3-86. Title Veterinary Technician Registrations.

6.1. The Board shall issue a certificate of registration to any person who has successfully completed the requirements of this rule. The registration shall be displayed in the principal office of the veterinary facility where the veterinary technician is employed. Any person registered has the right to use the title "Registered Veterinary Technician" and the abbreviation "R.V.T."

6.2. Upon payment of the licensure fee, the Board shall issue a registration to a qualified candidate who passes the examinations and meets the requirements of the Board to practice the profession of veterinary technology. If any veterinary technician desires that a duplicate registration certificate be issued, the Board shall issue such certificate upon payment of the duplicate registration certificate fee as set forth in the Schedule of Fees.

6.3. The registration certificate issued by the Board shall include the registrant's full name, a 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.

§26-3-9. Restrictions.

~~— No person registered as a veterinary technician, shall in any manner, indicate or imply that he or she is a veterinarian. Persons registered as veterinary technicians may perform the skills of veterinary technology as defined within the scope of practice specified in W. Va. Code §30-10-11. No veterinary technician shall perform surgery, make diagnoses or prescribe medication.~~

§26-3-10. Removal of Registration

~~The Board may deny, suspend or revoke a registration, or take other disciplinary action for a violation of the provisions of W. Va. Code §30-10-1 et seq. or these rules, or for a determination that the person:~~

~~10.1. is chronically or habitually intoxicated, has a chemical dependency or is addicted to drugs;~~

~~10.2. permitted or allowed another to use his or her registration to practice veterinary technology in this or any other state;~~

~~10.3. has committed fraud in the application or reporting of any test of animal disease;~~

~~10.4. has received any kickback, or compensation in any form for referring a client to another provider of veterinary services or goods;~~

~~10.5. has performed unauthorized treatment;~~

~~10.6. has been convicted of cruelty to animals;~~

~~10.7. has committed an act or acts of unprofessional conduct;~~

~~10.8. has engaged in dishonest, unethical or illegal practices in or connected to the profession of veterinary technology;~~

~~10.9. has performed unauthorized treatment;~~

~~10.10. is guilty of acts of negligence, incompetence or malpractice in the field of veterinary technology, or;~~

~~10.11. has received disciplinary action in another jurisdiction, including the suspension, probation or revocation of a registration as a veterinary technician issued by another jurisdiction.~~

~~§26-3-11. Hearings.~~

~~The Board shall afford a hearing to any applicant who is denied a registration 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 hearing shall be conducted in accordance with the provisions of the Board's rule, Hearing, Disciplinary and Complaint Procedures 26CSR2.~~

~~§26-3-127. Veterinary Technician Registration #Renewal.~~

~~12-71. The Board shall notify each registered veterinary technician that his or her registration will expire on December 31. However, failure to receive the notification does not exempt a registrant from meeting the requirements of this rule. The Board shall issue a certificate of renewal to all registrants renewing their registrations under the provisions of this rule. All registrations expire annually on December 31, but may be renewed upon payment of the renewal fee specified in the fee schedule established by the Board in the Board's rule, Schedule of Fees, 26CSR6. By December 1 of each year, the Board shall mail a notice to all registered veterinary technicians that their registration will expire on December 31, and the Board shall provide them with a form for annual registration renewal. The Board~~

~~shall issue a certificate of renewal to all persons who successfully meet the requirements to renew their registrations.~~

~~12.2. No person may use the title of or be referred to as a registered veterinary technician who does not have a current registration.~~

7.2 A veterinary technician may renew his or her registration from October 1 through December 31 of each year. Registration renewal requires completion of the required registration renewal form, payment of the annual renewal fee as specified in the Schedule of Fees, and certification to the Board that he or she has completed all continuing education requirements.

~~12.3. The Board shall make reasonable effort to provide all registered veterinary technicians with the renewal form, but failure to receive the notification does not exempt anyone from meeting the requirements of this rule.~~

7.3. A registration that is not renewed will automatically be placed on expired status unless a specific request was made to place the registration on inactive status.

7.3.a. To renew a registration up to one year after the expiration date, the applicant must complete the required registration renewal form, pay the late renewal fee as specified in the Schedule of Fees, and submit evidence of completion of continuing education hours.

7.3.b. To reactivate an expired registration exceeding 1 year, the applicant must meet the requirements of §26-3-3, pay the late renewal fee as specified in the Schedule of Fees, and submit evidence of completion of the required continuing education hours, for a maximum of 16 hours. The board may require additional documentation of clinical competency and professional activities.

7.4. A registrant may request that their registration be placed on inactive status by completing the required registration renewal form, selecting the inactive option, and paying the inactive status fee as specified in the Schedule of Fees.

7.4.a. To reactivate an inactive registration, the applicant must complete the required registration renewal form, pay the renewal fee, and certify to the Board that he or she has completed continuing education hours for each year the registration has been expired, for a maximum of 16 hours.

~~12.4. A registered veterinary technician shall notify the Board of any change of address or name, and forward the notice to the Board no later than the effective date of the change with the appropriate fee as specified in the Schedule of Fees. The RVT shall submit proof of legal name change with any name change request.~~

~~**§26-3-13. Renewal requirements.**~~

~~13.1. To renew registration, a RVT shall:~~

~~13.1.a. Complete the annual registration renewal form;~~

~~13.1.b. Certify on the renewal that he or she has completed the required hours of continuing education during the year ending December 31, to renew for the year next beginning January 1;~~

~~13.1.c. List the continuing education as required, specifying the date or dates of the courses, the number of classroom hours and the title of each course, as well as any other information required by the Board.~~

~~13.2. Every registered veterinary technician shall display his or her certificate of registration renewal in a conspicuous place at the principal office where he or she is employed.~~

~~§26-3-14. Continuing education.~~

~~14.17.5. Each registered veterinary technician A registrant shall undertake at least 8 (50 minute) units of classroom hours or webinar hours of approved continuing education in the field of veterinary technology, at least 4 of which must be in the field of veterinary science with a scientific curriculum relative to the practice of veterinary medicine, during each calendar year, which has been approved as meeting the continuing education requirements for RVT's by the Board. A minimum of 4 hours shall be related to the practice of veterinary technology to include scientific, laboratory, regulatory, and medical record keeping. No more than 4 hours shall be related to practice management. Classroom or online courses are permitted. No periods units may be accumulated, carried forward, or held over past the calendar year in which the hours of continuing education were completed.~~

7.5.a. Continuing Education approved providers/programs.

7.5.a.1 AVMA accredited colleges of veterinary technology,

7.5.a.2. Board approved national veterinary associations,

7.5.a.3. AVMA approved official state veterinary associations,

7.5.a.4. State or federal government agencies

7.5.a.5. Registry of Approved Continuing Education (RACE)

7.5.a.6. Reviewed and approved by the West Virginia Board of Veterinary Medicine once fee is received pursuant to the Schedule of Fees.

7.5.b. A registrant is required to attest to compliance with continuing education requirements on his or her annual registration renewal and is 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. The Board shall conduct a random yearly audit to determine compliance. A registrant selected for the audit shall provide all supporting documentation within 20 days of receiving notification of the audit.

7.5.b.1. If registrant is non-compliant to the continuing education audit, the Board will initiate a complaint against the registrant and the registrant will be audited again the following year.

7.5.c. Continuing education hours required by disciplinary orders shall not be used to satisfy renewal requirements.

~~14.27.6. New graduates of the current year registrants who obtain registration on or after June 1 of each year are exempt from the continuing education requirements of this rule until the beginning of the immediately succeeding reporting period after obtaining registration. New registrants who are registered prior to June 1 of each year are required to complete the continuing education requirements for that calendar year in order to renew for the next year.~~

~~14.37.7. The Board may grant continuing education hardship extensions by request of the registrant written appeal to the office of the Board. The Board shall only consider hardship extensions from registered veterinary technicians registrants who the Board determines were prevented from completing the required continuing education hours within the year due to verified medical emergencies or military emergencies obligations beyond the registrant's control. Requests for a hardship extension must be received in the Board's office by December 15.~~

~~14.47.8. If an extension is granted by the Board for completion of approved continuing education hours, the technician-registrant shall file the renewal form-application with the renewal fee. The Board shall renew the registration contingent upon the technician-registrant completing the mandatory continuing education within a period determined by the Board from the current year's expiration date of December 31.~~

~~14.57.9. When a hardship registration is issued, the renewal certificates registration shall be valid in hardship extension registrations 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 completion of the required completing the continuing education. The extension for completion of continuing education hours The continuing education hours completed during the extension period shall may not be applied toward satisfaction of continuing education in the year completed and shall be separate from continuing education requirements for current year renewals.~~

~~14.67.10. Any registered veterinary 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 veterinary technology without a registration.~~

~~14.7. The Board shall not issue a renewal registration certificate to an individual who does not present to the Board sufficient proof that he or she has successfully undertaken and completed the required hours of continuing education, or who has failed to fully complete the renewal form or pay the required renewal fee.~~

7.11. By December 31 of each year, the registrant shall certify on the renewal application that he or she has successfully completed the continuing education requirement for that calendar year. It is the responsibility of the registrant to maintain evidence of meeting the continuing education requirements for registration renewal for random audit by the Board.

7.12. Upon receipt of the completed renewal application and fee, the Board shall issue a renewal registration.

7.13. A Registration issued by the Board shall be posted in a place conspicuous to the public at the establishment where veterinary technology is being provided.

7.14. A registrant shall notify the Board in writing or online of any change of address, conviction of a misdemeanor or felony, and/or disciplinary action by another federal or state agency no later than 30 days from the action.

§26-3-15. Reinstatement of lapsed registration.

~~15.1. Any person who was registered as a veterinary technician in this state whose registration lapsed due to non renewal may regain such registration without examination no later than 5 years from the date the registration ended by providing to the Board:~~

~~15.1.a. Completed annual renewal \ for all years not renewed;~~

~~15.1.b. Proof of having met the continuing education requirement of classroom continuing education hours, at least 4 of which must be in the field of veterinary science in an approved program in the year prior to each of the years not renewed. Each year's continuing education is to renew for the subsequent year; and~~

~~15.1.c. Payment of all delinquent fees from the last renewal date to current renewal period.~~

~~15.2. After 5 years have elapsed from the date of expiration, a registration may not be renewed, and the former registrant must make application for a new registration and take and pass the registration examinations.~~

§26-3-8. Registered Veterinary Technician Disciplinary Action.

8.1. The Board may deny, suspend or revoke a registration, impose a civil penalty, place a person's registration on probation, reprimand a registrant, refuse to examine an applicant or issue a registration or renew a registration, as provided by law and as provided by this rule in these rules if it finds an applicant or registrant:

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 examination, or for the purpose of securing a registration;

8.1.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 veterinary technology, or has been convicted of a misdemeanor related to the practice of veterinary technology or animal abuse or neglect;

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

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

8.1.f. Has permitted or allowed another to use his or her authorization to practice veterinary technology in this or any other state;

8.1.g. Has committed fraud in the application or reporting of a test of animal disease;

8.1.h. Has received any kickback for referring a client to another provider of veterinary services or goods;

8.1.i. Has performed unnecessary or unauthorized treatment;

8.1.j. Has been convicted of cruelty to animals;

8.1.k. Has committed an act or acts of unprofessional conduct;

8.1.l. Has committed gross malpractice or is guilty of a pattern of acts indicating consistent malpractice, negligence, incompetence in the practice of veterinary technology;

8.1.m. Has received disciplinary action in another jurisdiction, including the suspension, probation or revocation of a registration as a veterinary technician issued by another jurisdiction;

8.1.n. Has represented himself or herself as a specialist without completing the process of certification in a recognized veterinary technician specialty area.

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

8.3. On conviction of or determination of conviction of a person registered 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 registration. The Board may not reinstate or reissue a registration to a person whose registration 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 registration is in the best interests of the public and of the person whose registration 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 veterinary technician who was the subject of the disciplinary action.

§26-3-9. Petition for Registration Eligibility Determination.

9.1. An individual with a criminal record who has not previously applied for registration may petition the Board at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a registration.

9.2. The petition shall be submitted on an application form prescribed by the Board and shall include sufficient details about the individual's criminal record to enable the Board to identify the jurisdiction where the conviction occurred, the date of the conviction, the date of the release from incarceration if

applicable, and the specific nature of the conviction. Where the records are sealed, the applicant shall sign a waiver authorizing the Board to access the criminal records of the applicant in order for the Board to make the eligibility determination.

9.3. The applicant may submit with the petition evidence of rehabilitation, letters of reference, and any other information the applicant deems relevant to show fitness and the ability to practice veterinary technology.

9.4. The Board shall provide the determination within 60 days of receiving the petition and the applicable fee from the applicant.

9.5. The fee for an applicant petitioning for a registration eligibility determination is specified in the Schedule of Fees and upon acknowledgement of eligibility by the Board and upon the submission of an application for registration, the eligibility fee shall be deducted from the applicable initial registration application fee.

§26-3.10. Criminal History Record Check

910.1. Beginning July 1, 2020, and in addition to all of the requirements for registration, an applicant for an initial registration to practice as a veterinary technician in West Virginia shall request and submit to the Board the results of a State and a national criminal history record check.

910.2. 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 registration.

910.3. 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.

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

910.5. 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.

910.6. 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.

910.7. The applicant shall authorize the release of all records obtained by the criminal history record check to the Board. Criminal history record checks shall be verified by a source acceptable to the Board, other than the applicant.

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

910.9. An initial registration 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 registration submitted by any applicant who fails or refuses to submit the criminal history record check required by this section.

~~910.10. Should criminal offenses be reported on an applicant's criminal history record check, the Board will consider the nature, severity, and recency of offense(s), as well as rehabilitation and other factors on a case by case basis for consideration of registration. Criminal history record checks shall be verified by a source acceptable to the Board, other than the applicant.~~The Board may not disqualify an applicant from initial registration because of a prior criminal conviction unless that conviction bears a rational nexus to the practice of veterinary technology. The Board shall consider at a minimum:

10.10.a. The nature and seriousness of the crime;

10.10.b. The passage of time since the commission of the crime;

10.10.c. The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities attendant to the practice of veterinary technology; and

10.10.d. Any evidence of rehabilitation or treatment undertaken by the applicant

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

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

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

910.11.c. Pursuant to a court order.

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