Department of Health
Notice of Rulemaking Hearing
Board of Veterinary Medical Examiners
Division of Health Related Boards

There will be a hearing before the Tennessee Board of Veterinary Medical Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-12-105 and 63-12-106. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Ave. North, Nashville, TN at 3:30 p.m. (CDT) on the 17th day of April, 2006.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

Substance of Proposed Rules

Amendments

Rule 1730-1-01, Definitions, is amended by adding the following language as new, appropriately alphabetized and numbered paragraphs:

( ) Accepted livestock management practices - Services which may be performed by persons who are not licensed as veterinarians. Such services are limited to:

(a) In livestock of the equine species, the administration of any prescription drug, medicine, or biologic; the use of any manual or mechanical procedure for artificial insemination; the collection of semen; or the intra-uterine administration of medication when any of these procedures are performed under the indirect supervision of a licensed veterinarian in the context of a valid veterinarian-client-patient relationship. The administration of any over the counter drug, medicine or biologic may be provided without veterinarian supervision.

(b) In livestock other than the equine species, the administration of any over-the-counter drug, medicine, or biologic; the use of any manual or mechanical procedure for artificial insemination, the implantation of frozen embryos, the collection of semen, acts of surgical dehorning with the exception of surgical, branding, tagging or notching of ears; castration; deworming; the implanting of commercially available growth promotants; clipping of needle teeth; and the feeding of commercially available medicated feed. Prescription drugs, medicine or biologics may be administered under the direct or indirect supervision of a licensed veterinarian in the context of a valid veterinarian-client-patient relationship.

( ) Client - The patient's owner, owner's agent, or other person responsible for the patient.

( ) Indirect supervision - Services provided pursuant to written or oral instructions issued by a licensed veterinarian for the treatment of an animal or herd after the animal or herd has been examined by the veterinarian such that a valid doctor-client-patient relationship exists. The licensed veterinarian is not required to be on the premises for services that may be provided under indirect supervision, but must comply with the recordkeeping requirements of Rule 1730-1-.22.

( ) Patient - An animal that is examined or treated by a veterinarian.

( ) Veterinarian-client-patient relationship

(a) A licensed veterinarian has assumed responsibility for making medical judgments regarding the health of the animal(s) and the need for medical treatment, and the client has agreed to follow the instructions of the veterinarian; and

(b) There is sufficient knowledge of the animal(s) by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s). This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal(s) by virtue of an examination of the animal(s), and/or by medically appropriate and timely visits to the premises where the animal(s) is (are) kept; and

(c) The veterinarian is routinely and physically available for follow-up in case of adverse reactions or failure of the treatment or regimen or therapy, or has arranged for substitute follow-up care.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-12-103, 63-12-105, 63-12-106, and 63-12-133.

Rule 1730-1-.03, Necessity of Licensure, is amended by deleting the language of the rule in its entirety and is further amended by adding the following language as paragraphs (1) and (2), so that as amended, the new paragraphs (1) and (2) shall read:

(1) Prior to engaging in the practice of veterinary medicine in Tennessee, a person must hold a current Tennessee license or valid temporary license from the Board except as provided in T.C.A.§ 63-12-133.

(2) The scope of practice of veterinary medicine as provided in Rule 1730-1-.02, and the definition of accepted livestock management practices as provided in Rule 1730-1-.01 shall not prevent any person or such person's full time employee from administering to the ills and injuries of the person's own animals unless employment is provided for the purpose or with the effect of circumventing T.C.A. §§ 63-12-101, et seq., or any rule lawfully promulgated by the Board.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, and 63-12-133.

Rule 1730-1-.13, Unprofessional Conduct, is amended by deleting paragraph (7) in its entirety and substituting instead the following language, so that as amended, the new paragraph (7) shall read:

(7) Failure to cooperate with authorities investigating incompetent, unethical or illegal practices.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, 63-12-124, 63-12-128, and 63-12-129.

Rule 1730-1-.15, Disciplinary Actions, Civil Penalties, Assessment of Costs, and Screening Panels, is amended by adding the following language as new paragraph (11):

(11) Reconsiderations and Stays. The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, 63-12-124, and 63-12-128.

Rule 1730-1-.19, Board Consultants, Records and Complaints, and Declaratory Orders, is amended by deleting part (1) (b) 3. in its entirety and renumbering the current part (1) (b) 4. as the new part (1) (b) 3.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, and 63-12-129.

Rule 1730-1-.21, Prescribing, Dispensing, or Otherwise Distributing Pharmaceuticals, is

amended by deleting part (2) (b) 3. in its entirety and substituting instead the following language, so that as amended, the new part (2) (b) 3. shall read:

(2) (b) 3. The veterinarian is routinely and physically available for follow-up in case of adverse reactions or failure of the treatment or regimen or therapy, or has arranged for substitute follow-up care.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-12-103, 63-12-105, and 63-12-106.

Rule 1730-1-.22, Recordkeeping, is amended by inserting the following language as new paragraph (4) and renumbering the the current paragraphs (4), (5) and (6) accordingly:

(4) Veterinarians providing written or oral instructions for persons who are not licensed as veterinarians to perform accepted livestock management practices must record the order, including specific information on the substance of the order and the date given, in the records of the animal.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-12-105, 63-12-106, and 63-12-133.

Rule 1730-2-.15, Disciplinary Actions, Civil Penalties, Assessment of Costs, and Screening Panels, is amended by adding the following language as new paragraph (11):

(11) Reconsiderations and Stays. The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, 63-12-124, 63-12-128, and 63-12-139.

Rule 1730-3-.15, Disciplinary Actions, Civil Penalties, Assessment of Costs, and Screening Panels, is amended by adding the following language as new paragraph (11):

(11) Reconsiderations and Stays. The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, 63-12-124, 63-12-128, and 63-12-135.

Rule 1730-4-.12, Disciplinary Actions, Civil Penalties, Assessment of Costs, and Screening Panels is amended by adding the following language as new paragraph (9):

(9) Reconsiderations and Stays. The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, 63-12-124, 63-12-128, and 63-12-141.

Rule 1730-5-.12, Disciplinary Actions, Civil Penalties, Assessment of Costs, and Screening Panels, is amended by adding the following language as new paragraph (9):

(9) Reconsiderations and Stays. The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, 63-12-124, 63-12-128, and 63-12-141.

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Contact who can answer questions concerning this notice of rulemaking hearing, technical contact for disk acquisition, and person who will approve final copy for publication: Jerry Kosten, Regulations Manager, Division of Health Related Boards, 1st Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, TN 37247-1010 615-532-4397.

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Tennessee Board of Veterinary Medical Examiners.

Robbie H. Bell, Director
Division of Health Related Boards

Subscribed and sworn to before me this the 16th day of February, 2006.

Notary Public

My commission expires on the 25th day of March, 2006.

The notice of rulemaking set out herein was properly filed in the Department of State on the 17 day of July, 2006.

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Riley C. Darnell
Secretary of State

By: