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Rule ID(s): 4168  
File Date: 04/22/2009  
Effective Date: 07/06/2009

# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205*

<b>Agency/Board/Commission:</b>	Bureau of Health, Licensure and Regulation
<b>Division:</b>	Board of Veterinary Medical Examiners
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**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
1730-06	Chemical Capture
Rule Number	Rule Title
1730-06-.01	Purpose
1730-06-.02	Definitions
1730-06-.03	Application Requirements
1730-06-.04	Renewal and Reinstatement
1730-06-.05	Retirement
1730-06-.06	Fees
1730-06-.07	Civil Penalties
1730-06-.08	Qualifying Education
1730-06-.09	Protocols
1730-06-.10	Approved Drugs and Drug-Administering Equipment
1730-06-.11	Recordkeeping

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

1730-06-.01 Purpose.

The rules in this chapter implement the program for the chemical capture of a dog or a cat.

Authority: Chapter 805 of the Public Acts of 2008, §§2 and 3, and T.C.A. §§44-17-601 and 63-12-144 [effective January 1, 2009].

1730-06-.02 Definitions.

The following definitions are applicable to this chapter:

- (1) "Animal" means a dog or a cat;
- (2) "Certified Governmental Animal Control Agency" means a state, county, or municipal animal shelter, or dog pound, which temporarily houses stray, unwanted, or injured animals;
- (3) "Animal Chemical Capture Technician" means an individual employed by a certified governmental animal control agency who is certified by the Board to perform the chemical capture of dogs or cats;
- (4) "Board" means the Tennessee Board of Veterinary Medical Examiners;
- (5) "Certificate Holder" means a person who holds a current, unexpired certificate to perform chemical capture as a certified governmental animal control agency or animal chemical capture technician;
- (6) "Chemical Capture" shall have the same meaning as set forth in T.C.A. §§44-17-601 and 63-12-144, which provides that chemical capture is the capture of a dog or cat by means of sedation using approved drugs and appropriate drug administering equipment by a certified governmental animal control agency;
- (7) "Direct Supervision" means the in-person, on-site supervision of a veterinary technician or animal chemical capture technician by a licensed veterinarian;
- (8) "Person" means individual, corporation, partnership, association, or organization;
- (9) "Protocol" means written statement prepared by a licensed veterinarian and maintained by the certified governmental animal control agency establishing the procedures for performing chemical capture;
- (10) "Veterinarian" shall have the same meaning as set forth in T.C.A. §63-12-103(15);

Authority: Chapter 805 of the Public Acts of 2008, §§2 and 3, and T.C.A. §§44-17-601 and 63-12-144 [effective January 1, 2009].

1730-06-.03 Application Requirements.

- (1) Agency Application.

- (a) A certified governmental animal control agency with a valid premises permit issued by the Board that applies for a certificate to perform chemical capture shall submit the following to the Board office:
  - 1. a completed application to perform chemical capture;
  - 2. the required initial certification fee;
  - 3. a written protocol to be approved by the Board; and
  - 4. proof of employment of a full-time licensed veterinarian on staff at the agency.
  
- (2) Animal Chemical Capture Technician Application.
  - (a) An applicant for a certificate to perform chemical capture as an animal chemical capture technician shall submit the following to the Board office:
    - 1. a completed application;
    - 2. a passport size picture that is signed by the applicant;
    - 3. the required application fee and initial certification fee;
    - 4. results of a criminal background check to be sent from the vendor directly to the Board office;
    - 5. proof of having successfully completed initial marksmanship training for use of the tranquilizer gun in chemical capture taught by an instructor skilled in using the tranquilizer gun; and
    - 6. proof of having successfully completed a sixteen (16) hour chemical immobilization certification course within twenty-four (24) months of applying for certification. The chemical immobilization certification course must be approved by the Board as provided in T.C.A. § 63-12-144(b) and cannot have been taken before April 10, 2008.
  
  - (3) If an applicant does not complete the application process within sixty (60) days after the Board office receives the application because the application lacks the required information or fails to meet the prerequisites for certification, then the application will be closed, the application fee will not be refunded, and the applicant shall reapply for certification.
  
  - (4) Any application submitted may be withdrawn; provided, however, that the application fee will not be refunded.
  
  - (5) The Board may designate one (1) Board member or the Board administrator to review applications for initial certification provided that the final approval for certification is made and ratified by the Board.

Authority: Chapter 805 of the Public Acts of 2008, §§ 2 and 3, and T.C.A. §§ 44-17-601 and 63-12-144 [effective January 1, 2009].

1730-06-.04 Renewal and Reinstatement.

- (1) A certificate issued to a certified governmental animal control agency or animal chemical capture technician to perform chemical capture pursuant to this chapter shall expire two (2) years from the date of its issuance and shall become invalid on such date unless renewed.
- (2) Agency Renewal.
  - (a) A certified governmental animal control agency may renew a current, valid certificate prior to its expiration date by submitting a renewal application form approved by the Board, the required renewal fee, a written protocol, proof of having a current and valid premises permit, and any other information required by the Board for renewal.
- (3) Technician Renewal.
  - (a) A certified animal chemical capture technician may renew a current, valid certificate prior to its expiration date by submitting a renewal application form approved by the Board, the required renewal fee, proof of quarterly recertification in marksmanship training to ensure target accuracy and proper loading and discharging of the tranquilizer gun, and any other information required by the Board for renewal.
- (4) Late Renewal.
  - (a) Certificate holders may renew a certificate to perform chemical capture within thirty (30) days after the license expiration date with payment of the renewal fee and late renewal fee.
  - (b) An individual seeking to renew an animal chemical capture technician certificate after the thirty (30) day grace period following the certificate expiration date but not longer than one (1) year after the certificate expiration date, may apply for reinstatement by meeting the following conditions:
    1. completing a renewal application form;
    2. paying all past due renewal fees;
    3. paying a late fee as provided in rule 1730-06-.06(10);
    4. submitting proof of having completed quarterly recertification in marksmanship training to ensure target accuracy with proper loading and discharging of the tranquilizer gun;
    5. meeting all of the requirements contained in subparagraph (3)(a) of this rule.
  - (c) An individual seeking to renew an animal chemical capture technician certificate when the individual's certificate has been expired for more than one (1) year, shall reapply for certification.
  - (d) A person seeking to renew a certified governmental animal control agency certificate, after the thirty (30) day grace period following the certificate expiration, shall reapply for certification.

- (e) A fee submitted by mail to the Board office for purposes of renewal will be deemed to have been submitted on the date received by the Board office.
- (5) Board staff, a Board member or the Board's designee may review renewal applications and accompanying documentation to ensure that a certificate holder has met the prerequisites to renewal.

Authority: Chapter 805 of the Public Acts of 2008, §§2 and 3, and T.C.A. §§44-17-601 and 63-12-144 [effective January 1, 2009].

1730-06-.05 Retirement.

- (1) A person who holds a current, active certificate to perform chemical capture as a certified governmental animal control agency or a certified animal chemical capture technician, but does not intend to perform chemical capture, may apply to convert an active certificate to inactive or retired status.
- (2) A person who holds an active certificate to perform chemical capture as a certified governmental animal control agency or a certified animal chemical capture technician, may apply for retired status by submitting a completed affidavit of retirement form requesting that the certificate be placed in retired status and attesting that the certificate holder will not perform chemical capture or in any way indicate or imply the holding of an active Tennessee certificate and will not use any words, letters, titles or figures that indicate the holding of an active certificate.
- (3) A person who holds a certificate to perform chemical capture as a certified governmental animal control agency or a certified animal chemical capture technician that has been retired for one (1) year or less may apply to reactivate the certificate as follows:
  - (a) submitting a written request to the Board office requesting certificate reactivation;
  - (b) paying certificate renewal fee; and
  - (c) submitting proof of recertification in marksmanship training.
- (4) A person who holds a certificate to perform chemical capture as a certified governmental animal control agency or a certified animal chemical capture technician that has been retired for more than one (1) year may apply to reactivate the certificate as follows:
  - (a) submitting a written request to the Board office requesting certificate reactivation;
  - (b) paying certificate renewal fee;
  - (c) submitting proof of recertification in marksmanship training; and
  - (d) personally appearing before the Board.

Authority: Chapter 805 of the Public Acts of 2008, §§2 and 3, and T.C.A. §§44-17-601 and 63-12-144 [effective January 1, 2009].

1730-06-.06 Fees.

- (1) Application fee (nonrefundable)..... \$50.00
- (2) Endorsement/Verification fee..... \$20.00
- (3) Initial certification fee (technician)..... \$100.00
- (4) Renewal fee (technician) ..... \$100.00
- (5) Initial certification fee (agency). .... \$200.00
- (6) Renewal fee (agency)..... \$200.00
- (7) State regulatory fee..... \$10.00
- (8) Course approval fee..... \$20.00
- (9) Replacement certificate fee..... \$25.00
- (10) Late renewal fee..... \$80.00

Authority: Chapter 805 of the Public Acts of 2008, §§2 and 3, and T.C.A. §§44-17-601 and 63-12-144 [effective January 1, 2009].

1730-06-.07 Civil Penalties.

- (1) The Board may, in a lawful proceeding respecting licensing (as defined in the Uniform Administrative Procedures Act), in addition to or in lieu of any other lawful disciplinary action, assess civil penalties for violations of statutes, rules or orders enforceable by the board in accordance with the following schedule:

Violation	Penalty
T.C.A. §44-17-601(b), (c), and (d)	\$0-\$1,000
T.C.A. §63-12-144 (c) and (d)	\$0-\$1,000
Rule 1730-06-.09	\$0-\$1,000
Rule 1730-06-.10	\$0-\$1,000
Rule 1730-06-.11	\$0-\$1,000
Board order	\$0-\$1,000

- (2) Each day of continued violation may constitute a separate violation.
- (3) In determining the amount of any penalty to be assessed pursuant to this rule, the Board may consider such factors as the following:
  - (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
  - (b) The circumstances leading to the violation;
  - (c) The severity of the violation and the risk of harm to the public;

- (d) The economic benefits gained by the violator as a result of noncompliance;
  - (e) The interest of the public; and
  - (f) Willfulness of the violation.
- (4) Each violation of any statute, rule or order enforceable by the Board shall constitute a separate and distinct offense and render the person committing the offense subject to a separate civil penalty for each violation.

Authority: Chapter 805 of the Public Acts of 2008, §§2 and 3, and T.C.A. §§44-17-601, 63-01-134, and 63-12-144 [effective January 1, 2009].

1730-06-.08 Qualifying Education.

- (1) Course approval requirements.
  - (a) Any person seeking to conduct an approved course for animal chemical capture technicians shall make application and submit to the Board any documents, statements, and forms as the Board may require. All courses shall be approved by the Board before they are offered. The complete application shall be submitted to the Board office no later than thirty (30) days prior to the scheduled date of the course. At a minimum, a person seeking approval to conduct a course for qualifying education shall provide:
    - 1. Name and address of the provider;
    - 2. Contact person with an address, telephone number, fax number, and email address;
    - 3. The physical location of the courses or programs;
    - 4. The number and type of education credit hours requested for each course;
    - 5. Topic outlines, which list the summarized topics covered in each course, and upon request, a copy of any course materials;
    - 6. If a prior approved course has substantially changed, a summarization of the changes; and
    - 7. The names and qualifications of each instructor.
  - (b) Required topics include, but are not limited to:
    - 1. Pharmacology;
    - 2. Proper administration;
    - 3. Recordkeeping;
    - 4. Chemical capture technology;

5. Animal behavior;
  6. Post-immobilization procedures;
  7. Proper public and personnel safety; and
  8. Marksmanship training.
- (c) The Board may withhold or withdraw approval of any course based on the course provider's violation of or failure to comply with any provision of this rule. Such withholding or withdrawal conveys no right to a contested case proceeding pursuant to the Uniform Administrative Procedures Act compiled at T.C.A. Title 4, Chapter 5.

Authority: Chapter 805 of the Public Acts of 2008, §§2 and 3, and T.C.A. §§44-17-601 and 63-12-144(b) [effective January 1, 2009].

1730-06-.09 Protocols.

- (1) The licensed veterinarian for the certified governmental animal control agency shall develop, implement, and maintain a written protocol for chemical capture by the agency which shall include, at a minimum, developing procedures for the following:
  - (a) the storage and administration of drugs used for chemical capture;
  - (b) the storage and administration of controlled substances used for chemical capture in accordance with federal laws and regulations;
  - (c) the maintenance of records relative to the storage and administration of drugs for chemical capture;
  - (d) the storage, use, and maintenance of the equipment used to perform chemical capture;
  - (e) the disposal of the dart, syringe, or other disposable instruments or disposable equipment used in the chemical capture of the animal;
  - (f) the care of the captured animal, including but not limited to procedures for removing the dart from the captured animal and providing first aid care to the dart wound;
  - (g) the appropriate care of the animal immediately upon capture;
  - (h) the transportation of the animal from the location of the chemical capture to a place where the animal can be provided with appropriate veterinary care;
  - (i) establishing the supervisory structure within the agency about who has decision-making authority to perform chemical capture on an animal;
  - (j) obtaining approval from supervising veterinarian or director at the certified governmental animal control agency to perform chemical capture of an animal;
  - (k) establishing criteria used to determine if chemical capture should be performed;
  - (l) documenting for each animal when and how other methods of capture have failed resulting in the chemical capture of the animal;

- (m) documenting the condition of the animal before and after the chemical capture is performed;
  - (n) ensuring that the individuals performing the chemical capture use protective safety equipment;
  - (o) ensuring the safety of the public;
  - (p) using field emergency kits; and
  - (q) the recovery of the animal.
- (2) The licensed veterinarian at the certified governmental animal control agency shall ensure that all licensed veterinary technicians and certified animal chemical capture technicians at the agency shall receive a copy of the written protocol and any changes to the written protocol.
  - (3) The licensed veterinarian shall submit an updated protocol to the Board office each time the agency's protocol changes and within thirty (30) days from date that the protocol has been changed.
  - (4) The certified governmental animal control agency shall maintain its protocols for at least two (2) years after the date that the protocols were sent to the Board office.
  - (5) The certified governmental animal control agency shall notify the Board office in writing when there is a change in the licensed veterinarian who is employed by the agency within thirty (30) days after the change occurs. The agency's premises permit shall not be valid unless a licensed veterinarian is employed full time by the agency.

Authority: Chapter 805 of the Public Acts of 2008, §§2 and 3, and T.C.A. §§44-17-601 and 63-12-144(a) [effective January 1, 2009].

1730-06-.10 Approved Drugs and Drug-Administering Equipment.

- (1) A licensed veterinarian, licensed veterinary technician employed by and functioning under the direct supervision of a licensed veterinarian, or a certified animal chemical capture technician may administer Telazol in performing chemical capture.
- (2) A licensed veterinarian shall use his or her Drug Enforcement Administration number to obtain the controlled substances used in the chemical capture of animals.
- (3) All drugs used for chemical capture shall be approved by the Board. The licensed veterinarian, licensed veterinary technician working under the supervision of a licensed veterinarian, and animal chemical capture technician shall administer the chemical capture drugs approved by the Board to the species of animal for which the Food and Drug Administration has approved their use and shall administer the drugs in accordance with all other Food and Drug Administration rules, regulations, recommendations, and guidelines.
- (4) A licensed veterinarian shall ensure that the tranquilizer guns used for chemical capture shall have adequate sighting capabilities and the capability of tracking the darts that they shoot.
- (5) A licensed veterinarian shall ensure that the tranquilizer guns are securely stored and well-maintained in a high state of repair and accuracy at all times.

Authority: Chapter 805 of the Public Acts of 2008, §§2 and 3, and T.C.A. §§44-17-601 and 63-12-144 [effective January 1, 2009].

1730-06-.11 Recordkeeping.

- (1) A record shall be maintained by the licensed veterinarian who supervises or performs chemical capture containing the following for each chemical capture performed:
  - (a) date the drug was administered;
  - (b) name, strength, and dosage amount of drug administered;
  - (c) method by which the drug was administered;
  - (d) the amount of any drug wasted, spilled or lost;
  - (e) description of the animal, including but not limited to the gender, breed and approximate weight;
  - (f) tag number or identification number for the animal;
  - (g) names of the persons who participated in the chemical capture and their roles, and particularly the name and title of the individual who administered the drug;
  - (h) location where the chemical capture occurred;
  - (i) location where the animal recovered from the chemical capture;
  - (j) name and title of the individual who cared for the animal after the chemical capture; and
  - (k) name and title of the individual approving the chemical capture of the animal.
- (2) A copy of all of the records relating to the chemical capture of an animal shall be maintained at the certified governmental animal control agency for a period of three (3) years from the date that the chemical capture was performed.
- (3) In addition to the requirements contained in this rule, the licensed veterinarian working at the certified governmental animal control agency shall maintain an inventory of controlled substances in accordance with federal laws and rules.
- (4) The Board at any time may examine records related to chemical capture to ensure compliance with laws and rules.

Authority: Chapter 805 of the Public Acts of 2008, §§2 and 3, and T.C.A. §§44-17-601 and 63-12-144 [effective January 1, 2009].

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Gordon	X				
Jones	X				
Bondurant	X				
Thompson	X				
Lyons	X				
Kendrick				X	
Rogers				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Veterinary Medical Examiners (board/commission/ other authority) on 02/18/09, and is in compliance with the provisions of TCA 04-05-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 12/16/09

Notice published in the Tennessee Administrative Register on: 1/15/09

Rulemaking Hearing(s) Conducted on: (add more dates). 02/18/09

Date: 4/1/09

Signature: [Handwritten Signature]

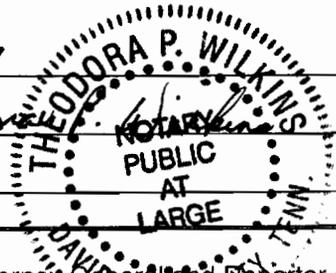
Name of Officer: Shiva K. Bozarth

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: 4/1/09

Notary Public Signature: [Handwritten Signature]

My commission expires on: 4/7/14



All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, T.C.A., Title 4, Chapter 5.

[Handwritten Signature]  
 Robert E. Cooper, Jr.  
 Attorney General and Reporter  
4-20-09  
 Date

**Department of State Use Only**

Filed with the Department of State on: April 22, 2009

Effective on: July 6, 2009  
[Handwritten Signature]

Tre Hargett  
 Secretary of State

## **Public Hearing Comments**

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §04-05-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

(See attached).

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105<sup>th</sup> General Assembly, prior to initiating the rule making process as described in § 04-05-202(a)(3) and § 04-05-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

Regulatory Flexibility Analysis

Board of Veterinary Medical Examiners, Chemical Capture, Chapter 1730-06

- (1) The extent to which the rule or rule may overlap, duplicate, or conflict with other federal, state, and local governmental rules.

The new rules do not overlap, duplicate, or conflict with other federal, state, and local governmental rules.

- (2) Clarity, conciseness, and lack of ambiguity in the rule or rules.

The new rules exhibit clarity, conciseness, and lack of ambiguity.

- (3) The establishment of flexible compliance and/or reporting requirements for small businesses.

The reporting requirements contained in the rules are the same for large or small businesses.

- (4) The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.

The reporting requirements contained in the rules are the same for large or small businesses.

- (5) The consolidation or simplification of compliance or reporting requirements for small businesses.

The reporting requirements contained in the rules are the same for large or small businesses.

- (6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.

The rules do not establish performance standards for the entities certified pursuant to the rules (governmental animal control agencies).

- (7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

The rules do not create unnecessary barriers to stifle entrepreneurial activity, curb innovation, or increase costs.

### Economic Impact Statement

- (1) Name of Board, Committee or Council: Tennessee Board of Veterinary Medical Examiners, Chemical Capture, Chapter 1730-06
- (2) Rulemaking hearing date: December 11, 2008
- (3) Types of small businesses that will be directly affected by the proposed rules:  
  
All certified animal control agencies will be affected by these rules in that the chemical capture of animals shall occur through these agencies.
- (4) Types of small businesses that will bear the cost of the proposed rules:  
  
Please see the answer to question 3.
- (5) Types of small businesses that will directly benefit from the proposed rules:  
  
Please see the answer to question 3.
- (6) Description of how small business will be adversely impacted by the proposed rules:  
  
Please see the answer to question 3.
- (7) Alternatives to the proposed rule that will accomplish the same objectives but are less burdensome, and why they are not being proposed:  
  
There are no less burdensome alternatives to the new rules.
- (8) Comparison of the proposed rule with federal or state counterparts:  
  
Federal: The Board of Veterinary Medical Examiners is not aware of any federal counterparts.  
  
State: The Board of Veterinary Medical Examiners has identified the following other states that have promulgated rules relative to the chemical capture of animals: Colorado, Washington, Louisiana and Indiana.

## **Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rule 1730-06-.01 Purpose- establishes the purpose of the rules which is to implement the program for the chemical capture of a cat or dog established in Public Chapter 805 of the 2008 Public Acts and codified in Tenn. Code Ann. §§44-17-601 and 63-12-144.

Rule 1730-06-.02 Definitions- establishes definitions specifically for the chemical capture program. Particularly, the definitions distinguish between a certified animal control agency currently defined in Rule 1730-04-.01(6) and a certified government animal control agency for the purposes of chemical capture. The rule also defines "animal chemical capture technician" as the individual employed by the certified government animal control agency who is certified by the Board to perform the chemical capture of cats and dogs. While chemical capture is defined in statute (Tenn. Code Ann. §44-17-601(a)), it is reinforced through rule and references back to the statute as the process of capturing a dog or cat through sedation when all other means of capture have failed.

Rule 1730-06-.03 Application Requirements- provides that a certified government animal control agency must have a valid premises permit issued by the Board and must also obtain a certification from the Board to perform chemical capture. The most important of the certification requirements for agencies is the submission of a written protocol approved by the Board for the chemical capture of animals and the proof that the agency has a full-time veterinary on staff to properly supervise the technicians. The rule also provides certification requirements for animal chemical capture technicians, chief among which are proof of having successfully completed marksmanship training and a sixteen (16) hour chemical immobilization certification course.

Rule 1730-06-.04 Renewal and Reinstatement- provides that individual and agency certifications shall be renewed on a biennial basis from the date of issuance. When an agency renews its certification, it must provide a renewal fee, a written protocol, proof of having a valid premises permit, and any other information required by the Board. Upon renewal, a technician must provide a renewal fee as well as proof that he or she has completed quarterly recertification of marksmanship training to ensure target accuracy, proper loading and discharge of the tranquilizer gun, and any other information required by the Board. Both the agency and the individual technician may renew his/her/its license late (meaning within the grace period, but beyond the expiration date), but a technician who renews late, must provide proof of having completed quarterly recertification in marksmanship training. If an individual has allowed his or her technician certification to expire for more than one (1) year, then the technician shall reapply for certification. An agency that has allowed its certification to expire after the thirty (30) day grace period, then the agency shall reapply for certification.

Rule 1730-06-.05 Retirement- provides that an active certificate holder as an agency or a technician may retire or inactivate his/her/its certification and that in order to reactivate the certification, the individual or entity would not only have to request reactivation, but also pay a certificate renewal fee, submit proof of recertification training and personally appear before the Board (depending on the length of time the certification was inactive or retired).

Rule 1730-06-.06 Fees- provides the application, renewal, late, course approval, and replacement certificate fees for the administration of the program.

Rule 1730-06-.06 Civil Penalties- provides for a schedule of civil penalty ranges for violations of applicable laws and rules as well as the factors that the Board should consider in assessing civil penalties.

Rule 1730-06-.08 Qualifying Education- provides for requirements for the six (16) hour chemical immobilization certification course. The rule lists the required topics that comprise the course and the rule also requires course providers to provide details about the topics covered by the courses, the number of credits for each course, the names and qualifications of instructors, and the physical locations of the courses.

Rule 1730-06-.09 Protocols- establishes what must be included in the certified government animal control agency's protocol for the chemical capture of dogs and cats. The protocol is designed to ensure the safety of the animals, the technicians, and the public by providing the safe storage and administration of drugs in the chemical capture process. The rule also provides that it is the agency's licensed veterinarian who shall be responsible for developing, amending, and maintaining the protocol.

Rule 1730-06-.10 Approved Drugs and Drug-Administering Equipment- provides that a licensed veterinarian, veterinary technician working under the direct supervision of a licensed veterinarian, or a certified animal control technician may administer Telazol (a controlled substance) to chemically capture an animal. Other drugs may be used, but only through the approval of the Board. All drugs that are used to chemically capture an animal must be approved by the Food and Drug Administration and must be obtained through the veterinarian's Drug Enforcement Administration number. The veterinarian is also required to ensure that tranquilizer guns used for chemical capture are securely stored and well-maintained.

Rule 1730-06-.11 Recordkeeping- provides that the veterinarian who supervises or performs chemical capture shall maintain a record of each chemical capture performed with specifics about the administration of the drug, the person who performed the chemical capture, the location of the chemical capture, and the location where the animal was recovered. The records shall be maintained at the agency for a period of three (3) years from the date that the chemical capture was performed. The veterinarian shall also maintain an inventory of controlled substances and allow the Board to examine the records related to chemical capture to ensure compliance with laws and rules.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The new rules were promulgated to implement Public Chapter 805 of the 2008 Public Acts codified in Tenn. Code Ann. §§44-17-601 and 63-12-144.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The new rules will only affect approximately five (5) animal control agencies (humane societies throughout the state) that will provide the chemical capture of animals.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

I am unaware of any opinion of the Attorney General or any judicial ruling which directly relates to these rules.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five-hundred-thousand (\$500,000) dollars, whichever is less;

I am unaware of any opinion of the Attorney General or any judicial ruling which directly relates to these rules.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Lisa Lampley, Director of the Board of Veterinary Medical Examiners and Shiva K. Bozarth, Assistant General Counsel for the Department of Health possess substantial knowledge and understanding of these rules.

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Lisa Lampley, Director of the Board of Veterinary Medical Examiners and Shiva K. Bozarth, Assistant General Counsel for the Department of Health possess substantial knowledge and understanding of these rules.

- (H)** Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Shiva K. Bozarth, Assistant General Counsel for the Department of Health may be reached at the Department of Health, Office of General Counsel, Plaza One, Suite 210, 220 Athens Way, Nashville, Tennessee 37243 (telephone number: (615) 741-1611).

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

**Memorandum**

To: Tennessee Secretary of State, Office of Publications

From: Shiva K. Bozarth, Deputy General Counsel, Tennessee Department of Health



Re: Tennessee Board of Veterinary Medical Examiners rules 1730-06-.01, *et seq.*

There were no comments received regarding these rules.