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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Board of Veterinary Medical Examiners
Division:	
Contact Person:	Sara A. Whitehead
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	ADA Coordinator
Address:	227 French Landing, Suite 300 Nashville, TN 37243
Phone:	(615) 532-4397
Email:	

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	227 French Landing, Suite 150 Iris Conference Room Heritage Place Metro Center		
Address 2:			
City:	Nashville		
Zip:	37243		
Hearing Date :	04/21/10		
Hearing Time:	9:00 a.m.	<input checked="" type="checkbox"/> X CST	<input type="checkbox"/> EST

Additional Hearing Information:

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Revision Type (check all that apply):

- Amendment
- New
- Repeal

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

Chapter Number	Chapter Title
1730-01	General Rules Governing Veterinarians
Rule Number	Rule Title
1730-01-.01	Definitions
1730-01-.02	Branches of Veterinary Medicine and Treatment Methods
1730-01-.25	Prerequisites to Prescribing

Chapter Number	Chapter Title
1730-04	General Rules Governing Certified Animal Control Agencies
Rule Number	Rule Title
1730-04-.03	Qualifications for Certification

(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>)

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

Amendments

Rule 1730-01-.01 is amended by deleting the rule in its entirety and substituting it instead with the following, so that the new rule shall read:

1730-01-.01 Definitions. As used in these rules, the terms and acronyms shall have the following meanings ascribed to them.

- (1) 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 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, or the use of any manual or mechanical procedure for artificial insemination 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; 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 indirect supervision of a licensed veterinarian in the context of a valid veterinarian-client-patient relationship.
- (2) Acupuncture – The insertion of needles into the body of an animal in an effort to cure, prevent, or relieve any wound, fracture, bodily injury or disease in an animal.
- (3) Advertisement - Information communicated to the public, in any manner, designed to attract public attention to the practice of veterinarians or facilities licensed in Tennessee.
- (4) Advertising - Includes, but is not limited to business solicitations, with or without limiting qualifications, in a card, sign, or device issued to a person; in a sign or marking in or on any building; or in any newspaper, magazine, directory, or other printed matter. Advertising also includes business solicitations communicated by individual{s}, radio, video, or television broadcasting or any other means designed to secure public attention.
- (5) Anesthesiology – The branch of veterinary medicine which involves inducing a state of unconsciousness in an animal for the purpose of treating and/or preventing pain and/or distress in the animal.
- (6) Applicant - Any individual seeking licensure by the Board who has submitted an official application and paid the application fee.
- (7) Bait and Switch Advertising - An alluring but insincere offer to sell a product or service which the advertiser in truth does not intend or want to sell. Its purpose is to switch consumers from buying the

advertised service or merchandise, in order to sell something else, usually for a higher fee or on a basis more advantageous to the advertiser.

- (8) Behavioral medicine – The branch of veterinary medicine that involves diagnosing animal behavioral conditions and treating those behavioral conditions by prescribing or administering any drug, medicine, biologic or appliance.
- (9) Board - The Tennessee Board of Veterinary Medical Examiners.
- (10) Board Administrative Office - The office of the administrator assigned to the Tennessee Board of Veterinary Medical Examiners, located at 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243.
- (11) Cardiology – The branch of veterinary medicine that deals with the diagnosis and treatment of diseases that affect an animal heart and its functions.
- (12) Chiropractic Therapy – The manipulation and treatment of the structures of the animal body, especially those of the spinal column, for the cure, prevention or relief of any wound, fracture, bodily injury or disease of animals.
- (13) Client - The patient's owner, owner's agent, or other person responsible for the patient.
- (14) Closed File - An administrative action which renders an incomplete or denied file inactive.
- (15) Collection of Blood- The act of removing the fluid that circulates through an animal's heart, arteries, capillaries, and veins for the purpose of analyzing such fluid for diagnostic, therapeutic or other treatment purposes.
- (16) Conspicuous Place - A place easily viewable by the public.
- (17) Dentistry- The branch of veterinary medicine which is concerned with an animal's teeth, oral cavity, and associated parts, including the diagnosis and treatment of their diseases and the restoration of defective and missing tissue.
- (18) Department - Tennessee Department of Health.
- (19) Dermatology – The branch of veterinary medicine that deals with the diagnosis and treatment of diseases that affect animal skin.
- (20) "Discounted Fee" - A fee offered or charged by a person or organization for any veterinary product or service that is less than the fee usually offered or charged for the product or service. Products or services expressly offered free of charge shall not be deemed to be offered at a "discounted fee".
- (21) Division - The Tennessee Department of Health, Division of Health Related Boards, from which the Board receives administrative support.
- (22) Fracture- A break or rupture in a bone.
- (23) He/she, Him/her - When "he/him" appears in the text of these rules, the word represents both the feminine and masculine genders.
- (24) House Call – A scheduled visit for the purpose of providing veterinary services to an individual client outside of a veterinary facility at the client's residence, business, or property. A veterinarian who conducts a house call shall have a permanent base of operations with a published address and telephone facilities for making appointments or responding to emergency situations;

- (25) HRB - When the acronym "HRB" appears in the text of these rules, it represents Health Related Boards.
- (26) 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.
- (27) Infertility- Sterility or the absence of fertility.
- (28) Laser Therapy – The use of intense beams of light to cure, prevent or relieve any animal wound, fracture, bodily injury or disease.
- (29) License - Document issued to an applicant who successfully completes the licensure process. The license takes the form of an "artistically designed" document as well as other versions bearing an expiration date.
- (30) Licensee - Any person who has been lawfully issued a license to practice veterinary medicine or as a veterinary medical technician in the State of Tennessee or any licensed facility where veterinary medicine is practiced.
- (31) Massage – The systematic therapeutical friction, stroking, and kneading of the animal body for the cure, prevention or relief of any wound, fracture, bodily injury or disease of animals.
- (32) Obstetrics - The branch of veterinary medicine which deals with the management of pregnancy and labor in animals as well as the diagnosis or treatment for sterility or infertility in animals.
- (33) Oncology - The branch of veterinary medicine which deals with the diagnosis and treatment of animal tumors and cancer.
- (34) Ophthalmology – The branch of veterinary medicine which deals with the diagnosis and treatment of the animal eye and its diseases.
- (35) Patient - An animal that is examined or treated by a veterinarian.
- (36) Physical Therapy – Therapeutic interventions that are utilized to cure, prevent or relieve any wound, fracture, bodily injury or disease of animals.
- (37) Premises - Any veterinary facility where a licensed veterinarian practices or where the practice of veterinary medicine occurs.
- (38) Premises Owner - Any person, corporation or other similar organization, public or private, for-profit or not-for-profit, who holds title to a facility where a licensed veterinarian practices or where the practice of veterinary medicine occurs.
- (39) Premises Permit - A permit issued by the board to operate a veterinary medicine facility when premises meet minimum standards established by the Board.
- (40) Public Rabies Vaccination Clinic - A clinic sponsored by a local health department to provide vaccination of dogs and cats against rabies, pursuant to the local health department's established ordinances and regulations.
- (41) Radiology - The branch of veterinary medicine which deals with the use of radiant energy in the diagnosis and treatment of disease in animals.

- (42) Retail Establishment - Any retail store in excess of two thousand five hundred (2,500) square feet that primarily sells goods not related to the practice of veterinary medicine, or any veterinary facility located in an enclosed shopping mall or enclosed shopping center.
- (43) Sterility- Inability to produce offspring.
- (44) Supervising Veterinarian - A person who is validly and currently licensed to practice veterinary medicine in the state, who shall be accountable to the board for the facility's compliance with the laws and rules governing the practice of veterinary medicine in this state, and/or has direct responsibility for the direct supervision of a temporary licensee.
- (45) "Surgery" means:
- (a) Aseptic Surgery - surgery performed in ways or by means sufficiently free from micro-organisms so that significant infection or suppuration does not occur.
 - (b) Major Surgery - any surgical intervention that penetrates and exposes the body cavity and/or any procedure associated with extensive transection or dissection of tissue.
- (46) Ultrasound – the application of ultrasonic waves for the purpose of diagnosing or treating an animal wound, fracture, bodily injury or disease.
- (47) Use of a title or description - To hold himself out to the public as having a particular status by means of stating on signs, mailboxes, address plates, stationery, announcements, business cards, or other means of professional identification.
- (48) "Veterinary Facility" means:
- (a) Animal Medical Center - A veterinary or animal medical center means a facility in which consultative, clinical and hospital services are rendered and in which a large staff of basic and applied veterinary scientists perform significant research and conduct advanced professional educational programs;
 - (b) Clinics - A veterinary or animal clinic means a facility in which the practice conducted is essentially an out-patient type of practice;
 - (c) Hospital - A veterinary or animal hospital means a facility in which the practice conducted includes the confinement, as well as the treatment, of patients;
 - (d) Mobile Facility - A practice conducted from a vehicle with special medical or surgical facilities or from a vehicle suitable only for making house or farm calls. Regardless of mode of transportation, such practice shall have a permanent base of operations with a published address and telephone facilities for making appointments or responding to emergency situations;
 - (e) Office - A veterinary facility where a limited or consultative practice is conducted and which provides no facilities for the housing of patients; and any establishment either unincorporated or a corporation or other similar organization, public or private, for-profit or not-for-profit, where a licensed veterinarian practices or where the practice of veterinary medicine occurs.
- (49) "Veterinary Practice" means:
- (a) Large Animal Practice - a practice in which ninety percent (90%) or more of the animals seen/treated are equine, farm animal, or any other animals deemed as "large animal" by the Board of Veterinary Medical Examiners.

- (b) Small Animal Practice - a practice in which ninety percent (90%) or more of the animals seen/treated are companion animals or any other animals deemed as "small animal" by the Board of Veterinary Medical Examiners.
 - (c) Mixed Animal Practice - a practice in which both large and small animals are seen/treated and the percentage of animals seen/treated exceeds ten percent (10%) for both types of animals.
- (50) 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.
- (51) Wound- Any disruption of the continuity of an internal or external surface.

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

Rule 1730-01-.02 is amended by deleting the rule in its entirety and adding the following language as new subparagraphs. The new Rule 1730-01-.02 shall read:

1730-01-.02 Branches of Veterinary Medicine and Treatment Methods.

- (1) In addition to veterinary surgery, obstetrics and dentistry, other branches of veterinary medicine include, but are not limited to the following: anesthesiology, behavioral medicine, cardiology, dermatology, oncology, ophthalmology, and radiology.
- (2) Veterinary treatment methods include, but are not limited to the following: acupuncture, chiropractic therapy, laser therapy, massage therapy, physical therapy, and ultrasound.

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

New Rules

1730-01-.25 Prerequisites to Prescribing.

- (1) For purposes of this Rule, pursuant to 21 CFR 201.105, "animal drugs" are those drugs that are required by federal law to be prescribed or ordered by a licensed veterinarian and characterized by the Food and Drug Administration ("FDA") as drugs for which adequate directions for use cannot be prepared.
- (2) Prior to a veterinarian prescribing animal drugs or dispensing animal drugs to a client that the veterinarian has prescribed for the client's animal, the veterinarian must first, pursuant to appropriate protocols or veterinary orders, complete and appropriately document all of the following for the animal, herd, or flock on whose behalf the prescription is to be written:
 - (a) Perform an appropriate history and physical examination;
 - (b) Make a diagnosis based upon the history, physical examination, and pertinent diagnostic and laboratory tests;
 - (c) Formulate a therapeutic plan, and discuss it with the animal's owner, along with the basis for it and the risks and benefits of various treatments options, a part of which might be a prescription drug; and
 - (d) Ensure availability of the veterinarian or the veterinarian's staff for appropriate follow-up care.
- (3) The provisions of paragraph (2) shall not apply to the following:
 - (a) As part of an initial evaluation order;
 - (b) For an animal/patient of another veterinarian for whom the prescriber is taking calls or for whom the prescriber has verified the appropriateness of the medication;
 - (c) For continuation medications on a short-term basis prior to the veterinarian personally examining the animal, herd, or flock; or
 - (d) For medications administered by the owner of the animal, herd, or flock when the veterinarian has prescribed and/or dispensed in a manner consistent with this rule.

Authority: T.C.A. §§ 63-12-102, 63-12-103, 63-12-106, and 63-12-124.

Chapter 1730-04 Rules Governing Certified Animal Control Agencies

Amendments

Rule 1730-04-.03 is amended by adding the following language as new paragraph (4) so that, as amended, the new rule shall read:

- (4) Show that they have provided a copy of the Non-Livestock Animal Humane Death Act codified at T.C.A. §§44-17-301, et seq., to each employee who will perform euthanasia and maintain documentation of compliance with this paragraph.

Authority: T.C.A. §§ 63-1-106, 63-12-106, 63-12-141, 44-17-301, 44-17-302, and 44-17-303.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

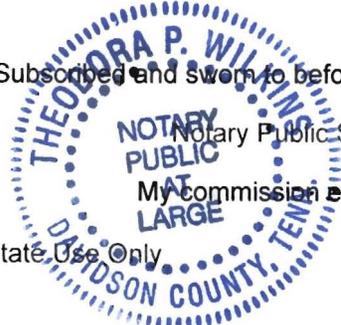
Date: 12-14-09

Signature: [Handwritten Signature]

Name of Officer: Sara Whithead

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: 12/14/09



Notary Public Signature: Theodora P. Wilkins

My commission expires on: 11/7/2011

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Filed with the Department of State on: 12/14/09

[Handwritten Signature]

Tre Hargett
Secretary of State

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