

Rulemaking Hearing Rules

Board of Veterinary Medical Examiners

Chapter 1730-01
General Rules Governing Veterinarians

Chapter 1730-02
General Rules Governing Veterinary Facilities

Chapter 1730-03
General Rules Governing Veterinary Medical Technicians

Chapter 1730-04
General Rules Governing Certified Animal Control Agencies

Chapter 1730-05
General Rules Governing Certified Animal Euthanasia Technicians

Amendments

Rule 1730-01-01, 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 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.
- () 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 1730-01-.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 1730-01-.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 1730-01-.02, and the definition of accepted livestock management practices as provided in Rule 1730-01-.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 1730-01-.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 of another individual.

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 1730-01-.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 1730-01-.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 1730-01-.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 1730-01-.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 1730-02-.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 1730-03-.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 1730-04-.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 1730-05-.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.

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 18th day of July, 2007 and will become effective on the 1st day of October, 2007. (FS 07-12-07; DBID 2611 through 2615)

Addendum

Economic Impact Statement

The amendments regarding livestock management and recordkeeping are the only rules in this filing which have economic impact to small businesses.

- (1) Type or types of small business subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:

Large animal veterinarians, owners of large animals, and operators of large animal breeding operations.

- (2) Identification and estimate of the number of small businesses subject to the proposed rule:

As of December 31, 2006, Tennessee had 1,699 licensed veterinarians who were eligible for licensure renewal. There is an estimate that no more than 30% of the licensees have large animal practices.

- (3) Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

The proposed amendments which have economic impact on small businesses have increased or new reporting, recordkeeping and other administrative costs that are required for compliance only to the extent that additional information provided to unlicensed persons will need to be recorded by veterinarians into already existing records.

- (4) Statement of the probable effect on impacted small businesses and consumers:

The Board anticipates the proposed rule amendments will be received favorably because they legitimize what is the current practice.

- (5) Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:

The Board does not believe there are less burdensome alternatives because the intent of the proposed rule amendments is precisely that.

- (6) Comparison of the proposed rule with any federal or state counterparts:

The Board is not aware of any federal or state counterparts.

- (7) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

It is not possible to exempt the impacted small businesses from all or any part of the requirements contained in the proposed rule because the impacted small businesses are the Board's licensees. If there were to be an exemption, the proposed rule amendments would have no actual effect.