

**Department of State  
Division of Publications**

312 Rosa L. Parks, 8th Floor Snodgrass Tower  
Nashville, TN 37243  
Phone: 615.741.2650  
Fax: 615.741.5133  
Email: sos.information@state.tn.us

**For Department of State Use Only**

Sequence  
Number: 12-08-08  
Notice ID(s): 977  
File Date: 12/16/2008

## 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.*

<b>Agency/Board/Commission:</b>	Bureau of Health Licensure and Regulation
<b>Division:</b>	Board of Veterinary Medical Examiners
<b>Contact Person:</b>	Shiva K. Bozarth, Assistant General Counsel
<b>Address:</b>	220 Athens Way, Suite 210 Nashville, Tennessee 37243
<b>Phone:</b>	(615) 741-1611
<b>Email:</b>	Shiva.Bozarth@state.tn.us

*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:*

<b>ADA Contact:</b>	ADA Coordinator at the Division of Health Related Boards
<b>Address:</b>	ADA Coordinator at the Division of Health Related Boards
<b>Phone:</b>	(615) 532-4397
<b>Email:</b>	

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

Address 1:	Poplar Conference Room, Suite 150 Heritage Place		
Address 2:	227 French Landing		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date :	02/18/2009		
Hearing Time:	9:00 a.m.	<input checked="" type="checkbox"/> _X_ CST	<input type="checkbox"/> __ EST

**Additional Hearing Information:**

--

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and

paste additional tables. Please enter only **ONE** Rule Number/RuleTitle per row.)

<b>Chapter Number</b>	<b>Chapter Title</b>
1730-06	Chemical Capture
<b>Rule Number</b>	<b>Rule Title</b>
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 with administrative or contractual arrangements with the support of a local government agency which temporarily houses stray, unwanted, or injured animals;
- (3) "Animal Chemical Capture Technician" means an individual employed by a certified 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 an 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 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) An 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 veterinary on staff at the agency.

(2) 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 approved by the Board as provided in T.C.A. § 63-12-144(b).

- (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 an 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 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-.05(4);
  4. submitting proof of having completed quarterly recertification in marksmanship training to ensure target accuracy with an proper loading and discharging of the tranquilizer gun;
  5. meeting all of the requirements contained in paragraphs (3)(a) and (4)(a) contained in 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 an 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 licensee 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 animal control agency or a certified animal chemical capture technician, but does not intend to perform chemical capture, may apply to convert an active license to inactive or retired status.
- (2) A person who holds an active certificate to perform chemical capture as a certified 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 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 animal control agency or a certified animal chemical capture technician that has been retired for less 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; and
  - (c) submitting proof of recertification in marksmanship training.

- (4) A person who holds a certificate to perform chemical capture as a certified 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
Rule 1730-06-.12	\$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, 63-1-134, 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 scheduling 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 who is qualified in accordance with paragraph (2) of this rule.
- (b) Required topics include, but are not limited to:
1. Pharmacology;
  2. Proper administration;
  3. Recordkeeping;
  4. Chemical capture technology;
  5. Animal behavior;
  6. Postimmobilization 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 does not constitute 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 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 veterinary 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 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 release and recovery of the animal.
- (2) The licensed veterinarian at the certified 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 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 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 should

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 its use and shall administer the drug in accordance with all other Food and Drug Administration's 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 dart that it shoots.
- (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) name of the persons who participated in the chemical capture and their roles; in particular, the name and title of the individual who administered the drug; and
  - (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 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 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].