

Dear Senators CORDER, Smyser, Bock, and
Representatives ANDRUS, Boyle, Pence:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Board of Veterinary Medicine:

IDAPA 46.01.01 - Rules of the State of Idaho Board of Veterinary Medicine (Docket No.
46-0101-1101).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/11/2011. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/9/2011.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4845, or send a written request to the address or FAX
number indicated on the memorandum enclosed.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Agricultural Affairs Committee and the House Agricultural Affairs Committee

FROM: Principal Legislative Research Analyst - Katharine Gerrity

DATE: September 21, 2011

SUBJECT: Board of Veterinary Medicine

IDAPA 46.01.01 - Rules of the State of Idaho Board of Veterinary Medicine (Docket No. 46-0101-1101)

The Board of Veterinary Medicine submits notice of proposed rule at IDAPA 46.01.01 - Rules of the State of Idaho Board of Veterinary Medicine. According to the Board, the purpose of the rule is to eliminate provisions relating to Board eligibility evaluations of candidates for the national veterinary examination to conform to statutory changes made during the 2011 legislative session in HB62. The Board notes that, in addition, provisions relating to fee refunds for certified veterinary technician applicants who withdraw their applications are being removed to afford the Board reimbursement for staff time spent on application reviews. The Board also notes that provisions are being clarified relating to requirements associated with revisions to both paper and electronic patient records and a provision is being removed associated with the requirement for a written release from an owner prior to the transfer of patient medical information. The Board states that the last two changes noted are in response to concerns from licensees.

Negotiated rulemaking was not conducted due to the nature of the changes. The rule appears to be authorized pursuant to Section 54-2105, Idaho Code.

cc: Board of Veterinary Medicine
Karen Ewing

IDAPA 46 - BOARD OF VETERINARY MEDICINE

46.01.01 - RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE

DOCKET NO. 46-0101-1101

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2105, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

**Monday, October 24, 2011
12:00 p.m. (noon) MDT**

**Idaho State Department of Agriculture Building
2270 Old Penitentiary Road
Boise, ID 83712
Conference Rooms A and B**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The entire section regarding Board eligibility evaluations of candidates for the national veterinary examination will be removed to concur with a 2011 statute change. The statute change removed the requirement for the Board to determine candidate eligibility to take the national exam.

Fee refunds will be removed for certified veterinary technician applicants who withdraw their applications; this will reimburse the Board for staff time spent on application review.

Numerous questions and concerns from licensees will be addressed by clarifying the requirements when revisions to both paper and electronic patient records are made. In addition, based on negative comments from licensees, the requirement for a written release from the owner prior to transfers of patient medical information will be removed.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the rulemaking.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Karen Ewing, Executive Director, (208) 332-8588.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2011.

DATED this 18th day of August, 2011.

Karen Ewing, Executive Director
Board of Veterinary Medicine
2270 Old Penitentiary Rd.
P. O. Box 7249
Boise, ID 83707
Phone: (208) 332-8588
Fax: (208) 334-2170

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 46-0101-1101

~~016. ELIGIBILITY EVALUATION - NATIONAL EXAMINATION.~~

~~01. Eligibility Requirements.~~ *Effective July 1, 2000, all applicants applying to the Board for eligibility evaluation for the national examination shall.* (3-30-01)

~~a.~~ *If not previously graduated from an accredited school of veterinary medicine at the time of application, be within eight (8) months of expected graduation date.* (4-2-08)

~~b.~~ *Have qualified for licensure in this state as outlined in Section 54-2107, Idaho Code, and Subsection 010.01 of these rules;* (3-30-01)

~~c.~~ *Have fulfilled the licensing requirements, as outlined in Section 54-2107, Idaho Code, and Subsections 010.02, 010.03, and 010.04 of these rules with the exception of a passing score on the national examination;* (3-30-01)

~~d.~~ *Have completed the national examination application prepared by the National Board Examination Committee (NBEC) or its designee and supplied by the Board, NBEC or its designee;* (3-30-01)

~~e.~~ *And have paid to the Board the state application and license fee as outlined in Paragraph 014.01.a. of these rules and the national examination processing fee, as outlined in Paragraph 014.01.g of these rules.* (3-30-01)

~~02. Application and Fee Deadlines.~~ *For applicants applying to the Board for eligibility evaluation for the national examination, application and fee deadlines for both the national examination and for the state licensure examination shall be ninety (90) days prior to the first date of each national testing window established by the National Board Examination Committee or its designee. No candidate will be permitted to take the national examination until their completed national and state applications have been received and approved, and the established fees paid.* (3-30-01)

~~03. Determination of Eligibility.~~ *Upon the Board's determination of an applicant's eligibility for the national examination, the Board shall notify the applicant of his eligibility to take the national examination and shall transmit the applicant's eligibility information and examination fee to the National Board Examination Committee or its designee. Any candidate not included on the Board's eligibility list for the current test window will be ineligible to take the national examination during that test window.* (3-30-01)

~~04. Authorization to Test and Scheduling.~~ *The National Board Examination Committee or its designee will supply authorization to test, letters, and scheduling permits to eligible candidates. Scheduling permits will contain instructions pertaining to establishing, changing or canceling a test appointment through a centralized registration center (Customer Service Call Center or CSCC).* (3-30-01)

~~a. Candidates will be responsible for scheduling their own testing date, time and location through the Customer Service Call Center. Candidates who desire to change the date, time or location of the testing appointment may do so without financial penalty until noon on the fifth business day prior to the scheduled appointment. All times are based upon the local time of the center where the candidate is scheduled to test. (3-30-01)~~

~~b. Candidates must take the national examination within the established test window or their authorization to test will expire and their national examination and processing fees forfeited. (3-30-01)~~

~~c. Candidates desiring to retake the national examination during a subsequent test window must have their eligibility reconfirmed by the Board to the National Board Examination Committee or its designee and pay the established national examination and processing fees. (3-30-01)~~

~~**05. National Examination Scoring and Reporting. (3-30-01)**~~

~~a. The passing score for the national examination shall be the criterion referenced passing score established by the National Board Examination Committee or its designee, or by the American Association of Veterinary State Boards or its designated test vendor. (3-30-01)~~

~~b. The Board will report scores on the national examination to the individual candidates. (3-30-01)~~

~~i. No candidate shall be permitted to review the national examination or receive copies of his answers to the examination. (3-30-01)~~

~~ii. For candidates failing the national examination, upon request, a diagnostic breakdown according to the examination's overall content areas will be supplied. (3-30-01)~~

~~iii. Any appeals by candidates regarding examination scores will be managed by and between the candidate and the Board. (3-30-01)~~

~~iv. Any rationales and analyses provided by the National Board Examination Committee beyond the diagnostic information will be at the Board's written request and at the candidate's expense. (3-30-01)~~

~~e. A copy of the candidate's initial score report will be supplied to the Board by the National Board Examination Committee. Subsequent score reports to other boards must be requested by the candidate through the American Association of Veterinary State Boards, or its designee at the candidate's expense. (3-30-01)~~

0176. -- 099. (RESERVED)

100. CERTIFICATION OF VETERINARY TECHNICIANS.

Any person representing himself as a veterinary technician, licensed veterinary technician, registered veterinary technician, or certified veterinary technician, shall hold a valid, unexpired certificate to practice veterinary technology in the state of Idaho. (3-30-07)

01. Application for Certification -- Contents -- Examinations. An individual desiring to be certified as a veterinary technician shall make written application to the Board upon a form furnished by the Board. A complete application shall be valid and maintained at the Board office for a period of one (1) year, contain the applicant's notarized signature, and include: (3-30-01)

a. A copy of a birth certificate or current passport proving that the applicant is eighteen (18) years of age or older. (4-2-08)

b. Notarized affidavits issued during the year preceding certification from two (2) individuals, personally acquainted with the applicant, attesting to the fact that the applicant is of good moral character. (3-30-01)

c. Documentation of education/training/experience as follows: (3-30-01)

i. A certified copy of a diploma or transcript, or a letter verifying graduation from a veterinary technology program, accredited by the American Veterinary Medical Association; (3-29-10)

ii. A certified copy of a diploma or transcript, or a letter verifying graduation from a veterinary technology program equivalent to a program accredited by the American Veterinary Medical Association, or from another college or institution approved by the Board; (3-29-10)

iii. A certified copy of a diploma or transcript, or a letter verifying the award of a D.V.M. or V.M.D. degree or equivalent, from an accredited school of veterinary medicine; or (3-29-10)

iv. If a foreign veterinary graduate, notarized verification of having been awarded a D.V.M. or V.M.D. degree or equivalent in a program of veterinary medicine from a foreign school of veterinary medicine or the veterinary department of a foreign university or another college or institution that is approved by the Board. (3-30-07)

d. Verification of a criterion-referenced passing score reported by the Professional Examination Service or its designee, or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards on the Veterinary Technician National Examination (VTNE) or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board. If such a score is not available, the passing score shall be as reported by the Professional Examination Service or its designee, or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards or by the Board and shall be considered equal to or greater than one and five-tenths (1.5) standard deviation below the mean score of the examination. (3-30-01)

i. The VTNE or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board may have been taken at any time. (3-30-01)

ii. Scores for the VTNE or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board are to be provided to the Board by the Professional Examination Service or its designee or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards. (3-30-01)

e. A passing score for the jurisprudence examination, which should be ninety percent (90%) or such score as deemed appropriate by the Board. The jurisprudence examination, as prepared by the Board or its designee, may be taken more than once, at three-month intervals. (3-29-10)

02. Application for Certification -- Fee -- Deadline -- Validity. (3-30-01)

a. A completed application, other required documents, and first year's certification fee in the amount established by the Board shall be received at the Board office by the first day of January or June. (3-30-01)

b. The Board will review applications and issue certifications in January and June of each year. Veterinary Technician Certifications shall be consecutively numbered beginning with the number one (1) and all numbers shall be prefixed with the letters CVT. If an applicant is found not qualified, the Board shall notify the applicant in writing of such finding and grounds therefor. An applicant denied certification may request a hearing pursuant to the procedures set forth in Title 67, Chapter 52, Idaho Code. Any applicant who is denied certification shall be allowed the return of the certification fee portion of the application fee. (3-30-01)

~~**e.** Any applicant taking and passing the Idaho Veterinary Technician Jurisprudence Examination and not wanting to be certified at the next review by the Board shall be allowed the return of the certification fee portion of the application fee only. (3-30-01)~~

(BREAK IN CONTINUITY OF SECTIONS)

154. RECORD KEEPING STANDARDS.

Every veterinarian shall maintain daily medical records of the animals treated. These records may be computerized and shall be readily retrievable to be inspected, duplicated, or submitted when requested by the Board. All records, including electronic records, shall be safeguarded against loss, defacement, tampering, and use by unauthorized personnel. If changes are made to any records (either hard-copy or electronic), the records must clearly reflect what the change is, who made the change, when the change was made, and why. In the case of electronic records, the veterinarian shall keep either a duplicate hard-copy record or a back-up ~~unalterable~~ electronic record. Records shall be maintained for a period of three (3) years following the last treatment or examination. Patient medical records shall be maintained for every animal accepted and treated as an individual patient by a veterinarian, or for every animal group (for example, herd, litter, and flock) treated by a veterinarian. (3-30-07)()

- 01. Medical Records.** Medical records shall include, but not be limited to: (7-1-97)
 - a.** Name, address and phone number of the animal's owner or other caretaker. (7-1-97)
 - b.** Name and description, sex (if readily determinable), breed and age of animal; or description of group. (7-1-97)
 - c.** Dates (beginning and ending) of custody of the animal. (7-1-97)
 - d.** A short history of the animal's condition as it pertains to the animal's medical status. (7-1-97)
 - e.** Results and notation of examination, condition, and diagnosis suspected. (4-2-08)
 - f.** All medications, treatments, prescriptions or prophylaxis given, including amount, frequency, and route of administration for both inpatient and outpatient care. (3-29-10)
 - g.** Diagnostic and laboratory tests or techniques utilized, and results of each. (7-1-97)
 - h.** Written anesthesia records. (3-30-07)
- 02. Consent Forms.** Consent forms, signed by the patient's owner or other legal caretaker for each surgical or anesthesia procedure requiring hospitalization or euthanasia, shall be obtained, except in emergency situations, for each animal and shall be maintained on file with the practitioner. (3-30-07)
- 03. Postoperative Instructions.** Postoperative home-care instructions shall be provided in writing and be noted in the medical record. (3-30-07)
- 04. Treatment Records.** Veterinarians who practice with other veterinarians shall indicate by recognizable means on each patient's or animal group's medical record any treatment the veterinarian personally performed and which treatments and procedures were delegated to a technician or assistant to perform. (3-30-01)
- 05. Ownership of Medical Records.** Medical records are the personal property of the hospital or the proprietor of the practice that prepares them. Other veterinarians, including those providing subsequent health needs for a patient, and the patient's owner may receive within fourteen (14) calendar days, a copy or summary of the patient's medical record, upon the request of the patient's owner or other caretaker. Vaccination records shall be supplied within twenty-four (24) hours, unless the business is closed, in which case the records shall be provided within twenty-four (24) hours of resumption of business. ~~Veterinarians shall secure a written release to document that request.~~ (3-29-10)()
- 06. Diagnostic Image Identification and Ownership.** All diagnostic images shall be labeled in the emulsion film or digitally imprinted to identify the veterinarian or premise, the patient, the owner, the date, and anatomical orientation. A diagnostic image is the physical property of the hospital or the proprietor of the practice that prepares it, and it shall be released upon the request of another veterinarian who has the authorization of the owner of the animal to whom it pertains or to the Board. Such diagnostic images shall be returned within a reasonable time to the veterinarian who originally ordered them to be prepared. (4-2-08)

- 07. Estimates.** A veterinarian shall make available to each client a written estimate on request. (3-30-07)
- 08. Controlled Substances and Prescription or Legend Drugs.** A controlled substance is any substance classified by the federal Food and Drug Administration or the Idaho Board of Pharmacy in Schedules I through V of the state or federal Controlled Substances Act, Title 37, Chapter 27, Idaho Code, or 21 CFR 1308. A prescription or legend drug is any drug that under federal law is required, prior to being dispensed or delivered, to be labeled with one (1) of the following statements: “Caution federal law prohibits dispensing without a prescription”; or “RX Only”; or “Caution: Federal law restricts this drug to used by or on the order of a licensed veterinarian”; or a drug which is required by any applicable federal or state law or regulation or rule to be dispensed on prescription only, or is restricted to use by practitioners only. A veterinarian shall only dispense or distribute a controlled substance or prescription or legend drug within the context of a valid veterinarian/client/patient relationship as defined by Section 150 of these rules. (3-30-01)
- a.** Records shall be kept that account for all dispensed and distributed controlled substances and prescription or legend drugs. The records shall comply with all federal and state laws. All information required by statute shall be recorded in the patient record along with the initials of the veterinarian who authorized the dispensing or distribution of the controlled substances or prescription or legend drugs. (3-30-01)
- b.** A separate inventory record shall be kept for each controlled substance by name and strength. The record shall include: (7-1-97)
- i.** Records of the receipt, which include all information required by federal law, the date of the receipt, the amount received, the source of receipt, and the invoice number. (7-1-97)
- ii.** Records of dispensing, which include the date the controlled substance was dispensed, the amount dispensed, the animal’s name, identification of the patient record, identification of the person who dispensed the drug, identification of the veterinarian who supervised the dispensing and any other information required by federal law. (7-1-97)
- c.** Records for all dispensed or distributed prescription or legend drugs shall be maintained in the individual patient or herd record and shall include the date the drug was dispensed or distribution was authorized, the amount dispensed or distributed, identification of the person who dispensed or authorized distribution of the drug, identification of the veterinarian who supervised the dispensing and any other information required by federal or state law, regulation or rule. (3-30-01)
- d.** Prescription drug order means a lawful written or verbal order of a veterinarian for a drug. (3-30-01)
- i.** When prescription drug orders are issued by a licensed veterinarian to be distributed to the animal’s owner or legal caretaker by a retail veterinary drug outlet, all orders for prescription or legend drugs shall be written on an official numbered three (3) part order form available through the Idaho Department of Agriculture. The veterinarian shall retain the second copy in his medical record and the original and one (1) copy shall be sent to the retail veterinary drug outlet. The retail veterinary drug outlet shall retain the original and attach the copy of the original to the order for delivery to the animal’s owner or legal caretaker. (5-8-09)
- ii.** Under no circumstances shall a prescription or legend drug be distributed by a retail veterinary drug outlet to an animal’s owner or legal caretaker prior to the issuance of either a written or oral prescription drug order from the veterinarian: (3-30-01)
- (1)** When a written prescription drug order from the veterinarian has been issued to a retail veterinary drug outlet, a copy of the veterinarian’s original numbered prescription drug order shall be attached to the prescription or legend drugs that are delivered to the animal’s owner or legal caretaker. (5-8-09)
- (2)** When a retail veterinary drug outlet receives an oral prescription drug order from the veterinarian, the oral order shall be promptly reduced to writing on a Department of Agriculture unnumbered telephone drug order blank. A copy of this completed form shall be attached to the prescription or legend drugs that are delivered to the

animal(s)'s owner or legal caretaker. (5-8-09)

(3) When a veterinarian issues an oral prescription drug order to a retail veterinary drug outlet, the oral order shall be followed by a written prescription drug order signed by the veterinarian using the official numbered three (3) part order form and procedures required under Subparagraph 154.08.d.i. of these rules. The written order shall be sent promptly by the veterinarian so that it is received by the retail veterinary drug outlet no later than seven (7) days after the retail veterinary drug outlet receives the oral order. The written confirmation order may be hand-delivered, mailed, faxed, attached to an e-mail, or otherwise properly delivered to the retail veterinary drug outlet. (3-29-10)

e. When prescription or legend drugs are dispensed, the labeling on all containers shall be in compliance with the requirements of Paragraph 153.01.d. of these rules. (3-30-01)

f. When controlled substances are dispensed, all containers shall be properly labeled with: (4-5-00)

i. The clinic's name, address, and phone number; (4-5-00)

ii. The name of the client and patient; (3-30-01)

iii. The drug name and quantity; and (3-30-01)

iv. The directions for use, including dosage and quantity. (3-30-01)

g. All controlled substances shall be stored, dispensed, and disposed of in accordance with the requirements of the Uniform Controlled Substances Law and Code of Federal Regulations. (3-29-10)

09. Return or Disposal of Expired Pharmaceuticals and Biologicals. Except for controlled substances, which shall be disposed of in accordance with Paragraph 154.08.g. of these rules, all pharmaceuticals and biologicals that have exceeded their expiration date shall be removed from inventory and disposed of appropriately. (3-29-10)