

# West Virginia Board of Veterinary Medicine

NEWSLETTER

JULY 2018

A circular logo with a yellow sunburst background. The word "NEWS" is written in large, bold, blue capital letters, and "FLASH!" is written below it in red, italicized capital letters.

## INSIDE THIS ISSUE:

Fees Revisions	2
Facility Revisions	2
Controlled Substances Monitoring	3
Opioid Reduction Act	3
Controlled Substance & Opioid Questions/ Answers	4-5
DEA Questions/ Answers	6-7
Disciplinary Actions	8
Board Questions/ Answers	9
Portable Oxygen	9
Introduction & Farewells	10
CE Audit Results	10
CAET Approved Sedation Drugs	11
CAET CE Program	11
CAET Certification	11

## **§26-1-1 VETERINARIANS RULE REVISIONS**

Series 1– Organization and Operations and Licensing of Veterinarians revisions were passed by legislation and will be effective July 1, 2018. Below are a few of the new revisions:

- Criminal history record checks for new applicants
- A licensee, non-compliant with a CE audit, will be audited the following year
- Late renewals must submit evidence of completion of CE hours
- Inactive license status
- Reactivation of an inactive license
- Accept certified verification forms for application credentials from American Association of Veterinary State Boards (AAVSB)
- Notification to the Board no later than 30 days from the action of a conviction of a misdemeanor or felony, and/or disciplinary action by another federal or state agency
- Laboratory, regulatory, and medical record keeping acceptable required CE's
- New graduates are exempt from CE's the year they graduate
- Temporary permits are no longer available since we offer online jurisprudence exams

## **§26-5-1 CERTIFIED ANIMAL EUTHANASIA TECHNICIAN RULE REVISIONS**

Series 5 – CAET Rule revisions were passed by legislation and will be effective July 1, 2018. Below are a few of the new revisions:

- Federal Criminal history record checks for new applicants
- Euthanize by carbon monoxide removed
- Disciplinary action reasons
- Facility inspection requirements
- Late renewals must submit evidence of completion of CE hours
- The Board shall be notified of cease of employment
- The Board shall approve chemical restraint drugs

## **§26-6-1 FEES RULES REVISED**

Series 1 – Fee revisions were passed by legislation and will be effective July 1, 2018. Below are a few of the new revisions:

- No longer a fee for a name change
- No longer a fee for temporary license since jurisprudence exams are done online
- No longer a fee for duplicate license if done online
- Inactive and reactivation of an inactive license
- Veterinarians are no longer required to purchase the practice act since it's located online
- No longer a roster fee

## **FACILITY REVISIONS**

### **Services Performed:**

Facilities will be asked on their registration or renewal if they perform the following services: surgery, dental, radiological, and anesthesia/ventilation. The facility registration certificate will list the services **not** performed at the facility.

### **Ambulatory facilities:**

Ambulatory facilities, that are not an extension of a WV stationary veterinary facility, will now need to register their facilities and be inspected initially and every 2 years. Ambulatory facilities with multiple vehicles will only need 1 facility registration.

All ambulatory vehicles must be present at the time of inspection or there will be an additional inspection fee. There will not be an additional fee for multiple vehicles if all are present at the time of the inspection. If it is more convenient for the ambulatory practice to meet across state lines, the Inspector can inspect up to 50 miles from WV state line.

Since this is a new requirement, ambulatory facilities need to complete a facility registration application no later than **July 1, 2018**. Once the Board receives the ambulatory registration, your facility will be added to the inspection cycle based on your location. After the initial inspection, your facility will be inspected every 2 years.

### **Mobile facilities:**

Mobile facilities that provide services to **multiple clients at one location** are required to submit the following information to the Board on a quarterly basis

- Schedule of dates and times for the quarter
- List of Veterinarians practicing during the quarter
- List of emergency facilities near each location provided to the clients

## **CONTROLLED SUBSTANCES MONITORING PROGRAM (CSMP) MANDATORY REQUIREMENTS**

- Veterinarians (practitioners) who prescribe or dispense controlled substances, **must** register with the WV CSMP database (§60a-9-5a (a))
- With this access, practitioners can obtain controlled substance prescription histories for their patients
- Practitioners may also view their own controlled substance prescribing history with this account
- Information regarding all dispensed controlled substances must be entered into this database every 24 hours
- Pursuant to §60a-9-4 (e), the quantity dispensed to your patient **may not exceed** an amount adequate to treat the patient for a maximum of 72 hours **with no greater than two, 72-hour cycles dispensed in any 15 day period of time.**
- Drugs administered directly to a patient by the Veterinarian are **not** required to be entered into the CSMP database.

Below is the controlled substance database information:

**Website: [www.csappwv.com](http://www.csappwv.com)**

**Register as a “Prescriber”**

**Must have a DEA Number**

**Use NPI Number #1110001111**

**Use Zip Code #25301**

If you have any questions or concerns, please contact Mike Goff, Acting Executive Director with the WV Board of Pharmacy at 304-558-0558 or michael.l.goff@wv.gov.

## **SB 273—OPIOID REDUCTION ACT NEW REQUIREMENTS EFFECTIVE JUNE 9, 2018**

- Pursuant to §16-54-4 (i), a veterinarian may not issue more than an initial opioid prescription for more than a 7 day supply. The prescription shall be for the lowest effective dose, which in the medical judgment of the veterinarian, would be the best course of treatment for this patient and his or her condition.
- The WV Board of Pharmacy will be issuing quarterly reports of opioid prescribing patterns to identify potentially unusual or abnormal prescribers. These reports will be provided to the appropriate licensing board. §30-10-19 states that the Board may upon its own motion and shall upon the written complaint of any person or based upon the quarterly report from the Board of Pharmacy as required by §60A-9-1 *et seq.* of this code cause an investigation to be made to determine whether grounds exist for disciplinary action under this article.
- §60a-9-5a (b): All persons with prescriptive or dispensing authority .... upon initially prescribing or dispensing any Schedule II controlled substance, any opioid or any benzodiazepine to a patient who is not suffering from a terminal illness, and at least annually thereafter should the practitioner or dispenser continue to treat the patient with a controlled substance, shall access the West Virginia Controlled Substances Monitoring Program Database for information regarding specific patients. The information obtained from accessing the West Virginia Controlled Substances Monitoring Program Database for the patient shall be documented in the patient’s medical record.

## CONTROLLED SUBSTANCE & OPIOID QUESTIONS/ANSWERS

For clarification on the controlled substance monitoring and the new regulation for opioids, we are providing the below questions, and the answers that we have received from the WV Board of Pharmacy. Please contact the Board should you have questions that are not answered below:

**Question:** Some pharmacies fill the prescription under the name of the client/owner, so is it acceptable to look up the client's/owner's prescription history?

**Answer:** Yes, you can look up by the patient's and/or the client's/owner's .

**Question:** Do we have to search the WV CSAPP database for all controlled substances dispensed or just opioids?

**Answer:** Any Schedule II controlled substance, any opioid or any benzodiazepine to a patient who is not suffering from a terminal illness.

**Question:** How often do we have to search the WV CSAPP database for long term prescription use?

**Answer:** Initially, and at least annually thereafter.

**Question:** What constitutes long term controlled substance use?

**Answer:** Long-term, or "chronic" use, is normally considered at least 90 consecutive days.

**Question:** Is Tramadol considered an opioid?

**Answer:** At this point, the WV Board of Veterinary Medicine has not made a determination if Tramadol is an opioid.

**Question:** Why do veterinarians need to be concerned with monitoring this information?

**Answer:** To be aware of all of the controlled substances being dispensed regarding a particular patient, and to prevent possible diversion.

**Question:** Is the monitoring program for all controlled substances or just opioids?

**Answer:** All Schedule II, III, IV and V controlled substances.

**Question:** Is it correct that if we only use a controlled substance in hospital, do not dispense any to clients, and have a WV CSAPP account we do not have to upload the report every 24 hours?

**Answer:** If controlled substances are administered directly to a patient, those administrations are exempt from reporting.

**Question:** Do I have to report on the weekend or can I wait until Monday?

**Answer:** The next business day is acceptable.

**Question:** Do I record every day? What if there are days that I do not dispense?

**Answer:** Normally, on days that the office is open but does not dispense any controlled substances, a report of no drugs dispensed ("zero-report") is required.

**Question:** What happens if the person who does the reporting is out sick?

**Answer:** The reporting can be completed as soon as possible upon their return.

**Question:** If we are a multi doctor practice, do we have to upload a report for every doctor that dispenses medication or can we submit one form per hospital?

**Answer:** The simplest practice would be for one practitioner to order and dispense for the entire practice, and keep the individual records in-house.

**Question:** What is considered under "chronic use"?

**Answer:** Typically, "chronic" is considered 90 days or more of continuous use.

## CONTROLLED SUBSTANCE & OPIOID QUESTIONS/ANSWERS

### CONTINUED

**Question:** What about a dog that's on phenobarbital for seizures? Do you have to report it to the WV CSAPP database?

**Answer:** Phenobarbital is a C-IV substance, so dispensing these would have to be reported to the CSMP.

**Question:** What about a dog on Tramadol for arthritis?

**Answer:** The dispensing would have to be reported.

**Question:** How many dosages of phenobarbital are you allowed to prescribe at one time?

**Answer:** Phenobarbital is not an opioid, so the 7-day initial limit does not apply. Normally, a 30-day prescription is issued with 5 refills to cover 6 months of treatment.

**Question:** What is the maximum number of fentanyl patches that can be dispensed?

**Answer:** These patches are designed for 72 hours of treatment for humans. So a 7-day prescription would be 3 patches.

**Question:** After the initial 7 day dispense of an opioid, can we dispense a 30-day supply or do we have to see the pet again?

**Answer:** There is no reference to the duration of subsequent prescriptions for veterinarians, and there is no specific mention of seeing the patient (it only states "consultation"). However, the following may need to be considered:

§16-54-5. Subsequent prescriptions; limitations.

(a) No fewer than six days after issuing the initial prescription as set forth in §16-54-4 of this code, the practitioner, after consultation with the patient, may issue a subsequent prescription for an opioid to the patient if:

- (1) The subsequent prescription would not be deemed an initial prescription pursuant to §16-54-4 of this code;
- (2) The practitioner determines the prescription is necessary and appropriate to the patient's treatment needs and documents the rationale for the issuance of the subsequent prescription; and
- (3) The practitioner determines that issuance of the subsequent prescription does not present an undue risk of abuse, addiction, or diversion and documents that determination.....

**Question:** What about patients we already have on controlled substances?

**Answer:** This only applies to opioids, but this could fall under one of the below exceptions:

§16-54-7. Exceptions.

(a) This article does not apply to a prescription for a patient who is currently in active treatment for cancer, receiving hospice care from a licensed hospice provider or palliative care provider, or is a resident of a long-term care facility, or to any medications that are being prescribed for use in the treatment of substance abuse or opioid dependence.

(b) A practitioner may prescribe an initial seven-day supply of an opioid to a post-surgery patient immediately following a surgical procedure. Based upon the medical judgment of the practitioner, a subsequent prescription may be prescribed by the practitioner pursuant to the provisions of this code. Nothing in this section authorizes a practitioner to prescribe any medication which he or she is not permitted to prescribe pursuant to their practice act.

(c) A practitioner who acquires a patient after January 1, 2018, who is currently being prescribed an opioid from another practitioner shall be required to access the Controlled Substances Monitoring Program Database as set forth in §60A-9-1 et seq. of this code. Any prescription would not be deemed an initial prescription pursuant to the provisions of this section. The practitioner shall otherwise treat the patient as set forth in this code.

## DEA QUESTIONS/ANSWERS

**Since the Board has received several questions about DEA guidelines, we are providing the below questions, and the answers that we have received from the DEA. Please contact the Board should you have questions that are not answered below:**

**Question:** If there is only 1 Veterinarian within a facility with a DEA permit, can another Veterinarian or a Registered Veterinary Technician (RVT), with no issues with DEA or controlled substances, handle the controlled substances within the same veterinary facility?

**Answer:** Yes, for another Veterinarian, as long as there are procedures in place to identify that Veterinarian and their usage of controlled substance. RVT's are only permitted if under the direct supervision of a Veterinarian.

**Question:** If there is only 1 Veterinarian within a facility with a DEA permit, does the Veterinarian with the DEA permit have to be in the building (for supervision) while controlled substances are being disbursed?

**Answer:** No for the Veterinarian; but yes for the Registered Veterinary Technician.

**Question:** If there is only 1 Veterinarian within a facility with a DEA permit, are Veterinarians and Registered Veterinary Technicians allowed to have access to the keys for the locked controlled substances?

**Answer:** They may have access as long as the Veterinarian with a DEA permit is willing to give it to them. The ultimate responsibility falls on the Veterinarian.

**Question:** Can another Veterinarian that has surrendered their DEA permit handle the controlled substances within the same veterinary facility?

**Answer:** Not without the hiring facility obtaining written permission from DEA to do so.

**Question:** Can a Registered Veterinary Technician, RVT, handle the controlled substance while under the supervision of the Veterinarian that has a surrendered DEA permit?

**Answer:** The RVT would not be able to under that circumstance unless the DEA Veterinarian or facility has previously obtained permission from DEA for the vet to have access. If permission has not been granted, the Veterinarian cannot be supervising and instructing a RVT on the use of a controlled substance, as the RVT by themselves, cannot use controlled substance without direct supervision of a qualified Veterinarian.

**Question:** Can the Veterinarian with the surrendered DEA permit work at the veterinary facility as long as they do not handle or give direction of a controlled substance?

**Answer:** Yes

**Question:** Are Veterinarians allowed to take controlled substances and their logs to their residence, away from the facility where they are practicing?

**Answer:** The Veterinarian must store the drugs and records at his/her registered location. In addition, the controlled substance must be stored in a secure cabinet or safe and access to these should be limited to essential personnel only.

## DEA QUESTIONS/ANSWERS, CONTINUED

**Question:** On your Form DEA 206 , when does a report of loss controlled substance be reported? Do you do a report for as small as a loss of 1 pill and when is the cutoff to report the loss of controlled substances?

**Answer:** The Form is not intended for people to balance their inventory. It is meant to report a suspected theft or loss of controlled substances, such as employee pilferage, robbery, or loss due to some extreme circumstance. The theft and loss is to be reported immediately upon discovery in writing within 1 business day (for significant loss) and followed up with a DEA 106. The DEA 106 can be filed electronically on the DEA Diversion web site (See CFR 1301.76 (b) for additional details) .

**Question:** Currently most shelters only have 1 DEA permit number under the facility name regardless of how many Certified Animal Euthanasia Technicians (CAET's) they employ. Is this appropriate or should each CAET have their own DEA permit?

**Answer:** In WV, only the animal shelter is allowed to have a DEA. The DEA registration is based on state authority and what the state authorizes. In some other states, it is the CAET's that are registered, and not the facility.

**Question:** Some shelters have a Veterinarian that has the DEA permit but the Certified Animal Euthanasia Technicians (CAET) signs out the controlled substance and keeps a log of the usage and is responsible for keeping it stored and locked. Does the Veterinarian with the DEA permit have to be on the premises when these drugs are being handled?

**Answer:** Yes, since it's the Veterinarian's drugs. It is the shelter's drugs if the shelter is the one registered and purchasing with their DEA number.

**Question:** If a Veterinarian is using another Veterinarian's DEA permit within their same veterinary facility, can that Veterinarian take the controlled substances off the premises to treat large animals?

**Answer:** He can under the "black bag" rule .

**Question:** If a Veterinarian is using another Veterinarian's DEA permit, can that Veterinarian write scripts for controlled substances?

**Answer:** If the DEA registration is for a hospital/clinic, they would need to be assigned an internal identifier (ex. number or letter suffix to DEA #) under that DEA # that would enable DEA to identify the prescriber. If the DEA registration is in the name of another individual doctor, he cannot prescribe under that doctor's number. Refer to §1301.22 Exemption of agents and employees; affiliated practitioners.

**Question:** What should a Veterinarian do with their controlled substances and logs when they are no longer employed at a facility?

**Answer:** If a Veterinarian leaves employment and drugs were ordered under their DEA number, the Veterinarian can do one of the following:

- Transfer the drugs to that facility or to another Veterinarian's DEA registration, via invoice for Schedules 3 -5 or 222 Form for Schedule 2.
- Change their address on their DEA registration to the new location where the controlled substance and records will be kept.
- If the Veterinarian retires or no longer needs the controlled substance permit, they should contact a reverse distributor to destroy the controlled substance and maintain a copy of the DEA Form 41, documenting the destruction. Federal law requires registrants to maintain records for two years.

## RECENT DISCIPLINARY ACTION

**Copies of disciplinary actions are available on our website.**

### **CONSENT AGREEMENT—Case 1016B Dr. Jane Doyle —August 26, 2017**

**Violation:** Failed to maintain proper medical records for the care and treatment of a 1 year old female dog that was spayed.

**Penalty:** Probation for 6 months. Complete 2 hours of Board approved medical record keeping within 6 months of Consent Agreement. After completion of medical record keeping CE, provide 5 medical records for the Board to review.

### **CONSENT AGREEMENT— Case 0817A Dr. Amy Keith—December 7, 2017**

**Violation:** Failed to provide the proper standard of care and treatment of a dog by failing to take x-rays upon initial presentation of a dog with history of vomiting and diarrhea and the owner's concern for foreign body inspection and failing to perform surgery in a timely fashion.

**Penalty:** Complete 6 hours of Board approved CE's in Internal Medicine, specifically gastroenterology and radiology. Reimbursement for the cost of proceedings including but not limited to the administrative and legal expenses incurred by the Board.

### **CONSENT AGREEMENT—Case 1117B Dr. Thomas McMahon —April 11, 2018**

**Violation:** Failed to provide the proper care and treatment of a 7 year old female dog by failing to stain the eye before diagnosing or starting treatment. Failed to maintain proper medical records.

**Penalty:** Probation for 12 months. Complete 6 hours of Board approved CE's in medical record keeping within 6 months of Consent Agreement. After completion of medical record keeping CE, provide 5 medical records for the Board to review. Complete 6 hours of Board approved CE's in ophthalmology care. Reimbursement for the cost of proceedings including but not limited to the administrative and legal expenses incurred by the Board.

### **CONSENT AGREEMENT—Case 0817B Dr. Tina Keplinger —May 16, 2018**

**Violation:** Failed to provide the proper care and treatment of a 7 year old male dog by administering corticosteroid dexamethasone in the dosage chosen by Dr. Keplinger.

**Penalty:** Reprimanded. Complete 3 hours of Board approved CE's in pharmaceutical or medication administration within 6 months of Consent Agreement. Reimbursement for the cost of proceedings including but not limited to the administrative and legal expenses incurred by the Board.

**Note: One of the most common findings in complaint reviews have been insufficient documentation in medical records. As a result, we are asking the inspector to review medical records at the time of your facility inspection in an effort to help improve the quality of medical records.**



## BOARD QUESTIONS/ANSWERS

**Below are questions that were submitted to the Board regarding vaccination clinics:**

**Question:** Does a veterinarian have to meet with the client as well as examine the patient if they are getting vaccinations other than rabies, or can a technician administer these vaccinations?

**Answer:** Please refer to §30-10-.3.w. "Veterinarian-client-patient relationship" means a relationship between a veterinarian, a client and a patient, and exists when: and §30-10-.3.w.1. "A veterinarian assumes responsibility for medical judgments regarding the health of an animal and the client who is the owner or other caretaker of the animal agrees to follow the veterinarian's instructions.

**Question:** If the patient is receiving a rabies vaccination or prescription medication does the veterinarian have to meet with the client or can the veterinary technician/assistants relay information to the client?

**Answer:** Once the veterinarian/client/patient relationship has been established, the veterinary technician can relay information to the client.

**Question:** Are veterinarians required under state law or regulation to write prescriptions upon client request, assuming that a patient/client relationship exists and that the vet is already willing to dispense the medication in question from the clinic's own stock?"

**Answer:** Please refer to §26-4-5.3.a. A veterinarian shall not prescribe, dispense or administer any prescription drug without the establishment of a veterinarian/client/patient relationship." and §26-4-5.3.i. "Veterinarians shall honor a client's request for a prescription in lieu of dispensing.

## PORTABLE OXYGEN

For animals needing oxygen during transportation from their facility, the Board motioned that an option for veterinarians would be to provide a portable oxygen prescription to a home medical care company.

## **BOARD MEMBERS INTRODUCTIONS & FAREWELLS**

### **Farewell to Ms. Virginia Lee Hastings, Lay Board Member**

We would like to say farewell and best wishes to Ginny Lee. We appreciate all the hard work and dedication that Ginny Lee provided to the Board during her 20 years of service with the Board.

### **Welcome to Jo Long, New Lay Board Member**

Jo was appointed to the Board by the Governor on June 7, 2017. Jo lives on a beef farm near Williamsburg, WV. Jo graduated from Concord College, Athens WV, and received a Master's degree in early childhood education from Radford University, Radford, VA. She retired in 2015 after 39 years of teaching. Jo is an All-Star and has been a 4-H club leader for 31 years. She is President of the Greenbrier 4-H Foundation. She is also a member of the Board of Directors for the State Fair of WV and Greenbrier Valley Community Foundation.

## **ANNUAL VETERINARIAN AND RVT CE AUDITS COMPLIANCE – 99%**

In February 2018, we conducted a random CE audit of 10% of the Veterinarians and Registered Veterinary Technicians that renewed their licenses for 2018. We are pleased to report that there was only 1 veterinarian's CE's that were non-compliant.

**Note: Please remember to get a CE certification of completion from the CE programs you attend in the event that your CE's are audited after you have renewed your license**

## **CERTIFIED ANIMAL EUTHANASIA TECHNICIAN BOARD APPROVED SEDATION DRUGS**

**Effective July 1, 2018**, the following are Board approved sedation drugs for Certified Animal Euthanasia Technicians:

- **Acepromazine**
- **Telazol**
- **Dexdomitor**

## **CAET CE PROGRAM**

Our annual CE program was held at Stonewall Resort on April 20, 2018 . The instructor was Christian Nash with the Lexington Humane Society.

## **OTHER CE OPTIONS**

We understand there may be times when you may not be able to travel to the location or on the date of our CAET CE program. You are welcome to search for another CE course either in classroom or online that meets the requirements and submit to the Board for prior approval for a \$50.00 fee. All courses are not automatically approved and the \$50.00 fee is non-refundable. Once courses are approved by the Board, we they will be posted on our website. Please feel free to contact the Board if you need more clarification on the CE approval process.

Also, the Board is always looking for other CAET CE options, if you have any suggestions, please contact the Board.

## **CAET CERTIFICATION/TRAINING MORGANTOWN, WV APRIL 6-8, 2018**

The CAET initial training was held April 6-8, 2018. We had 9 applicants that passed the written practical, practical, and jurisprudence examinations.

West Virginia Board of Veterinary Medicine  
5509 Big Tyler Road, Suite 3  
Cross Lanes, WV 25313



Phone: (304) 776-8032  
Fax: (304) 776-8256  
Email: [patricia.a.holstein@wv.gov](mailto:patricia.a.holstein@wv.gov)  
[www.wvbvm.org](http://www.wvbvm.org)

**MEMBERS OF THE BOARD:**

Dr. John R. Wilson, Board Chairman  
Ms. Monica Patton, RVT, Secretary–Treasurer  
Dr. Mark A. Ayers  
Dr. Keith B. Berkeley  
Ms. Jo Long  
Ms. Amy Meadows  
Dr. Barbara Jean Meade  
Dr. D. James Moore  
Dr. William Peery

**OFFICE STAFF:**

Trish Holstein, Executive Director  
Doreen Colbert, Secretary  
Mike Leland, Inspector