

BEFORE THE BOARD OF VETERINARY MEDICINE
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT AND
ARM 24.101.413, 24.225.301,) ADOPTION
24.225.401, 24.225.511, and)
24.225.550 and the adoption of NEW)
RULES I and II regarding licensure of)
veterinary technicians)

TO: All Concerned Persons

1. On May 27, 2022, the Board of Veterinary Medicine (board) published MAR Notice No. 24-225-42 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 738 of the 2022 Montana Administrative Register, Issue No. 10.

2. On June 21, 2022, a public hearing was held on the proposed amendment and adoption of the above-stated rules via the videoconference and telephonic platform. Comments were received by the June 24, 2022, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments and the board responses are as follows:

COMMENT 1: Several commenters requested the board support legislation clarifying that animal shelters qualify for a licensure exemption under 37-18-104(4), MCA.

RESPONSE 1: While this comment exceeds the scope of this rulemaking, the board may consider the suggestion in the future.

COMMENT 2: Several commenters supported the rule changes and the board's work in implementing Senate Bill 106.

RESPONSE 2: The board appreciates all comments received during the rulemaking process.

COMMENT 3: Many commenters requested the board clarify the definition of "support personnel" in ARM 24.225.301 and asked how the rule changes impact animal shelter employees and volunteers.

RESPONSE 3: This comment exceeds the scope of the proposed rule changes. The definition refers to the employees of a veterinarian or a veterinary clinic. Animal shelters are not regulated by the board.

COMMENT 4: One commenter recommended using the defined abbreviation for licensed veterinary technician (LVT) in ARM 24.225.550(2)(d) rather than spelling out the term.

RESPONSE 4: The board agrees and is amending the rule accordingly.

COMMENT 5: One commenter suggested the board clarify ARM 24.225.550(1)(e), stating that a veterinarian client patient relationship (VCPR) may not always be established. The commenter stated that no licensee should abandon, neglect, or otherwise physically abuse any animal, regardless of whether a VCPR exists.

RESPONSE 5: The board agrees and is amending the rule accordingly.

COMMENT 6: A commenter suggested adding "specialty" to ARM 24.225.550(1)(g) for clarity.

RESPONSE 6: The board agrees and is amending the rule accordingly.

COMMENT 7: Multiple commenters opposed adding the failure to follow the National Association of State Public Health Veterinarians Compendium of Animal Rabies Prevention and Control (NASPHV) as unprofessional conduct in ARM 24.225.550(1)(k). The commenters stated that this compendium is composed of guidelines that conflict with best practices, are outside the veterinary medicine scope of practice, and would conflict with local ordinances in some Montana counties.

RESPONSE 7: The board agrees and is amending the rule accordingly.

COMMENT 8: One commenter suggested inserting "licensed" before "supervising" in ARM 24.225.550(3)(a)(i) and (ii) for consistency.

RESPONSE 8: The board agrees and is amending the rule accordingly.

COMMENT 9: One commenter suggested that (3)(a)(v) is redundant, as the specified procedures mentioned are either a failure of the licensed DVM to supervise the LVT, or the LVT practicing beyond the scope of practice and are covered elsewhere in rule.

RESPONSE 9: The board considered the comment, but opted to proceed with the proposed language to ensure both veterinarians and LVTs understand the importance of obtaining client consent prior to beginning treatment, except in cases of emergency.

COMMENT 10: One commenter suggested clearer language regarding the number of times an LVT may attempt the jurisprudence exam.

RESPONSE 10: The board agrees and is amending NEW RULE I(3)(b) accordingly. This amendment leaves the rule substantively as proposed, but is simpler to understand for licensees and the public.

COMMENT 11: One commenter requested clarification of why formal education, as opposed to on-the-job training, is not required of all LVT applicants.

RESPONSE 11: Senate Bill 106 requires that the board provide for licensure of applicants who have gained practical experience. Further, an experience pathway to licensure was important to stakeholders to allow individuals currently working as support personnel to become licensed.

COMMENT 12: One commenter stated that the tasks in NEW RULE II(1)(a) are outside the scope of LVT practice.

RESPONSE 12: The board carefully considered the LVT scope of practice before proposing the rule and is adopting NEW RULE II(1)(a) exactly as proposed.

COMMENT 13: A commenter suggested NEW RULE II(2)(j) should be included as a part of (2)(d), which specifies dental procedures which may be performed, because suturing a gingival incision is a dental procedure.

RESPONSE 13: The board agrees and is amending the rule accordingly.

COMMENT 14: One commenter suggested correcting a typographical error in NEW RULE II(2)(e) by replacing the word "for" with "or" before "blood banking purposes."

RESPONSE 14: The board agrees and is amending the rule accordingly.

COMMENT 15: One commenter supported LVTs being able to administer rabies vaccines, as the training LVTs receive in administering vaccines is no different from a veterinarian.

RESPONSE 15: The board appreciates all comments received during the rulemaking process, and notes the supervising veterinarian remains responsible for determining an LVT's competency to perform allowable procedures.

4. The department has amended ARM 24.101.413 exactly as proposed.

5. The board has amended ARM 24.225.301, 24.225.401, and 24.225.511 exactly as proposed.

6. The board has amended ARM 24.225.550 with the following changes, stricken matter interlined, new matter underlined:

24.225.550 UNPROFESSIONAL CONDUCT (1) through (1)(d) remain as proposed.

(e) abandoning, neglecting, or otherwise physically abusing a patient once the licensed veterinarian has ~~established a valid VCPR and~~ undertaken treatment of the patient;

(f) remains as proposed.

(g) identifying oneself as a member of an American Veterinary Medical Association (AVMA)-recognized specialty organization or any other specialty veterinary association if such certification has not been awarded and maintained, or using terms implying a specialty in a false and misleading manner;

(h) and (i) remain as proposed.

(j) failure to refer if a client requests a referral; .

~~(k) failure to follow the National Association of State Public Health Veterinarians Compendium of Animal Rabies Prevention and Control (NASPHV). The board adopts and incorporates by reference, Vol 248, No. 5, effective March 1, 2016. A copy may be obtained through the publisher online- <http://www.nasphv.org/documents/Compendia/Rabies.html>; 2016 Compendium.~~

(2) through (2)(c) remain as proposed.

(d) fail to adequately supervise licensed veterinary technicians LVTs and support personnel.

(3) and (3)(a) remain as proposed.

(i) failing to adequately follow direction of a licensed supervising veterinarian;

(ii) undertaking procedures or performing treatment that has not been authorized by the licensed supervising veterinarian;

(iii) through (c) remain as proposed.

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-18-202, MCA

IMP: 37-1-131, 37-1-136, 37-1-316, 37-1-319, 37-18-309, MCA

7. The board has adopted NEW RULE I (24.225.601) and NEW RULE II (24.225.602) with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I (24.225.601) VETERINARY TECHNICIAN LICENSE REQUIREMENTS-ORIGINAL APPLICANTS (1) through (3)(a) remain as proposed.

~~(b) applicants may not take the exam more than three times unless approved by the board to retake the examination. Applicants wishing to retake the exam for a fourth time must submit a written request to the board.~~ applicants that fail the exam three times may submit a written request to the board to retake the exam for a fourth time.

AUTH: 37-18-701, MCA

IMP: 37-18-701, MCA

NEW RULE II (24.225.602) LVT SCOPE OF PRACTICE-SUPERVISION

(1) through (2)(d)(ii) remain as proposed.

(iii) suturing a gingival incision;

(e) blood or blood component collection, preparation, and administration for transfusion ~~for~~ or blood banking purposes;

- (f) through (h) remain as proposed.
- (i) suturing of an existing surgical skin incision; ✓
- ~~(j) suturing a gingival incision.~~
- (3) remains as proposed.

AUTH: 37-18-102, 37-18-104, 37-18-702, MCA
IMP: 37-18-102, 37-18-104, 37-18-702, MCA

BOARD OF VETERINARY MEDICINE
BARBARA CALM, D.V.M.,
PRESIDENT

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State August 30, 2022.