

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

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

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT AND
ADOPTION

TO: All Concerned Persons

1. On June 21, 2022, at 8:30 a.m., a public hearing will be held via remote conferencing to consider the proposed amendment and adoption of the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/82306975599>
Meeting ID: 823 0697 5599, Passcode: 809185
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 823 0697 5599, Passcode: 809185

The hearing will begin with a brief introduction by department staff to explain the use of the videoconference and telephonic platform. All participants will be muted except when it is their time to speak.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Veterinary Medicine (board) no later than 5:00 p.m., on June 14, 2022, to advise us of the nature of the accommodation that you need. Please contact Kelly Welsh, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2258; Montana Relay 711; facsimile (406) 841-2305; or dlibsdivet@mt.gov.

3. GENERAL REASONABLE NECESSITY: The board and department determined it is reasonably necessary to amend and adopt rules to implement the provisions of Chapter 392, Laws of 2021, Senate Bill 106, an act providing for the licensure of veterinary technicians, establishing licensure requirements, and providing the board rulemaking authority. The bill was signed by the Governor on April 29, 2021, and will become effective January 1, 2023.

The department is amending ARM 24.101.413 to establish a licensure renewal date for veterinary technicians. Following passage of the legislation, the board established a rules committee that met seven times to set licensure standards with stakeholder input. The board received input from other Montana agencies, humane societies, professional associations, and other state veterinary boards. The

board is amending and adopting rules to establish licensure requirements and fees, continuing education standards, unprofessional conduct parameters, and scope of practice for veterinary technicians. Authority and implementation citations are amended to incorporate the relevant statutes of Senate Bill 106. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

4. The department is proposing to amend the following rule. The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

24.101.413 RENEWAL DATES AND REQUIREMENTS (1) through (4) remain the same.

(5) The following are renewal dates for the professions and occupations listed:

(a) through (al) remain the same.

	BOARD OR PROGRAM JURISDICTION	LICENSE CATEGORY	FREQUENCY	RENEWAL DATE
(am)	Veterinary Medicine	Euthanasia Agency	Annually	May 30
		Embryo Transfer Technician	Annually	November 1
		Euthanasia Technician	Annually	May 30
		Veterinarian	Annually	November 1
		<u>Veterinary Technician</u>	<u>Annually</u>	<u>November 1</u>

(6) through (7) remain the same.

AUTH: 37-1-101, 37-1-141, MCA

IMP: 37-1-101, 37-1-141

5. The board is proposing to amend the following rules. The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.225.301 DEFINITIONS (1) through (7) remain the same.

(8) "LVT" means a licensed veterinary technician under Title 37, chapter 18, MCA.

(8) and (9) remain the same but are renumbered (9) and (10).

~~(10)~~ (11) "Support personnel" means any unlicensed person employed by a licensed veterinarian who assists a licensed veterinarian in the practice of veterinary medicine. ~~The term does not include embryo transfer technicians.~~

(11) and (12) remain the same but are renumbered (12) and (13).

AUTH: 37-18-202, 37-18-603, 37-18-701, MCA
IMP: 37-18-102, 37-18-104, 37-18-603, 37-18-701, MCA

REASON: After discussions with stakeholders and licensees, the board determined it is reasonably necessary to distinguish that "support personnel" are unlicensed, and therefore do not include embryo transfer technicians or LVTs. The board believes that clarification of this distinction will allow veterinarians to exercise the appropriate amount of supervision over their employees.

24.225.401 FEE SCHEDULE

(1) through (3) remain the same.

(4) Veterinary technician

(a) application

150

(b) renewal

50

(4) and (5) remain the same but are renumbered (5) and (6).

AUTH: 37-1-134, 37-18-202, 37-18-603, 37-18-701, MCA

IMP: 37-1-134, 37-1-141, 37-1-304, 37-1-305, 37-18-302, 37-18-603, 37-18-701, MCA

REASON: It is reasonably necessary to set LVT application and renewal fees to comply with 37-1-134, MCA, by providing the amount usually needed for the operation of the board in providing similar regulatory services. The board considered current processes and associated costs to license other technicians. The board estimates the proposed fees will affect approximately 200 new and 200 renewing LVTs and increase annual revenue by \$40,000.

24.225.511 CONTINUING EDUCATION (1) Veterinarians and LVTs are required to obtain a total of 20 continuing education (CE) hours prior to renewal on November 1 of even-numbered years. The 20 hours must be obtained during the 24-month period prior to renewal in even-numbered years.

(a) through (9) remain the same.

AUTH: 37-1-131, 37-1-319, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, 37-1-321, MCA

24.225.550 UNPROFESSIONAL CONDUCT (1) ~~For the purposes of implementing the provisions of 37-1-319, MCA, the~~ The board defines "unprofessional conduct" as follows:

~~(a) violation of any state or federal statute or administrative rule regulating the practice of veterinary medicine, including any statute or rule defining or establishing standards of patient care or professional conduct or practice, or any rules established by any health agency or authority of the state or a political subdivision of those entities;~~

~~(b) resorting to fraud, misrepresentation, or deception in the examination or treatment of an animal, or in billing or reporting to a person, company, institution, or agency;~~

~~(c) (a) failing to provide care in a competent and humane manner consistent with prevailing standards of practice for the species of animal and the professed area of expertise of the veterinarian or LVT. Veterinarians Licensees must meet the currently accepted standards of practice for the profession of veterinary medicine as described under:~~

~~(i) through (iii) remain the same.~~

~~(d) possession, use, addiction to, prescription for use, diversion, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, or violation of any drug law;~~

~~(e) dispensing or prescribing a veterinary prescription drug or veterinary feed directive drug without a valid VCPR;~~

~~(f) and (g) remain the same but are renumbered (b) and (c).~~

~~(h) offering, undertaking, or agreeing to cure or treat disease or affliction by a secret method, procedure, treatment, or the treating, operating, or prescribing for any health condition by a method, means, or procedure that the licensee refuses to divulge upon demand from the board;~~

~~(i) failing to adequately supervise auxiliary staff to the extent that the patient's physical health or safety is at risk;~~

~~(j) practicing veterinary medicine after the practitioner's license is expired, terminated, revoked, or suspended;~~

~~(k) remains the same but is renumbered (d).~~

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

~~(m) making public any information without consent as per ARM 24.225.514;~~

~~(n) (f) violation of professional ethical standards by making public false or misleading negative information about another veterinarian's or LVT's professional standing or reputation;~~

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

~~(p) (h) failure to disclose records in accordance with ARM 24.225.514 in a reasonable period of time;~~

~~(q) (i) failure to report to the proper authorities cruel or inhumane treatment to animals, if the veterinarian licensee has direct knowledge of the cruel or inhumane treatment;~~

~~(r) (j) failure to refer if a client requests a referral; or~~

~~(s) failure to obtain the client's consent before placing an animal under anesthesia, performing any surgical procedure, or transporting the animal to another facility, except in emergency situations.~~

~~(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/documentsCompendiaRabies.html>; 2016 Compendium.

(2) In addition to the provisions outlined in (1), it is unprofessional conduct for a licensed veterinarian to:

(a) dispense or prescribe a veterinary prescription drug or veterinary feed directive drug without a valid VCPR;

(b) offer, undertake, or agree to cure or treat disease or affliction by a secret method, procedure, treatment, or the treating, operating, or prescribing for any health condition by a method, means, or procedure that the licensee refuses to divulge upon demand from the board;

(c) fail to obtain the client's consent before placing an animal under anesthesia, perform any surgical procedure, or transport the animal to another facility, except in emergency situations;

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

(3) In addition to the provisions outlined in (1), it is unprofessional conduct for an LVT to:

(a) practice beyond the scope of practice described in [NEW RULE II], including the following: [can I make this a colon?]

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

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

(iii) undertaking procedures or perform treatment that the LVT is not trained for or competent to perform;

(iv) dispensing a veterinary prescription drug or veterinary feed directive drug without a valid VCPR established by a licensed veterinarian; and

(v) failing to obtain the client's consent before placing an animal under anesthesia, performing any procedure, or transporting the animal to another facility, except in emergency situations;

(b) offer, undertake, or agree to cure or treat disease or affliction by a secret method, procedure, treatment, or the treating, for any health condition by a method, means, or procedure that the licensee refuses to divulge upon demand from the board;

(c) supervise or direct support personnel to perform veterinary medicine health care tasks which have not been ordered by the licensed veterinarian.

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

REASON: The board is amending this rule to incorporate standards of conduct for LVTs to implement Senate Bill 106. The board is further amending this rule to reorganize for clarity and ease of use by clearly setting forth which conduct applies to veterinarians, LVTs, or both.

It is reasonably necessary to strike (1)(a), (b), and (d), as the provisions are adequately addressed in statute at 37-1-316, MCA. The board is striking (1)(j) as it is addressed in 37-18-301, MCA.

The board is adding (1)(k) to add the failure to follow the NASPHV standards on animal rabies and control as unprofessional conduct. Stakeholders and other state agencies requested the board to develop a baseline for rabies vaccine administration.

6. The board is proposing to adopt the following new rules:

NEW RULE I VETERINARY TECHNICIAN LICENSE REQUIREMENTS–ORIGINAL APPLICANTS (1) Applicants must meet the following education requirements:

(a) be a graduate of a program accredited by the American Veterinary Medical Association (AVMA); or

(b) demonstrate a minimum of 4500 hours of on-the-job training under the supervision of a veterinarian licensed and residing in Montana.

(2) Applicants must pass the Veterinary Technician National Exam (VTNE).

(3) Applicants must pass the jurisprudence examination prescribed by the board covering the statutes and rules governing the practice of veterinary medicine in Montana:

(a) applicants must pass the jurisprudence examination with a score of 90 percent or greater;

(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.

AUTH: 37-18-701, MCA

IMP: 37-18-701, MCA

NEW RULE II LVT SCOPE OF PRACTICE–SUPERVISION (1) Under immediate supervision, an LVT may perform:

(a) placement of abdominal, thoracic, or percutaneous endoscopic gastrostomy (PEG) tubes;

(b) placement of epidural and intraosseous catheters;

(c) floating of equine teeth. All other equine dental operations must be performed by a licensed veterinarian.

(2) Under direct supervision, an LVT may perform:

(a) induction of general anesthesia;

(b) non-emergency endotracheal intubation;

(c) regional anesthesia, including paravertebral blocks, epidurals, local blocks;

(d) dental procedures including:

(i) the removal of calculus, soft deposits, plaque, and stains;

(ii) polishing of teeth;

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

(f) placement of tubes including, but not limited to, gastric, nasogastric, and nasoesophageal;

(g) application of casts, splints, and slings for the immobilization of fractures;

- (h) fluid aspiration from a body cavity or organ (i.e., cystocentesis, thoracocentesis, abdominocentesis);
- (i) suturing of an existing surgical skin incision;
- (j) suturing a gingival incision.
- (3) Under indirect supervision, an LVT may perform:
 - (a) administration of controlled substances, unless prohibited by government regulations, including administration of controlled substances for the purposes of euthanasia, following current American Veterinary Medical Association (AVMA) guidelines for evaluating euthanasia methods;
 - (b) imaging including, but not limited to, radiography, ultrasonography, computed tomography, magnetic resonance imaging, and fluoroscopy and the administration of radio-opaque agents/materials;
 - (c) collection of urine by bladder expression, catheterization (unobstructed), and insertion of an indwelling urinary catheter;
 - (d) monitoring including, but not limited to, electrocardiogram (ECG), blood pressure, carbon dioxide (CO₂), and blood oxygen saturation;
 - (e) laser therapy and animal rehabilitation therapies;
 - (f) ocular tonometry, Schirmer tear test, and fluorescein stain application;
 - (g) application of splints and slings for the temporary immobilization of fractures;
 - (h) general sedation, maintenance, and recovery.

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

REASON: Senate Bill 106 requires the board establish which veterinary practices may be performed by an LVT under direct, immediate, or indirect supervision. After considering stakeholder input during several public meetings, the board is adopting New Rule II to implement the statutory directive.

7. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdvet@mt.gov, and must be received no later than 5:00 p.m., June 24, 2022.

8. An electronic copy of this notice of public hearing is available at <http://boards.bsd.dli.mt.gov/vet>. Although the department strives to keep its websites accessible at all times, concerned persons should be aware that websites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a website do not excuse late submission of comments.

9. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons wishing to have their name added to the list shall make a written request that includes the name and e-mail or mailing address of the person to receive notices and specifies the intent to

receive notices of all board administrative rulemaking proceedings or a particular subject matter. The request must indicate whether e-mail or standard mail is preferred and may be sent or delivered to the Board of Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to (406) 841-2305; e-mailed to dlibsdrvvet@mt.gov; or by completing a request form at any rules hearing held by the board.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on April 11, 2022, by electronic mail.

11. Pursuant to 2-4-111, MCA, the board has determined that the rule changes proposed in this notice will not have a significant and direct impact upon small businesses.

12. Department staff has been designated to preside over and conduct this hearing.

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 May 17, 2022.