

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.225.410 record-keeping)
standards, 24.225.420 inspection and)
sanitation, 24.225.511 continuing)
education, and 24.225.550)
unprofessional conduct)

TO: All Concerned Persons

1. On November 27, 2013, the Board of Veterinary Medicine (board) published MAR Notice No. 24-225-37 regarding the public hearing on the proposed amendment of the above-stated rules, at page 2220 of the 2013 Montana Administrative Register, Issue No. 22.

2. On December 18, 2013, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Several comments were received by the December 26, 2013, deadline.

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

COMMENT 1: One commenter stated that anything less than a 60-day comment period is not enough time for adequate public notice and opportunity to comment.

RESPONSE 1: The board appreciates all comments made during the rulemaking process and notes that the board has complied with all requirements for this rulemaking as mandated by the Montana Administrative Procedure Act.

COMMENT 2: Two commenters suggested that the board publish their rule notices to coincide with the Montana Veterinary Medical Association's January and mid-June meetings so that MVMA members could better discuss and provide input into the proposed rule changes.

RESPONSE 2: The board understands that the recommended publication would be ideal to facilitate group discussion about rule amendments and new rules. However, the administrative rule notice and publication schedule is set by the Montana Secretary of State and board staff must work within the confines of this strict calendar. The board is unable to coordinate the timing of meetings, rule reviews, and the filing schedule.

COMMENT 3: Several commenters questioned the prohibition of veterinarians from holding animals until bill payment in ARM 24.225.410(1)(I), asserting that holding an animal is appropriate in order to receive payment, and before releasing records.

One commenter questioned why veterinary services would be handled any differently, since the rule references an exemption, 71-3-1201, MCA, which allows holding of livestock embryos and semen for payment.

RESPONSE 3: The board notes that 71-3-1201, MCA, was amended in the 2013 legislative session to delete the language that the board relied upon while drafting the rules earlier in 2012. The board further notes that the Code of Ethics of the American Association of Veterinary Medicine considers it unethical to refuse to release records until payment is made. However, the board has not formally adopted that code of ethics. Therefore, the board is amending the rule accordingly.

COMMENT 4: Several commenters opposed the amendments to record-keeping standards in ARM 24.225.410 as being too restrictive, and argued that veterinarians consult other patients' records routinely in practice, using them as guidelines for similar cases.

RESPONSE 4: The board did not intend that veterinarians within a practice cannot review records that are created by the practice as guidance in treating other animals, refreshing memory, etc.

COMMENT 5: Several commenters appreciated many of the changes proposed in the notice, including the new section at ARM 24.225.410(1)(h), as it clarifies record-keeping.

RESPONSE 5: The board appreciates all comments made during the rulemaking process.

COMMENT 6: Two commenters questioned the new section in ARM 24.225.410(1)(o), requiring veterinarians to provide prescriptions when dispensing medications. Commenters stated that writing a prescription when requested is bad for food animals and the food chain and do not believe they need to write prescriptions for medications they have on hand.

RESPONSE 6: The board notes that the intent of the rule is not to prevent a veterinarian from dispensing drugs and is not intended to interfere with a veterinarian's treatment of a patient. A prescription should always specify the animal, the dose, and the number of refills when the prescription is requested by a patient's owner, so that it may be filled at a pharmacy or written to be dispensed by the treating veterinarian.

COMMENT 7: Several individuals commented on the amendments to inspections and sanitation in ARM 24.225.420. One asked for the protocol for correcting deficiencies and asked if a non-compliant vet would just be shut down, while another stated that sanitation for ambulatory practice is as varied as the clients they work for. One requested inspections only when complaints are filed and for notices of impending inspections so that staff is protected from fraud (drug break-ins).

RESPONSE 7: The board notes that the only time an inspection occurs in the amended rules is subsequent to a complaint being filed or during an investigation, per ARM 24.225.420(1).

COMMENT 8: One commenter asked the board to provide a more refined definition of Western States Veterinary Conference in ARM 24.225.511.

RESPONSE 8: The board agrees and is amending ARM 24.225.511(2) accordingly.

COMMENT 9: One commenter suggested several amendments to ARM 24.225.511 to align with and better facilitate current department and audit unit procedures and terminology.

RESPONSE 9: The board agrees and is amending ARM 24.225.511(1)(a)(i) and (2) accordingly. However, several of the recommended changes involve sections of this rule that were not initially proposed to be amended and therefore were not held out for public comment. The board is unable to make these changes in this final notice of adoption, but will include the suggestions in a future rulemaking project.

4. The board has amended ARM 24.225.420 and 24.225.550 exactly as proposed.

5. The board has amended ARM 24.225.410 and 24.225.511 with the following changes, stricken matter interlined, new matter underlined:

24.225.410 RECORD-KEEPING STANDARDS (1) through (1)(k) remain as proposed.

(l) ~~Except for liens authorized by 71-3-1201, MCA, a~~ A veterinarian may not retain an animal or refuse to release records for failure to pay veterinary bills.

(m) through (o) remain as proposed.

24.225.511 CONTINUING EDUCATION (1) and (1)(a) remain as proposed.

(i) ~~Proof of continuing education attendance must be in the form of a list of agenda sessions attended and a certificate of completion containing the following information accompanied by a list of programs attended. The continuing education documentation must include:~~

(A) through (1)(c) remain as proposed.

(2) Credit hours shall be earned by a one-hour credit for each hour of attendance at or participation in meetings and programs approved by the board. Board-approved programs include, but are not limited to, those sponsored by the American Veterinary Medical Association, American Animal Hospital Association, ~~western states veterinary conferences~~ Western States Veterinary Conference, veterinary college conferences, state association meetings, Registry of Approved Continuing Education (RACE)-approved programs, and any other affiliated association, society, etc., related to veterinary medicine that have specific topics for veterinarians. Programs shall be of a professional veterinary nature to qualify, with

the number of practice management hours reported not to exceed 25 percent of the total required continuing education hours.

(3) through (6) remain as proposed.

BOARD OF VETERINARY MEDICINE
JEAN LINDLEY, DVM, PRESIDENT

/s/ DARCEE L. MOE

Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY

Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 12, 2014