

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

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 24.225.425 nonroutine ) PROPOSED AMENDMENT AND  
applications and 24.225.550 ) REPEAL  
unprofessional conduct, and the )  
repeal of 24.225.510 renewals )

TO: All Concerned Persons

1. On November 10, 2016, at 10:00 a.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

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 November 3, 2016, to advise us of the nature of the accommodation that you need. Please contact Lucy Richards, Board of Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdrv@mt.gov (board's email).

3. The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.225.425 NONROUTINE APPLICATIONS (1) ~~All~~ The board will review as nonroutine all applications for licensure containing a "yes" response to any question regarding applicant conduct will be considered nonroutine in nature and will be reviewed and approved by the board prior to issuance of the license.

AUTH: 37-1-131, 37-18-202, MCA  
IMP: 37-1-101, 37-1-131, 37-18-301, MCA

REASON: The board has determined it is reasonably necessary to revise this rule and further implement 37-1-101, MCA, which states the department will process routine licensure applications on behalf of the licensing boards. Currently the board reviews all applications as "nonroutine." The board concluded that this change will increase efficiencies in the application and licensing process by allowing department staff to process routine applications per the specific criteria outlined in this rule.

24.225.550 UNPROFESSIONAL CONDUCT (1) through (1)(d) remain the same.

- (e) dispensing or prescribing a veterinary prescription drug or veterinary feed directive drug without a valid veterinarian/client/patient relationship;  
(f) through (p) remain the same.

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

IMP: 37-1-131, 37-1-141, 37-1-316, 37-1-319, MCA

REASON: On June 3, 2015, the federal Food and Drug Administration (FDA) published the final rule amending the Veterinary Feed Directive drug (VFD) regulation (21 CFR 558.6) to state: "(b)...(1) In order for a VFD to be lawful, the veterinarian issuing the VFD must: (i) Be licensed to practice veterinary medicine; and (ii) Be operating in the course of the veterinarian's professional practice and in compliance with all applicable veterinary licensing and practice requirements, including issuing the VFD in the context of a veterinarian-client patient relationship (VCPR) as defined by the State. If applicable VCPR [veterinarian/client/patient relationship] requirements as defined by such State do not include the key elements of a valid VCPR as defined in § 530.3(i) of this chapter, the veterinarian must issue the VFD in the context of a valid VCPR ..."

To conform to federal law and reflect that the VFD amendment requires a VCPR when issued by a veterinarian, it is reasonably necessary for the board to amend this rule and specify that dispensing or prescribing a veterinary feed directive drug without a VCPR license is unprofessional conduct. By including this language in the rule, the FDA will defer to Montana's criteria regarding acceptable veterinary professional conduct. If the language is not included in the board rule, the FDA would require adherence to the federally defined VCPR.

Authority citations are being amended to accurately provide the sources of the board's rulemaking authority for this rule.

4. The rule proposed to be repealed is as follows:

24.225.510 RENEWALS

AUTH: 37-1-141, 37-18-202, MCA

IMP: 37-1-141, MCA

REASON: The board is repealing this unnecessary rule because the department administers a standardized renewal process for all professional and occupational licensure boards, and this rule merely references the department rules on renewals.

5. 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 by e-mail to [dlibsdrvvet@mt.gov](mailto:dlibsdrvvet@mt.gov), and must be received no later than 5:00 p.m., November 14, 2016.

6. An electronic copy of this notice of public hearing is available at [www.vet.mt.gov](http://www.vet.mt.gov) (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request 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 the office at (406) 841-2305; e-mailed to [dlibsdrvvet@mt.gov](mailto:dlibsdrvvet@mt.gov); or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.225.425 and 24.225.550 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.225.510 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; facsimile (406) 841-2305; or e-mail [dlibsdrvvet@mt.gov](mailto:dlibsdrvvet@mt.gov).

10. Lucy Richards, Executive Officer, has been designated to preside over and conduct this hearing.

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 October 3, 2016