

WSR 22-04-087

PROPOSED RULES

DEPARTMENT OF HEALTH

(Veterinary Board of Governors)

[Filed January 31, 2022, 2:48 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-01-013.

Title of Rule and Other Identifying Information: WAC 246-933-501 through 246-933-550, repealing WAC 246-933-530, and creating a new section. The veterinary board of governors (board) is proposing rule amendments regarding animal care and control agencies and nonprofit humane societies (entities) providing full veterinary services at reduced costs to low-income households. Requirements regarding record-keeping and annual reporting of low-income clients are considered in the proposal in order to implement the statutory requirements in SSB 5004 (chapter 142, Laws of 2019).

Hearing Location(s): On March 21, 2022, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the veterinary board of governors will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. Webinar only, link [https://teams.microsoft.com/l/meetup-join/19%3ameeting_MTk5NTFmMmYtNWJmOS00ZTZiLTk2ZmUtMjgwMGUzMWY2ZGU3%40thread.v2/0?](https://teams.microsoft.com/l/meetup-join/19%3ameeting_MTk5NTFmMmYtNWJmOS00ZTZiLTk2ZmUtMjgwMGUzMWY2ZGU3%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%220id%22%3a%2295c5f170-86f5-4879-9127-4be26eb17467%22%7d)

[context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%220id%22%3a%2295c5f170-86f5-4879-9127-4be26eb17467%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_MTk5NTFmMmYtNWJmOS00ZTZiLTk2ZmUtMjgwMGUzMWY2ZGU3%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%220id%22%3a%2295c5f170-86f5-4879-9127-4be26eb17467%22%7d), phone 253-372-2181, Access Code 812 987 270#.

Date of Intended Adoption: March 21, 2022.

Submit Written Comments to: Lorelei Walker, Program Manager, Department of Health, Veterinary Board of Governors, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, by March 16, 2022.

Assistance for Persons with Disabilities: Contact Lorelei Walker, phone 360-236-4947, fax 360-236-2901, TTY 711, email loralei.walker@doh.wa.gov, by March 14, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board is proposing rule amendments to chapter 246-933 WAC regarding regulations for animal care and control agencies and nonprofit humane societies (entities) to implement statutory changes under SSB 5004. Previously, entities were limited to providing electronic identification, surgical sterilization, and vaccinations at reduced cost to low-income households. The statutory change now allows entities to provide full veterinary services to low-income households. An annual reporting requirement is included to demonstrate that entities provide services at a reduced cost exclusively to low-income households. The proposed rule identifies the types of records an agency may require from low-income clients as documentation of proof of low-income, explains retention, and sets an annual reporting requirement to provide clearer and more enforceable standards for these veterinary services. The record keeping requirement also demonstrates how entities do not provide veterinary services at reduced costs to those not qualifying as low-income but may be served in emergency situations. Enforcement requirements are consolidated without changing their effect, allowing the repeal of WAC 246-933-530.

Reasons Supporting Proposal: SSB 5004 requires the board to adopt rules regarding the implementation of recordkeeping of agencies for low-income housing. The rule is necessary to create and enforce standards regarding veterinary services provided at reduced cost to low-income households, and how entities may differentiate between those qualifying for reduced costs and those that do not, in order to bill appropriately.

Statutory Authority for Adoption: RCW 18.92.030 and 18.92.260.

Statute Being Implemented: SSB 5004 (chapter 142, Laws of 2019) as codified as RCW 18.92.250; and RCW 18.92.260.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Veterinary board of governors, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Lorelei Walker, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4947.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Lorelei Walker, Department of Health, Veterinary Board of Governors, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4947, fax 360-236-2901, TTY 711, email lorelei.walker@doh.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of exemptions: Proposed changes to WAC 246-933-501, 246-933-510, and 246-933-530 are exempt under RCW 34.05.310 (4) (d). Proposed new language in WAC 246-933-515 are exempt under RCW 34.05.310 (4) (c).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. 2017 Industry NAICS code 813312 calculates the annual minimal [minimum] cost threshold of these businesses to be \$1,546.87. This threshold represents 0.3 percent of the average annual gross business income.

The board assumes that the proposed rule amendments to WAC 246-933-520 will not impose more-than-minor costs exceeding \$1,546.87 per year on nonprofit humane societies and animal care and control agencies as defined in RCW 16.52.001.

The board does not have an adequate estimate as to how many low-income clients (new or existing) would need verification after implementation of the proposed rule, making the annual cost of low-income verification unknown. The unit cost per household verification to comply with this rule ranges from \$0 (for entities providing veterinary services that are already in compliance with the rule) and \$2.83 (for

entities providing veterinary services that are not currently in compliance with the rule). This estimate is based on an average hourly salary of \$17 for a humane society employee and up to 10 minutes spent per household verified. The one-time cost of developing a tracking system (spreadsheet) to comply with the rule ranges from \$0 (for entities providing veterinary services that are already in compliance with the rule) and \$68 (for entities providing veterinary services that are not currently in compliance with the rule), based on four hours of a humane society employee's time. The cost of updating the spreadsheet by a staff member is estimated to be nominal.

January 31, 2022
Aja Senestraro, DVM, Chair
Veterinary Board of Governors

OTS-3372.3

AUTHORIZING ANIMAL CARE AND CONTROL AGENCIES AND NONPROFIT HUMANE SOCIETIES TO PROVIDE ((LIMITED)) VETERINARY SERVICES

AMENDATORY SECTION (Amending WSR 03-14-035, filed 6/23/03, effective 7/24/03)

WAC 246-933-501 Intent. It is the intent of the legislature to allow qualified animal control agencies and humane societies to provide ~~((limited))~~ veterinary services to low-income ~~((members of))~~ households in our communities. It is not the intent of the legislature to allow these ~~((agencies))~~ entities to provide veterinary services to the public at large, except for in emergency situations.

[Statutory Authority: RCW 18.92.030 and 18.92.260. WSR 03-14-035, § 246-933-501, filed 6/23/03, effective 7/24/03.]

AMENDATORY SECTION (Amending WSR 03-14-035, filed 6/23/03, effective 7/24/03)

WAC 246-933-510 Definitions. ~~((As used in))~~ The definitions in this section apply throughout this chapter((+)) unless the context clearly requires otherwise.

(1) "Entity" means animal care and control agencies as defined in RCW 16.52.011 and nonprofit humane societies, which have qualified under section 501 (c) (3) of the Internal Revenue Code.

(2) "Emergency care" as referred to in RCW 18.92.260 (1) (b) means an unexpected, serious occurrence or situation which urgently requires

prompt action in order to prevent an animal's death or permanent injury, unless defined otherwise by local ordinance.

(3) "Low-income household" as defined in RCW 43.185A.010 means a single person, family or unrelated persons living together whose adjusted family income is less than ((eighty)) 80 percent of the median family income, adjusted for household size, for the county where the project is located ((RCW 43.185A.010(5))).

[Statutory Authority: RCW 18.92.030 and 18.92.260. WSR 03-14-035, § 246-933-510, filed 6/23/03, effective 7/24/03.]

NEW SECTION

WAC 246-933-515 Postadoption and emergency care. As provided for in RCW 18.92.260, an entity may provide emergency care under this section regardless of household income. Entities may provide veterinary care for sick animals up to 30 days postadoption. Low-income households are not subject to the 30-day limit.

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AMENDATORY SECTION (Amending WSR 03-14-035, filed 6/23/03, effective 7/24/03)

WAC 246-933-520 Registration, household eligibility, and auditing. ((A qualified animal care, control agency, or nonprofit humane society may)) (1) An entity must obtain a registration credential in order to provide veterinary services as described in RCW 18.92.260. ((Refer to the requirements of chapter 246-12 WAC, Part 3.)) To obtain a registration the entity must comply with WAC 246-12-060.

(2) To provide veterinary services, a registered entity must verify a household qualifies as a low-income household as defined in WAC 246-933-510(3).

(3) To verify to an entity eligibility as low-income, the household must provide:

(a) Proof of income from sources including, but not limited to:

(i) Federal tax returns, including W-2 or 1099 forms;

(ii) Social Security benefits;

(iii) Retirement benefits;

(iv) Worker's compensation or other disability benefits; or

(v) Payroll stubs or other proof of payment from an employer; or

(b) Proof of eligibility for or receipt of benefits from sources including, but not limited to:

(i) Medicare or medicaid;

(ii) The Housing Choice Voucher Program under 29 C.F.R. Sec. 8 (Section 8) housing or another low-income housing program;

(iii) Temporary assistance to needy families (TANF); or

(iv) Women, infants, and children (WIC) nutrition program.

(4) Those unable to provide documentation of low-income under subsection (3) of this section due to homelessness, eviction, or similar circumstances, may sign an attestation of low-income status. An entity may use its discretion when screening and approving households who request to sign an attestation. Attestations must document the

reasons for providing services to the low-income household. Entities should prioritize resources for those most in need.

(5) (a) Upon request, entities must provide the board documentation that demonstrates they have verified low-income status of households served. Entities must maintain such documentation for a minimum of three years from the date of service.

(b) Records provided in response to the board's request must not contain confidential information of the client or household.

(c) An entity's failure to obtain, maintain, or provide records according to this section is grounds for disciplinary action.

[Statutory Authority: RCW 18.92.030 and 18.92.260. WSR 03-14-035, § 246-933-520, filed 6/23/03, effective 7/24/03.]

AMENDATORY SECTION (Amending WSR 14-13-016, filed 6/6/14, effective 7/7/14)

WAC 246-933-530 Purchase and use of legend drugs and controlled substances. (1) For purposes of this section, "drugs" includes both legend drugs and controlled substances.

(a) "Legend drugs" means any drugs that are required by state law or regulation of the pharmacy quality assurance commission to be dispensed on prescription only or are restricted to use by practitioners only.

(b) "Controlled substances" means a drug, substance, or immediate precursor in Schedule I through V of Article II of chapter 69.50 RCW.

(2) A licensed veterinarian shall be responsible for the policies and procedures regarding the ordering, purchasing, safe storage, dispensing and administration of all drugs used at an entity registered under RCW 18.92.260 in connection with surgical sterilization or emergency care. Entities are responsible for the ordering, purchasing, and safe storage of all drugs.

(a) The veterinarian shall comply with the pharmacy quality assurance commission requirements for controlled substances in chapter 69.50 RCW, and legend drugs in chapter 69.41 RCW.

(b) All drugs shall be stored in accordance with WAC 246-933-320.

(c) All controlled substances shall be stored, maintained, administered, dispensed and prescribed in compliance with federal and Washington state laws.

(d) All legend drugs shall be dispensed in accordance with RCW 18.92.012, 18.92.013, and WAC 246-933-340(5).

(e) A record of all drugs administered (~~and/or~~) or dispensed shall be kept in the individual animal's record.

(f) All records are subject to inspection by the pharmacy quality assurance commission investigators.

[Statutory Authority: RCW 18.92.030(2). WSR 14-13-016, § 246-933-530, filed 6/6/14, effective 7/7/14. Statutory Authority: RCW 18.92.030 and 18.92.260. WSR 03-14-035, § 246-933-530, filed 6/23/03, effective 7/24/03.]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-933-550 Investigation.