

WSR 23-16-098

PROPOSED RULES

DEPARTMENT OF HEALTH

(Veterinary Board of Governors)

[Filed July 31, 2023, 2:09 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-01-048.

Title of Rule and Other Identifying Information: Physician health monitoring programs for substance use disorders of veterinarian professions. WAC 246-933-601 through 246-933-630 physician health monitoring. The veterinary board of governors (board) is proposing rule amendments to the physician health substance use disorder monitoring program to update language changes made by SSB 5496 (chapter 43, Laws of 2022).

Hearing Location(s): On September 11, 2023, at 9:05 a.m., at Department of Labor and Industries, 7273 Linderson Way S.W., Room S118/119, Tumwater, WA 98501; or virtual option. Join on your computer, mobile app, or room device [https://gcc02.safelinks.protection.outlook.com/ap/t-59584e83/?url=https%3A%2F%2Fteams.microsoft.com%2F1%2Fmeetup-join%2F19%253ameeting\\_ODMxYTFhNmUtNWE5OC000TBhLTk3OTktM2Q3OTRkMmE1NTc1%2540thread.v2%2F0%3Fcontext%3D%257b%2522tid%2522%253a%252211d0e217-264e-400a-8ba0-57dcc127d72d%2522%252c%2522oid%2522%253a%2522b0a413cc-861e-438f-ad33-52df6d9a4283%2522%257d&data=05%7C01%7CJennifer.Santiago%40doh.wa.gov%7Ce8161d9810ee400d922208daa180f1a7%7C11d0e217264e400a8ba057dcc127d72d%7C0%7C0%7C637999872425229961%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IklhaWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=2tr7BMYchw6UAcdfBBWdYWM4tiNH15zLf7Ouc1YUYjE%3D&reserved=0](https://gcc02.safelinks.protection.outlook.com/ap/t-59584e83/?url=https%3A%2F%2Fteams.microsoft.com%2F1%2Fmeetup-join%2F19%253ameeting_ODMxYTFhNmUtNWE5OC000TBhLTk3OTktM2Q3OTRkMmE1NTc1%2540thread.v2%2F0%3Fcontext%3D%257b%2522tid%2522%253a%252211d0e217-264e-400a-8ba0-57dcc127d72d%2522%252c%2522oid%2522%253a%2522b0a413cc-861e-438f-ad33-52df6d9a4283%2522%257d&data=05%7C01%7CJennifer.Santiago%40doh.wa.gov%7Ce8161d9810ee400d922208daa180f1a7%7C11d0e217264e400a8ba057dcc127d72d%7C0%7C0%7C637999872425229961%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IklhaWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=2tr7BMYchw6UAcdfBBWdYWM4tiNH15zLf7Ouc1YUYjE%3D&reserved=0)

Date of Intended Adoption: September 11, 2023.

Submit Written Comments to: Melissa Green, P.O. Box 47852, Olympia, WA 98504, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, by September 11, 2023.

Assistance for Persons with Disabilities: Contact Melissa Green, phone 360-236-2905, fax 360-236-2901, TTY 711, email [melissa.green@doh.wa.gov](mailto:melissa.green@doh.wa.gov), by September 4, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: For clarity, the proposed rules make technical amendments to conform existing rule language with the changes made in SSB 5496. Amendments include terminology and definitions for currently accepted language and replacing "substance abuse" with "substance use disorder." The board is also proposing amendments to correct citations and make other general housekeeping changes.

Reasons Supporting Proposal: For clarity, the proposed rules make technical amendments to conform existing rule language with the changes made in SSB 5496. The changes would not affect licensure requirements.

Statutory Authority for Adoption: RCW 18.92.030, 18.130.050, 18.130.175, and 18.130.186.

Statute Being Implemented: RCW 18.92.047, 18.130.050, 18.130.175, and 18.130.186.

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: Jennifer Santiago, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2985; Imple-

mentation and Enforcement: Melissa Green, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2905.

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

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules make technical amendments to conform existing rule language with the changes made in SSB 5496. It does not change the effect of the rule as it is exempt under RCW 34.05.328 (5)(b)(iii) and (iv).

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(4).

Explanation of exemptions: The proposed rule amendments incorporate SSB 5496 terminology changes and clarify existing rule language without changing the effect of the rule.

Scope of exemption for rule proposal:

Is fully exempt.

July 28, 2023  
Dordor Vang, DVM, Chair  
Veterinary Board of Governors

OTS-4675.1

((~~SUBSTANCE ABUSE~~)) PHYSICIAN HEALTH MONITORING

**Participation in Approved Physician Health or Substance Use Disorder  
Monitoring Program**

AMENDATORY SECTION (Amending WSR 91-02-060, filed 12/28/90, effective 1/31/91)

**WAC 246-933-601 Intent.** It is the intent of the legislature that the veterinary board of governors seek ways to identify and support the rehabilitation of veterinarians (~~(where practice or competency may be impaired due to the abuse of drugs or alcohol)~~) who have a health condition that may impair their ability to practice. The legislature intends that these veterinarians be treated so that they can return to or continue to practice veterinary medicine (~~(in a way which~~

~~safeguards the public~~) safely and competently. The legislature specifically intends that the veterinary board of governors establish an alternate program to the traditional administrative proceedings against such veterinarians.

In lieu of disciplinary action under RCW 18.130.160 and if the veterinary board of governors determines that the unprofessional conduct may be the result of ~~((substance abuse))~~ an impairing health condition, the veterinary board of governors may refer the license holder to a ~~((voluntary substance abuse monitoring program approved by the veterinary board of governors))~~ monitoring program.

[Statutory Authority: RCW 18.92.030. WSR 91-02-060 (Order 108B), recodified as § 246-933-601, filed 12/28/90, effective 1/31/91. Statutory Authority: RCW 18.130.175. WSR 90-21-029 (Order 93), § 308-158-010, filed 10/9/90, effective 11/10/90.]

AMENDATORY SECTION (Amending WSR 91-02-060, filed 10/9/90, effective 11/10/90)

**WAC 246-933-610 Definitions.** (~~(As used in this chapter:~~

(1) ~~"Approved substance abuse monitoring program" or "approved monitoring program" is a program, complying with applicable state law and approved by the board, which oversees a veterinarian's compliance with a contractually prescribed substance abuse recovery program. Substance abuse monitoring programs may provide evaluation and/or treatment to participating veterinarians.~~

(2) ~~"Contract" is a comprehensive, structured agreement between the recovering veterinarian and the approved monitoring program wherein the veterinarian consents to comply with the monitoring program and the required components for the veterinarian's recovery activity.~~

(3) ~~"Approved treatment facility" is a facility recognized as such according to RCW 18.130.175(1).~~

(4) ~~"Substance abuse" means the impairment, as determined by the board, of a veterinarian's professional services by an addiction to, a dependency on, or the use of alcohol, legend drugs, controlled substances, or other addictive drugs.~~

(5) ~~"Aftercare" is that period of time after intensive treatment that provides the veterinarian or the veterinarian's family with group or individual counseling sessions, discussions with other families, ongoing contact and participation in self-help groups, and ongoing continued support of treatment and/or monitoring program staff.~~

(6) ~~"Veterinarian support group" is a group of veterinarians and/or other health professionals meeting regularly to support the recovery of its members. The group provides a confidential setting with a trained and experienced facilitator in which participants may safely discuss drug diversion, licensure issues, return to work, and other professional issues related to recovery.~~

(7) ~~"Twelve-steps groups" are groups such as Alcoholics Anonymous, Narcotics Anonymous, and related organizations based on a philosophy of anonymity, peer group association, and self-help.~~

(8) ~~"Random drug screens" are the observed collection of specified bodily fluids together with laboratory tests to detect the presence of drugs of abuse in bodily fluids. Collection must occur at irregular intervals not known in advance by the person to be tested.~~

(9) ~~"Veterinarian" means an impaired practitioner.)~~

The definitions in this section apply in WAC 246-933-601 through 246-933-630 unless the context clearly requires otherwise.

(1) "Continuing care" means ongoing treatment and other supports recommended by treatment providers following a period of intensive treatment or illness stabilization, typically at a lower level of care or service intensity.

(2) "Health professional monitoring group" means a group of veterinarians and other health professionals meeting regularly to support the health and well-being of its members. The group provides a confidential setting in which participants may safely discuss impairing or potentially impairing health conditions with a trained and experienced facilitator.

(3) "Impaired" or "impairment" means an inability to practice veterinary medicine with reasonable skill and safety due to a health condition.

(4) "Monitoring agreement" means a comprehensive, structured set of written expectations between the recovering veterinarian and the monitoring program wherein the veterinarian consents to comply with the expectations and elements of monitoring as required by the program.

(5) "Monitoring program" means a physician health program or voluntary substance use disorder monitoring program, which complies with applicable state law and is approved by the board. Such programs oversee a veterinarian's compliance with program requirements and may provide recommendations for approved evaluators or treatment providers.

(6) "Mutual support group" means a group within a 12-step or other organization approved by the monitoring program that promotes a philosophy of personal growth and change through peer support.

(7) "Random drug screens" means the collection of specified bodily fluids together with laboratory tests to detect the presence of drugs related to a substance use. Collection must occur at irregular intervals not known in advance by the veterinarian.

(8) "Substance use disorder" means continued use of substances and related behaviors that continue despite negative consequences.

(9) "Veterinarian" means an impaired or potentially impaired practitioner.

[Statutory Authority: RCW 18.92.030. WSR 91-02-060 (Order 108B), recodified as § 246-933-610, file 12/28/90, effective 1/31/91. Statutory Authority: RCW 18.130.175. WSR 90-21-029 (Order 93), § 308-158-020, filed 10/9/90, effective 11/10/90.]

AMENDATORY SECTION (Amending WSR 91-24-098, filed 12/4/91, effective 1/4/92)

**WAC 246-933-620 Approval of ((~~substance abuse~~) monitoring program((s))).** The board shall approve the monitoring program((~~s~~)) which shall participate in the ((~~recovery~~)) rehabilitation of veterinarians. The board shall enter ((~~into~~)) a contract with the ((~~approved substance abuse~~)) monitoring program((~~s~~)) on an annual basis.

(1) ((~~An approved~~)) A monitoring program may provide referrals for evaluations ((~~and/or~~)) or treatment to the participating veterinarians.

(2) ((~~An approved~~)) Monitoring program ((~~staff~~)) shall have ((~~the~~)) staff with qualifications and knowledge ((~~of both substance~~

~~abuse as defined in this chapter and the practice of veterinary medicine to be able)) commensurate with the scope of health conditions monitored by the program and the practice of veterinary medicine. At a minimum, program staff should be qualified to evaluate:~~

- ~~(a) ((Drug screening laboratories)) Toxicology testing results;~~
- ~~(b) Laboratory results;~~
- ~~(c) ((Providers of substance abuse treatment, both individual and facilities)) The qualifications, work products, and recommendations of evaluators and treatment providers who serve program participants;~~
- ~~(d) ((Veterinarians' support)) Facilitator reports from health professional monitoring group((s));~~
- ~~(e) The ((veterinarians' )) veterinarian's work environment; and~~
- ~~(f) The ability of the veterinarian to practice with reasonable skill and safety.~~

~~(3) ((An approved monitoring program shall enter into a contract with the veterinarian and the board to oversee the veterinarian's compliance with the requirements of the program.~~

~~(4) An approved)) Monitoring program staff shall ((evaluate and recommend to the board, on an individual basis,)) determine whether a veterinarian ((will be prohibited from engaging in the practice of)) should refrain from practicing veterinary medicine for a period ((of time and restrictions, if any, on the veterinarian's access to controlled substances in the work place.~~

~~(5) An approved monitoring program shall maintain records on participants.~~

~~(6) An approved monitoring program shall be responsible for providing feedback to the veterinarian as to whether treatment progress is acceptable.~~

~~(7) An approved monitoring program shall report to the board any veterinarian who fails to comply with the requirements of the monitoring program.~~

~~(8) An approved monitoring program shall provide the board with a statistical report on the program, including progress of participants, at least annually, or more frequently as requested by the board. Progress reports shall not include names or any identifying information regarding voluntary participants.~~

~~(9)) pending further evaluation or treatment and whether the veterinarian's access to controlled substances, or other workplace accommodations, are recommended to protect the health and well-being of the participant and their patients. Refusal to comply with recommended voluntary practice cessation, practice restrictions, or workplace accommodations will be reported to the board.~~

~~(4) A monitoring program shall:~~

~~(a) Enter an agreement with the veterinarian and the board to oversee the veterinarian's compliance with program requirements;~~

~~(b) Maintain records on participants;~~

~~(c) Provide feedback to the veterinarian if the treatment progress is acceptable;~~

~~(d) Report to the board any veterinarian who fails to comply with the requirements of the program;~~

~~(e) Provide the board with a statistical report on the program and relevant program updates, at least annually, or as requested by the board. Reports shall not include any identifying information regarding voluntary participants;~~

~~(f) Provide the board with a complete financial breakdown of cost for each veterinary participant by usage as required by the contract;~~

(g) Provide the board with a complete annual audited financial statement.

(5) The board shall approve and provide the monitoring program guidelines on treatment, monitoring, ~~((and/or))~~ or limitations on the practice of veterinary medicine for ~~((those participating in the program))~~ participants.

~~((10) An approved monitoring program shall provide for the board a complete financial breakdown of cost for each individual veterinary participant by usage at an interval determined by the board in the annual contract.~~

~~((11) An approved monitoring program shall provide for the board a complete annual audited financial statement.))~~

[Statutory Authority: RCW 18.92.030 and 18.130.050. WSR 91-24-098 (Order 221B), § 246-933-620, filed 12/4/91, effective 1/4/92. Statutory Authority: RCW 18.92.030. WSR 91-02-060 (Order 108B), recodified as § 246-933-620, filed 12/28/90, effective 1/31/91. Statutory Authority: RCW 18.130.175. WSR 90-21-029 (Order 93), § 308-158-030, filed 10/9/90, effective 11/10/90.]

AMENDATORY SECTION (Amending WSR 91-24-098, filed 12/4/91, effective 1/4/92)

**WAC 246-933-630 Participation in approved ~~((substance abuse))~~ monitoring programs.**

(1) In lieu of disciplinary action, the veterinarian may accept board referral into ~~((an approved substance abuse))~~ a monitoring program.

(a) ~~((The veterinarian shall undergo a complete physical and psychosocial evaluation before entering the approved monitoring program. This evaluation will be performed by health care professionals with expertise in chemical dependency.))~~ Before entering the program, the veterinarian shall undergo evaluation(s) by experts approved by the program as a condition of program participation.

(b) The veterinarian shall enter into ~~((a contract))~~ an agreement with the ~~((approved substance abuse monitoring program to comply with the requirements of the program which shall include, but not be limited to the following))~~ program that identifies program requirements. The veterinarian shall:

(i) ~~((The veterinarian shall agree to))~~ Remain free of all mind-altering substances, including alcohol, except for medications prescribed by an authorized prescriber, as defined in RCW 69.41.030 and 69.50.101, when specified by the monitoring program agreement.

(ii) ~~((The veterinarian shall))~~ Submit to initial and random ~~((drug screening as))~~ toxicology testing when specified by the ~~((approved))~~ monitoring program.

(iii) ~~((The veterinarian shall))~~ Sign a waiver allowing the ~~((approved monitoring))~~ program to release information to the board if the veterinarian does not comply with the ~~((requirements of this contract))~~ program or monitoring agreement.

~~((iv) The veterinarian shall undergo approved substance abuse treatment in an approved treatment facility.~~

~~((v) The veterinarian shall complete the prescribed aftercare program of the approved treatment facility, which may include individual and/or group psychotherapy.~~

~~(vi) The veterinarian shall cause the treatment counselor(s) to provide))~~ (iv) Complete continuing care as recommended by the treatment providers.

~~(v) Ensure that treatment provider(s) send reports to the ((approved monitoring)) program at specified intervals. Reports shall include treatment ((prognosis and goals))~~ adherence and progress.

~~((vii) The veterinarian shall attend veterinarians' support groups and/or twelve-step group meetings as specified by the contract.~~

~~(viii) The veterinarian shall))~~ (vi) Attend health professional monitoring groups and mutual support groups as recommended by the program.

(vii) Comply with ((specified)) practice conditions and restrictions ((as defined by the contract)).

(viii) Comply with other conditions in the agreement.

~~(ix) Except for (b)(i) through (iii) of this subsection, ((an approved monitoring)) a program may make an exception to the foregoing requirements ((on)) of individual ((contracts)) agreements.~~

~~(c) The veterinarian is responsible for paying the costs of ((the physical and psychosocial evaluation, substance abuse treatment, random drug screens, and therapeutic group sessions))~~ evaluation, treatment, toxicology testing, and monitoring program fees.

~~(d) The veterinarian may be subject to disciplinary action under RCW 18.130.160 and 18.130.180 if the veterinarian ((does not consent to be referred))~~ refuses referral to the ((approved)) monitoring program, does not comply with specified practice restrictions or modifications, or does not successfully complete the program.

~~(2) A veterinarian who is not being investigated or monitored by the board for ((substance abuse))~~ an impairing health condition and who is not currently the subject of ((current)) disciplinary action, may voluntarily participate in the ((approved)) monitoring program without ((being referred)) referral by the board. Such voluntary participants shall not be subject to disciplinary action under RCW 18.130.160 and 18.130.180 for their ((substance abuse)) health condition, and shall not have their participation made known to the board if they meet the requirements of the ((approved monitoring)) program:

~~(a) Before entering the program, the veterinarian shall undergo ((a complete physical and psychosocial evaluation before entering the approved monitoring program. This evaluation shall be performed by health care professional(s) with expertise in chemical dependency.~~

~~(b) The veterinarian shall enter into a contract with the approved substance abuse monitoring program to comply with the requirements of the program which may include, but not be limited to the following:~~

~~(i) The veterinarian shall undergo approved substance abuse treatment in an approved treatment facility.~~

~~(ii) The veterinarian shall agree to))~~ evaluation(s) by experts approved by the program as a condition of program participation.

~~(b) The veterinarian shall enter into an agreement with the program that identifies program requirements. The veterinarian shall:~~

~~(i) Remain free of all mind-altering substances, including alcohol, except for medications prescribed by an authorized prescriber, as defined in RCW 69.41.030 and 69.50.101, when specified by the monitoring program agreement.~~

~~((iii) The veterinarian shall complete the prescribed aftercare program of the approved treatment facility, which may include individual and/or group psychotherapy.~~

~~(iv) The veterinarian shall cause the treatment counselor(s) to provide))~~ (ii) Complete continuing care as recommended by the treatment providers.

~~(iii) Ensure the treatment provider(s) send reports to the ((approved monitoring)) program at specified intervals. Reports shall include treatment ((prognosis and goals.~~

~~(v) The veterinarian shall submit to random observed drug screening as specified by the approved monitoring program.~~

~~(vi) The veterinarian shall attend veterinarians' support groups and/or twelve-step group meetings as specified by the contract.~~

~~(vii) The veterinarian shall))~~ adherence and progress.

~~(iv) Submit to initial and random toxicology testing when specified by the program.~~

~~(v) Attend health professional monitoring groups and mutual support groups as recommended by the program.~~

~~(vi) Comply with practice conditions and restrictions ((as defined by the contract)).~~

~~((viii) The veterinarian shall))~~ (vii) Sign a waiver allowing the ((approved monitoring)) program to release information to the board if the veterinarian does not comply with the ((requirements of this contract)) agreement.

~~(viii) Comply with other conditions in the agreement.~~

~~(ix) Except for (b)(ii) through (iii) of this subsection, ((an approved monitoring)) a program may make an exception to the foregoing requirements ((on)) of individual ((contracts)) agreements.~~

~~(c) The veterinarian is responsible for paying the costs of ((the physical and psychosocial evaluation, substance abuse treatment, random drug screens, and therapeutic group sessions)) evaluation, treatment, toxicology testing, and monitoring program fees.~~

~~(3) ((Treatment and pretreatment))~~ Monitoring program records shall be confidential as provided by law.

[Statutory Authority: RCW 18.92.030 and 18.130.050. WSR 91-24-098 (Order 221B), § 246-933-630, filed 12/4/91, effective 1/4/92. Statutory Authority: RCW 18.92.030. WSR 91-02-060 (Order 108B), recodified as § 246-933-630, filed 12/28/90, effective 1/31/91. Statutory Authority: RCW 18.130.175. WSR 90-21-029 (Order 93), § 308-158-040, filed 10/9/90, effective 11/10/90.]