

WSR 23-03-110

PROPOSED RULES

DEPARTMENT OF HEALTH

(Veterinary Board of Governors)

[Filed January 18, 2023, 8:11 a.m.]

Supplemental Notice to WSR 22-04-087.

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, authorizing animal care and control agencies and nonprofit humane societies to provide limited veterinary services. The veterinary board of governors (board) is proposing rule amendments and the repeal of WAC 246-933-550 to implement SSB 5004 (chapter 142, Laws of 2019) to allow animal care and control agencies and nonprofit humane societies (entities) to provide full veterinary service at reduced costs to low-income households. The supplemental proposal streamlines and clarifies recordkeeping and reporting requirements for agencies to allow more flexibility to comply with statute.

Hearing Location(s): On March 6, 2023, at 10:00 a.m., at The Olympia Center, 222 Columbia Street N.W., Room TBD, Olympia, WA 98501; or join on your computer, mobile app, or room device. Link to join the meeting [Date of Intended Adoption: March 6, 2023.](https://gcc02.safelinks.protection.outlook.com/ap/t-59584e83/?url=https%3A%2F%2Fteams.microsoft.com%2F1%2Fmeetup-join%2F19%253ameeting_ZDNjZmI3MmItNjcyMy00NGI2LWE4OTAtYzRiZTk2NmFiZjIx%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%7Cd4dd5c85a44e4f1fc13e08daa1807d28%7C11d0e217264e400a8ba057dcc127d72d%7C0%7C0%7C637999870476936757%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IklhaWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=Sdo38Gf5uRmBObHAn7CatY2XhlinN8a%2FLTm3kijuzPE%3D&reserved=0, phone 833-322-1218,,886947631# United States (toll-free), phone conference ID 886 947 631#.</p></div><div data-bbox=)

Submit Written Comments to: Lorelei Walker, Program Manager, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, loralei.walker@doh.wa.gov, by February 24, 2023.

Assistance for Persons with Disabilities: Contact Lorelei Walker, Program Manager, P.O. Box 47852, Olympia, WA 98504-7852, fax 360-236-2901, TTY 711, email loralei.walker@doh.wa.gov, by February 24, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board is proposing rule amendments to WAC 246-933-501 through 246-933-550 for authorizing animal care and control agencies and nonprofit humane societies to provide limited veterinary services to implement SSB 5004. Previously, entities were limited to providing electronic identification, surgical sterilization, and vaccinations at reduced cost to low-income households. SSB 5004 now allows entities to provide full veterinary services to low-income households. Reporting requirements are included to demonstrate that entities provide services at a reduced cost exclusively to low-income households. The supplemental proposal changes are a simplification of requirements originally proposed in WAC 246-933-520 regarding a client establishing proof of low-income status or eligibility of receipt of benefits, a client attestation, and an agency reporting such

information to the board. The effect of the tracking and reporting requirements remain the same but are simplified to allow participating facilities the flexibility to establish their own processes.

Reasons Supporting Proposal: The supplemental proposed rule identifies methods in which the agency may verify service to low-income clients and sets reporting requirements to provide clearer and more enforceable standards for these veterinary services. The proposal also clarifies that entities are allowed to provide emergency, life-preserving care and short-term post-adoption care, when needed, to households not qualifying as low-income. Enforcement requirements are consolidated without changing their effect, allowing the repeal of WAC 246-933-550. Following the hearing on March 21, 2021, the board determined more clarification and flexibility in the rule was necessary.

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 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, 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 only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of exemptions: Proposed rule amendments to WAC 246-933-501, 246-933-510, and 246-933-530 are exempt under RCW 34.05.310 (4) (d).

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions: Proposed rule amendment to WAC 246-933-501, 246-933-510, and 246-933-530 are exempt under RCW 34.05.310 (4) (d) because they correct or clarify language.

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 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 human[e] 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 to develop a spreadsheet. The board intends to have a brief and streamlined process for reporting to reduce the monetary burden on agencies.

January 18, 2023

Kim Morgan, LVT

Chairperson, Veterinary Board of Governors

OTS-3372.4

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 and when providing postadoption care as described in RCW 18.92.260 (1)(c).

[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.]

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 adopt procedures to verify a household qualifies as a low-income household as defined in WAC 246-933-510(3). Procedures may include, but are not limited to:

(a) Reviewing proof of income;

(b) Reviewing proof of eligibility for or receipt of benefits based on low-income status; or

(c) Accepting attestation of low-income status.

(3) Upon request, entities must provide the board information demonstrating they have verified low-income status of households served.

[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 emer-

gency 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.