

LCB File No. R091-06

**PROPOSED REGULATION OF THE
NEVADA STATE BOARD OF VETERINARY MEDICAL EXAMINERS**

NOTICE OF INTENT TO ACT UPON A REGULATION
Nevada State Board of Veterinary Medical Examiners

The following information is provided pursuant to the requirements of NRS 633B.0603:

Amendment of Nevada Administrative Code 638.450-638.750

1. The need and the purposed of the proposed regulation or amendment.

- a) Repealing the laws on a “Euthanasia Technician Committee.”
- b) Re-defining the practical examination perimeters for a euthanasia technician.
- c) Allowing an animal physical therapist to perform noninvasive therapeutic ultrasound.
- d) Allowing a veterinary technician to perform animal physical therapy only under the direction of a veterinarian.

2. Either the terms or the substance of the regulations to be adopted and amended.

A copy of the proposed regulation is attached to this notice.

3. The estimated economic effect of the regulation on the business which it is to regulate and on the public.

- (a) Both adverse and beneficial economic effects.

There will be no adverse or beneficial economic effects on the profession or the public.

- (b) Both immediate and long-term effects.

There should not be any immediate or long-term effects.

4. The estimated cost to the agency for enforcement of this regulation.

There will be no cost incurred by the board for enforcement of this regulation.

5. A description of and citation to any regulations or other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The Board of Veterinary Medical Examiners is not aware of any similar regulations of other state or government agencies that the proposed regulation overlaps or duplicates.

6. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The Board of Veterinary Medical Examiners is not aware of this regulation being required by federal law.

7. If the regulation included provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The Board of Veterinary Medical Examiners is not aware of any similar regulations of the same activity in which the Federal regulation is more stringent.

8. Whether the proposed regulation establishes a new fee or increases an existing fee.

This regulation does not provide a new increase or increase of fees.

Amendment of Nevada Administrative Code 638.820

1. The need and the purposed of the proposed regulation or amendment.

a) Providing authority to the Board to issue citations and fines to for unlicensed activity.

2. Either the terms or the substance of the regulations to be adopted and amended.

A copy of the proposed regulation is attached to this notice.

3. The estimated economic effect of the regulation on the business which it is to regulate and on the public.

(a) Both adverse and beneficial economic effects.

There will be no adverse or beneficial economic effects on the profession or the public.

(b) Both immediate and long-term effects.

There should not be any immediate or long-term effects.

4. The estimated cost to the agency for enforcement of this regulation.

There will be no cost incurred by the board for enforcement of this regulation.

5. A description of and citation to any regulations or other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the

duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The Board of Veterinary Medical Examiners is not aware of any similar regulations of other state or government agencies that the proposed regulation overlaps or duplicates.

6. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The Board of Veterinary Medical Examiners is not aware of this regulation being required by federal law.

7. If the regulation included provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The Board of Veterinary Medical Examiners is not aware of any similar regulations of the same activity in which the Federal regulation is more stringent.

8. Whether the proposed regulation establishes a new fee or increases an existing fee.

This regulation does not provide a new increase or increase of fees.

New Language of Nevada Administrative Code 638.

1. The need and the purposed of the proposed regulation or amendment.

New laws for controlled substance registration, labeling, security, and record keeping,

2. Either the terms or the substance of the regulations to be adopted and amended.

A copy of the proposed regulation is attached to this notice.

3. The estimated economic effect of the regulation on the business which it is to regulate and on the public.

(c) Both adverse and beneficial economic effects.

There will be no adverse or beneficial economic effects on the profession or the public.

(b) Both immediate and long-term effects.

There will be no long-term effect or immediate benefit.

4. The estimated cost to the agency for enforcement of this regulation.

There will be no cost incurred by the board for enforcement of this regulation.

5. A description of and citation to any regulations or other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

These new laws are a duplication of laws that exist in NAC and NRS 453 and NRS 639 (Controlled Substance laws for all practitioners). This duplication is necessary to clarify the laws that are specific to veterinarians and not all health professionals that prescribe, possess, and administer controlled substances and prescription medication.

6. If the regulation is required pursuant to federal law, a citation and description of the federal law.

These new laws are a duplication of laws that exist in 21CFR. This duplication is necessary to clarify the laws that are specific to veterinarians and not all health professionals that prescribe, possess, and administer controlled substances and prescription medication.

7. If the regulation included provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The Board of Veterinary Medical Examiners is not aware of any similar regulations of the same activity in which the Federal regulation is more stringent.

8. Whether the proposed regulation establishes a new fee or increases an existing fee.

This regulation does not provide a new increase or increase of fees.

LCB File No. R091-06

**PROPOSED REGULATION OF THE
NEVADA STATE BOARD OF VETERINARY MEDICAL EXAMINERS**

Explanation-Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted

AUTHORITY: NRS 638.070

Chapter 638 of NAC is hereby amended to read as follows:

Section 1. NAC 638.450 Definitions. (NRS 638.070) As used in NAC 638.450 to 638.565, inclusive:

1. “Agency” means:

(a) A law enforcement agency;

(b) An animal control agency; or

(c) A society for the prevention of cruelty to animals which is in compliance with chapter 574 of NRS, that employs a euthanasia technician to euthanize injured, sick, homeless or unwanted domestic pets and other animals.

~~2. “Committee” means the Committee on Euthanasia Technicians.~~

~~3.]~~ 2. “Euthanasia technician” has the meaning ascribed to it in NRS 638.005.

4. “Handler” means a person who is trained in techniques of animal handling and human safety and is not licensed as a euthanasia technician.

Chapter 638 of NAC is hereby repealed as follows:

Sec. 2. REPEALED ~~[NAC 638.455 Committee on Euthanasia Technicians: Creation; membership; terms of members. (NRS 638.070)~~

~~—1. The Committee on Euthanasia Technicians is hereby created.~~

~~—2. The Committee consists of:~~

~~—(a) The Executive Director of the Board;~~

~~—(b) Two members of the Board designated by the Board; and~~

~~—(c) Not more than four euthanasia technicians or veterinarians appointed by the Board.~~

~~—3. Each member of the Committee serves for 2 years, at the pleasure of the Board.]~~

~~[NAC 638.460 Committee on Euthanasia Technicians: Nomination and selection of members; vacancies. (NRS 638.070)~~

~~—1. Except as otherwise provided in subsection 2, a member of the Board or Committee may nominate a person to serve as a member of the Committee and the Board will select a nominee to serve as a member.~~

~~—2. If a vacancy occurs during the term of a member, the Committee shall nominate and the Board will select a nominee to replace that member for the remainder of the unexpired term.~~

~~—3. Before selecting a nominee, the Board must receive a letter from the nominee stating his experience or a letter of recommendation from a member of the Committee.]~~

~~[NAC 638.465 Committee on Euthanasia Technicians: Requirements for membership. (NRS 638.070)~~

~~—1. The Committee shall determine the requirements for membership on the Committee and submit the requirements to the Board for approval.~~

~~—2. The Board will:~~

~~—(a) Review and approve the requirements for membership on the Committee; and~~

~~—(b) Keep a copy of the requirements on file at the office of the Board.~~

~~—3. Each member of the Committee shall keep a copy of the requirements for membership at his place of employment.]~~

Sec. 3. NAC 638.470 Examination of Euthanasia Technicians ~~[Committee on Euthanasia Technicians: Duties.]~~ (NRS 638.070) The ~~[Committee]~~ ***Board or a representative of the Board shall:***

1. Develop a course to train euthanasia technicians.
2. Develop instructional materials and a syllabus for the training course.
3. Offer the course to persons seeking training as euthanasia technicians at least one time each year.

4. Examine each applicant for licensing as a euthanasia technician.

~~[5. Inspect each agency serving as a site for the euthanasia of animals.]~~

~~[6. Make recommendations to the Board concerning the issuance or renewal of licenses.~~

~~—7.]~~ **5.** Review the records and the performance of each person seeking licensure as a euthanasia technician or renewal of his license.

Sec. 4. NAC 638.475 Examination of trainees. (NRS 638.070, 638.117)

1. After each training course, ~~the Committee or a member of the Committee~~ a *representative of the Board* shall examine each trainee.

2. The written examination must include:

- (a) The theory and history of the methods of euthanasia;
- (b) Anatomy of animals;
- (c) Handling of animals;
- (d) Medications;
- (e) Recordkeeping; and
- (f) Techniques of injection.

3. The practical examination must include:

- (a) Intravenous injection of a dog;
- ~~[(b) Intraperitoneal injection of a dog and cat;~~
- ~~—(e)] (b)~~ Handling of an animal;
- ~~[(d)] (c)~~ Verification of death;
- ~~[(e)] (d)~~ Euthanasia of an animal;
- ~~[(f)] (e)~~ Demonstration of proper recordkeeping;
- ~~[(g)] (f)~~ Demonstration of understanding and concern for the needs of an animal;
- ~~[(h)] (g)~~ Demonstration of ability to handle difficult situations; and
- ~~[(i)] (h)~~ Communication with a handler.

4. The practical examination may include:

- (a) Intracardiac injection; ~~and~~
- (b) Intravenous injection of a cat; *and*
- (c) Intraperitoneal injection of a dog and cat.*

Sec. 5. NAC 638.480 Demonstration required in practical examination of trainees. (NRS 638.070, 638.117) During the practical examination, a euthanasia technician must demonstrate competence in:

1. Giving injections by:

(a) Performance of intravenous injections by insertion of a needle into the vein of an animal in two attempts on 90 percent of the animals injected;

~~[(b) Performance of intraperitoneal injections by insertion of a needle into the injection site in two attempts on 95 percent of the animals injected; and~~

~~—(c) Performance of intracardiac injections by insertion of a needle into the heart of an unconscious animal in two attempts on 95 percent of the animals injected.]~~

2. Handling needles by:

(a) Keeping the cap on the needle until the injection is ready to be made;

(b) Choosing a needle of the appropriate size and length for the animal;

(c) Using a dosage of sodium pentobarbital not less than the minimum recommended by the manufacturer; and

(d) Aspirating the needle for all injections.

3. The following areas by:

(a) Handling animals with care and regard for human safety. Use of devices for control must be limited to fractious or potentially dangerous animals.

(b) Communicating effectively with a handler.

(c) Lowering an animal that has been injected to a surface after the animal collapses.

4. During the practical examination, a euthanasia technician may demonstrate competence in :

(a) Performance of intravenous injections by insertion of a needle into the injection site in two attempts on 95 percent of the animals injected; and

(b) Performance of intracardiac injections by insertion of a needle into the heart of an unconscious animal in two attempts on 95 percent of the animals injected.

Sec. 6. NAC 638.485 Inspection of agencies; notification and correction of deficiencies. (NRS 638.070)

1. ***The Board or a representative of the Board may*** inspect each agency serving as a site for the euthanasia of animals. During the inspection of an agency, the ~~Committee~~ ***representative of the board [shall] may*** examine:

(a) The area and equipment used for euthanasia;

(b) Security and storage of drugs;

- (c) Recordkeeping;
- (d) Sanitation; and
- (e) Any other condition of the agency that is relevant to the proper euthanasia of animals.

2. If a deficiency is found, ~~[a member of the Committee shall describe the deficiency on the form provided by the Board and notify the agency]~~ *the agency shall be notified of the deficiency.* The Executive Director of the Board may notify the State Board of Pharmacy.

3. The agency shall correct any deficiency within 30 days after the inspection.

Sec. 7. NAC 638.490 Additional inspection of agency after discovery of deficiency; failure to correct deficiency. (NRS 638.070)

1. If a deficiency is found during an inspection of an agency, *a representative of the board* ~~[a member of the Committee]~~ shall conduct a second inspection at the expense of the agency after the time given to correct the deficiency.

2. If the deficiency is not corrected:

(a) The ~~[Committee]~~ *representative of the board* may recommend that the Board revoke or refuse to renew the license of the *euthanasia technician* ~~[agency]~~; and

(b) The Executive Director of the Board will notify the State Board of Pharmacy and the Drug Enforcement Administration of the Department of Justice.

Sec. 8. NAC 638.520 Injection of sodium pentobarbital; verification of death. (NRS 638.070, 638.119)

1. If, within 30 seconds after an intravenous injection, 15 minutes after an intraperitoneal injection or 60 minutes after an oral administration of sodium pentobarbital, an animal fails to demonstrate:

- (a) Lack of consciousness;
- (b) No indications of breathing ~~[or]~~ *and* heartbeat;
- (c) No capillary response in the gums; or
- (d) Lack of corneal or pupillary reflexes,

Sec. 9. NAC 638.550 Area used for euthanasia: Duties of euthanasia technicians. (NRS 638.070, 638.119) The euthanasia technician shall:

1. Have the following materials in the area used for euthanasia:
 - (a) A first-aid kit;
 - (b) At least one tourniquet;
 - (c) Standard electric clippers with number 40 blade;
 - (d) A *rabies stick or* control stick for dogs;

Sec. 10. NAC 638.620 Examination of animal by veterinarian required before administration of vaccination. (NRS 638.070)

1. A veterinarian who administers vaccines at a vaccination clinic shall, before he administers a vaccination to an animal, conduct ~~an~~ *a physical* examination of that animal pursuant to NAC 638.610.

Sec. 11. NAC 638.750 “Animal physical therapy” defined. (NRS 638.070) As used in NAC 638.750 to 638.790, inclusive, “animal physical therapy” means the rehabilitation of injuries in a nonhuman animal through the use of the following techniques, but does not include animal chiropractic:

1. Stretching;
2. Massage therapy;
3. Rehabilitative exercise;
4. Hydrotherapy;
5. Application of heat or cold; and
6. Stimulation by the use of:
 - (a) Low-level lasers;
 - (b) Electrical sources;
 - (c) Magnetic fields; or
 - (d) Noninvasive *therapeutic* ultrasound.

Sec. 12. NAC 638.760 Requirements to practice; application for certificate of registration; fee. (NRS 638.070)

1. A person shall not practice animal physical therapy in this State unless he is:
 - (a) A veterinarian; *or*

~~[(b) A licensed veterinary technician who has received training in animal physical therapy and is working under the direction of a veterinarian licensed in this State; or]~~

~~[(e)]~~ (b) A physical therapist who has obtained a certificate of registration pursuant to this section and complies with the provisions of NAC 638.780.

Sec. 13. NAC 638.820 Expiration and renewal of certificate; fee. (NRS 638.070)

2. Each application for renewal of a certificate of registration must be:

- (a) Submitted in the form established by the Board;
- (b) Signed by the chiropractor, ~~[notarized]~~ and accompanied by a fee of \$25;

Sec. 14. *Citations for practicing veterinary medicine without a license*

1. In addition to any other penalty:

(a) The Board may issue a citation to a person who violates the provisions of NRS 638.170

(2). A citation issued pursuant to this paragraph must be in writing and describe with particularity the nature of the violation. The citation also must inform the person of the provisions of subsection 2.

(b) The Board shall assess an administrative fine of:

(1) For the first violation, a fine in an amount not to exceed \$1000.

(2) For the second violation a fine in an amount not to exceed \$1500.

(3) For the third or subsequent violation, a fine in an amount not to exceed \$5000.

2. To appeal the finding of a violation, the person must request a hearing by written notice of appeal to the Board within 30 days after the date of issuance of the citation.

Prescription Drugs/Controlled Substances

Sec. 15. *Registration with the Nevada State Board of Pharmacy*

1. A veterinarian who wants to prescribe, possess, or administer controlled substances must be registered with the Federal Drug Enforcement Agency and the Nevada State Board of Pharmacy.

a. The DEA certificate and the Pharmacy Board certificate must be prominently displayed in the facility.

Sec 16 . Security of Controlled Substances

2. A veterinarian must have and use effective controls and procedures to prevent and guard against theft, misuse, and diversion of controlled substances including at least:

a. Storing all controlled substances in a securely locked, substantially constructed cabinet. Controlled substances in schedule II must be doubly locked, such as in a locked cabinet in a locked room or in a lock-box inside a safe.

b. Restricting access to the controlled substances to the veterinarian, his licensed veterinary technician at the direction of the veterinarian. Veterinary technicians in training may possess and administer a controlled substance at the direction of a supervising veterinarian.

c. Prohibiting access to any employee who has been convicted of a felony involving controlled substances or who has had a DEA registration denied, revoked, or surrendered.

Sec 17. Requirements for labeling of prescription drugs

1. All prescriptions filled by a veterinarian must be dispensed in a container to which is affixed a label or other device which clearly shows:

a. The date;

b. The name and address of the veterinarian who filled the prescription;

c. The name of the prescribing veterinarian and of the owner of the animal for whom the drug is prescribed;

d. The number of dosage units;

e. Specific directions for use given by the veterinarian;

f. The expiration date of the drug;

g. The name of the drug; and

h. The strength of the drug or medicine.

2. All prescriptions dispensed by a veterinarian shall be dispensed in a container which is designed to prevent a child from opening it, if commercially available, unless the person to whom the medication is dispensed:

a. Is at least 18 years of age;

b. Specifically requests a container which is not so designed; and

c. Signs a document verifying that he made such a request.

Sec 18. Record Keeping/Inventory

1) A veterinarian must make and keep complete, accurate, and readily retrievable records of each drug, including each controlled substance purchased and dispensed.

2) Records of controlled substance orders and purchases must be maintained separately from similar records for other drugs.

3) All records regarding controlled substances in Schedule II must be kept separate from records regarding controlled substances in Schedules III, IV, and V.

4) All order forms for Controlled substances in Schedule II must be accounted for, fully filled out and signed and kept for at least two years.

5) Within ten days of discovery, a veterinarian must report any theft or loss of a controlled substance to the Nevada State Board of Pharmacy, the Nevada Division of Investigation, or the Department of Drug Enforcement on a DEA form 106.

6) Out-of-date or unusable controlled substances must be listed on a DEA form 41 and should be destroyed with the assistance of either the DEA or the Nevada State Board of Pharmacy.

7) A veterinarian who dispenses controlled substances to owners of animals must make a keep a current inventory of each drug.

8) All records regarding prescription drugs, including controlled substances, must be maintained for at least two years and must be available during regular business hours to agents of the board or to agents for the board of pharmacy for review, copying, and potential removal.