



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

TO: The Professional Practice Committee

FROM: Douglas E. Lentivech

SUBJECT: Proposed Addition to the Section 62.8 of the Regulations of the Commissioner of Education Relating to the Mandatory Continuing Education in the Profession of Veterinary Medicine

DATE: October 7, 2011

AUTHORIZATION(S):

Summary

Issue for Discussion

Should the Board of Regents add section 62.8 to the Regulations of the Commissioner of Education to implement mandatory continuing education requirements for licensed veterinarians and veterinary technicians?

Reason(s) for Consideration

Required by State statute.

Proposed Handling

The proposed rule will come before the Professional Practice Committee for discussion at the October 2011 Regents meeting and will be submitted for action at the December 2011 Regents meeting.

Procedural History

None.

Background Information

Chapter 328 of the Laws of 2010, which took effect on January 1, 2011, enacted sections 6704-a and 6711-b of the Education Law to require licensees in the professions of veterinary medicine and veterinary technology to complete certain continuing education requirements as a prerequisite to re-registering to practice in such profession each triennial registration period. As of January 1, 2011, therefore, Education Law §6704-a requires a veterinarian to complete 45 hours of continuing education each triennial registration period, excluding the licensee's initial registration period, provided that a maximum of 22 and one-half of those hours may be self-instruction. Similarly, Education Law §6711-b requires a veterinary technician to complete 24 hours of continuing education each triennial registration period, excluding the licensee's initial registration period, provided that a maximum of 12 of those hours may be self-instruction.

Under these statutes, the Department is authorized to establish a fee for mandatory continuing education and to determine the duration of a conditional registration period for a licensee who fails to meet the continuing education requirements during his or her registration period. Additionally, the new law requires that organizations seeking to provide continuing education to veterinarians and veterinary technicians be approved by the Department, in consultation with the State Board for Veterinary Medicine, and authorizes the Department to set the standards for sponsor approval.

The proposed rule is necessary to fully implement these requirements, which are currently prescribed in law. In accordance with statutory authority, the proposed rule would require a licensed veterinarian and veterinary technician to pay a \$45 continuing education fee in addition to the triennial registration fee currently imposed upon the licensee pursuant to law, which would be payable on or before the first day of each registration period. The proposed rule would also provide that the Department may grant a conditional registration, not to exceed one year, for a licensee who fails to meet the requirements, but who can cure the deficiency within one year.

The proposed rule would set forth the grounds for an exemption to the continuing education requirements, including full-time employment as a teacher of veterinary medicine at a veterinary education program, and would specify the grounds for an adjustment to the requirements, such as poor health certified by a physician. As previously stated, the rule would also provide for a conditional registration to allow a licensee to remedy a deficiency in continuing education. The rule would require that in addition to remedying the deficiency, the licensee would have to complete the regular continuing education requirements at the rate of one and one-quarter hours per month in the case of a veterinarian and 40 minutes per month for veterinary technicians.

The proposed rule also provides for the proration of credits for licensees who do not have a three-year registration period in which to complete the mandated continuing education credits. Licensees whose first registration date following January 1, 2011 occurs less than three years from that date, but on or after January 1, 2012, are

required, by both the new law and the proposed regulation, to complete continuing education hours on a pro-rated basis, at the rate of 1.25 hours per month for veterinarians and at a rate of 40 minutes per month for veterinary technicians, for the period beginning January 1, 2012 up to the first registration date thereafter. The same rate of proration would apply for licensees during any registration period of less than three years. Additionally, licensees who have placed their registration on inactive status would be required to complete specific continuing education as prescribed by the Department if they return to practice during a registration period.

Further and significantly, the proposed rule would describe the courses and activities that would constitute acceptable continuing education. In particular, the proposed rule would require that during each triennial registration period, at least two (2) hours of the required continuing education credits must focus on the use, misuse, documentation, safeguarding and prescribing of controlled substances. The proposed rule would further describe the content of instruction deemed acceptable, including subjects that enhance knowledge and skill in clinical veterinary medicine and clinical veterinary technology, patient communication, practice management, risk management and other topics which contribute to the professional practice in such professions. Regarding acceptable activities, the proposed rule would identify types of learning activities deemed acceptable continuing education, including courses offered by a sponsor approved by the Department; credit and non-credit courses offered by universities and colleges, and professional development and technical sessions related to the practice of veterinary medicine.

The proposed rule would also establish other educational activities that would be deemed acceptable, including preparing and teaching a course of learning. For example, a licensee would be provided continuing education credit for the preparation and teaching of a course at a rate of up to two credits for each hour of the presentation. Such activity would not, however, be accepted as continuing education credit where the licensee previously received credit for teaching the same course, unless the course was substantially revised. The proposed rule would also provide for modes of study other than classroom instruction, which would include distance learning and other forms of visual and auditory learning activities. All continuing education activities would require documentation detailing the content, duration and the outcome or completion of the course. Each licensee would need to maintain and ensure access by the Department to these records. Sponsors of veterinary continuing education would also need to maintain and ensure access to their records.

It is anticipated that a Notice of Proposed Rule Making will be filed with the Department of State no later than October 4, 2011 and published in the State Register on October 19, 2011. Supporting materials for the proposed amendments are available upon request from the Secretary to the Board of Regents.

Recommendation

N/A

Timetable for Implementation

If the Board of Regents permanently adopts the proposed rule at its December 2011 meeting, the effective date of the amendment would be January 4, 2012.

Attachment

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6507, 6704-a and 6711-b of the Education Law and Chapter 328 of the Laws of 2010

Section 62.8 of the Regulations of the Commissioner of Education is added, effective January 4, 2011, as follows:

§62.8 Continuing education for veterinarians and veterinary technicians.

(a) Definitions. As used in this section:

(1) Acceptable accrediting agency means an organization accepted by the Department as a reliable authority for the purpose of accreditation at the postsecondary level, applying its criteria for granting accreditation in a fair, consistent and nondiscriminatory manner, such as an agency recognized for this purpose by the Council for Higher Education Accreditation.

(2) Higher education institution means a degree-granting postsecondary institution registered by the Department or accredited by an acceptable accrediting agency.

(3) Self-instructional coursework means structured study, provided by a sponsor approved pursuant to subdivision (i) of this section, that is based on audio, audio-visual, written, on-line, and/or other media, and does not include live instruction, transmitted in person or otherwise, during which the student may communicate and interact with the instructor and other students.

(b) Applicability of requirements.

(1) Each licensed veterinarian and veterinary technician, required under Article 135 of the Education Law to register with the Department to practice in New York State,

shall comply with the mandatory continuing education requirements as prescribed in subdivision (c) of this section, except those licensees who are exempt from the requirement or who obtain an adjustment to the requirement pursuant to paragraph (2) of this subdivision or who are subject to a different requirement pursuant to this section.

(2) Exemptions and adjustments to the requirement.

(i) Exemptions. The following licensees shall be exempt from the continuing education requirements, as prescribed in subdivision (c) of this section:

(a) licensees for the triennial registration period during which they are first licensed to practice as a veterinarian or a veterinary technician in New York State;

(b) licensed veterinarians or veterinary technicians who are not engaged in the practice of their respective professions in New York State, as evidenced by the filing of a statement declaring such inactive status, except as otherwise provided in subdivision (e) of this section;

(c) veterinarians or veterinary technicians engaged on a full-time basis in the teaching of veterinary medicine at a veterinary education program registered by the Department or accredited or approved by an acceptable accrediting organization; and

(d) veterinary technicians engaged on a full-time basis in the teaching of veterinary technology at a veterinary education program registered by the Department or accredited or approved by an acceptable accrediting organization.

(ii) Adjustments to the requirement. An adjustment to the continuing education requirement, as prescribed in subdivision (c) of this section, may be made by the Department, provided that the licensee documents good cause that prevents compliance or the Department determines otherwise that there is good cause that

prevents compliance, which shall include, but not be limited to, any of the following reasons: poor health or a specific physical or mental disability certified by an appropriate health care professional; or extended active duty with the Armed Forces of the United States; or other good cause beyond the licensee's control which in the judgment of the Department, makes it impossible for the licensee to comply with the continuing education requirements in a timely manner.

(c) Mandatory continuing education requirement.

(1) General requirement.

(i) During each three-year registration period, meaning a registration period of a three years' duration, an applicant for registration as a veterinarian shall complete at least 45 hours of continuing education, acceptable to the Department, as defined in paragraph (2) of this subdivision, a maximum of 22 and one-half hours of which may be self-instructional coursework acceptable by the Department. During each three-year registration period, meaning a registration period of three years' duration, an applicant for registration as a veterinary technician shall complete 24 hours of continuing education, acceptable to the Department, as defined in paragraph (2) of this subdivision, a maximum of twelve hours of which may be self-instructional coursework acceptable to the Department. Any licensed veterinarian or veterinary technician whose first registration date following January 1, 2011 occurs less than three years from that date, but on or after January 1, 2012, shall complete continuing education hours on a prorated basis at the rate of one and one-quarter hours per month, in the case of a veterinarian, and 40 minutes per month, in the case of a veterinary technician, for the period beginning January 1, 2012 up to the first registration date thereafter. Such

continuing education shall be completed during the period beginning January 1, 2010 and ending before the first day of the new registration period.

(ii) During each triennial registration period, at least two hours of the required continuing education credits shall focus on the use, misuse, documentation, safeguarding and prescribing of controlled substances.

(iii) Proration. Unless otherwise prescribed in this section, during each registration period of less than three years' duration, an applicant for registration shall complete acceptable continuing education, as defined in paragraph (2) of this subdivision and within the limits prescribed in such paragraph, on a prorated basis at a rate of one and one-quarter hours in the case of a veterinarian and 40 minutes per month in the case of a veterinary technician.

(2) Acceptable formal continuing education. To be acceptable to the Department, continuing education shall meet the requirements of this paragraph. Such continuing education must be in subjects prescribed in subparagraph (i) of this paragraph and be the types of learning activities prescribed in subparagraph (ii) of this paragraph and subject to the limitations contained in subparagraph (iii) of this paragraph.

(i) Subjects. Acceptable continuing education shall contribute to the professional practice of veterinary medicine in the case of veterinarians and veterinary technology in the case of veterinary technicians, and shall focus on one or more of the following:

(a) subjects that enhance knowledge and skill in clinical veterinary medicine and clinical veterinary technology.

(b) client communications and recordkeeping;

(c) general supervision;

(d) practice management, risk management, and other topics which contribute to the professional practice of veterinary medicine or veterinary technology; or

(e) matters relating to veterinary health care, agricultural practices related to animals, law, and/or ethics which contribute to professional practice in veterinary medicine and veterinary technology and the health, safety, and/or welfare of the public.

(ii) Types of learning activities. Acceptable continuing education shall be the types of learning activities prescribed in this subparagraph and shall be subject to the limitations prescribed in this subparagraph and subparagraph (iii) of this paragraph.

(a) Courses of learning. Acceptable continuing education shall be formal programs of learning offered by a sponsor approved by the Department pursuant to subdivision (i) of this section, which may include, among others, courses offered by an approved sponsor, university and college credit and non-credit courses, and professional development and technical sessions related to the practice of veterinary medicine.

(b) Other educational activities. To the extent such activities are offered by sponsors of veterinary continuing education approved by the Department and subject to the limitations set forth in subparagraph (iii) of this paragraph, acceptable continuing education shall be the following other educational activities:

(1) preparing and teaching a course of learning. Continuing education hours that may be credited for this activity may include actual instructional time plus preparation time which may be up to two additional hours for each hour of presentation;

(2) preparing and teaching a course, acceptable to the Department, at a higher education institution relating to the practice of veterinary medicine or veterinary

technology. Continuing education hours that may be credited for this activity may include actual instructional time plus preparation time which may be up to two additional hours for each hour of presentation;

(3) making a technical presentation at a professional conference sponsored by an organization that is an approved sponsor of continuing education to veterinarians or veterinary technicians and that is approved pursuant to subdivision (i) of this section.

Continuing education hours that may be credited for this activity shall include actual presentation time, plus preparation time which may be up to two additional hours for each hour of presentation. Provided however that continuing education credit may not be claimed under sections (1), (2) and (3) where the licensee previously received continuing education credit for preparing or teaching the same course, or the same content if the course is given another name, unless the course has undergone substantial revision in content;

(4) achieving specialty certification or recertification from an entity approved as a sponsor, provided that the amount of continuing education credit awarded for such certification or recertification shall be an amount prescribed by the Department;

(5) completing self-instructional coursework, as defined in paragraph 3 of subdivision (a) of this section; and

(6) completing and receiving a passing score on an examination offered by an approved sponsor that demonstrates the licensee's knowledge of the laws, rules and regulations of New York relating to the practice of veterinary medicine. Two hours of continuing education credit shall be awarded for receiving a passing score on such examination in any five-year period.

(iii) Limitation on credits.

a. (a) No more than 22.5 hours of continuing education credits, in the case of a veterinarian, or 12 hours of continuing education credits, in the case of a veterinary technician, may be completed through self-study as described in subclause (5) of item (b) of subparagraph (ii) of this paragraph.

b. (b) Veterinarians may not claim continuing education credit for preparing and teaching continuing education courses to veterinary technicians.

(d) Renewal of registration. At each re-registration, licensed veterinarians and licensed veterinary technicians shall certify to the Department that they have either complied with the continuing education requirements, as prescribed in this section, or are entitled to an exemption or adjustment to such continuing education requirements, as prescribed in subdivision (b) of this section.

(e) Requirement for lapse in practice.

(1) A licensee returning to the practice of veterinary medicine or veterinary technology after a lapse in practice, as evidenced by not being registered to practice in New York State, whose first registration date after such lapse in practice and following January 1, 2012 occurs less than three years from January 1, 2012, shall be required to complete at least one and one-quarter hours, in the case of a veterinarian, and 40 minutes, in the case of a veterinary technician, of acceptable continuing education coursework for each month beginning with January 1, 2012 until the beginning of the new registration period. A licensee who has not lawfully practiced veterinary medicine or veterinary technology continuously in another jurisdiction throughout such lapse period shall complete the required continuing education activity prior to and within the

12 months before the beginning of the new registration period. A licensee who has lawfully practiced as a veterinarian or veterinary technician continuously in another jurisdiction throughout such lapse period, shall complete the required continuing education activity either in the new registration period or, at the option of the licensee, in the period beginning 36 months before the commencement of the new registration period and ending at the conclusion of such new registration period; where the licensee elects to complete required continuing education coursework, resulting from a lapse in practice, in the new registration period, such coursework will be in addition to that coursework which is required to satisfy the mandatory continuing education requirement for the new triennial period.

(2) Except as prescribed in paragraph (1) of this subdivision for registrations therein specified, a licensee who returns to practice as a veterinarian or veterinary technician after a lapse in practice during which the licensee was not registered to practice in New York State and did not lawfully practice continuously in another jurisdiction throughout the lapse period, shall be required to complete:

(i) the continuing education requirement applicable to the period of time the licensee was registered to practice in New York State before the lapse in practice;

(ii) at least one and one-quarter hours of acceptable continuing education for each month of lapsed registration up to a maximum 45 hours, in the case of a veterinarian, and 40 minutes of acceptable continuing education for each month of lapsed registration up to a maximum 24 hours, in the case of a veterinary technician, which shall be completed in the 12 months before the beginning of the new registration period.

(3) Except as prescribed in paragraph (1) of this subdivision for registrations therein specified, a licensee who returns to the practice of veterinary medicine or veterinary technology after a lapse in practice during which the licensee was not registered to practice in New York State but did lawfully practice veterinary medicine or veterinary technology continuously in another jurisdiction throughout the lapse period, shall be required to complete:

(i) the continuing education requirement applicable to the period of time the licensee was registered in the licensee's last registration period; and

(ii) at least one and one-quarter hours, in the case of a veterinarian, or 40 minutes, in the case of a veterinary technician, of acceptable continuing education for each month of lapsed registration up to a maximum of 45 hours, in the case of a veterinarian, or 24 hours, in the case of a veterinary technician, which shall be completed in such new registration period, or at the option of the licensee in the period beginning 36 months before the commencement of such new registration period and ending at the conclusion of said new registration period.

(f) Conditional registration.

(1) The Department may issue a conditional registration to a licensee who attests to or admits to noncompliance with the continuing education requirements of this section, provided that such licensee:

(i) agrees to remedy such deficiency within the conditional registration period:

(ii) in addition to remedying the deficiency, agrees to complete the regular continuing education requirement at the rate of one and one-quarter hours, in the case

of a veterinarian, and forty minutes, in the case of a veterinary technician, of acceptable continuing education per month during such conditional registration period; and

(iii) agrees to complete additional continuing education during such conditional registration period, which the Department may require to ensure the licensee's proper delivery of professional veterinary medicine or veterinary technology services.

(2) The duration of such conditional registration shall not exceed one year and shall not be renewed or extended.

(g) Licensee records. Each licensee subject to the requirements of this section shall maintain, or ensure access by the Department to, a record of completed continuing education, which includes: the title of the course if a course, the type of educational activity if other than a course of learning, the subject of the continuing education course or activity, the number of hours of continuing education completed, the sponsor's name and any identifying number (if applicable), attendance verification if a course, verification of participation if another educational activity, and the date and location of the continuing education. Such records shall be retained for at least six years from the date of completion of the continuing education and shall be made available for review by the Department in the administration of the requirements of this section. A sponsor's failure to satisfy its obligations under subdivision (i) of this section shall not relieve a licensee of his or her obligation to provide evidence of participation in a continuing education activity for which credit is claimed.

(h) Measurement of continuing education study. Continuing education credit shall be granted only for acceptable continuing education, as prescribed in subdivision (c) of this section. For continuing education courses, a minimum of 50 minutes shall equal

one continuing education hour of credit. Continuing education credit for other educational activities shall be awarded as prescribed by the Department.

(i) Sponsor Approval.

(1) To be approved by the Department, sponsors of continuing education to licensed veterinarians or veterinary technicians shall meet the requirements of either paragraph (2) or (3) of this subdivision.

(2) The following entities shall be deemed approved by the Department as sponsors of continuing education to licensed veterinarians or veterinary technicians in the form of courses of learning or self-study programs:

(i) a national veterinary medicine or veterinary technology organization, acceptable to the Department, that fosters good practice in the veterinary medicine professions, in the nation as a whole and/or a region of the nation, including specialty boards acceptable to the Department;

(ii) a New York State veterinary medicine or veterinary technology organization, acceptable to the Department, that is incorporated or otherwise organized in New York State that fosters good practice in the veterinary medicine professions;

(iii) an affiliate of an organization listed in subparagraphs (i) or (ii) of this paragraph, including local veterinary medical societies;

(iv) a generally recognized state, national and international veterinary conference at which professional continuing education is a major component of such conference;

(v) a national organization of jurisdictional boards of veterinary medicine or veterinary technology that promotes and protects the health, safety and welfare of the public and fosters good practice in the veterinary medicine professions; and

(vi) a higher education institution.

(3) Department review of sponsors.

(i) The Department shall conduct a review of sponsors that are not otherwise deemed approved pursuant to the provisions of paragraph (2) of this subdivision and who apply for approval to offer continuing education to licensed veterinarians and veterinary technicians.

(ii) An organization desiring to offer continuing education based upon a Department review under this paragraph shall submit, with the fee as set forth in subdivision (j) of this section, an application for advance approval as a sponsor at least 120 days prior to the date of the commencement of such continuing education. Such application shall document that the organization:

(a) will offer courses of learning or self-study programs in one or more of the subjects prescribed for acceptable continuing education in subparagraph (c)(2)(i) of this section;

(b) is an organized educational entity, or an entity that has expertise in the professional areas that will be taught, including but not limited to, postsecondary institutions that are not already deemed approved pursuant to subparagraph (2)(v) of this subdivision;

(c) provides course instructors who are qualified to teach the courses which will be offered, including but not limited to, faculty of a veterinary medicine or veterinary technology program offered by a higher education institution; or instructors who are specially qualified authorities to conduct such courses in veterinary medicine or

veterinary technology, as determined by the Department with assistance from the State Board for Veterinary Medicine;

(d) has a method of assessing the learning of participants and describes such method; and

(e) will maintain records for at least six years from the date of completion of coursework, which shall include, but shall not be limited to, the name and résumé of the faculty, a record of licensed veterinarians or veterinary technicians who attended the course, if a course, a record of licensed veterinarians or veterinary technicians who participated in self-instructional coursework if self-instructional coursework, an outline of the course, date and location of the course, and the number of hours for completion of the course. In the event an approved sponsor discontinues operation, the governing body of such sponsor shall notify the Department and shall transfer all records as directed by the Department.

(iii) Sponsors that are approved by the Department pursuant to the requirements of this paragraph shall be approved for a three-year term.

(iv) The Department may conduct site visits, attend any continuing education event of an approved sponsor, or request information from an approved sponsor to ensure compliance with the requirements of this paragraph, and a sponsor shall cooperate with the Department in permitting such attendance and in providing such information.

(v) A determination by the Department that an approved sponsor is not meeting the standards set forth in this paragraph may result in the termination of the approval of

the sponsor or a request for correction of any identified deficiencies in the implementation of it's continuing education program.

(j) Fees.

(1) At the beginning of each registration period, a mandatory continuing education fee of \$45 shall be collected from licensees engaged in the practice of veterinary medicine or veterinary technology in New York State, except for those exempt from the requirement pursuant to subparagraph (b)(2)(i) of this section. This fee shall be in addition to the any applicable registration fees required by sections 6704-a or 6711-b of the Education Law.

(2) Licensees applying for a conditional registration, pursuant to the requirements of subdivision (f) of this section, shall pay a fee that is the same as and in addition to, any applicable fee for the triennial registration required by sections 6734 or 6740 of the Education Law. In addition, such licensees shall pay the \$45 mandatory continuing education fee.

(3) Organizations desiring to offer continuing education to licensed veterinarians and veterinary technicians shall submit an application fee of \$900 with the application requesting the issuance of a certification of approval as a sponsor of a formal continuing education program from the Department. A fee of \$900 shall accompany an application for a three-year renewal of the permit.