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RULE PROPOSALS

**LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF VETERINARY MEDICAL EXAMINERS**

39 N.J.R. 5054(a)

Proposed Amendment: *N.J.A.C. 13:44-4.9*

[Click here to view Interested Persons Statement](#)

Patient Records

Authorized By: State Board of Veterinary Medical Examiners, Leslie Aronson, Executive Director.

Authority: *N.J.S.A. 45:16-3*.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2007-350.

Submit comments by February 1, 2008 to:

Leslie Aronson, Executive Director
State Board of Veterinary Medical Examiners
PO Box 45020
Newark, NJ 07101

The agency proposal follows:

Summary

On August 16, 2004, at *36 N.J.R. 3634(a)*, the State Board of Veterinary Medical Examiners (Board) proposed the readoption of its rules, *N.J.A.C. 13:44*. One of the comments the Board received on the rules proposed for readoption suggested that the Board amend *N.J.A.C. 13:44-4.9* to state that "patient records are confidential in nature, and copies of same shall only be released to the person who was the patient's owner at the time of treatment, a designated representative or a designated veterinarian; or upon request of the Board; or upon a court order." The commenter further suggested that *N.J.A.C. 13:44-4.9* be amended to state that "patient radiographs may be released to the person who was the patient's owner at the time of treatment, a designated representative or a designated veterinarian upon execution of a

release form that shall be maintained in the patient's records for a period of five years." Upon adoption of the proposed re-adoption, the Board responded to these comments by agreeing that patient records should be confidential and that a patient owner should be able to obtain a patient's radiographs. The Board was unable to make these changes upon the re-adoption of the rules as they were too substantive, but decided that it would propose amendments to *N.J.A.C. 13:44-4.9* at a future date to implement these changes. The Board now proposes to amend *N.J.A.C. 13:44-4.9* to ensure that veterinarians keep records confidential and to allow for the release of diagnostic imaging, such as radiographs. The Board proposes further amendments to require that records include the date on which entries are made, to allow licensees to charge a fee for copying records, to require licensees to provide patient records within 10 business days of receiving a request, to require the immediate release of records when a patient's health is in danger, to require a licensee, or the executor of a licensee's estate, to notify owners of patients when a licensee retires or passes away and to remove the requirement for publication of such retirement or death.

As the Board has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to *N.J.A.C. 1:30-3.3(a)5*.

Social Impact

The Board believes that the proposed amendments will have a positive impact on licensees and the owners of animals. By establishing standards for the confidentiality of records, the Board is clarifying practice guidelines for licensees and is ensuring that individuals who need records will be able to obtain them. Proposed amendments that reduce the period within which records must be provided to 10 business days, or immediately when a patient's health is in danger, ensure that the individuals who need patient records will be able to obtain them in a timely manner. Requiring that licensees or their executors notify owner of patients when a licensee retires or dies ensures that owners will be able to obtain patient records when a veterinarian ceases his or her practice.

Economic Impact

The proposed amendments to *N.J.A.C. 13:44-4.9* allow licensees to charge a nominal fee for the copying of records when the licensee releases records. This will have an economic impact on individuals who request records. The proposed amendments require a licensee or the executor of a licensee's estate to notify owners of patients when a licensee ceases his or her practice. This cost of providing this notification will be directly related to the number of patients a licensee sees and will be borne by the licensee or his or her estate.

Federal Standards Statement

A Federal standards analysis is not required because there are no applicable Federal laws or standards.

Jobs Impact

The Board does not believe that the proposed amendments will increase or decrease the number of jobs in New Jersey.

Agriculture Industry Impact

The Board does not believe that the proposed amendments will have any impact on the agriculture industry of this State.

Regulatory Flexibility Analysis

If, for purposes of the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq., licensed veterinarians are deemed "small businesses," then the following analysis applies.

The costs imposed on small businesses are the same as those imposed on all businesses as set forth in the Economic Impact and Summary statement above. The Board does not believe that licensees will need to employ any professional services to comply with the proposed amendments. The proposed amendments do not impose any reporting requirements, but do impose compliance and recordkeeping requirements as set forth in the Summary above.

As the proposed amendments provide for the confidentiality of patient records, the proper release of such records and the notification of clients when a licensee ceases his or her practice, the Board believes that the proposed amendments must be applied uniformly to all licensed veterinarians regardless of the size of the business.

Smart Growth Impact

The Board does not anticipate that the proposed amendments will have any impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan, otherwise known as the State Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

13:44-4.9 Patient records

(a) A licensee shall maintain a separate patient record for each animal, herd or flock. All patient records shall accurately reflect the treatment or services rendered. Such records shall include at least the following information:

1.-9. (No change.)

10. The name, initials or other identifying information to indicate the identity of the licensee or agent making the entry in the patient record **and the date on which the entry is made**; and

11. (No change.)

(b) A licensed veterinarian shall keep records confidential, unless:

1. The licensed veterinarian is required by law to release the records;

2. The Board requests the records;

3. The client, at the time services were rendered by the licensed veterinarian, authorizes the licensed veterinarian to release the records; or

4. It becomes necessary to release information in the records in order to protect the health of a person, the animal that is the subject of the records or another animal.

(c) A licensee may require that a record request be in writing and may charge a fee for the reproduction of records, which shall be no greater than \$ 1.00 per page or \$ 100.00 for the entire record, whichever is less. If the record requested is less than 10 pages, the licensee may charge up to \$ 10.00 to cover postage and the costs associated with retrieval of the record.

(d) A licensee shall only release diagnostic imaging, such as a radiograph, pursuant to (b) above. A licensee who obtains a copy of diagnostic imaging may charge a fee that covers the cost of obtaining the copy. A licensee who releases diagnostic imaging shall keep, as part of his or her records:

1. A copy or original of the diagnostic imaging;

2. A release form signed by the individual to whom an original diagnostic imaging is released, indicating that he or she has taken the diagnostic imaging and will return the diagnostic imaging to the licensee; or

3. A certified radiologist's report on the diagnostic imaging.

[(b)] (e) All records and radiographs on patients shall be retained for a period of five years from the date of the patient's last visit except as provided in [(c)] (h) or (i) below. Where the records reflect the decease of the patient, all written records and radiographs shall be retained for a period of three years from the last date of entry.

[(c)] (f) Copies of a licensee's record or a summary report of such record and copies of all pertinent objective data and papers pertaining to a given patient, along with a key to any codes, abbreviations and non-English words appearing on such record, data or papers, shall be furnished to the patient's owner, a designated representative or a designated veterinarian within [30] **10 business** days of a written request by the owner or duly authorized representative. [or within such lesser time as may be necessary for the care of the patient. A reasonable charge to cover the licensee's costs in preparing or obtaining such copies may be made.] **A licensee may charge a fee pursuant to (c) above for providing copies of records.**

(g) When a patient's life or health is in danger, a licensee shall release information pertinent to the critical care of the patient to the patient's owner, a representative designated by the owner or a veterinarian designated by the owner, immediately upon receiving a request for the information.

[(d)] (h) (No change in text.)

[(e)] (i) Whenever a veterinary practice is to be closed due to the retirement or death of the veterinarian in charge, the following shall apply:

1. (No change.)

2. If the medical records are not to be transferred to another veterinary practice, the retiring licensee or the executor or administrator of the licensee's estate shall, prior to disposing of any records [and within a reasonable period of time, publicize notice of closing of the veterinary practice. The notice of closing shall be published in a daily newspaper with circulation in the county in which the veterinary practice is located, on two occasions, 15 days apart. The notice], **notify every owner of a patient that has been treated or examined by the licensee over the past five years. Such notification** shall advise the public of the licensee's retirement or death; shall indicate that the medical records will be available to the client for a period of 60 days subsequent to the [second publication] **date of the notification**; and shall include the name, address and telephone number of the person to contact to obtain the medical records.

3. If the medical records are to be transferred to another veterinary practice, the retiring licensee or the executor or administrator of the licensee's estate may transfer the medical records provided that he or she shall, prior to the transfer, [publish notice of closing of the veterinary practice. Such notice shall be published in a daily newspaper with circulation in the county in which the veterinary practice is located, on two occasions, 15 days apart. The notice] **shall notify every owner of a patient that has been treated or examined by the licensee over the past five years. Such notification** shall advise the public of the licensee's retirement or death and indicate the name, address and telephone number of the veterinary practice to which the records will be transferred.