

Significant Legislative Rule Analysis

WAC 246-935-400 Citation and purpose. WAC 246-935-410 Definitions. WAC 246-935-420 Delegated nondiscretionary functions used in the preparing of legend drugs, nonlegend drugs and controlled substances. WAC 246-935-430 Controlled substance storage and records. WAC 246-935-440 Maintenance of patient medical records.

Section 1. What is the scope of the rule?

The proposed rules define and clarify nondiscretionary functions that a licensed supervising veterinarian may delegate, orally or in writing, to a licensed veterinary technician under indirect supervision for the preparing, and administration of, legend drugs, nonlegend drugs, and controlled substances.

The Veterinary Board of Governors (board) is proposing this rule because the 2009 legislature enacted Substitute House Bill 1271, which allows a licensed veterinarian to delegate non-discretionary functions to a licensed veterinary technician associated with the practice of veterinary medicine. This new authority broadens the access to care.

This rule does not require veterinarian to delegate these functions, but does identify the requirements if a veterinarian elects to delegate these functions.

Section 2. What are the general goals and specific objectives of the proposed rule's authorizing statute?

The general goal of RCW 18.92.013 is to broaden the access to care and to help ensure authorized drugs are being prepared and administered by licensed veterinary technicians under appropriate supervision.

The statute's objectives the rule implements are:

To define the nondiscretionary functions used in the preparing of legend drugs, nonlegend drugs and controlled substances that may be delegate by a licensed veterinarian to a licensed veterinary technician.

Section 3. What is the justification for the proposed rule package?

The proposed rule will achieve the authorizing statute's goals and objectives because it defines nondiscretionary functions as directed by RCW 18.92.013 and provides for a minimum level of supervision which broadens access to care.

Section 4. What are the costs and benefits of each rule included in the rules package? What is the total probable cost and total probable benefit of the rule package?

The proposed rule package includes five individual sections. The table below identifies those sections that the department has determined non-significant and no analysis is necessary.

Table: Non-Significant Rule Identification

| # | WAC Section | Section Title | Section Subject | Reason |
|---|-------------|-----------------------|-----------------------|--|
| 1 | WAC-935-400 | Citation and purpose. | Citation and purpose. | Statement of a purpose of the rules and is not a requirement. |
| 2 | WAC-935-410 | Definition | Definition | Definitions that further clarify terms used throughout the rule. The requirements are analyzed in the specific sections. |

The following three sections are considered significant and are analyzed below.

A. WAC-935-420 Delegated nondiscretionary functions used in the preparing, and the administration of, legend, drugs, nonlegend drugs, and controlled substances.

Rule Overview: Describes the types of functions or activities that are included in delegated nondiscretionary functions used in the preparing, and administration of, legend drugs, nonlegend drugs and controlled substances.

Rule Cost/Benefit Analysis: Provides the specific tasks or functions related to preparing of legend drugs, non legend drugs or controlled substances that are nondiscretionary and may be delegated to the veterinary technician by the supervising veterinarian. Providing a specific list of tasks or functions guards against the delegation of tasks or functions that are outside the authority of the rule or the underlying statute. This rule will improve access to care. There is no new cost to this requirement.

B. WAC 246-935-430 Controlled substance storage and records.

Rule Overview: When performing delegated functions that require preparing, or administering of, controlled substances, a licensed veterinary technician shall properly store and record the use of such substances.

Rule Cost/Benefit Analysis: Controlled substances pose a serious threat if they are not used properly. This requirement will decrease the possibility of these controlled substances being used for purposes other than intended. Due to the potential risk associated with controlled substances, the requirement to “properly store” and “record use of” controlled substances is considered a standard of care in the industry. There is no new cost to this requirement.

C. WAC 246-935-440 Maintenance of patient medical records

Rule Overview: Defines the minimum information that must be included in the patient medical record to document the care and treatment provided by the veterinary technician.

Rule Cost/Benefit Analysis: Currently, the veterinary technician must always document in the patient record when any type of care is provided. The proposed rule is not a new requirement, nor does it require any action that is not currently being taken, but rather reinforces that any time care is provided, it must be noted in the file. This practice is considered a standard of care in the industry. There is no new cost of this requirement.

Rule Package Cost-Benefit Conclusion

Cost summary: There is no cost imposed by the proposed rule.

Benefit summary: While veterinarians are not required to delegate non-discretionary functions, the delegation provides better access to care. The proposed rules provide the benefit of improved safety measures.

Section 5. What alternative versions of the rule did we consider? Is the proposed rule the least burdensome approach?

Descriptions of alternatives considered

The board discussed whether to include a list of drugs to the rule that a veterinarian could delegate to a licensed veterinary technician. After consideration, the board decided that listing drugs that could be used in a non-discretionary function was not a viable approach. The board concluded that drug selection will vary in most circumstances and since the veterinarian must have a written or oral directive, which would identify the drug for each delegation, a list is not needed. In addition, they also concluded that the list could be exhaustive and may still not be complete. Veterinarians would be restricted to only drugs on the list. The list would need to be updated every time a new drug is approved for use. For these reasons, the board determined that the proposed rule, which does not include a drug list, is the least burdensome approach.

Section 6. Did you determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law?

The rule does not require those to whom it applies to take an action that violates requirements of federal or state law.

Section 7. Did we determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless the difference is required in federal or state law?

It has been determined that the rule does not impose more stringent performance requirements on private entities than on public entities.

Section 8. Did you determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, did we determine that the difference is justified by an explicit state statute or by substantial evidence that the difference is necessary?

The rule does not differ from any applicable federal regulation or statute.

Section 9. Did we demonstrate that the rule has been coordinated, to the maximum extent possible, with other federal, state, and local laws applicable to the same activity or subject matter?

There are no other applicable laws.