



KENTUCKY BOARD OF VETERINARY EXAMINERS

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MEMORANDUM AND ORDER

TO: Licensees and Certificate Holders
FROM: Kentucky Board of Veterinary Examiners
DATE: April 16, 2020
RE: **Governor Andy Beshear's Executive Orders**
Board Recommendations on Social Distancing and Mandates on Restricted Services

I. Summary of Recent Events and Relevant Orders.

On March 6, 2020, Governor Andy Beshear declared a State of Emergency through [Executive Order \(EO\) 2020-215](#) (03/06/2020) in response to SARS-CoV-2 and COVID-19. Since that date, the Governor has issued multiple Executive Orders which impact the practice of veterinary medicine in the Commonwealth of Kentucky, including these:

- **[Order \(3/17/2020\) Related to Public-Facing Businesses](#)**
This Order has direct implications on licensed veterinarians and veterinary technicians due to social distancing restrictions. Although veterinary clinics and pet stores are exempt from the closure order, such businesses are not exempted from social distancing. Note that pet groomers are not listed as life sustaining.
- **[EO 2020-243 \(3/18/2020\) State of Emergency Relating to Social Distancing](#)**
This Executive Order (EO) has direct implications on licensed veterinarians and veterinary technicians due to the proximity of licensees to their, colleagues, staff, clients and patients.
- **[Order \(3/19/2020\) Related to Mass Gatherings](#)**
This EO has direct implications on licensed veterinarians and veterinary technicians due to public events, such as rabies clinics.
- **[EO 2020-245 \(3/20/2020\) State of Emergency Relating to the Prohibition Against Price Gouging](#)**
This EO has direct implications on licensed veterinarians and veterinary technicians due to the Board's recommendations on limitation of services and procedures.
- **[Directive \(3/23/2020\) Department of Public Health, Cabinet for Health and Family Services – State of Emergency – All non-emergent, non-urgent in-person medical, surgical, dental, and any other healthcare practice or procedures must have immediately ceased effective close of business on March 18, 2020](#)**
This Directive has direct implications on licensed veterinarians and veterinary technicians due to restrictions recommended on medical services and procedures in order to preserve consumable PPE.

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- [EO 2020-257 \(3/25/2020\) State of Emergency – Only Life Sustaining Businesses May Remain Open](#)

This EO has direct implications on licensed veterinarians and veterinary technicians due to social distancing restrictions. Although veterinary clinics and pet stores are exempt from the closure order, such businesses are not exempted from social distancing.

The above Orders specifically and repeatedly require the citizens of the Commonwealth to take all feasible measures to engage in appropriate social distancing to prevent the spread of COVID-19, in accordance with guidance from the federal [Centers for Disease Control and Prevention](#) (CDC) and the [Kentucky Department of Public Health](#) (DPH). **These orders further authorize all professional licensing boards to take actions necessary to ensure appropriate social distancing.**

II. Recent Board Actions and Announcements.

The Board has previously taken steps to ensure licensees are informed about the Governor's Executive Orders, and has made recommendations to ensure compliance with these EOs.

- [3/17/20](#) Recommendations re COVID-19
- [3/19/20](#) Board recommendations on medical equipment conservation, precautionary procedures
- [3/20/20](#) Memo from the Chairman
- [3/24/20](#) Directive to Postpone non-essential medical procedures
- [3/27/20](#) Clarifications on the Governor's Directives
- [4/4/20](#) Call for PPE Donations, Methods of Reporting Noncompliance

Despite the above communications, the Board is receiving numerous reports of licensees and / or corporate owned businesses still conducting business in an unsafe manner, placing colleagues, staff, and clients in potential exposure situations in direct contravention to Governor Beshear's Executive Orders and Directives. The Board believes it is paramount to the professions of veterinary medicine that all licensees practice with the emphasis on the Public Health mandates that have been issued. All procedures and treatments should be aimed toward protecting staff and clients.

Licensees who persist in ignoring the Governor's Orders and Board recommendations are acting unethically by putting their colleagues, staff, or clients in danger, by not conserving PPE that may be required for the pandemic response, and by capturing clients away from competitors during a time of national crisis.

III. Relevant Laws and Administrative Regulations.

It is important to understand the statutes and regulations governing the practice of veterinary medicine in Kentucky. Listed below are laws pertinent to the practice of veterinary medicine during the current State of Emergency.

- [KRS 321.175](#). The practice of veterinary medicine is a privilege which is granted by legislative authority in the interest of public health, safety, and welfare.
- [KRS 321.181](#)(10). "Emergency" means the animal has been placed in a life threatening condition and immediate treatment is necessary to sustain life.
- [KRS 321.235](#)(7). The board may suspend, or revoke licenses or certifications, or impose supervisory or probationary conditions upon licensees or certificate holders, or impose administrative disciplinary fines, issue written reprimands, or any combination thereof.
- [KRS 321.240](#)(6). The board shall promulgate a code of conduct governing the practice of veterinary medicine which shall be based upon generally recognized principles of professional ethical conduct.
- [KRS 321.351](#)(1). The board may refuse to issue a license, or may suspend, revoke, impose probationary or supervisory conditions upon, impose an administrative fine not to exceed five thousand dollars (\$5,000) per violation, issue a written reprimand, issue a private admonishment, or any combination of actions regarding any licensee upon proof that the licensee has:
 - (a) Committed any act of dishonesty or corruption, if in accordance with KRS Chapter 335B. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant. "Conviction," as used in this paragraph, shall include a finding or verdict of guilt, an admission of guilt, or a plea of nolo contendere;
 - ...
 - (c) Committed any unfair, false, misleading, or deceptive act or practice;
 - (d) Been incompetent or negligent in the practice of veterinary medicine;
 - (e) Violated any state statute or administrative regulation governing the practice of veterinary medicine or any activities undertaken by a veterinarian;
 - (f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;
 - (g) Violated the code of ethical conduct as set forth by the board by administrative regulation;
 - or
 - (h) Violated any applicable provision of any federal or state law or regulation regarding the dispensing of controlled or legend drugs, if in accordance with KRS Chapter 335B.
- [KRS 321.353](#). Emergency order for immediate, temporary suspension of license when disciplinary action, investigation, or initiating complaint is pending if the order is necessary to protect the public.
- [201 KAR 16:010](#). Code of Ethical Conduct, especially Section 16. A veterinarian shall not practice veterinary medicine: (1) So as to endanger the health and welfare of his patients or the public.

IV. Order and Guidance.

In response to the numerous complaints being received from employees of clinics and hospitals around the Commonwealth, the Board has determined it necessary to issue an Order for licensees. Failure to comply with the following instructions may result in the immediate suspension of licensure, the imposition of fines, or other disciplinary action against the licensee. All such disciplinary actions shall be made public.

- 1) **Every licensee's priority during the COVID-19 State of Emergency should be the protection of public health.** Endangering the public or staff through unnecessary exposures violates the Kentucky Practice Act, the Veterinary Code of Conduct, and the Orders issued by this Board during the current State of Emergency.
 - a) Corporate owned practices, even if owned by an entity headquartered out of state, must still comply with the Governor's Executive Orders.
 - b) Licensees employed by a corporate entity are ultimately accountable for ensuring the Governor's EO's and the Board's recommendations are followed as outlined. Failure to do so may result in Board discipline.
- 2) **Ensure that your practice follows the Governor's Executive Orders and Directives to maintain social distancing.**
 - a) **Clients should not be admitted into the building of clinics and hospitals without critical need.** E.g., handling an aggressive animal.
 - b) **Scheduling must accommodate for space between clients, even in the parking lot.**
 - A good practice is to block off every other parking space so distance is maintained between vehicles.
 - c) **Curbside exchanges must be used.**
 - Some small animal veterinarians report using a large kennel or other type of enclosure outside the office so clients can leave the patient in the kennel, and after the client returns to their vehicle, the patient is retrieved by staff. The handles of the enclosure are disinfected between each use.
 - Consider using this [AVMA flow chart](#) to help minimize exposures.
 - d) **Rabies clinics, drive through or otherwise, are not allowable under current social distancing Orders.**
 - e) **EO 2020-257 specifies that only life sustaining businesses are allowed to stay open.**
 - This list does not include pet grooming as a necessity of life unless it is medically necessary.
 - Boarding / kennels / animal daycares may be medically necessary for the patient, or medically necessary for the owner of the patient, or for COVID-19 front line workers.
 - f) **Failure to comply will result in Board discipline.**

- 3) **Conserve consumable PPE.**
- a) The Kentucky Office of Homeland Security reports that PPE shortages include consumable sterile or surgical gloves, N95 respirators and surgical masks, gowns, sterile cotton swabs, ventilatory supplies, and any other supplies identified by the Governor's office.
 - b) With regard to services and procedures that do not use any of the listed consumable PPE, there is no limitation on veterinary medicine except as delineated in Item 1 (protection of public health) and Item 2 (social distancing), above.
- 4) **Notes to equine providers.** If abiding by the Order delineated in Item 1 (protection of public health), Item 2 (social distancing), and Item 3 (conserving consumable PPE) above,
- a) Surgery for sale yearlings is permissible but should be done with the time frame toward the particular sale the individual will be entered so as not to increase surgery workloads to the point of increasing the likelihood of staff exposure risks.
 - b) Radiographing of sales yearlings is a time sensitive process, and is allowed if the following conditions are met to aid in compliance with social distancing requirements:
 - i. One designee holds all yearlings to be radiographed;
 - ii. One designee holds the plate for all yearlings to be radiographed;
 - iii. The veterinarian clinician takes all the radiographs; and
 - iv. All individuals wear masks during the process.
 - v. Each individual designee should remain constant for the entire process at each location.
 - vi. Without exception, no more than three (3) individuals should be involved in the process at any time.
- 5) **The Board encourages the use of telehealth where possible, within the bounds of a current, valid VCPR.** The Board considers a VCPR to be current if the patient has been seen within the last 12 months. For a definition of a VCPR in Kentucky, see [KRS 321.185](#).
- 6) To the extent that any statute within KRS Chapter 321, or any administrative regulation promulgated by the Board, is inconsistent or could be construed as inconsistent with this Order, or with any order issued under the authority of the Governor's Emergency Declaration, such statute or regulation is hereby **SUSPENDED** pursuant to [Executive Order 2020-243](#) (issued March 18, 2020), Sections 3 and 4.

Please note this temporary Board Order shall remain in effect for the duration of the State of Emergency that Governor Beshear declared on March 6, 2020.

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Further, the Board has determined that a current employee of a veterinary clinic or other business owned or operated by a licensee shall have his or her personally identifying information kept anonymous from his or her employer in order to offer an effective shield against retaliation. Individuals wishing to file such a report should use the Board's Grievance Form located online at www.kybve.com/grievances.html. These cases will be given fast track status with special attention to resolution of these unethical practices in this time of national crisis.

For current information on the COVID-19 response efforts related to the veterinary community, please continue to check the Board's website at www.kybve.com/Kentucky-Veterinary-Covid-19-updates.html.

If you have any questions about this Board Order, contact the Board's office at Vet@ky.gov or call 502-782-0273.



Steven J. Wills, D.V.M.
Chairman, Kentucky Board of Veterinary Examiners

Date: April 16, 2020



Michael Brown
Secretary, Executive Cabinet

Date: April ~~16~~²⁰, 2020