DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF FINAL RULEMAKING

The Director, Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in § 6(l) of the Veterinary Practice Act of 1982, D.C. Law 4-171, D.C. Code § 2-2725(m) (1988 Repl. Vol.), and Mayor's Order 88-112 (May 19, 1988), hereby gives notice of adoption of a new Chapter 29 (Animal Facilities) of Title 17 DCMR (Business, Industry, and Professions). No comments were received in response to the proposed rulemaking published at 35 DCR 3842 (May 20, 1988). Minor technical changes were made in the text of the proposed rules. Final rulemaking action was taken on August 17, 1988. These rules are effective on the date of the publication of this notice in the D.C. Register.

This chapter supersedes §§ 730 to 733 of Chapter 7 (Animals, Pet Shops, and Animal Hospitals) of Title 22 DCMR (Public Health and Medicine).

CHAPTER 29 ANIMAL FACILITIES

2900 APPLICABILITY

2900.1 This chapter applies to applicants for and holders of a license to operate an animal facility.

2900.2 Chapter 28 of this title (Veterinarians) supplements this chapter.

2900.3 All animal facilities in the District shall meet requirements set forth in this chapter within six (6) months of the effective date of this chapter.

2901 GENERAL REQUIREMENTS

2901.1 To be licensed under this chapter, an animal facility shall:

(a) Pass inspection by the Director;

(b) Meet the standards set forth in this chapter; and

(c) Be under the direction of a veterinarian in good standing with the Board who is:

(1) The owner, partner, president, or chief operating officer of the facility; and

(2) Personally responsible for maintaining such facility within the standards set forth in this chapter.

2901.2 An applicant for or holder of a license to operate a mobile clinic is required to have a permanent mailing address.

2902 APPLICATION FOR LICENSE

2902.1 An applicant for a license to operate an animal facility is required to be a veterinarian licensed under the Act in good standing.

2902.2 The owner of an existing facility shall apply for a license under the chapter within thirty (30) days after the effective date of the chapter.

2902.3 An applicant for initial licensure other than an applicant subject to § 2902.2 shall submit an application to the Director on the prescribed form, and pay the required fee, at least sixty (60) days prior to the intended date of operation.

2902.4 An applicant shall include a copy of a certificate of occupancy, and certificate of incorporation in good standing, if any, for the facility with the application.

PRE-LICENSURE INSPECTION

.1 Before the Director issues a license, the District of Columbia Fire Department shall inspect the facility to determine compliance with fire safety requirements and shall submit the findings to the Director.

Before issuing a license, the Director shall conduct an on-site inspection to determine compliance with the Act and this chapter.

The Director shall send a written report of the findings of the inspection to the applicant no later than fifteen (15) days after the conclusion of the inspection.

If the report states that there are deficiencies, the applicant shall correct them within the time period required by the Director.

The Director may request written proof of correction of deficiencies and may conduct a follow-up inspection to determine correction of deficiencies after the applicant notifies the Director that the deficiencies have been corrected.

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2903.6 The Director may deny the application if the deficiencies have not been corrected within a time period required by the Director pursuant to § 2903.4. The facility may reapply for a license after deficiencies are corrected by submitting a new application and fee in accordance with this chapter.

2904 ISSUANCE AND DISPLAY OF LICENSE

2904.1 The Director shall issue a license to a facility that the Director determines is in compliance with the Act and this chapter.

2904.2 A licensee shall display the license and certificate of occupancy in a conspicuous place on the premises.

2904.3 The Director shall issue a license only for the premises and person or persons named as applicants in the application. The license is not valid for use by any person or at any place other than that designated in the license. Any transfer as to ownership or location without the approval of the Director causes the immediate forfeiture of the license.

2904.4 A license is the property of the District Government and shall be returned to the Director immediately upon any of the following events:

(a) Suspension or revocation of the license;

(b) Refusal to renew the license;

(c) Forfeiture pursuant to § 2904.3; or

(d) Voluntary discontinuance by the licensee.

2905 TERM OF LICENSE

2905.1 The term of a license issued under this chapter shall begin on the date of issuance.

2905.2 A license issued or renewed under this chapter shall be effective for one (1) year.

2906 RENEWAL OF LICENSE

2906.1 The Director shall mail a renewal notice to a licensee by first class mail to the licensee's address on file with the Director at least forty-five (45) days prior to the expiration of the license.

2906.2 The failure of a licensee to receive the renewal notice required by this section does not relieve the licensee of the responsibility of renewing the license in a timely manner.

2906.3 If the Director does not receive the application for renewal of a license prior to its expiration, the license shall lapse, but may be reinstated within thirty (30) days of its expiration upon receipt of a completed renewal application and the payment of an additional late fee. Reinstatement of a license that has been expired for over thirty (30) days shall be at the discretion of the Director.

2906.4 The Director may conduct an on-site inspection, announced or unannounced, of a facility to determine compliance with the Act and this chapter for the purposes of determining whether the facility meets the requirements for renewal of the license.

2906.5 The Director shall send a written report of the findings of the inspection to the licensee no later than fifteen (15) days after the conclusion of the inspection.

2906.6 The Director shall not renew the license of a facility found to have deficiencies which pose a serious threat to the health, safety, or welfare of the animals under the care of the facility or the public.

2906.7 The Director may require an applicant for renewal to submit a written, signed, and dated plan of correction to abate the deficiencies cited no later than ten (10) days following the receipt of the written report of the findings.

2906.8 The Director shall renew the license of a facility with no deficiencies or with minor deficiencies that in the opinion of the Director can be corrected within thirty (30) days.

RESERVED

CHANGE IN OPERATIONS, LOCATION, OR OWNERSHIP

A licensee shall inform the Director of any change in the operation, program, or services of an animal facility within five (5) days of the change.

A licensee desiring to change the location of an animal facility within the District shall apply for a new license for that facility in accordance with this chapter.

2908.3 A licensee desiring to transfer more than fifty percent (50%) of the ownership of an animal facility shall notify the Director at least sixty (60) days prior to the date of transfer. The prospective owner shall apply for a license to operate the facility in accordance with this chapter and pay the required fee. The Director shall inspect the facility within ninety (90) days of a change of ownership.

2909 RIGHT OF ENTRY AND INSPECTION

2909.1 The Director has the right, after presenting credentials, to enter, with or without prior notice, the premises of the following:

(a) An animal facility;

(b) An animal facility for which an application under this chapter is pending; and

(c) An unlicensed premises that the Director has reason to believe is being operated in violation of the Act or this chapter.

2909.2 A licensee or applicant shall give the Director access to records, policies and procedures, contracts, and any other information that the Director deems necessary to determine the animal facility's compliance with the Act, this chapter, or other law.

2909.3 The Director shall submit a written report to the licensee within fifteen (15) days after the conclusion of the inspection.

2909.4 The Director may require the licensee to respond to the written report with a written plan of correction within ten (10) days after the receipt of the report.

2909.5 The Director shall require the licensee to correct the deficiencies within the time period required by the Director or propose an action to revoke, suspend, refuse to renew, or deny the license under § 2931.

2909.6 The Director shall not enter and inspect an unlicensed animal facility without the permission of the applicant, licensee, owner, or person in charge unless a search warrant is first obtained from the Superior Court of the District of Columbia pursuant to D.C. Code § 11-941 (1981).

2909.7 The Director may refer to the appropriate agencies any case involving an animal facility that the Director reasonably believes is operating in violation of the Act or other applicable laws or regulations.

2910 COMPLAINTS INVESTIGATIONS

2910.1 If the Director receives a written complaint alleging violation of the Act or this chapter, the Director shall investigate the complaint. In conjunction with the investigation of a complaint (written or oral) the Director may conduct an announced or unannounced inspection to determine the validity of the complaint.

2910.2 A licensee shall permit the Director to enter to inspect the premises.

2910.3 The Director shall submit a written report to the licensee with fifteen (15) days after the conclusion of the inspection.

2910.4 The Director may require the licensee to respond to the written report of deficiencies with a written plan of correction within ten (10) days after the receipt of the report.

2910.5 The Director shall require a licensee to correct the deficiencies within the time period required by the Director or may propose an action to revoke, suspend, refuse to renew, or deny the license under § 2931.

2910.6 The Director shall communicate the findings of the complaint investigation to the licensee and complainant.

2911 VARIANCES

2911.1 The Director, in the Director's discretion, may excuse the inability of a licensee to conform to requirements of this section and grant a variance to the licensee if the Director determines the following:

(a) To deny the variance would result in undue hardship to the licensee;

(b) Compensating factors are present which give adequate protection to the health, safety, and welfare of the animals under the care of the facility and the public; and

(c) The variance can be granted without impairing the purposes of this chapter or the Act.

A licensee shall submit a request for a variance on the prescribed form setting forth the reasons that compliance with the requirements of this chapter would result in undue hardship and the compensating factors

that would ensure adequate protection of the health, safety, and welfare of the animals under the care of the facility and public.

2911.3 A licensee requesting a variance shall submit a request within the period specified in a notice of noncompliance, but in no case more than twenty (20) days after the date the notice was mailed to the licensee.

2911.4 The Director shall maintain a written record of each variance granted or denied and shall make these records available for inspection by the public.

2911.5 The Director's decision to grant or deny a variance is final and is not subject to review.

2912 MINIMUM STANDARDS FOR ANIMAL FACILITIES

2912.1 This section sets forth the minimum standards for animal facilities. This section, except for § 2912.9, is applicable to mobile clinics.

2912.2 Except as provided in § 2912.3, a facility shall have the following areas:

(a) A reception area separate from other designated areas;

(b) An examination room;

(c) A laboratory area;

(d) A surgery room separate from all other areas;

(e) An animal housing area;

(f) An animal exercise area;

(g) An animal treatment area;

(h) A lavatory;

(i) A radiology area;

(j) A radiology processing room;

(k) A drug storage and dispensing area;

(l) A record keeping area; and

(m) An isolation area for effective separation of contagious and non-contagious cases.

2912.3 A facility is not required to have a laboratory area, surgery room, radiology area, or radiology processing room if the facility proves to the satisfaction of the Director that the facility uses consultant services for diagnostic-quality X-rays, laboratory services, and surgery.

2912.4 A facility shall at a minimum have the following equipment in good working order:

(a) A stethoscope;

(b) An ophthalmoscope;

(c) An otoscope;

(d) A thermometer;

(e) Scales;

(f) An oxygen and delivery system; and

(g) If surgery is performed, the following:

(1) An autoclave with monitoring devices; and

(2) Anesthetic support equipment.

12.5 Each examination room shall:

(a) Be of sufficient size to accommodate the veterinarian, assistants, animal, and owner; and

(b) Have, at a minimum, the following:

(1) A table with a non-porous surface;

(2) A waste receptacle; and

(3) Sanitizing solution.

Cages or housing systems of an animal facility shall:

(a) Have sufficient space to allow animals freedom of movement;

(b) Maintain a temperature between sixty-five and seventy-five degrees Fahrenheit (65° to 75° F.);

(c) Provide access to adequate food and water as required by § 2913;

(d) Maintain animals that must be in a group without overcrowding;

(e) Maintain animals in good health as measured by such factors as the maintenance of normal body weight and the prevention of the spread of communicable diseases;

(f) Be designed for effective sanitary maintenance;

(g) Be kept in good repair to prevent injury to the animal and to promote physical comfort, and be free of sharp corners and edges, broken wires, and any dangerous surfaces; and

(h) Be of materials that are impervious to water, wear, and corrosion, not including wood.

2912.7 The buildings and grounds of the facility shall be maintained to provide for the well-being of the animals and health and safety of the facility's personnel and public.

2912.8 The animal facility shall be kept clean. A regular schedule of sanitary maintenance is required, including the elimination of wastes as described in §§ 2912.9 to 2912.17.

2912.9 The animal facility shall provide an area readily susceptible to proper sanitation which is available for the sole purpose of exercising animals.

2912.10 Animal rooms, corridors, storage areas, and other parts of the animal facility shall be cleaned as often as necessary, using appropriate detergents and disinfectants to keep them free of dirt, debris, and contamination.

2912.11 If litter or bedding such as paper is used in animal cages or pens, it shall be changed as often as necessary to keep the animals dry and clean and to minimize offensive odors.

2912.12 Cages or pens from which animal waste is removed by hosing or flushing shall be cleaned and suitably disinfected at least once a day. Animals shall be removed from cages during servicing.

2912.13 Animal cages, racks, and accessory equipment, such as feeders and water utensils, shall be washed and sanitized as often as necessary to keep them clean and free from contamination. In addition, cages shall be sanitized before new animals are placed in them. Sanitizing may be accomplished either by washing all

soiled surfaces with a cleaning agent having an effective bactericidal action or with live steam or the equivalent thereof.

2912.14 Waste containers and implements shall be maintained in sanitary condition.

2912.15 All waste shall be collected and removed in a safe and sanitary manner. If waste cans are used, they shall be made of metal or plastic, be leakproof, and be equipped with tight fitting lids. Leakproof, disposable containers such as plastic bags or plastic-lined paper bags as liners in waste cans shall be used for disposal of animal tissues and carcasses.

2912.16 Waste materials shall be removed regularly and frequently.

2912.17 Used hypodermic needles, suture needles, catheter needles, and other needles shall be stored and disposed of in containers so as to prevent injuries to persons handling the trash.

2912.18 Insects, rodents, and other pests shall be eliminated or effectively controlled.

913 FEEDING AND WATERING OF ANIMALS

913.1 Each animal shall have access to food according to its particular requirements. The food shall be free of contamination, palatable, and nutritionally adequate. Each animal shall be fed an amount to meet its nutritional requirements.

13.2 Food containers shall be accessible to animals and shall be located to minimize contamination by waste. Containers shall be made of a durable material, and sanitized daily. Disposable food containers may be used but shall be discarded after use.

.3 Animals shall have access to potable water, according to their particular requirements.

FACILITIES, EQUIPMENT, AND SUPPLIES FOR ANIMAL SURGERY AND POST SURGICAL CARE

1 If surgery is to be performed, appropriate facilities and equipment shall be provided. Surgery shall be performed in a room which is reserved only for surgery and used for no other purpose. A surgery room may not serve as a corridor. The operating area shall be run in accordance with accepted surgical practice with regard to anesthesia, asepsis, life support, monitoring procedures, and recovery care.

2914.2 A suitably equipped area shall include the following equipment and supplies:

(a) A surgical table with non-porous surface;

(b) Autoclave for effective sterilization of instruments, linens, gloves, gowns, and similar items, will have internal and external sterilization monitors;

(c) Instrument table, stand, or tray and waste receptacle;

(d) A scrub sink or a similar container for surgical preparation;

(e) Operating light with sufficient power to illuminate the surgical area clearly with a minimum of one hundred (100) foot candles;

(f) Automatic emergency lighting;

(g) Instruments, supplies, and equipment appropriate for the surgical procedures performed in the hospital;

(h) Instruments and equipment for artificial respiration, including but not limited to, resuscitation (Ambu) bag and endotracheal tubes;

(i) Circle gas anesthesia machine in working condition utilizing an anesthetic vaporizer and effective scavenger system; and

(j) Provision for proper and adequate post-surgical care and monitoring.

2914.3 Surgeons and assistants shall wear clean or sterile attire and sterile gloves appropriate to the procedure.

2915 STRUCTURAL STANDARDS FOR NON-MOBILE ANIMAL FACILITIES

2915.1 This section prescribes the structural standards for animal facilities other than mobile clinics.

2915.2 Floors shall be smooth, waterproof, non-absorbent, scrubbed with detergents and effective sanitizing products, and capable of normal hospital use. Carpeting is an acceptable floor covering if it is kept in a sanitary condition and free from odors.

2915.3 Walls shall be waterproof, smooth, and free of any cracks that could interfere with effective cleaning.

2915.4 Ceilings shall be maintainable in a sanitary condition.

2915.5 Exterior windows and skylights are not required in the animal rooms if adequate ventilation and lights are provided. If windows are provided and are opened for ventilation purposes, effective screening through which animals cannot escape is required.

2915.6 The ventilation system shall regulate room temperature, promote comfort, and maintain a low concentration of atmospheric contaminants such as odors or microorganisms.

2915.7 The ventilation system shall maintain temperatures between sixty-five and seventy-five degrees Fahrenheit (65° to 75° F.) The relative humidity shall be maintained at all times within a range of thirty to seventy percent (30% to 70%), according to the needs of the animals.

2915.8 There shall be hot and cold running water on premises from a source approved by the District.

2915.9 There shall be a toilet and lavatory on premises approved by the District for personnel and clients.

2915.10 If companion animals are housed outdoors with no access to indoor facilities, provisions shall be made to assist in maintaining their natural temperatures. When the ambient temperature falls below fifty degrees Fahrenheit (50° F.), or rises above eighty-five degrees Fahrenheit (85° F.), adequate shelter shall be provided.

2915.11 Corridors shall be wide enough to accommodate expected traffic. The floor-wall junction shall be coved to facilitate cleaning.

2915.12 Electrical outlets shall be explosion-proof in rooms where volatile anesthetics are used and waterproof where water is used in cleaning.

2915.13 At least fifty (50) foot-candles of light are required in animal housing areas. Animal treatment and examination surfaces shall be lighted by a minimum of one hundred (100) foot-candles. Provision shall be made for emergency lighting in the event of power failure.

2915.14 Floors and floor drains shall be maintained in a sanitary condition.

2915.15 An area or areas equal in square feet to at least twenty-five percent (25%) of the animal housing space shall be set aside for the service functions of the animal facility. When an animal facility is one thousand (1,000) square feet or less in size, services may be performed in a multipurpose area, but there shall be a separate storage area.

2915.16 The animal facility shall comply with all District laws and regulations applicable to buildings, construction, and zoning.

2916 LABORATORY

2916.1 The animal facility shall have as a minimum, proof of use of either in-house laboratory service or consultant lab services by a nationally accredited laboratory for performing the following lab tests consistent with appropriate professional care for the species treated:

(a) Urinalysis, including microscopic evaluation of sediment;

(b) Complete blood count (CBC);

(c) Flotation test for ova of intestinal parasites;

(d) Skin scrapings for diagnosing external parasites;

(e) Exam for circulating blood microfilaria;

(f) Blood chemistries;

(g) Cultures and sensitivities;

(h) Biopsy;

(i) Complete necropsies including histopathology; and

(j) Serology.

2916.2 If in-house laboratory machines are utilized, schedules of maintenance and appropriate calibration to accepted standards are required along with appropriate quality control practices.

2917 DRUG STORAGE

2917.1 The drug storage area shall have appropriate provision for temperature control for all drugs and biologicals

2917.2 Drugs and biologicals under refrigeration shall be stored with the refrigerator's interior temperature maintained between thirty-six and forty-six degrees Fahrenheit (36° and 46°F.)

2917.3 Locked storage shall be supplied for Schedule II drugs.

2917.4 Drugs stored at room temperature should be maintained between fifty-nine and eighty-six degrees Fahrenheit (59° and 86°F.).

2917.5 The stock of drugs and biologicals shall be reviewed frequently and all expired medications removed from the working stock.

2917.6 Drugs and biologicals shall not be sold or dispensed after the expiration date designated on the label or the original container.

2917.7 Expired Schedule II drugs shall be disposed of in accordance with District and Federal laws and regulations.

2918 STORAGE AREAS FOR FOOD, BEDDING, AND REFUSE

2918.1 Food and bedding shall be stored in an area separate from animal housing and shall be stored off the floor on pallets, racks, or carts.

2918.2 Food storage areas shall be physically separated from refuse areas.

2918.3 Temperatures in the storage rooms shall be the ambient temperature. Refrigerated storage shall be available for perishable items.

2918.4 The facility shall contain separate storage facilities for dead animals. Carcasses shall be kept below forty-five degrees Fahrenheit (45° F.) to reduce putrefaction, and noxious materials shall be covered or packaged.

RADIOLOGICAL EQUIPMENT AND FACILITIES

An animal facility shall have the capability and proof of use of either in-house or consultant services for obtaining diagnostic quality radiographs.

Radiograph equipment shall conform to the following requirements:

(a) The protective tube housing shall be of diagnostic type;

(b) Diaphragms or cones shall be provided for collimating the useful beam to the area of clinical interest and shall provide the same degree of protection as is required of the housing;

(c) The total filtration permanently in the useful beam shall not be less than one-half of one millimeter (0.5 mm) aluminum equivalent for machines operating up to fifty kilovolt potential (50 kVp), one and one-half millimeters (1.5 mm) aluminum equivalent for machines operating between fifty to seventy kilovolt potential (50 to 70 kVp), and two and one-half millimeters (2.5 mm) aluminum equivalent for machines operating above seventy kilovolt potential (70 kVp);

(d) A device shall be provided to terminate the exposure after a preset time of exposure; and

(e) A dead-man type of exposure switch shall be provided, together with an electrical cord of sufficient length, so that the operator can stand out of the useful beam and at least six (6) feet from the animal during all X-ray exposures. This paragraph does not apply to field radiograph procedures.

2919.3 The dark room shall be maintained in a clean and orderly manner and shall be of adequate size for the proper development of radiographs.

2919.4 Equipment shall be maintained in good operating condition for the proper development of radiographs.

2920 OPERATION OF RADIOLOGY EQUIPMENT

2920.1 A veterinarian using radiology equipment shall require operators to use lead aprons and gloves that are adequate to safeguard operators in accordance with federal and District law.

2920.2 No person under eighteen (18) years of age shall be permitted to be present in the radiology area during the operation of radiology equipment.

2920.3 The operator of radiology equipment shall stand well away from the useful beam and the animal during radiographic exposure.

2920.4 No individual, other than the operator, may be in the X-ray room while exposures are being made unless such individual's presence is required.

2920.5 A veterinarian shall ensure that all X-ray equipment under his or her control is operated only by individuals competent to use the equipment safely.

2920.6 The veterinarian shall provide safety rules to each individual operating X-ray equipment under the veterinarian's control, including any restrictions of the operating technique required for the safe operation of the particular X-ray apparatus, and require that the operator demonstrate familiarity with these rules prior to using the equipment. These rules shall require that all persons operating radiology equipment wear X-ray badges and that these badges be evaluated at least monthly by a qualified radiology laboratory. Records shall be maintained on the premises as to the individual badge exposure of all persons monitored.

20.7 When an animal shall be held in position during radiography, mechanical supporting or restraining devices shall be used. If the animal must be held by a person, the person shall be protected by appropriate shielding devices and positioned so that no part of his or her body will be struck by the useful beam.

.8 Field radiograph procedures shall conform to the following specifications:

(a) Protective lead aprons and gloves shall be used;

(b) Employees shall be monitored for exposure; and

(c) Equipment shall be maintained in good operating condition.

Radiographs shall be properly identified, filed for reference, and maintained for three (3) years.

Radiology equipment and its use shall be in compliance with Chapters 20 to 22 of Title 22 DCMR (Public Health and Medicine) and any other applicable District or federal laws or rules.

RESERVED

DENIALS AND DISCIPLINARY ACTION

Upon a finding that an applicant for or holder of a license engaged in conduct described in § 2930.2, the Director may, after providing notice and an opportunity for a hearing pursuant to this chapter, take one or more of the following actions:

(a) Deny the issuance of a license;

(b) Suspend or revoke a license;

(c) Refuse to renew or reinstate a license or endorsement; or

(d) Impose a civil fine.

2930.2 Grounds for suspension, revocation, refusal to renew, or deny a license include the following:

(a) Failure of the licensee to meet or maintain the standards required by, or other violation of, the Act or this chapter;

(b) Refusal to allow the Director access to the facility when necessary to carry out the purposes of this chapter;

(c) Willful submission by the licensee of false or misleading information to the Director in connection with an application for a license or related to licensing procedures;

(d) Violation of the Act, this chapter, other District laws or rules, or federal laws or rules relating to the operation of the facility by the licensee.

(e) Failure of the licensee to allow inspections pursuant to this chapter;

(f) Failure to comply with the terms of a plan to correct deficiencies submitted to the Director or other agreement with the Director;

(g) Failure of the licensee to obey any lawful order of the Director pursuant to this chapter;

(h) Conviction of the licensee of a felony involving the management or operation of a facility or which is directly related to the integrity of the facility; or

(i) Suspension, revocation, or lapse of the veterinary license of the licensee.

2930.3 The Director may suspend or refuse to renew the license of an animal facility if the licensee has failed to pay a civil fine imposed pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, D.C. Law 6-42, D.C. Code §§ 6-2701 to 6-2723

(1988 Repl. Vol.) within the time period required by the order of the Administrative Law Judge or required by Chapter 11 of Title 1 DCMR.

2931 NOTICE OF INTENDED ACTION AND OPPORTUNITY FOR A HEARING

2931.1 The Director shall give an applicant for or holder of a license a notice of and opportunity for a hearing before the Director if the effect of the action would be one of the following:

(a) To deny a license for a cause other than failure to pay the prescribed fee;

(b) To refuse to renew a license for a cause other than failure to pay the prescribed fee;

(c) To suspend or revoke a license; or

(d) To impose a civil fine.

2931.2 If the Director proposes taking an action of the type specified in § 2931.1(a), the Director shall give the respondent a written notice stating:

(a) That the respondent has failed to satisfy the Director as to the respondent's qualifications to be approved for licensure;

(b) The respect in which the respondent has failed to satisfy the Director;

(c) That the denial will be come final unless the respondent files a request for a hearing with the Director within fifteen (15) days of the receipt of the notice; and

(d) A description of the rights of the respondent at a hearing as specified in § 2939.2.

2931.3 If the Director proposes taking an action of the type specified in § 2931.1(b), (c), or (d), the Director shall give written notice to the respondent stating:

(a) That the Director has sufficient evidence, setting forth the nature of the evidence, which, if not explained, justifies taking the proposed action;

(b) That the Director may take the proposed action, unless within (15) days of the receipt of the notice the respondent files with the Director a written request for a hearing or in the

alternative submits documentary evidence for the Director's consideration before the Director takes final action; and

(c) A description of the rights of the respondent at a hearing as specified in § 2939.2.

2931.4 A notice given pursuant to § 2931.1 shall be in the form of charges and specifications. A notice given pursuant to § 2931.3 shall be in the form of a notice of intent to deny in letter format.

2931.5 If a respondent who was sent a notice of a proposed action pursuant to § 2931.1 does not mail or deliver a request for a hearing within the time and in the manner required under that section, the Director may proceed with or without a hearing and may render a decision on the basis of evidence before the Director.

2931.6 If a respondent scheduled for a hearing does not appear for the hearing, and no continuance has been granted, the Director may receive evidence and hear testimony and may render a decision on the basis of evidence before the Director.

2931.7 All decisions by the Director shall be supported by reliable, probative, and substantial evidence.

2931.8 The Director shall inform the parties of an action taken under this section.

2932 RESERVED

2933 HEARING NOTICE PROCEDURES

2933.1 If a respondent requests a hearing, the Director shall, within twenty (20) days following receipt of the request, notify the respondent of the date, time, and place of the hearing.

2933.2 The Director shall hold the hearing not less than fifteen (15) days following the date of service of the notice, unless the Director and all of the parties agree to the holding of the hearing at an earlier date.

2934 SERVICE

2934.1 A notice, order, decision, or pleading required by this chapter to be served on a respondent shall be served on the respondent or representative designated by the respondent or by law to receive service of papers. If a respondent has appeared through counsel, service shall be made upon the counsel of record.

2934.2 Service on a respondent shall be directed to the last known address of the respondent on file with the Director and shall be completed by one of the following methods:

(a) By personal delivery to the respondent;

(b) By delivery to the address of respondent, or respondent's counsel or agent, on file with the Department, by leaving it at that address with a person of suitable discretion at least sixteen (16) years of age who is employed or resides at that address;

(c) By certified mail, return receipt requested; or

(d) If service is effected pursuant to an order of the Director, in the manner provided by that order.

2934.3 Proof of service, stating the name and address of the person on whom service is made and the manner and date of service, shall be shown by one of the following methods:

(a) If service was by personal delivery, the certificate of the server indicating that the document was accepted or refused;

(b) If service was by certified mail, the return receipt indicating that delivery was accepted, refused, or returned unclaimed; or

(c) If service was effected pursuant to an order of the Director, in the manner provided in that order.

2934.4 If service is by personal delivery, it shall be deemed to have been served on the date and at the time on the certificate of service indicating that the document was accepted or refused.

2934.5 If service is by certified mail, it shall be deemed to have been served on the date and at the time shown on the return receipt that the document was accepted, refused, or returned unclaimed.

2934.6 If service is pursuant to an order of the Director, it shall be deemed to have been served on a date and at a time as provided in that order.

2935 REPRESENTATION

2935.1 A respondent may be represented only by an attorney who is an active member of the District of Columbia Bar, except that the Director may permit an attorney who is an active member of the bar of another jurisdiction in the United States to represent a respondent in a particular case.

2935.2 If it appears to the Director that the issues or facts in a matter before it are so complex that the interests of justice, saving time, or facilitating the preparation of an adequate record would be served by the representation of a party by an attorney, the Director may urge, but not require, that the party obtain the services of an attorney and may allow that party a reasonable period of time within which to do so.

2935.3 An attorney shall not participate in a representative capacity in any hearing conducted by the Director until the attorney submits to the Director a signed statement containing the attorney's name, street address, telephone number, and bar number.

2935.4 An attorney authorized to appear pursuant to this section may sign any paper required or permitted by this chapter or the Act to be filed with the Director.

2936 RESERVED

2937 MOTIONS AND OTHER PLEADINGS

2937.1 Except by leave of the Director during a hearing, a party shall make an application for an order or other relief by filing a written motion. A motion shall state with particularity the grounds on which it is based and shall clearly set forth the order or relief sought. If a motion is supported by memoranda, affidavits, or other papers, they shall be attached and served with the motion.

2937.2 A copy of each motion, response, opposition, reply, or other pleading filed with the Director shall be served on each party, and a certificate of service shall appear at the end of the pleading showing the date and method of service.

2937.3 A party may file a response or opposition to a motion within ten (10) days after service of the motion, but the Director, in the Director's discretion, may shorten or extend this time, with proper notice to parties. The response or opposition shall not include a motion for other affirmative relief against the moving party.

2937.4 A reply to a response or opposition may be filed within three (3) business days after service of the response or opposition, but the reply shall not reargue propositions presented in the motion nor present matters which are not strictly in reply to the response or opposition. No further pleading may be filed except by leave of the Director for extraordinary cause.

2937.5 A motion or other pleading shall meet the following additional requirements:

(a) It shall be typewritten on business size eight and one-half by eleven inch (8-1/2" x 11") paper;

(b) It shall contain the name of the case and number of the case, if any;

(c) It shall be double-spaced, except footnotes and quotations, which may be single-spaced;

(d) It shall be signed by the party on whose behalf it is filed or by that party's counsel; and

(e) It shall be accompanied by three (3) copies.

2938 RESERVED

2939 CONDUCT OF HEARINGS

2939.1 A hearing before the Director under this chapter shall be open to the public.

2939.2 A respondent entitled to a hearing has the right:

(a) To be represented by an attorney in accordance with § 2935;

(b) To present all relevant evidence by means of witnesses and books, papers, and other evidence;

(c) To examine all opposing witnesses on any matter relevant to the issues; and

(d) To have subpoenas issued to compel the attendance of witnesses and the production of relevant books, papers, and other evidence, upon making a written request to the Director.

2939.3 In connection with any hearing held pursuant to this chapter, the Director has the power:

(a) To administer oaths or affirmations to witnesses;

(b) To subpoena respondents and other witnesses and relevant books, papers, and documents;

(c) To take testimony;

(d) To examine witnesses;

(e) To direct the continuance of any case; and

(f) To enter into a consent agreement.

2939.4 In proceedings before the Director, if any person refuses to respond to a subpoena or refuses to take the oath or affirmation as a witness or thereafter refuses to be examined, or refuses to obey any lawful order of the Director, the Director may make application to the Superior Court of the District of Columbia for an order requiring obedience thereto.

2949.5 In a proceeding resulting from the Director's intended action to deny a license, the respondent has the burden of satisfying the Director of the respondent's qualifications.

2939.6 In a proceeding resulting from the Director's intended action to suspend, revoke, or refuse to renew a license, the Director has the burden or proving that such action should be taken.

2939.7 The Director shall make a complete record of all evidence presented during the course of a hearing and shall furnish copy to a party to the proceedings upon payment of the prescribed fee.

2939.8 The Director may grant a motion for a continuance which sets forth good cause for the request. The Direct may deny any motion for a continuance which is not filed at least two (2) business days prior to the date of the hearing.

2939.9 After the hearing, and within time limits established by the Director, the parties may submit proposed findings of fact, conclusions of law, and order, and may also submit memoranda of law on issues of law arising during the hearing.

2940 EVIDENCE AT THE HEARING

2940.1 All testimony at a hearing before the Director shall be under oath or affirmation.

2940.2 If any part of the record in any other proceeding previously held before the Director, or part of the record in any criminal or civil action, including hearings before any administrative agency, is offered in evidence, a certified true copy of that part shall be presented to the Board in the form of an exhibit, unless either of the following requirements is satisfied:

(a) The record is specified in such manner as to be readily identified, and the person offering the record agrees to supply copies later or when required by the Director; or

(b) There is a stipulation that the record may be incorporated by reference and the Director orders that incorporation.

0.3 The Director shall exclude irrelevant, immaterial, and unduly repetitious evidence.

.4 The Director may take official notice, at the request of a party or on its own motion, of the following:

(a) The law and rules of the District of Columbia, the United States, and any state or other jurisdiction of the United States;

(b) Material facts in the official files of the Department or other District of Columbia or federal agency; or

(c) A fact which is not subject to reasonable dispute in that it is generally known within the District of Columbia or is capable of accurate and ready determination by resort to sources the accuracy of which cannot reasonably be questioned.

If the Director takes official notice of a material fact not appearing in the evidence in the record, a party shall be given an opportunity to show the contrary at the hearing or on motion made within five (5) days after the hearing.

The parties may, by stipulation in writing filed with the Director, agree on the facts or any portion thereof involved in a hearing. The parties may also stipulate the testimony that would be given by a witness if the witness were present. The Director, in the Director's discretion, may require additional evidence concerning any matter covered by a stipulation.

2941 RESERVED

2942 CONDUCT OF PARTIES AND COUNSEL AT THE HEARING

2942.1 All parties at a hearing shall maintain decorum and good order at all times, and the Director may exclude or have removed from the hearing room any person violating any reasonable order of the Director.

2942.2 The Director may bar counsel from further participation in a hearing for disruptive conduct.

2942.3 If counsel has been barred from participating in a hearing, the Director may proceed with the hearing if consistent with the due process rights of the parties. Otherwise, the Director shall adjourn the hearing to give the party whose counsel has been barred an opportunity to secure new representation expeditiously.

2942.4 Counsel who has been barred from participating in a hearing may seek, and the Director may grant, reinstatement to participate in the hearing on such terms as the Director prescribes. The Director shall not permit a reinstatement application to delay the proceedings.

2943 RESERVED

2944 DECISIONS

2944.1 The Director shall render a decision in writing no later than forty-five (45) days after the hearing is completed.

2944.2 A decision of the Director adverse to a respondent shall contain the following:

(a) Findings of fact;

(b) Conclusions of law;

(c) An order; and

(d) A statement of appeal rights and the time within which such appeal review is required to be made.

2944.3 The Director shall serve upon the respondent, or the respondent's counsel of record, a copy of a written decision within ten (10) days after a decision is rendered.

2944.4 The Director, in the Director's discretion, may stay order pending appeal or reconsideration.

2945 RESERVED

2946 RECONSIDERATION

2946.1 A party may petition for reconsideration within ten (10) days after service of an order.

2946.2 Neither the filing nor the granting of a petition shall operate as a stay of a decision unless specifically ordered by the Director.

2946.3 A petition shall state briefly and specifically the following:

(a) The matters of record or points of law alleged to have been erroneously decided or overlooked;

(b) The grounds relied upon; and

(c) The relief sought.

946.4 If a petition is based in whole or in part on new matter, the matter shall be set forth in an affidavit, containing a statement that the petitioner could not with due diligence have known or have discovered the new matter prior to the hearing before the Director.

6.5 The Director, in its discretion, may permit or require oral argument upon a petition before the Director.

.6 The Director shall grant or deny a petition within sixty (60) days after the filing of the petition. Failure by the Director to act within that period shall constitute a denial of the petition.

JUDICIAL REVIEW; RECORD ON APPEAL

1 A party aggrieved by a final decision of the Director may seek review of the decision by the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedure Act, D.C. Code §§ 1-1501 to 1-1511 (1987 Repl. Vol.).

The Director shall compile and index the originals or copies of all documents pertinent to the appeal, including the following:

(a) A copy of the decision from which an appeal is taken;

(b) All documents relied on by the Director, including any relevant documents timely submitted to the Director by the respondent or by other parties to the hearing; and

(c) A transcript or summary of all testimony given or statements made during the course of any hearings, conferences, or investigations concerning the matter in dispute conducted by the Director prior to the filing of the notice of appeal.

2947.3 The Director shall provide all parties to the appeal a copy of the Director's index of the record on appeal.

2947.4 The record may be shortened or summarized if, with permission of the court, all parties to the review proceedings so agree.

2947.5 The documents transmitted pursuant to this section, and any supplements thereto, shall be available for inspection by the parties at a location designated by the Director.

2948-2954 RESERVED

2955 COMPUTATION OF TIME

2955.1 In computing any period of time specified in this chapter, the day of the act, event, or default shall not be counted, and the last day of the period shall be counted unless it is not a business day, in which event the time period shall continue until the next day that is a business day.

2999 DEFINITIONS

2999.1 As used in this chapter, the following terms have the meanings ascribed:

Act - the District of Columbia Board of Veterinary Practice Act of 1982, D.C. Law 4-171, D.C. Code §§ 2-2701 to 2-2737 (1988 Repl. Vol.).

Animal facility - fixed or mobile establishment, veterinary hospital, animal hospital, or premises wherein the practice of veterinary medicine or any part thereof is performed, including a mobile clinic.

Board - the District of Columbia Board of Veterinary Examiners for the District of Columbia, established by the Act.

Director - the Director of the Department of Consumer and Regulatory Affairs, or the Director's designee.

License - a license to operate an animal facility under this chapter.

Licensee - a person holding a license.

Mobile clinic - an ambulatory facility used in the practice of veterinary medicine.

Veterinarian - a person licensed to practice veterinary medicine under the Act and accordance with Chapter 28 of Title 17 DCMR.