

§ 161.5

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the application. The Administrator will review the application and the written statement, if any, and determine whether the applicant meets the requirements for re-accreditation contained in this part.

(2) Once a veterinarian whose accreditation has been revoked has correctly applied for re-accreditation in accordance with the requirements of paragraph (c) of this section, the Administrator will determine whether to re-accredit or to deny re-accreditation. This determination will be based on whether the veterinarian has fulfilled the following conditions:

(i) The veterinarian is licensed or legally able to practice veterinary medicine in the State in which the veterinarian wishes to perform accredited duties;

(ii) The veterinarian has completed a re-accreditation orientation program approved by the Veterinarian-in-Charge for the State in which the veterinarian wishes to perform accredited work, and upon completion of the orientation, has signed a written statement listing the date and place of orientation, the subjects covered in the orientation, and any written materials provided to the veterinarian at the orientation. The Veterinarian-in-Charge shall also give the State Animal Health Official an opportunity to review the contents of the re-accreditation orientation, and invite him or her to participate in developing orientation materials and conducting the orientation. The orientation program shall include topics addressing the subject areas which led to loss of accreditation for the applicant, and subject areas which have changed since the applicant lost accreditation; and

(iii) The professional integrity and reputation of the applicant support a conclusion that the applicant will faithfully fulfill the duties of an accredited veterinarian in the future. In making this conclusion, the Administrator shall review all available information about the applicant, including recommendations of the State Animal Health Official, and shall consider:

(A) Any criminal conviction records indicating that the applicant may lack the honesty, integrity, and reliability to appropriately and effectively perform accredited duties and to uphold the integrity of the National Veterinary Accreditation Program;

(B) Official records of the applicant's actions participating in Federal, State, or local veterinary programs;

(C) Judicial determinations in civil litigation adversely reflecting on the honesty, integrity, and reliability of the applicant; and

(D) Any other evidence reflecting on the honesty, professional integrity, reliability and reputation of the applicant.

(3)(i) If a veterinarian is re-accredited under paragraph (c)(2) of this section, the veterinarian may begin performing accredited duties again upon receipt of notification from

the Administrator that he or she is eligible to do so.

(ii) If an application for re-accreditation is denied under paragraph (c)(2) of this section, the veterinarian may apply for re-accreditation in accordance with this paragraph (c) not less than 2 years after the application was last denied, unless the decision specifies that the veterinarian may not reapply for re-accreditation until a period of time longer than 2 years has passed.

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(g) *Notice of warning.* In lieu of suspension or revocation, the Administrator is authorized to issue a written notice of warning to an accredited veterinarian when the Administrator determines a notice of warning will be adequate to attain compliance with the Standards for Accredited Veterinarian Duties in §161.4 of this part.

§ 161.5 Specialization.

An accreditation specialization recognized by the Administrator may be granted to an accredited veterinarian upon completion of an orientation or training program approved by APHIS. For certain accredited specializations, the cost of orientation or training may be borne by the accredited veterinarian. An accredited veterinarian granted an accreditation specialization will be referred to as a qualified accredited veterinarian or QAV. A QAV will be authorized to perform those activities and functions specifically provided for elsewhere in this chapter, for example, in part 149.

[73 FR 60488, Oct. 10, 2008]

EFFECTIVE DATE NOTE: At 74 FR 65012, Dec. 9, 2009, §161.5 was revised, effective Feb. 1, 2010. For the convenience of the user, the revised text is set forth as follows:

§ 161.5 Program certifications.

A program certification recognized by the Administrator may be granted to an accredited veterinarian in Category II upon completion of an additional orientation or training program approved by APHIS that focuses on the specific area for which the veterinarian is seeking program certification. Veterinarians accredited under Category I are not eligible to earn program certifications. Accredited veterinarians may elect to participate in a program certification on a voluntary basis. Participants in these program certifications will be qualified in a particular area or specialty. In addition to Category II training, qualification for a program

certification will include additional specialized training, which may include periodic training updates. For certain program certifications, the cost of orientation or training may be borne by the accredited veterinarian. An accredited veterinarian granted a program certification will be referred to as a qualified accredited veterinarian or QAV. A QAV will be authorized to perform those accredited duties related to the program certification he or she has earned; accredited veterinarians not granted program certifications will not be permitted to perform accredited duties related to that particular program certification. If a QAV allows his or her Category II accreditation to expire, the QAV's program certification expires as well, and the QAV must be qualified for the program certification again in accordance with this section.

§ 161.7 Activities performed by non-accredited veterinarians.

(a) Full-time Federal (including military) and State employed veterinarians are authorized to perform functions specified in subchapters B, C, and D of this chapter, pursuant to delegation of authority by the Administrator or cooperative agreements, without specific accreditation under the provisions of this subchapter.

(b) Except as provided by paragraph (a) of this section, anyone who performs accredited veterinarian duties that he or she is not authorized to perform will be subject to such criminal and civil penalties as are provided by the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*) or other applicable Federal statutes or regulations. Performing accredited duties without having been accredited will be considered grounds for the Administrator to deny an application for accreditation.

[74 FR 65013, Dec. 9, 2009]

EFFECTIVE DATE NOTE: At 74 FR 65013, Dec. 9, 2009, §161.7 was added, effective Feb. 1, 2010.

PART 162—RULES OF PRACTICE GOVERNING REVOCATION OR SUSPENSION OF VETERINARIANS' ACCREDITATION

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AUTHORITY: 7 U.S.C. 8301-8317; 15 U.S.C. 1828; 7 CFR 2.22, 2.80, and 371.4.

SOURCE: 57 FR 54915, Nov. 23, 1992, unless otherwise noted.

Subpart A—General

§ 162.1 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in subpart H of part 1, subtitle A, title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings for the revocation or suspension of accreditation of veterinarians (9 CFR parts 160 and 161). In addition, the Supplemental Rules of Practice set forth in subpart B of this part shall be applicable to such proceedings.

Subpart B—Supplemental Rules of Practice

§ 162.10 Summary suspension of accreditation of veterinarians.

In any situation where the Administrator has reason to believe that any veterinarian accredited under the provisions of 9 CFR parts 160 and 161 of this subchapter has not complied with the "Standards for Accredited Veterinarian Duties" set forth in §161.3 of this subchapter, and deems such action necessary in order to prevent the introduction into the United States or the spread from one State to another of a contagious, infectious, or communicable disease of animals, or to insure that animals intended or offered for export to foreign countries are free from disease, the Administrator may suspend the accreditation of such veterinarian pending final determination in the proceeding, effective upon oral or written notification, whichever is earlier. In the event of oral notification, a written confirmation thereof shall be given to such veterinarian pursuant to