

No. 1986-54

## AN ACT

HB 1646

Amending the act of December 27, 1974 (P.L.995, No.326), entitled "An act regulating the practice of veterinary medicine and imposing penalties," further regulating veterinary medicine practice.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 3, 4, 5, 8, 9, 10, 11, 13, 14, 16, 18, 19, 20, 21, 24, 25 and 26 of the act of December 27, 1974 (P.L.995, No.326), known as the Veterinary Medicine Practice Act, are amended to read:

Section 3. Definitions.—As used in this act:

(1) "Board" means the Pennsylvania State Board of Veterinary [Medical Examiners] *Medicine*.

[(2) "Rule" means any regulation, standard or statement of policy adopted by the board to implement, interpret or clarify the law which it enforces and administers and which governs its duties, functions, organization and procedures.]

[(3)] (2) "Hearing" means any proceeding initiated before the board in which the legal rights, duties, privileges or immunities of a specific party or parties are determined.

[(4)] (3) "Complainant" means the board or any other person who initiates a proceeding.

[(5)] (4) "Respondent" means any person against whom a proceeding is initiated.

(5) "*Current licensee or certificate holder*" means the holder of a current license to practice veterinary medicine or the holder of a certificate of animal health technician, which license or certificate was issued under this act and which has not been suspended or revoked and has not expired.

[(6) "License" means any permit, approval or certificate issued by the board.]

[(7)] (6) "Temporary permit" means temporary permission to practice veterinary medicine issued pursuant to section 10.

[(8)] (7) "Veterinary college" means any veterinary school, legally organized, whose course of study in the art and science of veterinary medicine shall have been approved by the board and placed on its published list of approved schools.

[(9)] (8) "Licensed doctor of veterinary medicine" means a person qualified by educational training and experience in the science and techniques of veterinary medicine and who is currently licensed by the board to practice veterinary medicine.

[(10)] (9) "Veterinary medicine" means that branch of medicine which deals with the diagnosis, prognosis, treatment, administration, prescription,

operation or manipulation or application of any apparatus or appliance for any disease, pain, deformity, defect, injury, wound or physical condition of any animal or for the prevention of or the testing for the presence of any disease.

**[(11)] (10)** "Practice of veterinary medicine" includes, but is not limited to, the practice by any person who (i) diagnoses, prescribes, or administers a drug, medicine, biological product, appliance, application, or treatment of whatever nature, for the prevention, cure or relief of a wound, fracture or bodily injury or disease of animals, (ii) performs a surgical operation, including cosmetic surgery, upon any animal, (iii) performs any manual procedure upon an animal for the diagnosis or treatment of sterility or infertility of animals, (iv) represents himself as engaged in the practice of veterinary medicine, (v) offers, undertakes, or holds himself out as being able to diagnose, treat, operate, vaccinate, or prescribe for any animal disease, pain, injury, deformity, or physical condition or (vi) uses any words, letters, or titles in such connection or under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine and such use shall be prima facie evidence of the intention to represent himself as engaged in the practice of veterinary medicine.

**(11)** "*Animal health technician*" means any person who is a graduate of a board-approved program of animal health technology and is employed within the field of veterinary medicine within the meaning of this act who, for compensation or personal profit, is employed by, or under the supervision of, a veterinarian to perform such duties as are required in the physical care of animals and in carrying out of assignments directed by a licensed veterinarian and requiring an understanding of animal science but not requiring the professional skill and judgment of a licensed veterinarian.

Section 4. Pennsylvania State Board of Veterinary Medical Examiners.—[The State Board of Veterinary Medical Examiners, hereinafter called the board, shall be created, appointed and organized in accordance with the provisions of "The Administrative Code of 1929."] (a) *There is hereby established within the Department of State the State Board of Veterinary Medicine. The board shall consist of nine members, as follows:*

**(1)** *The Commissioner of Professional and Occupational Affairs.*

**(2)** *Two members representing the general public who shall be appointed by the Governor with the advice and consent of a majority of the members elected to the Senate.*

**(3)** *Five members, appointed by the Governor with the advice and consent of a majority of the members elected to the Senate, who are licensed to practice veterinary medicine under the laws of this Commonwealth and who have been engaged in the full-time practice of veterinary medicine in this Commonwealth for at least five years immediately preceding their appointment.*

**(4)** *One member, appointed by the Governor with the advice and consent of a majority of the members elected to the Senate, who is certified as an animal health technician in accordance with this act.*

*(b) The term of office of each professional and public member shall be four years from his or her appointment or until his or her successor has been duly appointed and qualified according to law but no longer than six months beyond the four-year period, except that two of the five veterinarians and one of the two public members appointed to the board to replace members serving on the effective date of this act shall be appointed to terms of only two years and their successors shall be appointed to terms of four years. In the event that any member should die or resign or otherwise become disqualified during his or her term of office, a successor shall be appointed in the same way and with the same qualifications as set forth in subsection (a) and shall hold office for the unexpired term. No member shall be eligible for appointment to serve more than two consecutive terms.*

*(c) Five members of the board shall constitute a quorum. Except for temporary and automatic suspensions under section 25, a member may not be counted as part of a quorum or vote on any issue unless he or she is physically in attendance at the meeting. The board shall annually select, from among its members, a chairman and a secretary.*

*(d) Each member of the board, other than the commissioner, shall receive reimbursement for reasonable traveling, lodging and other necessary expenses incurred in the performance of their duties in accordance with Commonwealth regulations and per diem compensation at the rate of sixty dollars (\$60) for each day of actual service while on board business.*

*(e) A member who fails to attend three consecutive meetings shall forfeit his seat unless the commissioner, upon written request from the member, finds that the member should be excused from a meeting because of illness or the death of an immediate family member.*

*(f) A public member who fails to attend two consecutive statutorily mandated seminars in accordance with section 813(e) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," shall forfeit his or her seat unless the Commissioner of Professional and Occupational Affairs, upon written request from the public member, finds that the public member should be excused from a meeting because of illness or the death of a family member.*

*(g) The board is subject to evaluation, review and termination within the time and in the manner provided in the act of December 22, 1981 (P.L.508, No.142), known as the "Sunset Act."*

Section 5. Board Duties, Rights, Privileges and Powers.—The board may:

(1) Adopt reasonable rules and regulations governing the practice of veterinary medicine as are necessary to enable it to carry out and make effective the purpose and intent of this statutory law.

(2) Adopt rules and regulations of professional conduct appropriate to establish and maintain a high standard of integrity, skills and practice in the profession of veterinary medicine. [In prescribing such rules of professional conduct the board shall be guided by the Principles of Veterinary Medical Ethics adopted by the American Veterinary Medical Association and the Pennsylvania Veterinary Medical Association.]

(3) Have its rules printed, which shall be distributed to all licensed doctors of veterinary medicine.

(4) Administer and enforce the law and rules and regulations regulating the practice of veterinary medicine.

(5) Hold at least two regular meetings each year at a place **[on]** and *on* such dates as the board may select for the purpose of conducting examinations of applicants for license to practice veterinary medicine.

(6) **[Pass upon]** *Approve* the qualifications of applicants for a license to practice veterinary medicine.

(7) Prescribe the subject, character, manner, time and place of holding examinations and the filing of applications for examinations and to conduct examinations.

(8) Issue temporary permits to duly qualified applicants which shall be signed by the chairman and attested by the secretary under its adopted seal.

(9) Provide for, regulate and require all persons licensed in accordance with the provisions of this act to register their license biennially, to require as a condition precedent to such biennial registration the payment of the biennial registration fee as provided herein, to issue biennial registration certificates to such persons and to suspend or revoke the registration of such persons who fail, refuse or neglect to register same or pay such fees.

(10) Conduct investigations and hearings upon complaints calling for discipline of a licensee.

(11) Have issued summons and subpoenas for any witnesses or subpoenas duces tecum in connection with any matter within the jurisdiction of the board.

(12) Adopt such forms as it may deem necessary.

**(13) *Submit annually to the House and Senate Appropriations Committees, fifteen days after the Governor has submitted his budget to the General Assembly, a copy of the budget request for the upcoming fiscal year which the board previously submitted to the Department of State.***

**(14) *Submit annually a report, to the Professional Licensure Committee of the House of Representatives and to the Consumer Protection and Professional Licensure Committee of the Senate, containing a description of the types of complaints received, status of cases, board action which has been taken and the length of time from the initial complaint to final board resolution.***

Section 8. Board May Approve Schools and Colleges of Veterinary Medicine and Programs of Animal Health Technology.—The board may approve schools and colleges of veterinary medicine and programs of animal health technology which maintain standards of training and reputability sufficient to admit their graduates to the examinations **[given]** required by the board.

Section 9. Applicants for License to Practice Veterinary Medicine; Qualifications.—(a) Any person wishing to practice veterinary medicine in this State shall obtain a license from the board and maintain registration. Unless such person shall have obtained such a license it shall be unlawful for him *or her* to practice veterinary medicine as defined herein and if he *or she* shall so practice he *or she* shall be deemed to have violated the provisions of this act.

(b) The board may license *to practice veterinary medicine* any applicant who *pays the appropriate fee and* submits satisfactory evidence that he *or she*:

(1) Is eighteen years of age or over.

(2) Is a graduate from an approved school or college of veterinary medicine or in lieu thereof certification acceptable *to the board* as equivalent to proof of graduation from an approved school or college of veterinary medicine.

(3) Has passed a license examination **[administered]** *required* by the board.

(4) *Has not been convicted of a felonious act prohibited by the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or convicted of a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country unless: (i) at least ten years have elapsed from the date of conviction, (ii) the applicant satisfactorily demonstrates to the board that he or she has made significant progress in personal rehabilitation since the conviction such that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of patients or the public or a substantial risk of further criminal violations, and (iii) the applicant otherwise satisfies the qualifications contained in or authorized by this act. As used in this section the term "convicted" includes a judgment, an admission of guilt or a plea of nolo contendere. An applicant's statement on the application declaring the absence of a conviction shall be deemed satisfactory evidence of the absence of a conviction, unless the board has some evidence to the contrary.*

(c) *A license may be renewed biennially for a period of two years upon payment of the biennial fee, provided that the licensee satisfies the other requirements of this act.*

(d) *Any licensee of this Commonwealth who is also licensed to practice veterinary medicine in any other state, territory or country shall report this information to the board on the biennial registration application. Any disciplinary action taken in other states, territories or countries shall be reported to the board on the biennial registration application or within ninety days of final disposition, whichever is sooner. Multiple licensure shall be noted on the licensee's record by the board, and such state, territory or country shall be notified by the board of any disciplinary actions taken against said licensee in this Commonwealth.*

Section 10. Applicants for Temporary Permits; Condition; Fee.—The board may issue, without examination, a temporary permit to practice veterinary medicine to an applicant for admission to the examination provided such applicant meets all conditions and requirements relating to the qualification of applicants for a license to practice veterinary medicine and provided further any person applying for a temporary permit shall associate himself *or herself* with a licensed doctor of veterinary medicine and his *or her* work shall be limited to the practice of the licensed doctor of veterinary medicine and he *or she* shall not participate in any practice or operation of a

branch office, clinic, or allied establishment. The permit, when granted, shall bear the name and address of a licensed doctor of veterinary medicine. The applicant must present himself *or herself* for examination at the next scheduled examination of the board. There shall be a fee [of at least fifty dollars (\$50) for the permit, twenty-five dollars (\$25) of which] *as established by regulation of the board*. A portion of the fee shall be applied towards the examination fee, but shall be forfeited if the applicant fails to present himself *or herself* at the next scheduled examination, and the permit shall terminate and the applicant is disqualified to practice veterinary medicine. No more than [two temporary permits] *one temporary permit* may be issued to any one applicant. Such temporary permit shall expire on the day following the announcement of the grades of the first examination given after such temporary permit is issued. No temporary permit shall be issued to any applicant if he *or she* has previously failed the examination.

Section 11. Additional Duties of Board of Examiners; *Animal Health Technicians*.—[(a)] It shall further be the responsibility of the board to promulgate *by regulation* the qualifications and requirements for the [licensure, or registration] *certification* and regulation of animal *health* technicians [and the], *Such regulations shall provide for disciplinary action and shall prescribe the grounds for such action*. The board shall have authority to establish reasonable fees for [licensure or registration] *certification* as hereinafter provided in this act.

[(b) An animal technician is any person employed within the field of veterinary medicine within the meaning of this act who for compensation or personal profit is employed by, or under the supervision of, a veterinarian, to perform such duties as are required in the physical care of animals and in carrying out of assignments directed by a licensed veterinarian and requiring an understanding of animal science but not requiring the professional services of a licensed veterinarian.]

Section 13. Fees.—[(a) Each person applying for a license to practice veterinary medicine shall pay such fee as is currently stated by the board. The fee shall be paid upon the filing of the application.

(b) By November 1 of every second year beginning with the year when this act becomes effective, the Commissioner of Professional and Occupational Affairs, shall in accordance with section 810 of "The Administrative Code of 1929" fix fees to be charged under this act for the ensuing two years.] (a) *The board shall, by regulation, fix the fees required for examination, licensure, certification, registration, renewal of licenses and registrations, renewal of certificates and temporary permits.*

(b) *If the revenues raised by fees, fines and civil penalties imposed pursuant to this act are not sufficient to meet expenditures over a two-year period, the board shall increase those fees by regulation so that the projected revenues will meet or exceed projected expenditures.*

(c) *If the Bureau of Professional and Occupational Affairs determines that the fees established by the board pursuant to subsections (a) and (b) are inadequate to meet the minimum enforcement efforts required by this act, then the bureau, after consultation with the board, shall increase the fees by*

*regulation so that adequate revenues are raised to meet the required enforcement effort.*

*(d) Any regulation proposed under this section shall be subject to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act."*

*(e) All fees, fines and civil penalties imposed in accordance with this act shall be paid into the Professional Licensure Augmentation Account established pursuant to and for use in accordance with the act of July 1, 1978 (P.L.700, No.124), known as the "Bureau of Professional and Occupational Affairs Fee Act."*

Section 14. Fees Not to Be Returned.—Fees shall not be returned under any circumstances regardless of whether the applicant is accepted for examination, fails the examination, withdraws his application, or is issued or denied a license: **Provided, however, That if an applicant fails to take the examination he may take same at a later time without having to pay another examining fee.**

Section 16. Examination of Applicants.—(a) The examination of applicants for license to practice veterinary medicine shall be conducted according to the methods deemed by the board to be the most practical and expeditious to test the applicant's ability and qualifications.

(b) The minimum passing grade shall be established by the board.

(c) Each applicant shall be designated by a number instead of by name so that his *or her* identity shall not be disclosed to members of the board until after the examination papers are graded.

**[(d) All examination papers shall be filed with the secretary of the board who shall make a record of the grade of each applicant on each subject and said grade shall be a part of the examination papers which shall be preserved for two years.]**

*(d) All written, oral and practical examinations required under this section shall be prepared and administered by a qualified and approved professional testing organization in the manner prescribed for written examinations by section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," except that neither the oral nor the practical examination shall be subject to section 812.1 until such examination is available from a testing organization.*

*(e) The board may grant licenses to individuals from other states and provinces of Canada if all of the following conditions are met:*

*(1) The applicant has held a valid license in such state or province and been actively engaged in the practice of veterinary medicine for five years immediately preceding his or her application for licensure in this Commonwealth.*

*(2) The applicant passes an oral examination or practical examination, or both, as prescribed by the board.*

*(3) The applicant submits such other evidence of qualifications as the board shall require.*

Section 18. Biennial Educational Requirements.—Each license holder under this act shall be required to attend eight clock hours of educational

programs in the twenty-four months preceding each renewal date. Certification of such attendance shall be in accordance with **[provisions]** *regulations* of the board. All such educational programs shall be first approved by the board and shall meet the standards to be promulgated by the board to ensure that the programs meet the educational and professional requirements of the profession and are designed to keep the members of the profession abreast with current learning and scholarship. *No credit shall be given for any course in office management or practice building.*

Section 19. Restoration of *Expired License [Suspended for Failure to Register].—(a)* Any person whose license to *practice veterinary medicine* has **[been suspended]** *expired* for failure to make biennial registration over a period not exceeding five years may have same reinstated on compliance with the following:

(1) Presentation to the board of satisfactory evidence of having completed **[an approved educational program in the year immediately preceding the application for reinstatement provided such was required of other licensees.]** *the biennial educational requirements which he or she would have been required to complete if the license had not expired.*

(2) Payment of all fees that would have been paid if he *or she* had maintained his *or her* license in good standing **[plus a special reinstatement fee as determined by the board]** *and any other fees established by regulation of the board.*

*(b) Any person whose license has expired for failure to make biennial registration over a period of more than five years shall be required to apply for a license in accordance with section 9 if he desires to resume practicing veterinary medicine.*

Section 20. Reissue of Revoked License.—**[(a) The board, by majority vote at any time after revocation of a license for good and sufficient cause, may reissue a license to the person affected conferring upon him all the rights and privileges pertaining to the practice of veterinary medicine.**

**(b) Any person to whom such license may be reissued shall pay therefor the same fee as upon the issuance of the original license.]** *Unless ordered to do so by a court, the board shall not reinstate the license of a person to practice veterinary medicine which has been revoked, and such person shall be required to apply for a license after a five-year period in accordance with section 9 if he or she desires to practice at any time after such revocation.*

Section 21. Grounds for Disciplinary Proceedings.—The board shall **[immediately]** suspend or revoke any license or otherwise discipline an applicant or licensee who is found guilty by the board or by a court of one or more of the following:

(1) Wilful or repeated violations of any provisions of this act or any of the rules and regulations of the board.

(2) Fraud or deceit in the procuring or attempting to procure a license to practice veterinary medicine or presenting to the board dishonest or fraudulent evidence of qualifications. Fraud or deception in the process of examination for the purpose of securing a license.

- (3) The wilful failure to display a license.
- (4) Fraud, deception, misrepresentation, dishonest or illegal practices in or connected with the practice of veterinary medicine.
- (5) Wilfully making any misrepresentation in the inspection of food for human consumption.
- (6) Fraudulently issuing or using any health certificate, inspection certificate, vaccination certificate, test chart or other blank forms used in the practice of veterinary medicine to prevent the dissemination of animal disease. Transportation of diseased animals or the sale of inedible products of animal origin for human consumption.
- (7) Fraud or dishonesty in applying, treating or reporting on any diagnostic or other biological test.
- (8) Failure to keep the equipment and premises of the business establishment in a clean and sanitary condition.
- (9) Refusing to permit the board, or duly authorized representatives of the board, to inspect the business premises of the licensee during regular business hours.
- (10) Circulating untrue, fraudulent, misleading or deceptive advertising.
- (11) **[Gross malpractice.] *Incompetence, gross negligence or other malpractice, or the departure from, or failure to conform to, the standards of acceptable and prevailing veterinary medical practice, in which case actual injury need not be established.***
- (12) Engaging in practices in connection with the practice of veterinary medicine which are in violation of the standards of professional conduct as defined herein or prescribed by the rules of the board.
- (13) Revocation or suspension by another state of a license to practice veterinary medicine in that state on grounds similar to those which in this State allow disciplinary proceedings, in which case the record of such revocation or suspension shall be conclusive evidence.
- (14) Conviction of a violation of "The Controlled Substance, Drug, Device and Cosmetic Act" in which case a record of conviction shall be conclusive evidence.
- (15) Conviction of a felony in the courts of this State or any other state, territory or country which, if committed in this State, would be deemed a felony and suspension or revocation of the license is in the best interest of the public health and the general safety and welfare of the public.  
A record of conviction in a court of competent jurisdiction shall be sufficient evidence for disciplinary action to be taken as may be deemed proper by the board.
- (16) Permitting or allowing another to use his *or her* license for the purpose of treating or offering to treat sick, injured or afflicted animals.
- (17) Engaging in the practice of veterinary medicine under a false or assumed name or the impersonation of another practitioner of a like, similar or different name.
- (18) Maintaining a professional or business connection with any other person who continues to violate any of the provisions of this act or rules of the board after ten days' notice in writing by the board.

(19) Addiction to the habitual use of intoxicating liquors, narcotics or stimulants to such an extent as to incapacitate him *or her* from the performance of his *or her* professional obligations and duties.

(20) Professional incompetence.

(21) The wilful making of any false statement as to material matter in any oath or affidavit which is required by this act.

(22) Knowingly maintaining a professional connection or association with any person who is in violation of this act or regulation of the board or knowingly aiding, assisting, securing, advising, or having in the licensee's employment any unlicensed person to practice veterinary medicine contrary to this act or regulations of the board.

Section 24. Disciplinary Action Authorized; Revocation; Suspension; Denial of License; Probation, Etc.—The board shall have authority to enter an order to discipline any person who, after proper hearing, has been found guilty by the board of a violation, of one or more provisions of this act or any rule or regulation of the board. The board, based upon the evidence and its finding of fact, may enter its final order which may include one of the following provisions:

(1) Suspend or limit the right to practice veterinary medicine **[in the State for a period not to exceed two years].**

(2) Revoke the license to practice veterinary medicine. **[Following revocation of such license the licensee may be relicensed at the discretion of the board with or without examination.]**

(3) Suspend the imposition of judgment and penalties.

(4) Impose judgment and penalties but suspend enforcement thereof and place the licensee or applicant for license on probation *with the right to vacate the probationary order for noncompliance.*

(5) Refuse to issue or renew a license.

(6) Withhold any license, either permanently or for a period of time, when the same has not been delivered.

(7) *Administer a public reprimand.*

(8) *Require a licensee to submit to the care, counseling or treatment of a physician or a psychologist designated by the board.*

(9) *Restore a suspended license to practice veterinary medicine and impose any disciplinary or corrective measure which it might originally have imposed.*

**[(7)] (10)** Take such other action in relation to disciplining as the board in its discretion may deem proper.

Section 25. Procedure **[After Order.—Immediately upon the entry of the final order by the board a copy thereof shall be delivered to the respondent and his counsel, if any, either personally or by registered or certified mail.**

Section 26. Rehearing.—The board shall have a discretion to grant a rehearing if applied for within thirty days. For good cause the time may be extended.] *in Disciplinary Actions.—(a) Disciplinary actions of the board shall be taken subject to the right of notice, hearing and adjudication and the right of appeal therefrom in accordance with Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).*

(b) *The board shall temporarily suspend a license under circumstances as determined by the board to be an immediate and clear danger to the public health or safety. The board shall issue an order to that effect without a hearing, but upon due notice to the licensee concerned at his or her last known address, which shall include a written statement of all allegations against the licensee. The provisions of subsection (a) shall not apply to temporary suspension. The board shall thereupon commence formal action to suspend, revoke or restrict the license of the person concerned as otherwise provided for in this act. All actions shall be taken promptly and without delay. Within thirty days following the issuance of an order temporarily suspending a license, the board shall conduct, or cause to be conducted, a preliminary hearing to determine that there is a prima facie case supporting the suspension. The licensee whose license has been temporarily suspended may be present at the preliminary hearing and may be represented by counsel, cross-examine witnesses, inspect physical evidence, call witnesses, offer evidence and testimony and make a record of the proceedings. If it is determined that there is not a prima facie case, the suspended license shall be immediately restored. The temporary suspension shall remain in effect until vacated by the board, but in no event longer than one hundred eighty days.*

(c) *A license issued under this act shall automatically be suspended upon the legal commitment of a licensee to an institution because of mental incompetency from any cause upon filing with the board a certified copy of such commitment; conviction of a felony under the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act"; or conviction of an offense under the laws of another jurisdiction, which, if committed in Pennsylvania, would be a felony under "The Controlled Substance, Drug, Device and Cosmetic Act." As used in this subsection the term "conviction" shall include a judgment, an admission of guilt or a plea of nolo contendere. Automatic suspension under this section shall not be stayed pending any appeal of a conviction. Restoration of such license shall be made as provided in this act for revocation or suspension of such license.*

(d) *The board shall require a person whose license or registration has been suspended or revoked to return the license or registration in such manner as the board directs. Failure to do so shall be a misdemeanor of the third degree.*

Section 2. The act is amended by adding a section to read:

*Section 26.1. Impaired Professional.—(a) The board, with the approval of the Commissioner of Professional and Occupational Affairs, shall appoint and fix the compensation of a professional consultant who is a licensee of the board, or such other professional as the board may determine, with education and experience in the identification, treatment and rehabilitation of persons with physical or mental impairments. Such consultant shall be accountable to the board and shall act as a liaison between the board and treatment programs, such as alcohol and drug treatment programs licensed by the Department of Health, psychological counseling and impaired professional support groups, which are approved by the board and which provide services to licensees under this act.*

*(b) The board may defer and ultimately dismiss any of the types of corrective action set forth in this act for an impaired professional so long as the professional is progressing satisfactorily in an approved treatment program, provided that the provisions of this subsection shall not apply to a professional convicted of a felonious act prohibited by the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or convicted of, pleaded guilty to or entered a plea of nolo contendere to a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country. An approved program provider shall, upon request, disclose to the consultant such information in its possession regarding any impaired professional in treatment which the program provider is not prohibited from disclosing by an act of this Commonwealth, another state or the United States. Such requirement of disclosure by an approved program provider shall apply in the case of impaired professionals who enter an agreement in accordance with this section, impaired professionals who are the subject of a board investigation or disciplinary proceeding and impaired professionals who voluntarily enter a treatment program other than under the provisions of this section but who fail to complete the program successfully or to adhere to an after-care plan developed by the program provider.*

*(c) An impaired professional who enrolls in an approved treatment program shall enter into an agreement with the board under which the professional's license shall be suspended or revoked, but enforcement of the suspension or revocation may be stayed for the length of time the professional remains in the program and makes satisfactory progress, complies with the terms of the agreement and adheres to any limitations on his or her practice imposed by the board to protect the public. Failure to enter into such an agreement shall disqualify the professional from the impaired professional program and shall activate an immediate investigation and disciplinary proceeding by the board.*

*(d) If, in the opinion of the consultant after consultation with the provider, an impaired professional who is enrolled in an approved treatment program has not progressed satisfactorily, the consultant shall disclose to the board all information in his or her possession relevant to the issue of impairment regarding said professional, and the board shall institute proceedings to determine if the stay of the enforcement of the suspension or revocation of the impaired professional's license shall be vacated.*

*(e) An approved program provider who makes a disclosure pursuant to this section shall not be subject to civil liability for such disclosure or its consequences.*

*(f) Any veterinary establishment, peer or colleague who has substantial evidence that a professional has an active addictive disease for which the professional is not receiving treatment, is diverting a controlled substance or is mentally or physically incompetent to carry out the duties of his or her license shall make, or cause to be made, a report to the board: Provided, That any person or facility who acts in a treatment capacity to an impaired professional in an approved treatment program is exempt from the manda-*

*tory reporting requirements of this subsection. Any person or facility who reports pursuant to this section in good faith and without malice shall be immune from any civil or criminal liability arising from such report. Failure to provide such report within a reasonable time from receipt of knowledge of impairment shall subject the person or facility to a fine not to exceed one thousand dollars (\$1,000). The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).*

Section 3. Sections 27, 28 and 32 of the act are amended to read:

Section 27. Enforcement Duties and Powers.—(a) The enforcement of the laws and rules regulating the practice of veterinary medicine is primarily vested in the board with the following powers and duties:

(1) To employ investigators and clerical assistants or any other necessary personnel.

(2) To inspect all animal hospitals or veterinary establishments, *including mobile clinics, at least biennially* to determine sanitary conditions, physical equipment and methods of operation.

(3) To inspect the licenses.

(4) **[Conduct]** *To conduct* investigations of alleged violations *of this act*.

*(b) The board shall have the authority to issue subpoenas upon application of an attorney responsible for representing disciplinary matters before the board for the purpose of investigating alleged violations of the disciplinary provisions administered by the board. The board shall have the power to subpoena witnesses, to administer oaths, to examine witnesses and to take such testimony or compel the production of such books, records, papers and documents as it may deem necessary or proper in, and pertinent to, any proceeding, investigation or hearing held or had by it. Veterinary records may not be subpoenaed without consent of the client or without order of a court of competent jurisdiction on a showing that the records are reasonably necessary for the conduct of the investigation. The court may impose such limitations on the scope of the subpoenas as are necessary to prevent unnecessary intrusion into client confidential information. The board is authorized to apply to the Commonwealth Court to enforce its subpoenas.*

*(c) An attorney responsible for representing the Commonwealth in disciplinary matters before the board shall notify the board immediately upon receiving notification of an alleged violation of this act. The board shall maintain current records of all reported alleged violations and periodically review the records for the purpose of determining that each alleged violation has been resolved in a timely manner.*

Section 28. Penalties.—(a) Any person who violates any of the provisions of this act or the rules of the board adopted pursuant hereto shall, upon conviction, be sentenced to pay a fine not exceeding five hundred dollars (\$500) or to imprisonment not exceeding six months, or both. The violations set forth herein whereby the board can discipline the holder of a license issued under this act, are specifically made a misdemeanor *of the third degree* and shall be prosecuted and upon conviction shall be punished according to this section.

*(b) Any person who engages in the practice of veterinary medicine without the license required by this act or who performs the duties of an animal health technician without the certificate required by this act commits a misdemeanor of the third degree and shall, upon conviction, for a first offense, be sentenced to a fine not to exceed one thousand dollars (\$1,000) or to imprisonment for not more than six months or both. A second offense shall be subject to a fine not to exceed two thousand dollars (\$2,000) or imprisonment for a term of six months to one year or both.*

*(c) In addition to any other civil remedy or criminal penalty provided for in this act, the board, by a vote of the majority of the maximum number of the authorized membership of the board as provided by law or by a vote of the majority of the duly qualified and confirmed membership or a minimum of four members, whichever is greater, may levy a civil penalty of up to one thousand dollars (\$1,000) on any current licensee or certificate holder who violates any provision of this act or on any person who practices veterinary medicine or performs the duties of an animal health technician without being properly licensed or certified to do so under this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).*

*(d) All fines and civil penalties imposed in accordance with this section shall be paid into the Professional Licensure Augmentation Account.*

Section 32. Exemptions and Exceptions.—This act shall not apply to:

(1) Students in schools or colleges of veterinary medicine *and programs of animal health technology approved by the board pursuant to section 8* in the performance of duties or actions assigned by their instructors or when working under the immediate supervision of a licensee.

(2) Any lawfully qualified doctor of veterinary medicine residing in some other state or country when meeting in consultation with a licensed doctor of veterinary medicine of this State.

(3) Any doctor of veterinary medicine in the employ of the United States Government while actually engaged in the performance of his *or her* official duties: Provided, however, That this exemption shall not apply to such person when he *or she* is not engaged in carrying out his *or her* official duties or is not working at the installations for which his *or her* services were engaged.

(4) Any person or his *or her* regular employe while practicing veterinary medicine on his *or her* own animals. *This exemption shall not apply in the case of a temporary transfer of ownership of an animal to a person not licensed in accordance with this act if the purpose of the transfer is the rendering of veterinary treatment or care by such unlicensed person.*

(5) Accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine or persons under the direct supervision thereof, which or who conduct experiments, and scientific research on animals in the development of pharmaceuticals, biologicals, serums, or methods of treatment or techniques for the diagnosis or treatment

of human ailments or when engaged in the study and development of methods and techniques directly or indirectly applicable to the problems and practice of veterinary medicine.

(6) Any nurse, laboratory technician[, intern] or other employe of a licensed doctor of veterinary medicine when administering medication or rendering auxiliary or supporting assistance under the responsible supervision of such licensed practitioner, *provided that this exemption shall not apply to the performance of duties by any employe other than a nurse or laboratory technician if those duties require an understanding of animal science and provided further that this exemption shall not apply to any graduate of a board-approved school or college of veterinary medicine or to any graduate of a board-approved program of animal health technology.*

(7) Any person performing normal husbandry practices on bovine, porcine, caprine, ovine or equine animals or avis.

Section 4. Members of the Pennsylvania State Board of Veterinary Medical Examiners on the effective date of this act shall serve until their successors are appointed and qualified but no longer than six months after the third Tuesday in January 1987.

Section 5. A person who, on the effective date of this act, holds a valid license or registration issued by the Pennsylvania State Board of Veterinary Medical Examiners shall be deemed to be licensed or certified under this act.

Section 6. Regulations and fees of the Pennsylvania State Board of Veterinary Medical Examiners in effect on the effective date of this act shall remain in effect until amended in accordance with the provisions of this act. The board shall immediately initiate the amendment or deletion of regulations which are inconsistent with the provisions of this act.

Section 7. This act, with respect to the Pennsylvania State Board of Veterinary Medical Examiners, constitutes the legislation required to reestablish an agency under the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Section 8. (a) Sections 7, 22, 23, 35 and 36 of the act of December 27, 1974 (P.L.995, No.326), known as the Veterinary Medicine Practice Act, are repealed.

(b) Section 420 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is repealed.

(c) All other acts and parts of acts are repealed insofar as they are inconsistent with this amendatory act.

Section 9. This act shall take effect immediately.

APPROVED—The 9th day of May, A. D. 1986.

DICK THORNBURGH