

## No. 2002-167

## AN ACT

## HB 1742

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 providing for definitions, for board approval of certain schools and colleges, for additional duties of board, for biennial education requirements and for grounds for disciplinary proceedings; providing for records and inspection of records; and further providing for exemptions and exceptions.

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

Section 1. Sections 3, 4(a), 8, 11, 18 and 21 of the act of December 27, 1974 (P.L.995, No.326), known as the Veterinary Medicine Practice Act, amended May 9, 1986 (P.L.166, No.54), are amended to read:

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

(1) "Board" means the Pennsylvania State Board of Veterinary Medicine.

(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.

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

(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] *veterinary* technician, which license or certificate was issued under this act and which has not been suspended or revoked and has not expired.

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

(7) "Veterinary college" means any *board-approved* 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.] *that is accredited by an accrediting agency for veterinary medicine programs recognized by the United States Department of Education.*

(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.

(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 *or mental condition requiring medication* of any animal or for the prevention of or the testing for the presence of any disease.

(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,] *treats, corrects, changes, relieves or prevents animal disease, deformity, injury or other physical, mental or dental conditions by any method or mode, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic or other therapeutic or diagnostic substance or technique*, (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[.], (vii) *performs diagnostic veterinary pathology*, (viii) *implants electronic identification, as determined by the board, upon any animal*, (ix) *renders advice or recommendation by any means, including the electronic transmission of data with regard to any of the above, or (x) removes any embryo from an animal for the purpose of transferring such embryo into another animal or cryopreserving such embryo, except it shall not be considered the practice of veterinary medicine when: (a) a person or his full-time employe removes or transfers an embryo from the person's own animals for the purpose of transferring or cryopreserving the embryo so long as ownership of the animal is not transferred or employment of the person is not changed for the purpose of circumventing this act or (b) a person independently, with indirect veterinary supervision, implants any embryo into an animal.*

[(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.]

(12) *“Veterinary technology” means the science and art of providing all aspects of professional medical care and treatment for animals as determined by board regulation, with the exception of diagnosis, prognosis, surgery and prescription of medications. The term includes, but is not limited to, surgical nursing, induction and maintenance of anesthesia, preparation and dispensing of pharmaceuticals, biologicals and ectoparasiticides, administration of medication by all routes, dental prophylaxis, performance of diagnostic imaging, physical examinations, emergency and critical care nursing, including catheterization by all routes, collection and administration of blood products, external cardiopulmonary resuscitation and performing laboratory procedures in hematology, clinical chemistry, parasitology and microbiology.*

(13) *“Certified veterinary technician” means an individual who has successfully completed a board-approved post-high school program of veterinary technology accredited by an accrediting agency for veterinary technology programs recognized by the United States Department of Education, is certified by the board as a veterinary technician and who may practice veterinary technology under appropriate supervision of a licensed veterinarian as defined by board regulation. Unless authorized to practice veterinary technology under this act, an individual may not practice veterinary technology nor use the title “certified veterinary technician” or the abbreviation “CVT.”*

(14) *“Veterinary assistant” means an employe of a veterinarian who does not hold certification as a veterinary technician and whom the veterinarian deems competent to perform tasks involved in the care and treatment of animals as defined by board regulation.*

(15) *“Veterinarian-client-patient relationship” means a relationship satisfying all of the following conditions: (i) the veterinarian has assumed the responsibility for making veterinary medical judgments regarding the health of an animal and the need for veterinary medical treatment, and the client, owner or caretaker of the animal has agreed to follow the instructions of the veterinarian; (ii) the veterinarian has sufficient knowledge of the animal to initiate at least a general, preliminary or tentative diagnosis of the medical condition of the animal; (iii) the veterinarian is acquainted with the keeping and care of the animal by virtue of an examination of the animal or medically appropriate and timely visits to the premises where the animal is kept; (iv) the veterinarian is available for consultation in cases of adverse reactions to or failure of the regimen of therapy; (v) the veterinarian maintains records on the animal examined in accordance with regulations established by the board.*

Section 4. Pennsylvania State Board of Veterinary Medical Examiners.—(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] a veterinary** technician in accordance with this act.

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Section 8. Board May Approve Schools and Colleges of Veterinary Medicine and Programs of **[Animal Health] Veterinary** Technology.—The board may approve schools and colleges of veterinary medicine and programs of **[animal health] veterinary** technology **[which maintain standards of training and reputability sufficient to admit their graduates to the examinations required by the board.] that are accredited by an accrediting agency for veterinary medicine and veterinary technology programs recognized by the United States Department of Education.**

Section 11. Additional Duties of Board of Examiners; **[Animal Health] Veterinary** Technicians.—It shall further be the responsibility of the board to promulgate by regulation the qualifications and requirements for the certification and regulation of **[animal health] veterinary** technicians. 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 certification as hereinafter provided in this act.

Section 18. Biennial Educational Requirements.—Each **[license] holder of a license to practice veterinary medicine** under this act shall be required to **[attend eight] complete thirty** clock hours of educational programs in the twenty-four months preceding each renewal date~~[.]~~, **and each holder of a certificate to practice veterinary technology under this act shall be required to complete sixteen clock hours of educational programs in the twenty-four months preceding each renewal date.** Certification of such **[attendance] completion** shall be in accordance with 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 21. Grounds for Disciplinary Proceedings.—The board shall suspend or revoke any license *or certificate* or otherwise discipline an applicant [or], licensee *or certificate holder* 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) 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 *or other disciplinary action* by another state of a license to practice veterinary medicine *or veterinary technology* 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 *or other disciplinary action* 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 *or misdemeanor crime related to the profession or crime of moral turpitude* in the courts of this State or any other state, territory or country which, if committed in this State, would be deemed a felony *or misdemeanor crime related to the profession or crime of moral turpitude* 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.

(23) *Failing to furnish a copy of a patient's medical records or failing to provide a patient's radiographs to another treating veterinarian, hospital or clinic upon the written request of an owner or owner's agent, or failing to provide the owner or owner's agent with a copy of the medical records within a reasonable period of time and upon proper request or waiver by the owner or owner's agent, or failing to comply with any other law or regulation relating to medical records. The furnishing of a summary of a patient's medical records shall be permissible only when a summary and not a copy of the records is requested.*

(24) *Failing to maintain required veterinary medical, surgical and/or diagnostic procedure logs and/or medical records.*

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

**Section 27.1. Records; Inspection of Records.**—(a) *A veterinarian subject to the provisions of this section shall, as required by regulation of the board, keep or cause to be kept a written record of all animals or groups of animals, as the case may be, receiving veterinary services and provide a summary or copy of that record to the owner of the animals*

*when requested. The minimum amount of information which shall be included in written or electronically maintained records and summaries and the minimum duration of time for which a veterinarian shall retain the records or a complete copy of the records shall be established by the board.*

*(b) (1) Copies of all records required to be kept by a veterinarian under this section, including, but not limited to, records pertaining to diagnosis and treatment of animals and records pertaining to drugs or devices for use on animals, shall be provided to the board immediately upon request. The records shall also be open to inspection by the board or its authorized representatives during an inspection as part of an inspection program adopted by the board or during an investigation initiated in response to a complaint that a licensee has violated any law or regulation that constitutes grounds for disciplinary action by the board.*

*(2) Equipment and drugs on the premises or any other place where veterinary medicine, dentistry or surgery is being practiced, or otherwise in the possession of a veterinarian for purposes of the practice of veterinary medicine, shall be open to inspection by the board or its authorized representatives during an inspection as part of an inspection program adopted by the board or during an investigation initiated in response to a complaint that a licensee has violated any law or regulation which constitutes grounds for disciplinary action by the board.*

Section 3. Section 32 of the act, amended May 9, 1986 (P.L.166, No.54), is amended to read:

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] *veterinary* 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.] *Licensed veterinarians in good standing with their respective states who are called from their states, provinces of Canada or United States territories to consult with licensees of this State but who: (i) do not open an office or appoint a place to do business within this State; (ii) do not print or use letterhead or business cards reflecting addresses in this State; (iii) do not establish answering services or advertise the existence of a practice's address within this State; (iv) do not practice veterinary medicine as consultants rendering services directly to the public without the direction and consultation of licensees of this State more than 16 days per calendar year; or (v) are providing services for organizations conducting public events lasting less than ten days that utilize animals in need of veterinary examinations, treatments or oversight to promote the safety and health of the public, the event or the animal participants.*

(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 *or agent* 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 *graduate doctors of veterinary medicine* when engaged in the study and development of methods and techniques directly or indirectly applicable to the problems and practice of veterinary medicine *or when engaged in the practice of veterinary medicine in a facility or program operated by a board-approved school of veterinary medicine or veterinary technology.*

(6) Any nurse, laboratory technician 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 avian.

(8) *Any person performing grooming services on canine or feline animals.*

(9) *The care and rehabilitation of wildlife species by wildlife rehabilitators.*

(10) *The preparation, mixing, alteration or providing of animal feed, including the addition of any substance to animal feed for purposes of improving the nutritional quality of the feed, maintaining or improving the health or productivity of the animal or preventing animal disease.*

(11) *Farriers or persons actively engaged in the art or profession of horseshoeing.*



Section 4. This act shall take effect in 60 days.

APPROVED—The 9th day of December, A.D. 2002.

MARK S. SCHWEIKER