

LEGISLATIVE BILL 833

Approved by the Governor April 11, 2000

Introduced by Agriculture Committee: Dierks, 40, Chairperson; Chambers, 11; Cudaback, 36; Hilgert, 7; Robak, 22; Schellpeper, 18; Schrock, 38; Vrtiska, 1; and Connealy, 16; Jones, 43; Schmitt, 41; Bromm, 23

AN ACT relating to veterinary medicine; to amend sections 71-1,153, 71-1,158, 71-1,160, and 71-1,161, Reissue Revised Statutes of Nebraska, and sections 71-112, 71-1,152.01, and 71-1,154, Revised Statutes Supplement, 1999; to change and eliminate provisions of the Nebraska Veterinary Practice Act; to harmonize provisions; to repeal the original sections; and to outright repeal sections 71-1,168 to 71-1,170, 71-1,172 to 71-1,176, 71-1,178, 71-1,180, 71-1,181, and 71-1,183 to 71-1,185, Reissue Revised Statutes of Nebraska, and section 71-1,171, Revised Statutes Supplement, 1999.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-112, Revised Statutes Supplement, 1999, is amended to read:

71-112. The professional boards provided in section 71-111 shall be designated as follows:

(1) For medicine and surgery and osteopathic medicine and surgery, Board of Medicine and Surgery;

(2) For athletic training, Board of Athletic Training;

(3) For respiratory care, Board of Respiratory Care Practice;

(4) For chiropractic, Board of Chiropractic;

(5) For dentistry and dental hygiene, Board of Dentistry;

(6) For optometry, Board of Optometry;

(7) For massage therapy, Board of Massage Therapy;

(8) For physical therapy, Board of Physical Therapy;

(9) For pharmacy, Board of Pharmacy;

(10) For audiology and speech-language pathology, Board of Audiology and Speech-Language Pathology;

(11) For medical nutrition therapy, Board of Medical Nutrition Therapy;

(12) For funeral directing and embalming, Board of Funeral Directing and Embalming;

(13) For podiatry, Board of Podiatry;

(14) For psychology, Board of Psychologists;

(15) For veterinary medicine and surgery, Board of Veterinary Medicine and Surgery; and

(16) For mental health practice, Board of Mental Health Practice.

Any change made by the Legislature of the names of boards listed in this section shall not change the membership of such boards or affect the validity of any action taken by or the status of any action pending before any of such boards. Any such board newly named by the Legislature shall be the direct and only successor to the board as previously named.

Sec. 2. Section 71-1,152.01, Revised Statutes Supplement, 1999, is amended to read:

71-1,152.01. The purpose of the Board of Veterinary Medicine and Surgery is to: (1) Provide for the health, safety, and welfare of the citizens; (2) insure that veterinarians serving the public meet minimum standards of proficiency and competency; (3) insure that schools of veterinary medicine and surgery meet the educational needs of the students and qualify students to serve the public in a safe and efficient manner; and (4) control the field of veterinary medicine and surgery in the interest of consumer protection.

Sec. 3. Section 71-1,153, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,153. Sections 71-1,152.01 to ~~71-1,185~~ 71-1,163 and sections 5 to 7 of this act shall be known and may be cited as the Nebraska Veterinary Practice Act.

Sec. 4. Section 71-1,154, Revised Statutes Supplement, 1999, is amended to read:

71-1,154. When used in the Nebraska Veterinary Practice Act and elsewhere in the Uniform Licensing Law, unless the context otherwise requires:

(1) Animal ~~shall mean means~~ includes any animal other than man and ~~shall include~~ includes birds, fish, and reptiles, wild or domestic, living or dead,

except domestic poultry;

(2) Veterinary medicine and surgery ~~shall include~~ includes veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine;

(3) Practice of veterinary medicine and surgery ~~shall mean~~ means:

(a) To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury, or other physical or mental conditions, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any manual or mechanical procedure for testing for pregnancy, or for correcting sterility, or infertility. The acts described in this subdivision shall not be done without a valid veterinarian-client-patient relationship;

(b) To ~~r~~ ~~e~~ ~~n~~ ~~d~~ ~~e~~ ~~r~~ ~~a~~ ~~d~~ ~~e~~ ~~r~~ ~~a~~ ~~d~~ ~~e~~ ~~r~~ ~~r~~ ~~e~~ ~~n~~ ~~d~~ ~~r~~ ~~e~~ ~~c~~ ~~o~~ ~~m~~ ~~m~~ ~~e~~ ~~n~~ ~~d~~ ~~a~~ ~~t~~ ~~i~~ ~~o~~ ~~n~~ ~~w~~ ~~i~~ ~~t~~ ~~h~~ ~~e~~ ~~r~~ ~~a~~ ~~b~~ ~~o~~ ~~v~~ ~~e~~ ~~a~~ ~~c~~ ~~t~~ ~~d~~ ~~e~~ ~~s~~ ~~c~~ ~~r~~ ~~i~~ ~~b~~ ~~e~~ ~~d~~ ~~i~~ ~~n~~ ~~s~~ ~~u~~ ~~b~~ ~~d~~ ~~i~~ ~~v~~ ~~i~~ ~~s~~ ~~i~~ ~~o~~ ~~n~~ ~~(~~ ~~a~~ ~~)~~ ~~o~~ ~~f~~ ~~t~~ ~~h~~ ~~i~~ ~~s~~ ~~s~~ ~~u~~ ~~b~~ ~~d~~ ~~i~~ ~~v~~ ~~i~~ ~~s~~ ~~i~~ ~~o~~ ~~n~~;

(c) ~~(b)~~ To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in subdivision (a) of this subdivision; and

(d) ~~(e)~~ To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subdivision (a) of this subdivision;

(4) Veterinarian ~~shall mean~~ means a person who has received a doctor's degree in veterinary medicine from an accredited school of veterinary medicine or its equivalent;

(5) Licensed veterinarian ~~shall mean~~ means a person who is validly and currently licensed to practice veterinary medicine and surgery in this state;

(6) Veterinarian-client-patient relationship means that:

(a) The veterinarian has assumed the responsibility for making clinical judgments regarding the health of the animal and the need for medical treatment, and the client has agreed to follow the veterinarian's instructions;

(b) The veterinarian has sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by virtue of an examination of the animal or by medically appropriate and timely visits to the premises where the animal is kept; and

(c) The veterinarian is readily available or has arranged for emergency coverage and for followup evaluation in the event of adverse reactions or the failure of the treatment regimen;

(7) Accredited school of veterinary medicine within the meaning of the Nebraska Veterinary Practice Act ~~shall mean~~ means:

(a) One approved by the department upon the recommendation of the board;

(b) A veterinary college or division of a university or college that offers the degree of Doctor of Veterinary Medicine or its equivalent; and

(c) One that conforms to the standards required for accreditation by the American Veterinary Medical Association;

(8) ~~(7)~~ Person ~~shall mean~~ means any individual, firm, partnership, limited liability company, association, joint venture, cooperative and corporation, or any other group or combination acting in concert; and whether or not acting as a principal, trustee, fiduciary, receiver, or as any other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such person;

(9) ~~(8)~~ Board ~~shall mean~~ means the Board of Veterinary Medicine and Surgery; ~~and~~

(10) ~~(9)~~ Department ~~shall mean~~ means the Department of Health and Human Services Regulation and Licensure;

(11) Veterinary technician means an individual who has met one of the requirements of subsection (1) of section 6 of this act;

(12) Licensed veterinary technician means a veterinary technician who is validly and currently licensed as a veterinary technician in this state. Only a licensed veterinary technician may advertise or offer his or her services in a manner calculated to lead others to believe that he or she is a veterinary technician;

(13) Unlicensed assistant means an individual who is not a veterinarian or a veterinary technician who is working in veterinary medicine;

(14) Supervisor means a licensed veterinarian or licensed veterinary technician as required by statute or rule or regulation for the particular

delegated task being performed by a veterinary technician or unlicensed assistant;

(15) Immediate supervision means that the supervisor is on the premises and is in direct eyesight and hearing range of the animal and the veterinary technician or unlicensed assistant who is treating the animal and the animal has been examined by a veterinarian at such times as acceptable veterinary practice requires consistent with the particular delegated animal health care task;

(16) Direct supervision means that the supervisor is on the premises and is available to the veterinary technician or unlicensed assistant who is treating the animal and the animal has been examined by a veterinarian at such times as acceptable veterinary practice requires consistent with the particular delegated animal health care task; and

(17) Indirect supervision means that the supervisor is not on the premises but is easily accessible and has given written or oral instructions for treatment of the animal and the animal has been examined by a veterinarian at such times as acceptable veterinary practice requires consistent with the particular delegated animal health care task.

Sec. 5. Unless required by any state or local law for contagious or infectious disease reporting or other public health and safety purpose, no veterinarian licensed under the Nebraska Veterinary Practice Act shall be required to disclose any information concerning the veterinarian's care of an animal except under a written authorization or other waiver by the veterinarian's client or pursuant to a court order or a subpoena. A veterinarian who releases information under a written authorization or other waiver by the client or pursuant to a court order or a subpoena is not liable to the client or any other person. The privilege provided by this section is waived to the extent that the veterinarian's client or the owner of the animal places the veterinarian's care and treatment of the animal or the nature and extent of injuries to the animal at issue in any civil or criminal proceeding. For purposes of this section, veterinarian includes the employees or agents of the licensed veterinarian while acting for or on behalf of such veterinarian.

Sec. 6. (1) To be a veterinary technician in this state, an individual shall meet one of the following requirements:

(a) Be a graduate of an American Veterinary Medical Association approved veterinary technician program and receive a passing score on the national examination for such program as determined by the board;

(b) On the effective date of this act, be an approved animal technician certified under sections 71-1,168 to 71-1,185 as such sections existed prior to such date; or

(c) Have at least five years (or more full-time experience working with a veterinarian, be employed by a veterinarian on the effective date of this act, and within three years after such date receive a passing score on the national examination described in subdivision (1)(a) of this section as determined by the board.

(2) To keep the license active, a licensed veterinary technician shall earn credit for twenty-four hours of continuing education every three years as approved by the board.

Sec. 7. (1) The department shall adopt and promulgate rules and regulations providing for (a) licensure of veterinary technicians meeting the requirements of section 6 of this act and (b) standards for the level of supervision required for particular delegated animal health care tasks and which determine which tasks may be performed by a veterinary technician and by unlicensed assistants. The level of supervision may be immediate supervision, direct supervision, or indirect supervision as determined by the department based upon the complexity and requirements of the task.

(2) The department shall establish and collect the following fees:

(a) For an initial application for licensure as a veterinary technician, an amount not less than five dollars nor more than seventy-five dollars;

(b) For annual renewal of licensure as a veterinary technician, an amount not less than five dollars nor more than forty dollars; and

(c) For a duplicate original license, ten dollars.

Sec. 8. Section 71-1,158, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,158. Any person desiring a license to practice veterinary medicine and surgery in this state shall make written application to the board. The application shall include:

(1) Proof ~~show~~ that the applicant is twenty-one years of age or more;

(2) Information indicating that the applicant is ~~a graduate of an accredited veterinary school,~~ and a person of good moral character;

(3) Proof that the applicant is a graduate of an accredited school of veterinary medicine or holds a certificate issued by the American Veterinary Medical Association Education Commission for Foreign Veterinary Graduates indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited college of veterinary medicine; and

(4) Such and such other information and proof as the board may require by rule and regulation. The application shall be accompanied by a fee of not less than seventy-five dollars nor more than two hundred dollars, the amount of such fee to be determined by a rule or regulation adopted and promulgated by the department with the approval of the board.

If the board determines that the applicant possesses the proper qualifications, the board shall admit the applicant to the next examination, or if the applicant is eligible for a license without examination under section 71-1,160, the board may forthwith recommend that he or she be issued a license. If an applicant is found not qualified to take the examination or for a license without examination, the board shall immediately notify the applicant in writing of such finding and the grounds therefor.

Sec. 9. Section 71-1,160, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,160. The board may direct the issuing of a license without a written examination to a qualified applicant who furnishes satisfactory proof required under subdivision (3) of section 71-1,158 that he or she is a graduate of an accredited veterinary school and who:

(1) Has for one year prior to filing his or her application been a practicing veterinarian licensed in a state, territory, or district of the United States having license requirements, at the time the applicant was first licensed, which were substantially equivalent to the requirements of the Nebraska Veterinary Practice Act; or

(2) Has prior to filing his or her application successfully completed and passed the an examination conducted by the National Board of Veterinary Examiners approved by the board.

At its discretion, the board may orally or practically examine any person qualifying for licensing under this section.

Sec. 10. Section 71-1,161, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,161. The board may recommend to the department the issuance of a temporary license to practice veterinary medicine and surgery upon receipt of a fee of fifty dollars and the completed application to (1) any person who has a current license to practice veterinary medicine and surgery in another state, territory, or district of the United States or (2) any person who has graduated from an approved veterinary school furnishes satisfactory proof required under subdivision (3) of section 71-1,158 and has passed an examination conducted by the National Board of Veterinary Examiners. Such temporary license shall be valid until the date on which the results of the next licensure examination are available to the department and it may not be renewed. The holder of a temporary license shall be entitled to practice veterinary medicine and surgery.

Sec. 11. Original sections 71-1,153, 71-1,158, 71-1,160, and 71-1,161, Reissue Revised Statutes of Nebraska, and sections 71-112, 71-1,152.01, and 71-1,154, Revised Statutes Supplement, 1999.

Sec. 12. The following sections are outright repealed: Sections 71-1,168 to 71-1,170, 71-1,172 to 71-1,176, 71-1,178, 71-1,180, 71-1,181, and 71-1,183 to 71-1,185, Reissue Revised Statutes of Nebraska, and section 71-1,171, Revised Statutes Supplement, 1999.