

AN ACT

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. Short Title.-This act shall be known and may be cited as the **"Veterinary Medicine Practice Act."**

Section 2. Legislative Intent and Purpose.-It is hereby declared that the practice of veterinary medicine is a privilege which is granted by legislative authority in the interest of the public health, safety and welfare and to protect the public from being misled by incompetent, unscrupulous and unauthorized persons and from unprofessional or illegal practices by persons licensed to practice veterinary medicine. This act is enacted in the interest of society, health, safety and welfare of Pennsylvanians.

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 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, 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, 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, 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, (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 employee 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) Reserved

(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 employee 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.

(3 amended December 9, 2002, P.L., No.167)

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 a veterinary 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."

(4 amended December 9, 2002, P.L., No. 167)

Compiler's Note: The State Board of Veterinary Medicine is subject to periodic review under the act of Dec. 22, 1981, P.L.508, No.142, known as the Sunset Act, and will terminate on the date specified in that act unless reestablished or continued by the General Assembly. For the current status of the board, see the appendix to this 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.

(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 and on such dates as the board may select for the purpose of conducting examinations of applicants for license to practice veterinary medicine.

(6) 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.

(5 amended May 9, 1986, P.L.166, No.54)

Section 6. Board to Keep Records.-The board shall keep records of its proceedings especially with relation to the issuance, denial, registration, suspension and revocation of license to practice veterinary medicine. All licenses issued by the board shall be numbered and recorded by the secretary and a file kept for that purpose and such file or record shall be open to public inspection. In all actions or proceedings in any court a transcript of any record or any part thereof, which is certified to be a true copy by the secretary, shall be entitled to admission in evidence.

Section 7. Certain Information of Board Confidential.-(7 repealed May 9, 1986, P.L.166, No.54)

Section 8. Board May Approve Schools and Colleges of Veterinary Medicine and Programs of Veterinary Technology.- The board may approve schools and colleges of veterinary medicine and programs of veterinary technology that are accredited by an accrediting agency for veterinary medicine and veterinary technology programs recognized by the United States Department of Education.

(8 amended December 9, 2002, P.L., No.167)

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 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.

(9 amended May 9, 1986, P.L.166, No.54)

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 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 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.

(10 amended May 9, 1986, P.L.166, No.54)

Compiler's Note: The act of July 1, 1978, P.L.700, No.124 repealed this act insofar as it establishes fixed fees inconsistent with the fees contained in this act. It also contained the following provision:

"To the extent such acts or parts of acts authorize the fixing of fees by an agency for which a fee has been set forth in this act, such acts shall not be construed to be repealed or superseded by this act and those provisions authorizing the fixing of fees by any agency shall remain in effect:"

Section 11. Additional Duties of Board of Examiners; 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 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.

(11 amended December 9, 2002, P.L., No.167)

Section 12. Application for Examination; Time for Filing Form.-Any person desiring to take the examination for a license to practice veterinary medicine shall make application at least thirty days before the examination on a form provided by the board. The application shall be accompanied by such evidence as is required to show the eligibility of the applicant. All applications shall be in accordance with the rules of the board and shall be signed and sworn to by the applicant.

Section 13. Fees.-

(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." (13 amended May 9, 1986, P.L.166, No.54)

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.

(14 amended May 9, 1986, P.L.166, No.54)

Section 15. Notice of Examination.-The board shall give notice of the time and place of all examinations in such manner as the board may deem expedient.

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 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.

(16 amended May 9, 1986, P.L.166, No.54)

Section 17. License to Be Displayed.-Each person to whom a license is issued shall keep such license conspicuously displayed in his principal office, place of business, or place of employment and shall, whenever required, exhibit said license to any member or authorized representative of the board. Duplicate licenses for additional offices or branch offices may be obtained from the board for a fee established by the board.

Section 18. Biennial Educational Requirements.- Each holder of a license to practice **veterinary medicine** under this act shall be required to 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 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 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.

(18 amended December 9, 2002, P.L., No.167)

Section 19. Restoration of Expired License.-

(a) Any person whose license to practice veterinary medicine has 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 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 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.

(19 amended May 9, 1986, P.L.166, No.54)

Section 20. Reissue of Revoked 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.

(20 amended May 9, 1986, P.L.166, No.54)

Section 21. Grounds for Disciplinary Proceedings.- The board shall suspend or revoke any license or certificate or otherwise discipline an applicant, 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.

(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, 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, 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.

(21 amended December 9, 2002, P.L., No.167)

Section 22. Hearing Guaranteed.-(22 repealed May 9, 1986, P.L.166, No.54)

Section 23. Hearing on Suspensions and Revocations of Licenses and Registrations Appeals. - (23 repealed May 9, 1986, P.L.166, No.54)

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.
 - (2) Revoke the license to practice veterinary medicine.
 - (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.
 - (10) Take such other action in relation to disciplining as the board in its discretion may deem proper.
- (24 amended May 9, 1986, P.L.166, No.54)

Section 25. Procedure 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.

(25 amended May 9, 1986, P.L.166, No.54)

Section 26. Rehearing.-(26 deleted by amendment May 9, 1986, P.L.166, No.54)

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 mandatory 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).

(26.1 added May 9, 1986, P.L.166, No.54)

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) 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.

(27 amended May 9, 1986, P.L.166, No.54)

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.

(27.1 added December 9, 2002, P.L., No.167)

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.

(28 amended May 9, 1986, P.L.166, No.54)

Section 29. Penalty for Filing Diploma of Another or Forged Diploma.-Any person filing or attempting to file, as his own, the diploma of another, or a forged or fictitious or fraudulently obtained diploma or certificate, upon conviction shall be subject to such fine and imprisonment as provided by the statutes of this State for the crime of forgery.

Section 30. Injunctions When Authorized.-In addition to the penalties herein provided, the board may institute legal proceedings to enjoin the violation of the provisions of this law or rules of the board in the court of common pleas in the judicial district wherein the violation is occurring or in the Commonwealth Court and the court may grant a temporary or permanent injunction restraining the violation thereof.

Section 31. Civil Liability for Practicing Veterinary Medicine Without a License or Permit.-In addition to the penalties imposed under section 28 of this act, any person who practices veterinary medicine without a license shall return any fees he collects for practicing veterinary medicine and shall be liable for any damages resulting from negligence.

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

(1) Students in schools or colleges of veterinary medicine and programs of 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) 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 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.

(32 amended December 9, 2002, P.L., No.167)

Section 33. Associated Employment of Unlicensed Personnel by Licensed Doctors of Veterinary Medicine.-A licensed doctor of veterinary medicine may employ or be associated with a person who has obtained a temporary permit provided the services of such person will be limited to the practice of the licensed doctor of veterinary medicine.

Section 34. Abandonment of Animals by Owner; Procedure for Handling.-(34 repealed Dec. 7, 1982, P.L.784, No.225)

Section 35. Transitory Provisions.-(35 repealed May 9, 1986, P.L.166, No.54)

Section 36. Repeals.-(36 repealed May 9, 1986, P.L.166, No.54)

APPENDIX

Supplementary Provisions of Amendatory Statutes

1986, MAY 9, P.L.166, NO.54

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.

Compiler's Note: Act 54 added or amended sections 3, 4, 5, 8, 9, 10, 11, 13, 14, 16, 18, 19, 20, 21, 24, 25, 26, 26.1, 27, 28 and 32 of Act 326.

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.