STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL HB1344 By: Leist of the House

and

Shurden of the Senate

COMMITTEE SUBSTITUTE

An Act relating to veterinary medicine; amending 59 O.S. 1991, Sections 698.1, 698.2, as amended by Section 1, Chapter 80, O.S.L. 1998, 698.3, as amended by Section 1, Chapter 112, O.S.L. 1994, 698.4, 698.5, Section 2, Chapter 80, O.S.L. 1998, 698.6, 698.7, as amended by Section 1, Chapter 143, O.S.L. 1997, 698.8, 698.8a, 698.9a, 698.10a, 698.11, 698.12, 698.14a, as amended by Section 2, Chapter 143, O.S.L. 1997, 698.14b, 698.15, 698.16, 698.17, 698.18, 698.21, as amended by Section 2, Chapter 56, O.S.L. 1992, 698.22, as amended by Section 3, Chapter 56, O.S.L. 1992, 698.23, 698.25, as last amended by Section 3, Chapter 143, O.S.L. 1997, 698.26, as amended by Section 6, Chapter 56, O.S.L. 1992, and 698.28 (59 O.S. Supp. 1998, Sections 698.2, 698.3, 698.5a, 698.7, 698.14a, 698.21, 698.22, 698.25 and 698.26), which relate to the Oklahoma Veterinary Practice Act; updating language; modifying and adding definitions; increasing the State Board of Veterinary Medical Examiners' membership; adding certain qualifications; providing certain procedure; modifying and adding to the powers and duties of the Board; modifying licensure requirements; adding to qualifications for licensure; clarifying and updating the definition of the practice of veterinary medicine; making certain actions unlawful; authorizing certain uses of designations, abbreviations and words by certain persons; authorizing sanctions; adding to list of grounds for disciplinary actions or sanctions; providing exceptions; authorizing issuance of subpoenas; authorizing issuance of field citations and orders of abatement pursuant to certain procedures; providing for administrative penalties under certain circumstances; making payment of fune sufficient to satisfy public disclosure requirement; authorizing bringing of certain action; authorizing promulgation of certain rules; providing for certain disposal of certain animals deemed abandoned; providing for certain release from liability; providing for ownership of animal health records; requiring maintenance; requiring reproduction of records; prohibiting certain fees; providing for

confidentiality; providing for liability and certain privileges; providing for release of records and information; making certain persons not liable for providing certain information, reports or investigations, and for providing certain care and treatment; making certain actions unlawful; increasing certain fines and limitations; providing for authority of veterinary technicians; providing for certain notice and opportunity for hearing; authorizing veterinary technician to perform treatments under certain circumstances; repealing 698.13, 698.20, as amended by Section 1, Chapter 56, O.S.L. 1992, 698.24, as amended by Section 4, Chapter 56, O.S.L. 1992 and 698.27 (59 O.S. Supp. 1998, Sections 698.20 and 698.24), which relate to reciprocal licenses, definitions, authority of veterinary technicians and promulgation of certain rules; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 1991, Section 698.1, is amended to read as follows:

Section 698.1 ~~This act~~ Chapter 15 of this title shall be known and may be cited as the "Oklahoma Veterinary Practice Act".~~"~~

SECTION 2. AMENDATORY 59 O.S. 1991, Section 698.2, as amended by Section 1, Chapter 80, O.S.L. 1998 (59 O.S. Supp. 1998, Section 698.2), is amended to read as follows:

Section 698.2 ~~When~~ As used in the Oklahoma Veterinary Practice Act~~, these words, phrases or terms, unless the context otherwise indicates, shall have the following meanings~~:

1. "Board" means the State Board of Veterinary Medical Examiners;

2. "Animal" means any animal other than ~~man~~ humans and includes, but is not limited to, fowl, fish, birds and reptiles, wild or domestic, living or dead;

3. "Veterinarian" means a person who has received a degree in veterinary medicine or its equivalent from a school of veterinary medicine;

4. "Licensed veterinarian" means any veterinarian who holds an active license to practice veterinary medicine in this state;

5. "School of veterinary medicine" means any veterinary college or division of a university or college that offers the degree of doctor of veterinary medicine or its equivalent, which conforms to the standards required for accreditation by the American Veterinary Medical Association and which is recognized and approved by the Board;

6. "Veterinary technician" means a person who has graduated from a school of animal technology, or its equivalent, which conforms to the standards required for accreditation by the American Veterinary Medical Association and which is recognized and approved by the Board, and who has been certified by the ~~State~~ Board ~~of Veterinary Medical Examiners~~ as qualified to practice under the direct supervision of a licensed veterinarian;

7. "Direct supervision" means:

a. directions have been given to ~~an animal~~ a veterinary technician, nurse, laboratory technician, intern, veterinary assistant or other employee for medical care following the examination of an animal by the licensed veterinarian responsible for the professional care of the animal, or

b. that, under certain circumstances following the examination of an animal by a licensed veterinarian responsible for the professional care of the animal, the presence of the licensed veterinarian on the premises in an animal hospital setting or in the same general area in a range setting is required after directions have been given to a veterinarian who has a certificate issued pursuant to Section 698.8 of this title;

8. "License" means authorization to practice veterinary medicine granted by the Board to an individual found by the Board to meet certain requirements pursuant to ~~this act~~ the Oklahoma Veterinary Practice Act or any other applicable statutes;

9. "Certificate" means authorization to practice veterinary medicine with certain limitations or restrictions on that practice, set by the Board or authorization to perform certain enumerated functions peripheral to the practice of veterinary medicine as set by the Board; ~~and~~

10. "Veterinarian-client-patient relationship" means when:

a. the licensed veterinarian has assumed the responsibility for making medical judgments regarding the health of an animal or animals and the need for medical treatment, and the client, owner or other caretaker has agreed to follow the instructions of the licensed veterinarian; and

b. there is sufficient knowledge of the animal or animals by the licensed veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal or animals in that:

(1) the licensed veterinarian has recently seen or is personally acquainted with the keeping and care of the animal or animals, or

(2) by medically necessary and timely visits to the premises where the animal or animals are kept or both, and

c. the licensed veterinarian is readily available for follow-up in case of adverse reactions or failure of the regimen of therapy, or has arranged for emergency medical coverage, and

d. would conform to applicable federal law and regulations;

11. “Veterinary premises” means any facility where the practice of veterinary medicine occurs, including, but not limited to, a mobile unit, mobile clinic, outpatient clinic, satellite clinic, public service outreach of a veterinary facility, or veterinary hospital or clinic. The term “veterinary premises” shall not include the premises of a client of a licensed veterinarian or research facility;

12. “Veterinary prescription drugs” means such prescription items that are in the possession of a person regularly and lawfully engaged in the manufacture, transportation, storage, or wholesale or retail distribution of veterinary drugs and the federal Food and Drug Administration approved human drugs for animals which because of its toxicity or other potential for harmful effects, or method use, or the collateral measures necessary for its use, is labeled by the manufacturer or distributor in compliance with federal law and regulations to be sold only to or on the prescription order, or under the supervision of a licensed veterinarian for use in the course of professional practice. Veterinary prescription drugs shall not include over-the-counter products for which adequate directions for lay use can be written.

13. "ECFVG certificate" means 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 or approved college of veterinary medicine;

14. “Executive Director” means the Executive Director of the State Board of Veterinary Medical Examiners or the authorized representative of such official;

15. “Telemedicine” shall mean the transmission of diagnostic images such as, but not limited to, radiographs, ultrasound, cytology, endoscopy, photographs and case information over ordinary

or cellular phone lines to a licensed veterinarian or board-certified medical specialist for the purpose of consulting regarding case management with the primary care licensed delete who transmits the cases;

16. "Person" means any individual, firm, partnership, association, joint venture, cooperative, 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, fictitious name certificate, or any other representative of such person;

17. "Food animal" means any mammalian, poultry, fowl, fish, or other animal that is raised primarily for human food consumption;

18. "Surgery" means the branch of veterinary science conducted under elective or emergency circumstances, which treats diseases, injuries and deformities by manual or operative methods including, but not limited to, cosmetic, reconstructive, ophthalmic, orthopedic, vascular, thoracic, and obstetric procedures. The provisions in Section 698.12 of this title shall not be construed as surgery; and

19. "Abandonment" means to forsake entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner, or the owner's agent. Abandonment shall constitute the relinquishment of all rights and claims by the owner to an animal.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 698.3, as amended by Section 1, Chapter 112, O.S.L. 1994 (59 O.S. Supp. 1998, Section 698.3), is amended to read as follows:

Section 698.3 A. ~~A~~ The State Board of Veterinary Medical Examiners is hereby re-created, to continue until July 1, 2000, in accordance with the provisions of the Oklahoma Sunset Law, ~~Section~~

~~3901 et seq. of Title 74 of the Oklahoma Statutes,~~ to regulate and enforce the practice of veterinary medicine in this state in accordance with the Oklahoma Veterinary Practice Act~~, Section 698.1 et seq. of this title, and otherwise to enforce this act, Section 698.1 et seq. of this title~~.

B. 1. The duty of determining a person's initial and continuing qualification and fitness for the practice of veterinary medicine, of proceeding against the unlawful and unlicensed practice of veterinary medicine and of enforcing ~~this act~~ the Oklahoma Veterinary Practice Act is hereby delegated to the Board. That duty shall be discharged in accordance with ~~this act~~ the Oklahoma Veterinary Practice Act and other applicable statutes.

2. a. It is necessary that the powers conferred on the Board by ~~this act~~ the Oklahoma Veterinary Practice Act be construed to protect the health, safety and welfare of the people of this state. ~~However, no~~

b. No member of the Board, acting in that capacity or as a member of any Board committee, shall participate in the making of any decision or the taking of any action affecting ~~his or her~~ such member's own personal, professional or pecuniary interest, or that of a person related to the member within the third degree by consanguinity, marriage or adoption or of a business or professional associate.

c. With advice of legal counsel, the Board shall adopt and annually review a conflict of interest policy to enforce ~~this act~~ the provisions of the Oklahoma Veterinary Practice Act.

C. The practice of veterinary medicine is a privilege granted by the people of this state acting through their elected representatives. It is not a natural right of individuals. In the interest of the public, and to protect the public, it is necessary

to provide laws~~,~~ and rules ~~and regulations~~ to govern the granting and subsequent use of the privilege to practice veterinary medicine. The primary responsibility and obligation of the ~~State~~ Board ~~of Veterinary Medical Examiners~~ is to protect the public from the unprofessional, improper, incompetent and unlawful practice of veterinary medicine.

D. The liability of any member or employee of the Board acting within the scope of ~~his~~ Board duties or employment shall be governed by the Governmental Tort Claims Act~~, Section 151 et seq. of Title 51 of the Oklahoma Statutes~~.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 698.4, is amended to read as follows:

Section 698.4 A. 1. The State Board of Veterinary Medical Examiners shall consist of ~~five (5)~~ six (6) members, appointed by the Governor with the advice and consent of the Senate. The Board shall consist of five licensed veterinarian members, and one lay person representing the general public.

2. Each veterinary member shall be a graduate of an approved school of veterinary medicine, shall be a currently licensed veterinarian and shall have held an active license for the three (3) years preceding appointment to the Board. No more than one veterinary member of the Board shall be appointed from any one Congressional District.

3. The lay member shall have no financial interest in the profession other than as a consumer or potential consumer of its services.

4. Members must be residents of the State of Oklahoma and be persons of ~~recognized professional ability,~~ integrity and good reputation. No member shall be a registered lobbyist. No member shall be an officer, board member or employee of a statewide or national organization established for the purpose of advocating the

interests of or conducting peer review of veterinarians licensed ~~under this act~~ pursuant to the Oklahoma Veterinary Practice Act.

B. Members of the Board shall be appointed for a term of five (5) years. No member shall serve consecutively for more than two (2) terms. ~~The~~ Not more than two (2) terms ~~of only one member~~ shall expire in each year, and vacancies for the remainder of an unexpired term shall be filled by appointment by the Governor. Members shall serve beyond the expiration of their term until a successor is appointed by the Governor. The initial appointee for the Board position created on November 1, 1999, shall be appointed for less than five (5) years to abide by staggered term requirements. The Governor shall appoint to a vacancy within ninety (90) days of the beginning of the vacancy. Nominees considered by the Governor for appointment to the Board must be ~~found~~ free of pending disciplinary action or active investigation by the Board.

C. A member may be removed from the Board by the Governor for cause which shall include, but not be limited to, if a member:

1. Ceases to be qualified;

2. Is found guilty by a court of competent jurisdiction of a felony or unlawful act which involves moral turpitude;

3. Is found guilty of malfeasance, misfeasance or nonfeasance in relation to ~~his or her~~ Board duties;

4. Is found mentally incompetent by a court of competent jurisdiction;

5. Is found in violation of the Oklahoma Veterinary ~~Medical~~ Practice Act; or

6. Fails to attend three successive Board meetings without just cause as determined by the Board.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 698.5, is amended to read as follows:

Section 698.5 A. 1. Each member of the State Board of Veterinary Medical Examiners shall take the constitutional oath of office.

2. The Board shall organize annually, at the last meeting of the Board before the beginning of the next fiscal year, by electing from ~~its number~~ the Board membership a president, vice-president and secretary-treasurer. Officers of the Board shall serve for terms of one (1) year or until their successors are elected. ~~No officer~~ Officers ~~may~~ shall not succeed ~~himself or herself~~ themselves for more than one term. The lay member appointed to the Board shall not hold elective office.

B. 1. The president shall:

a. preside at Board meetings,

b. arrange the Board agenda,

c. sign Board orders and other required documents,

d. appoint Board committees and their ~~chairperson~~ chairpersons,

e. coordinate Board activities,

f. represent the Board before legislative committees, and

g. perform those other duties assigned by the Board and this ~~statute~~ section.

2. The vice-president shall perform the duties of president during ~~his or her~~ the president's absence or disability and shall assist the president in duties as requested.

3. The secretary-treasurer shall be responsible for the administrative functions of the Board.

4. The employment of administrative, investigative, legal and clerical personnel shall be subject to the approval of the Board.

5. At the end of each fiscal year the president and secretary-treasurer shall prepare or cause to be prepared and submit to the Governor a report on the transactions of the Board.

~~B.~~ C. To facilitate its work effectively, fulfill its duties and exercise its powers, the Board may establish standing or ad hoc committees. The president shall appoint members and chairpersons of ~~said~~ the committees and determine the length of terms of service. The president may appoint ~~from among the population of licensed veterinarians~~ individuals to serve on a standing or ad hoc committee for a term not to exceed one (1) year.

SECTION 6. AMENDATORY Section 2, Chapter 80, O.S.L. 1998 (59 O.S. Supp. 1998, Section 698.5a), is amended to read as follows:

Section 698.5a A. 1. Investigators for the State Board of Veterinary Medical Examiners shall perform such services as are necessary in the investigation of criminal activity or preparation of administrative actions.

2. In addition, ~~such~~ investigators shall have the authority and duty to investigate and inspect the records of all licensees in order to determine ~~that~~ whether the licensee is in compliance with applicable narcotics and dangerous drug laws and regulations ~~have been complied with~~.

~~Should any such~~ B. Any investigator ~~be~~ certified as a peace officer by the Council on Law Enforcement Education and Training~~, such investigator~~ shall have statewide jurisdiction ~~in any portion of the state where the aforesaid duties may take the investigator and~~ to perform the duties authorized by this section. In addition, the investigator shall be considered a peace officer and shall have the powers now or hereafter vested by law in peace officers.

SECTION 7. AMENDATORY 59 O.S. 1991, Section 698.6, is amended to read as follows:

Section 698.6 A. The State Board of Veterinary Medical Examiners shall meet at least once each year in the first half of the calendar year and once each year in the second half of the calendar year~~, and~~. In addition, the Board may meet at other times of the year as is deemed necessary to conduct the business of the

Board~~,~~. The Board shall meet at the time and place fixed by order of the Board president or by order of three members of the Board acting jointly upon refusal of the president to call for or fix a time and place for said meeting.

B. 1. Notice of meetings shall be filed in conformance with the Oklahoma Open Meeting Act~~, Section 301 et seq. of Title 25 of the Oklahoma Statutes~~. Members shall be notified of each meeting at least twenty (20) days before said meeting, except in the case of a meeting called for emergency purposes.

2. Emergency meetings may be called at any time by the president or at the request of three Board members as required to enforce ~~this act~~ the Oklahoma Veterinary Practice Act. The Board may establish procedures by which ~~it~~ the Board may call an emergency meeting in accordance with the Oklahoma Open Meeting Act. The Board may establish procedures by which committee advice may be obtained in cases of emergency.

3. The Board shall establish a system for giving all Board and committee members and the public reasonable notice of scheduled meetings.

4. Minutes of all Board and committee meetings shall be kept in accordance with ~~adopted~~ promulgated rules of the Board and other applicable statutes.

~~B.~~ C. All meetings of the Board and its committees shall be open to the public except as set out in Article II of the Administrative Procedures Act~~, Section 309 et seq. of Title 75 of the Oklahoma Statutes,~~ and the Oklahoma Open Meeting Act~~, Section 301 et seq. of Title 25 of the Oklahoma Statutes~~.

~~C.~~ D. Each Board member shall receive reimbursement for expenses in accordance with the Oklahoma Travel Reimbursement Act~~, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes,~~ and rules promulgated by the Board.

~~D.~~ E. 1. The Board shall be fully supported by the revenues generated from its activities, including fees, charges and reimbursed costs.

2. All such revenues, with the exception of the ten percent (10%) of its revenue required to be deposited in the General Revenue Fund, shall be deposited to the Veterinary Medical Examiners Fund and shall be credited to the account of the State Board of Veterinary Medical Examiners. ~~Such~~ Any revenue ~~as remains~~ remaining in the revolving fund at the end of any fiscal year shall be carried over to the next fiscal year in the account of the State Board of Veterinary Medical Examiners.

3. The Board shall operate on the fiscal year beginning July 1 and ending June 30 of each year.

4. The Board shall develop and adopt its own budget reflecting revenues, including reimbursed costs associated with the administrative, investigative, and legal expenditures for taking disciplinary action, and the establishment and maintenance of a reasonable reserve fund.

~~E.~~ F. All fees, charges, reimbursement minimums and other revenue generating amounts shall be ~~fixed~~ promulgated by the Board by rule and shall reflect normal increases due to inflation or cost of doing business.

SECTION 8. AMENDATORY 59 O.S. 1991, Section 698.7, as amended by Section 1, Chapter 143, O.S.L. 1997 (59 O.S. Supp. 1998, Section 698.7), is amended to read as follows:

Section 698.7 The State Board of Veterinary Medical Examiners shall have the powers and it shall also be its duty to regulate the practice of veterinary medicine. In addition to any other powers placed on it by ~~statute or provided for herein~~ the Oklahoma Veterinary Practice Act or as otherwise provided by law, the Board~~, when acting in accordance with Section 698.1 et seq. of this title,~~ shall have ~~those powers necessary to fulfill its duties under~~

~~Section 698.1 et seq. of this title. Said powers and duties shall include, but not be limited~~ the power and duty to:

1. a. ~~setting~~ set standards for licensure or certification by examination and ~~developing~~ develop such examinations as will provide assurance of competency to practice, and

b. ~~employing~~ employ or ~~entering~~ enter into agreements with organizations or agencies to provide examinations acceptable to the Board or ~~employing~~ employ or ~~entering~~ enter into agreements with organizations or agencies to provide administration, preparation or scoring of examinations;

2. ~~Setting~~ Set fees;

3. ~~Prescribing~~ Prescribe the time, place, method, manner, scope and subjects of examination for licensure;

4. ~~Preparing or selecting, conducting or directing~~ Prepare or select, conduct or direct the conduct of, ~~setting~~ set minimum requirements for, and ~~assuring~~ assure security of licensing and other required examinations;

5. a. ~~issuing~~ issue or ~~denying~~ deny licenses and certificates and renewals thereof,

b. ~~acquiring~~ acquire information about and ~~evaluating~~ evaluate the professional education and training of applicants for licensure or certification; ~~accepting~~ and accept or ~~denying~~ deny applications for licensure, certification or renewal of either licensure or certification based on the evaluation of information relating to applicant fitness, performance or competency to practice,

c. ~~determining~~ determine which professional schools, colleges, universities, training institutions and educational programs are acceptable in connection with

licensure ~~under Section 698.1 et seq. of this title~~ pursuant to the Oklahoma Veterinary Practice Act, and ~~accepting~~ accept the approval of such facilities and programs by American-Veterinary-Medical-Association-accredited institutions in the United States and Canada,

d. ~~requiring~~ require supporting documentation or other acceptable verifying evidence for any information provided the Board by an applicant for licensure or certification, and

e. ~~requiring~~ require information on an applicant's fitness, qualification and previous professional record and performance from recognized data sources including, but not limited to, other licensing and disciplinary authorities of other jurisdictions, professional education and training institutions, liability insurers, animal health care institutions and law enforcement agencies;

6. ~~Developing~~ Develop and ~~using~~ use applications and other necessary forms and related procedures for purposes of ~~Section 698.1 et seq. of this title~~ the Oklahoma Veterinary Practice Act;

7. a. ~~reviewing~~ review and ~~investigating~~ investigate complaints and adverse information about licensees and certificate holders,

b. ~~conducting~~ conduct hearings in accordance with ~~Section 698.1 et seq. of this title~~ the Oklahoma Veterinary Practice Act and the Administrative Procedures Act, and

c. ~~adjudicating~~ adjudicate matters that come before the Board for judgment ~~under Section 698.1 et seq. of this title~~ pursuant to the Oklahoma Veterinary Practice Act upon clear and convincing evidence and ~~issuing~~ issue

final decisions on such matters to discipline licensees and certificate holders;

8. a. ~~imposing~~ impose sanctions, ~~denying~~ deny ~~licensure~~ licenses and certificates and renewals thereof, ~~levying~~ levy reimbursement costs, ~~seeking~~ seek appropriate administrative, civil or criminal penalties or any combination of these against those who violate examination security, who attempt to or who do obtain licensure or certification by fraud, who knowingly assist in illegal activities, or who aid and abet the illegal practice of veterinary medicine,

b. ~~reviewing~~ review and ~~investigating~~ investigate complaints and adverse information about licensees and certificate holders,

c. ~~disciplining~~ discipline licensees and certificate holders,

d. ~~instituting~~ institute proceedings in courts of competent jurisdiction to enforce Board orders and provisions of ~~Section 698.1 et seq. of this title~~ the Oklahoma Veterinary Practice Act,

e. (1) ~~establishing~~ establish mechanisms for dealing with licensees and certificate holders who abuse or are dependent on or addicted to alcohol or other chemical substances, and ~~entering~~ enter into agreements, at its discretion, with professional organizations whose relevant procedures and techniques it has evaluated and approved for their cooperation or participation in the rehabilitation of the licensee or certificate holder,

~~f.~~ (2) ~~establishing~~ establish by rules cooperation with other professional organizations for the

identification and monitoring of licensees and certificate holders in treatment who are chemically dependent or addicted, and

~~g.~~ f. ~~issuing~~ issue conditional, restricted or otherwise circumscribed modifications to licensure or certification as determined to be appropriate by due process procedures and summarily ~~suspending~~ suspend a license if the Board has cause to believe by clear and convincing evidence such action is required to protect public or animal health and safety or to prevent continuation of incompetent practices;

9. ~~Adopting~~ Promulgate rules of professional conduct and ~~requiring~~ require all licensees and certificate holders to practice in accordance therewith;

10. ~~Performing such other duties and exercising such other powers as the provisions and enforcement of the Oklahoma Veterinary Practice Act may require including, but not limited to:~~

~~a. acting~~

Act to halt the unlicensed or illegal practice of veterinary medicine and ~~seeking~~ seek administrative, criminal and civil penalties against those engaged in such practice~~,~~;

~~b. establishing~~

11. Establish appropriate fees and charges to ensure active and effective pursuit of Board responsibilities~~,~~;

~~c. employing, directing, reimbursing, evaluating~~

12. Employ, direct, reimburse, evaluate and ~~dismissing~~ dismiss staff in accordance with state procedures~~,~~;

~~d. establishing~~

13. Establish policies for Board operations~~,~~;

~~e. responding~~

14. Respond to legislative inquiry regarding those changes in, or amendments to, ~~Section 698.1 et seq. of this title,~~ the Oklahoma Veterinary Practice Act;

~~f. acting~~

15. Act on its own motion in disciplinary matters, ~~administering~~ administer oaths, ~~issuing~~ issue notices, ~~issuing~~ issue subpoenas in the name of the State of Oklahoma, including subpoenas for client and animal records, ~~holding~~ hold hearings, ~~instituting~~ institute court proceedings for contempt or to compel testimony or obedience to its orders and subpoenas, ~~taking~~ take evidentiary depositions and ~~performing~~ perform such other acts as are reasonable and necessary under law to carry out its duties~~,~~;

~~g. using~~

16. Use clear and convincing evidence as the standard of proof and ~~issuing~~ issue final decisions when acting as trier of fact in the performance of its adjudicatory duties~~, and~~;

~~h. determining~~

17. Determine and ~~directing~~ direct Board operating, administrative, personnel and budget policies and procedures in accordance with applicable statutes;

~~11. Making and publishing~~ 18. Promulgate uniform rules ~~and regulations~~ such as may be necessary for carrying out and enforcing the provisions of the Oklahoma Veterinary Practice Act and such as in its discretion may be necessary to protect the health, safety and welfare of the public; ~~and~~

~~12. Determining~~ 19. Determine continuing education requirements;

20. Establish minimum standards for veterinary premises;

21. Establish standards for veterinary labeling and dispensing of veterinary prescription drugs and federal Food and Drug Administration-approved human drugs for animals which would conform to current applicable state and federal law and regulations; and

22. Perform such other duties and exercise such other powers as the provisions and enforcement of the Oklahoma Veterinary Practice Act may require.

SECTION 9. AMENDATORY 59 O.S. 1991, Section 698.8, is amended to read as follows:

Section 698.8 A. It shall be unlawful to practice veterinary medicine in this state without a license or certificate issued by the State Board of Veterinary Medical Examiners.

B. Requirements for licensure or certification shall be set by the Board and may be changed as the education and training for the practice of veterinary medicine changes. Prior to issuance of a license or certificate to practice veterinary medicine in this state, the applicant shall have been found by the Board to be of good moral character and the Board shall consider but not be limited to the following evidence of suitability to practice:

1. a. Graduation from an approved school of veterinary medicine whose requirements at the time of graduation are acceptable to the Board.

   b. Graduates of schools of veterinary medicine located outside the United States and Canada shall be held to the same standards for evidence of suitability to practice as are graduates of schools of veterinary medicine located within the United States in that applicants shall conform in all respects to the requirements set forth in this section~~;~~. ~~where~~ Where necessary, further examination shall be administered by the Board or its designee to determine competency to practice. In addition, applicants shall demonstrate a command of the English language satisfactory to the Board. Documents and material submitted in support of application for licensure or certification, if in a foreign language, shall be

translated and certified as accurate by an organization acceptable to the Board;

2. Satisfactory completion of a minimum number of months of education in veterinary medicine as a requirement for graduation from a school of veterinary medicine as set by the Board;

3. Evidence that the applicant for licensure or certification is of good moral character;

4. a. ~~Evidence~~ Except as otherwise provided by this paragraph, evidence that the applicant has passed examinations satisfactory to the Board and that the examination score is acceptable to the Board. The Board ~~shall have the authority to~~ may set minimum passing scores for examinations and ~~to~~ limit the number of times an applicant may take an examination in this state.

b. In lieu of national examination requirements, an applicant shall have actively engaged in the clinical practice of veterinary medicine for a period of at least five thousand (5,000) hours during the five (5) consecutive years immediately prior to making application in Oklahoma and hold a license to practice veterinary medicine in another state, territory, district or province of the United States and Canada and successfully passed the Oklahoma State Jurisprudence Examination;

5. Evidence that the applicant has demonstrated familiarity with the statutes and rules set by ~~this~~ the Board;

6. Evidence that the applicant is mentally and professionally capable of practicing veterinary medicine in a competent manner as determined by the Board and willing to submit, if deemed appropriate by the Board, to an evaluation of skills and abilities;

7. Evidence that the applicant has not been found guilty by a court of law of any conduct that would constitute grounds for disciplinary action under the Oklahoma Veterinary Practice Act or rules ~~and regulations~~ of the Board, and there has been no disciplinary action taken against the applicant by any public agency concerned with the practice of veterinary medicine;

8. If the Board deems it necessary, a personal appearance by the applicant before the Board in support of ~~his or her~~ the applicant's application for licensure or certification. If the Board is not satisfied with the credentials of the applicant, or demonstration of knowledge or skills presented, the Board~~, at its discretion,~~ may require further examination or supervised practice before reconsideration of the application; and

9. Evidence that all required fees have been paid.

C. Practice without the legal possession of an active license or certificate shall be prohibited, and evidence of said practice shall be reported by the Board to the district attorney of the county in which the practice is found to occur.

D. Certificates may be issued to any veterinarian who has failed to obtain or failed to maintain a regular license to practice veterinary medicine. Such certificates may be issued by the Board at such times as the Board determines that all requirements for possession of such certificate have been met as set by rules and policies of the Board. Certificates may be issued for, but not limited to~~:~~

~~1. Practice~~, the practice of veterinary medicine under the direct supervision of a licensed veterinarian while the application for full licensure is pending~~;~~

~~2. Practice for a short period of time in this state with no anticipation of permanent practice in this state; and~~

~~3. Practice while in the employ of an approved school of veterinary medicine and while doing limited veterinary work for said school~~.

SECTION 10. AMENDATORY 59 O.S. 1991, Section 698.8a, is amended to read as follows:

Section 698.8a The State Board of Veterinary Medical Examiners may~~, in its discretion,~~ issue a veterinary faculty license to any qualified applicant associated with one of ~~this~~ the state's institutions of higher learning and involved in the instructional program of either undergraduate or graduate veterinary medical students, subject to the following conditions:

1. The holder of the veterinary faculty license shall be remunerated for the practice aspects of ~~his~~ the services of the holder solely from state, federal or institutional funds and not from the patient-owner beneficiary of his practice efforts;

2. The applicant will furnish the Board with such proof as the Board may deem necessary to demonstrate that:

a. the applicant is a graduate of a reputable school or college of veterinary medicine,

b. the applicant has or will have a faculty position at one of ~~this~~ the state's institutions of higher learning and will be involved in the instructional program of either undergraduate or graduate veterinary medical students, as certified by an authorized administrative official at such institution, and

c. the applicant understands and agrees that the faculty license is valid only for the practice of veterinary medicine as a faculty member of the institution;

3. The license issued ~~under~~ pursuant to this section may be revoked ~~or~~, suspended or not renewed or the licensee may be placed on probation or otherwise disciplined in accordance with the provisions of the Oklahoma Veterinary Practice Act; and

4. The license issued ~~under~~ pursuant to this section may be canceled by the Board upon receipt of information that the holder of the veterinary faculty license has left or has otherwise been discontinued from faculty employment at an institution of higher learning of this state.

SECTION 11. AMENDATORY 59 O.S. 1991, Section 698.9a, is amended to read as follows:

Section 698.9a A. 1. Licenses or certificates suspended ~~or~~, revoked or not renewed for any purpose may be reinstated upon the motion of the State Board of Veterinary Medical ~~Examiner~~ Examiners upon proper application of the licensee or certificate holder. ~~Provided, a~~

2. A license or certificate suspended for failure to renew may be reinstated by the president or secretary-treasurer of the Board. Provided ~~further~~, ~~all~~ such action ~~by any officer of the Board must~~ shall be approved~~,~~ or ratified, or may be rescinded by the Board at the Board meeting following such action.

B. Requirements for reinstatement of a license or certificate which has been suspended ~~for failure to renew~~, revoked or not renewed shall be by rule and shall include, but not be limited to, evidence that:

1. All requirements for full licensure or certification have been met; and

2. The applicant has not been convicted or ~~his~~ the applicant's license or certificate suspended ~~or~~, revoked or not renewed or placed on probation in another state for violations of an act that would constitute the same or similar penalty in this state.

SECTION 12. AMENDATORY 59 O.S. 1991, Section 698.10a, is amended to read as follows:

Section 698.10a A. Every licensed veterinarian who is the holder of a license or certificate authorizing the practice of veterinary medicine in any manner whatsoever shall on or before the

first day of July of each and every year apply to the State Board of Veterinary Medical Examiners on forms furnished by the Board, for a renewal certificate of registration entitling ~~him or her~~ such veterinarian to practice veterinary medicine in this state during the next fiscal year. Each such application shall be accompanied by a renewal fee in an amount fixed by the Board.

B. The Board may modify the terms and dates of renewal requirements in order to expedite the efficiency of the procedure and to prevent inequitable financial burden on its applicants and licensees.

C. 1. Failure to renew a license or certificate properly shall be evidence of noncompliance with the laws of this state and rules of ~~this~~ the Board~~; and the~~.

2. The license or certificate shall automatically be placed in an inactive status for failure to renew and shall be considered inactive and not in good standing for purposes of practice of veterinary medicine.

D. 1. If, within sixty (60) calendar days after July 1 the licensee or certificate holder pays the renewal fee plus any reactivation fee set by rule by the Board, the president or secretary-treasurer of the Board may reactivate the license or certificate.

2. If sixty (60) calendar days elapses and the license or certificate is not reactivated, the license or certificate shall be automatically suspended for failure to renew.

3. A license or certificate suspended for failure to renew may be reinstated pursuant to the provisions of Section ~~8~~ 698.9a of this ~~act~~ title.

E. Practice of veterinary medicine is prohibited unless the license or certificate is active and in good standing with the Board.

SECTION 13. AMENDATORY 59 O.S. 1991, Section 698.11, is amended to read as follows:

Section 698.11 A. The practice of veterinary medicine shall include, but not be limited to:

1. Diagnosing, surgery, treating, correcting, changing, relieving, or preventing animal disease, deformity, defect, injury or other physical or mental conditions including the prescribing or administering of any drug, medicine, biologic, apparatus, application, anesthetic, telemedicine or other therapeutic diagnostic substance or technique; dentistry; testing for pregnancy or correcting sterility or ~~infertility~~ enhancing fertility; or rendering advice or recommendation with regard to any of the above; ~~or~~

2. Representing, directly or indirectly, publicly or privately, an ability and willingness to do any act prescribed in paragraph 1 of this section; and

3. Using any title words, abbreviation or letters by any person other than a licensed veterinarian in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in paragraph 1 of this section. Such use shall be prima facie evidence of the intention to represent oneself as a licensed veterinarian engaged in the practice of veterinary medicine.

B. Any person licensed to practice veterinary medicine pursuant to the Oklahoma Veterinary Practice Act, may use the word "Doctor", or an abbreviation thereof, and shall have the right to use, whether or not in conjunction with the word "Doctor" or any abbreviation thereof, the designation "D.V.M." or "V.M.D.".

SECTION 14. AMENDATORY 59 O.S. 1991, Section 698.12, is amended to read as follows:

Section 698.12 The Oklahoma Veterinary Practice Act shall not be construed to prohibit:

1. Acts of dehorning, branding, tagging or notching ears, pregnancy checking, collecting semen, preparing semen, freezing semen, castrating, worming, vaccinating, injecting or artificial insemination of ~~farm~~ food animals; or the acts or conduct of a person advising with respect to nutrition, feeds or feeding;

2. The owner of an animal or the owner's employees or helpers from caring for or treating animals belonging to ~~said~~ the owner~~, including the acts of dehorning, branding, tagging or notching ears, castrating, worming or vaccinating of animals~~; provided that, the acts of the owner's employees or helpers otherwise prohibited by the Oklahoma Veterinary Practice Act are only an incidental part of the employment duties and for which no special compensation is made;

3. Acts of a person in lawful possession of an animal for some other purpose than practicing veterinary medicine; provided that, no charge may be made or included in any other charge or fee or adjustment otherwise made of any charge or fee for acts performed ~~under~~ pursuant to this subsection unless the acts are performed by a licensed veterinarian as provided by the Oklahoma Veterinary Practice Act;

4. Acts of auction markets and other shippers of food animals in preparing such animals for shipment;

5. Acts of a person who is a student in good standing in a veterinary school, in performing duties or functions assigned by ~~his~~ the student's instructors, or working under the direct supervision of a licensed veterinarian for each individual case and acts performed by an instructor or student in a school of veterinary medicine recognized by the Board and performed as a part of the educational and training curriculum of the school under the direct supervision of faculty. The unsupervised or unauthorized practice of veterinary medicine even though on the premises of a school of veterinary medicine is prohibited;

6. Acts of any employee in the course of ~~his or her~~ employment by the federal government or acts of a veterinarian practicing on property and persons outside the jurisdiction of the State of Oklahoma;

7. A veterinarian ~~regularly~~ currently licensed in another state from consulting with a licensed veterinarian of this state;

8. Acts of vocational-agriculture instructors or students while engaged in regular vocational-agriculture instruction; provided that said acts are under the supervision of instructors and are carried out in the usual course of instruction and not as independent practice by an unlicensed veterinarian without supervision; or

9. Any person employed by a licensed veterinarian who is assisting with the professional duties of the licensed veterinarian and who is under the direct supervision of the licensed veterinarian from administering medication or rendering auxiliary or supporting assistance under the direct supervision of such licensed veterinarian, provided that the practice is conducted in compliance with all laws of this state and rules of this Board.

SECTION 15. AMENDATORY 59 O.S. 1991, Section 698.14a, as amended by Section 2, Chapter 143, O.S.L. 1997 (59 O.S. Supp. 1998, Section 698.14a), is amended to read as follows:

Section 698.14a A. A range of ~~disciplinary actions~~ sanctions is hereby made available to the State Board of Veterinary Medical Examiners which includes, but is not limited to:

1. Revocation of licensure or certification;

2. Suspension of licensure or certification;

3. Probation of licensure or certification;

4. Refusal to renew a license or certification;

5. Injunctions and other civil court actions;

6. Reprimand, censure, agreement to voluntary stipulation of facts and imposition of terms of disciplinary action; ~~and~~

~~5.~~ 7. Administrative citation and administrative penalties; and

8. Prosecution through the office of the district attorney.

B. 1. The Board ~~shall be authorized, at its discretion, to~~ may take such action as the nature of the violation requires.

2. Upon a determination that a violation has been committed, the Board shall, by clear and convincing evidence, have the authority to impose ~~on~~ upon the ~~licensee or certificate holder, as a condition of any adverse disciplinary action~~ alleged violator, the payment of costs expended by the Board in investigating and prosecuting ~~said~~ the cause, to include, but not be limited to, staff time, salary and travel expenses, witness fees and attorney fees and same shall be considered part of the order of the Board.

3. The Board shall make report of action to any association, organization or entity deemed appropriate for transmittal of the public record but shall in no cause be held liable for the content of the reported action or be made a party to action taken as a result of the ~~discipline~~ sanction imposed by the State Board of Veterinary Medical Examiners.

C. The president or secretary-treasurer of the Board may~~, at the discretion of the Board,~~ issue a confidential letter of concern to a licensee or certificate holder when, though evidence does not warrant formal proceedings, there has been noted indications of possible misconduct by the licensee or certificate holder that could lead to serious consequences and formal action.

D. The Board may require an applicant for licensure or certification or a licensee or certificate holder to be examined on ~~his or her~~ the applicant's or holder's medical knowledge and skills should the Board find, after due process, that there is probable cause to believe the licensee or certificate holder or applicant may be deficient in such knowledge and skills.

E. The Board may take disciplinary action or other sanctions upon clear and convincing evidence of unprofessional or dishonorable conduct, which shall include, but not be limited to:

1. Fraud or misrepresentation in applying for or procuring a license or certificate to practice veterinary medicine in any federal, state or local jurisdiction;

2. Cheating on or attempting to cheat on or subvert in any manner whatsoever the licensing or certificate examination or any portion thereof;

3. The conviction of or entry of a guilty plea or plea of nolo contendere involving a felony in this or any other jurisdiction, whether or not related to the practice of veterinary medicine;

4. Conduct likely to deceive, defraud, or harm the public;

5. The making of a false or misleading statement regarding ~~his or her~~ one's skill or the efficacy or value of the medicine, treatment or remedy prescribed by ~~him or her~~ the licensed veterinarian or at ~~his or her~~ the licensed veterinarian's direction in the treatment of any disease or other condition of the animal;

6. Representing to a client that a manifestly incurable condition, sickness, disease or injury can be cured or healed;

7. Negligence in the practice of veterinary medicine ~~as determined by the Board~~;

8. Practice or other behavior that demonstrates a manifest incapacity or incompetence to practice veterinary medicine;

9. The use of any false, fraudulent or deceptive statement in any document connected with the practice of veterinary medicine;

10. Failure to notify the Board of current address of practice;

11. Aiding or abetting the practice of veterinary medicine by an unlicensed, incompetent or impaired person;

12. Habitual use or abuse of alcohol or of a habit-forming drug or chemical which impairs the ability of the licensee or certificate holder to practice veterinary medicine;

13. Violation of any laws relating to the administration, prescribing or dispensing of controlled dangerous substances or

violation of any laws of the federal government or any state of the United States relative to controlled dangerous substances;

14. Obtaining a fee by fraud or misrepresentation;

15. Directly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services not actually and personally rendered, not to preclude the legal function of a lawful professional partnership, corporation or association;

16. Failure to report to the Board any adverse action taken by another jurisdictional body, by any peer review body, health-related licensing or disciplinary jurisdiction, law enforcement agency or court for acts or conduct related to the practice of veterinary medicine;

17. Failure to report to the Board surrender of a license or other certificate of authorization to perform functions based on the holding of a license or certificate to practice veterinary medicine or surrender of membership in any organization or association related to veterinary medicine while under investigation by that association or organization for conduct similar to or the same as acts which would constitute grounds for action as defined in the Oklahoma Veterinary Practice Act;

18. Failure to furnish the Board, its staff or agents information legally requested or failure to cooperate with a lawful investigation conducted by or on behalf of the Board;

19. Failure to pay appropriately assessed fees or failure to make any personal appearance required by the Board or any of its officers; ~~or~~

20. The practice of veterinary medicine in the absence of a bona fide veterinarian-client-patient relationship. The preclusion of a veterinarian-client-patient relationship by a veterinarian who in good faith renders or attempts to render emergency care to a victim pursuant to a Good Samaritan application shall not constitute

grounds for discipline pursuant to the Oklahoma Veterinary Practice Act;

21. Providing vaccinations or elective surgical procedures on skunks, namely Mephitis mephitis (striped), Conepatus mesoleusus (hog-nosed), and Spilogale putorius (spotted), unless the animal is under the custody and care of a recognized zoological institution, research facility, or person possessing an appropriate and current wildlife permit issued by the Oklahoma Department of Wildlife Conservation or Oklahoma Department of Agriculture; or

22. Violation of any provisions of the Oklahoma Veterinary Practice Act or the rules and policies of the Board or of an action, stipulation or agreement of the Board.

F. 1. The Board may commence any legal action to enforce the provision of the Oklahoma Veterinary Practice Act and may exercise full discretion and authority with respect to ~~disciplinary~~ enforcement actions~~; provided it does so~~. Administrative sanctions taken by the Board shall be made in accordance with Article II of the Administrative Procedures Act, ~~Section 309 et seq. of Title 75 of the Oklahoma Statutes,~~ the Oklahoma Veterinary Practice Act, and other applicable laws of this state. The Board shall take appropriate ~~disciplinary~~ enforcement action when required, assuring fairness and due process to the defendant.

2. The Board or its designee may hold informal conferences ~~at its discretion~~ to negotiate a settlement of a dispute; provided that the conference is agreed to in writing by all parties and said conference does not preclude a hearing on the same matters. The Board ~~may~~ shall not consider the agreement binding should a hearing be held subsequent to the agreement.

G. The Board may summarily suspend a license or certificate prior to a formal hearing when it has found upon clear and convincing evidence that such action is required to protect the public or animal health or welfare or when a person under the

jurisdiction of the Board is convicted of a felony, whether or not related to the practice of veterinary medicine; provided such action is taken simultaneously with proceedings for setting a formal hearing to be held within thirty (30) days after the summary suspension.

H. 1. The Board may issue an order to any licensee or certificate holder, ~~or~~ obtain an injunction or take other administrative, civil or criminal court action against any person or any corporation or association, its officers, or directors, to restrain said persons from violating the provisions of the Oklahoma Veterinary Practice Act.

2. Violations of ~~such~~ an injunction shall be punishable as contempt of court. No proof of actual damage to any animal shall be required for issuance of an order or an injunction, nor shall an injunction relieve those enjoined from administrative, civil or criminal prosecution for violation of the Oklahoma Veterinary Practice Act.

I. 1. The State Board of Veterinary Medical Examiners may suspend ~~or~~, revoke or refuse to renew the license or certificate of any ~~veterinarian~~ person holding license or certificate to practice veterinary medicine in this state or place such person on probation for unprofessional conduct, but no such suspension or revocation or refusal to renew, or probation shall be made, unless otherwise provided for herein, until such be cited to appear for hearing. No such citation shall be issued except upon a sworn complaint filed with the president or secretary-treasurer of said Board charging the licensee or certificate holder with having been guilty of unprofessional conduct and setting forth the particular act or acts alleged to constitute such unprofessional conduct.

2. In the event it comes to the attention of the Board that a violation of the rules of professional conduct may have occurred, even though a formal complaint or charge may not have been filed,

the Board may conduct an investigation of such possible violation, and may, upon its own motion, institute a formal complaint. In the course of such investigation, persons appearing before the Board may be required to testify under oath.

J. 1. Upon the filing of a complaint, either by an individual or the Board, the citation shall be issued by the president or secretary-treasurer of the Board over ~~his or her~~ such officer's signature and seal of the Board, setting forth the particulars of the complaint, and giving due notice of the time and place of the hearing by the Board. The citation shall be made returnable at the next meeting of the Board at which hearing is set and shall be no less than thirty (30) days after issuance of the citation~~.~~;

2. The accused shall file ~~his or her~~ a written answer under oath with notice of intent to appear or be represented within twenty (20) days after the service ~~upon him or her~~ of the citation. Failure to respond to the citation within the prescribed time shall constitute default ~~and his or her~~;

3. The license or certificate of the accused shall be suspended ~~or~~, revoked or not renewed if the charges are found, by clear and convincing evidence, sufficient by the Board; provided, the president or secretary-treasurer of the Board may extend the time of answer upon satisfactory showing that the defendant is for reasonable cause, unable to answer within the prescribed twenty (20) days, but in no case shall the time be extended beyond the date of the next scheduled meeting for hearing the complaint, unless continuance thereof be granted by the Board~~.~~; and

4. All citations and subpoenas under the contemplation of ~~Section 698.1 et seq. of this title,~~ the Oklahoma Veterinary Practice Act shall be served in general accordance with the statutes of this state applying to the service of such documents~~, and all~~. All provisions of the statutes of this state relating to citations and subpoenas are hereby made applicable to the citations and

subpoenas herein provided ~~for~~. All the provisions of the statutes of this state governing the taking of testimony by depositions are made applicable to the taking of depositions ~~under Section 698.1 et seq. of this title~~ pursuant to the Oklahoma Veterinary Practice Act.

K. The Executive Director, secretary-treasurer, designee, or prosecuting attorney for the Board, during the course of any lawful investigation, may order or subpoena the attendance of witnesses, the inspection of records, and premises and the production of relevant records, books, memoranda, documents, radiographs, or other papers or things for the investigation of matters that may come before the Board.

L. 1. The attendance of witnesses may be compelled in such hearings by subpoenas issued by the president or secretary-treasurer of the Board over the seal thereof, and the president or secretary-treasurer shall in no case refuse to issue ~~such~~ subpoenas upon praecipe filed therefor accompanied by the fee set by the Board by rule for the issuance of such subpoenas.

2. If any person refuses to obey ~~such~~ a subpoena properly served upon ~~him or her~~ such person or in ~~such~~ the manner, the fact of such refusal shall be certified by the secretary-treasurer of the Board over the seal thereof to the district attorney of the county in which such service was had, and the court shall proceed to hear said matter in accordance with the statutes of this state then in force governing contempt as for disobedience of its own process.

~~L.~~ M. 1. ~~It is hereby provided that the~~ The State of Oklahoma is a proper and necessary party in the prosecution of all such actions and hearings before the ~~State~~ Board ~~of Veterinary Medical Examiners~~ in all matters pertaining to unprofessional conduct and disciplinary action ~~and the~~. The Attorney General of the state, in person or by deputy, is authorized to appear in behalf thereof~~, and the~~. The defendant in any such ~~action~~ actions shall have the right to be represented by counsel.

2. The Board is empowered to enter into agreement with or employ one or more attorneys to conduct the business of the Board in the absence of representation by the Attorney General or ~~his or her~~ designee or in conjunction with representation by the Attorney General or ~~his or her~~ designee.

3. The Board shall sit as a trial body and the rulings of the Board shall be by majority vote. Appeal to the rulings thereof shall be by petition to the district court of the district in which the hearing was held. The secretary-treasurer of the Board shall cause a record of all proceedings to be made and a transcript of the proceedings or any part thereof may be obtained by payment of actual cost of taking and preparation of transcript of such proceedings or part thereof.

~~M.~~ N. All final disciplinary actions, license denials, related findings of fact and conclusions of law are matters of public record. Voluntary surrender of and voluntary limitations on the veterinarian's practice or license shall be public record.

~~N.~~ O. Certificate holders or faculty of veterinary medical schools ~~should~~ shall report to the Board in writing any information that gives reason to believe a veterinarian is incompetent, guilty of unprofessional conduct or is unable to engage safely in the practice of veterinary medicine. Cause for reporting shall be for, but not limited to, the following instances:

1. Voluntary resignation from a professional partnership, corporation or practice for reason of inability to practice;

2. Malpractice claims, judgments, settlements or awards;

3. Civil or criminal convictions; or

4. Other actions that indicate inability to practice with reasonable skill and safety.

~~O.~~ P. The Board shall consider violation of any of the Rules of Professional Conduct a violation of the Oklahoma Veterinary Practice Act section on unprofessional conduct and shall proceed with

disciplinary action as set out in the Oklahoma Veterinary Practice Act.

~~P.~~ Q. 1. In addition to other penalties prescribed by the Oklahoma Veterinary Practice Act, any person who the Board has determined by clear and convincing evidence to have violated any provisions of the Oklahoma Veterinary Practice Act, or any rule or order issued pursuant thereto shall be liable for an administrative penalty of not more than Five Thousand Dollars ($5,000.00) for each day that the violation continues.

2. The amount of the penalty shall be assessed by the Board pursuant to the provisions of paragraph 1 of this subsection, after notice and hearing. In determining the amount of the penalty, the Board shall, by clear and convincing evidence, include, but not be limited to, consideration of the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the Oklahoma Veterinary Practice Act.

3. All penalties collected pursuant to the provisions of this subsection shall be deposited in the Veterinary Medical Examiners Fund.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 698.19A of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. If, upon completion of an investigation, the Executive Director of the State Board of Veterinary Medical Examiners has probable cause to believe that a licensed veterinarian or any other person has violated provisions of the Oklahoma Veterinary Practice Act or rules promulgated thereto, the Executive Director may issue a field citation to the licensed veterinarian or other person, as provided in this section. Each field citation shall be in writing

and shall describe with particularity the nature of the violation, including but not limited to a reference to the provision of the Oklahoma Veterinary Practice Act alleged to have been violated.

2. In addition, each field citation may contain an order of abatement fixing a reasonable time for abatement of the violation, and may contain an assessment of an administrative penalty not to exceed Five Hundred Dollars ($500.00) for a first offense and not to exceed Five Thousand Dollars ($5,000.00) for a second or each subsequent offense. Each day such violation continues shall constitute a separate offense.

3. The field citation shall be served upon the licensed veterinarian or other person personally or by any certified mail, return receipt requested.

B. Before any field citation shall be issued to any licensed veterinarian, the Executive Director shall have submitted the alleged violation for the review and examination to a probable cause committee, comprised of the Board's attorney, an investigator, and a veterinarian licensed in the state of Oklahoma. The probable cause committee, during its review, may contact the licensed veterinarian to discuss and resolve the alleged violation. Upon conclusion of the probable cause committee's review, the committee shall prepare findings of fact and a recommendation. If the committee concludes that probable cause exists that the veterinarian has violated any provisions of the Oklahoma Veterinary Practice Act or rules promulgated thereto, an administrative penalty shall be assessed upon the licensed veterinarian.

C. 1. If a licensed veterinarian or other person has been determined by the Board or agent thereof to have violated any provision of the Oklahoma Veterinary Practice Act or rules promulgated or issued pursuant thereto desires to contest a field citation or the proposed assessment of an administrative penalty therefore, the licensed veterinarian or other person shall, within

ten (10) business days after service of the field citation, notify the Executive Director in writing, requesting an informal conference with the probable cause committee.

2. The probable cause committee shall hold, within sixty (60) days from the receipt of the written request, an informal conference. After the conclusion of the informal conference, and based on recommendations thereof, the Executive Director may affirm, modify or dismiss the field citation or proposed assessment of an administrative penalty and the Executive Director shall state with particularity in writing the reasons for the action, and shall immediately transmit a copy thereof to the licensed veterinarian or other person and the person who submitted the complaint.

D. 1. If the veterinarian or person desires to contest administratively, a decision made after the informal conference, the licensed veterinarian or other person shall inform the Executive Director in writing within thirty (30) calendar days after such person receives the decision resulting from the informal conference.

2. If the licensed veterinarian or other person fails to request an informal conference within the time specified in this section, the field citation, the proposed assessment of the administrative penalty or the decision made after an informal conference shall be deemed a final order of the Board and shall not be subject to further administrative reviews.

E. If a fine is paid to satisfy an assessment based on the findings of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for the purposes of public disclosure.

F. A veterinarian or other person, in lieu of contesting a field citation pursuant to this section, may transmit to the Board the amount assessed in the citation as an administrative penalty, within thirty (30) days after service of the field citation. If a

hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged.

G. 1. If a veterinarian or other person has notified the Executive Director within ten (10) working days of the issuance of the assessment of field citation that such veterinarian or other person intends to contest the decision made after the informal conference, the Board shall hold a hearing to be held in accordance with the Administrative Procedures Act and adjudicating such matters for judgment only upon clear and convincing evidence as required by the Oklahoma Veterinary Practice Act with the Board having all of the powers granted therein.

2. After the hearing, the Board shall issue a decision based on findings of the fact, affirming, modifying or vacating the citation, or directing other appropriate relief which shall include, but need not be limited to, a notice that the failure of the veterinarian or other person to comply with any provision of the Board's decision may subject such veterinarian or person to the imposition of the sanctions authorized by the Oklahoma Veterinary Practice Act.

H. After the exhaustion of the review procedures provided for in this section, the Board may bring an action for judicial review and administrative penalty and obtain an order compelling the cited person to comply with any order issued pursuant to this section.

I. Failure of a licensee to pay a fine within thirty (30) days of the date of assessment, unless the field citation is being appealed may result in action being taken by the Board. When a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for the renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

J. The Board shall promulgate rules covering the issuance of field citations, the assessment of administrative penalties and other duties specified by this section pursuant to this section

which give due consideration to the appropriateness of the penalty with respect to the following factors:

a. the gravity of the violation,

b. the good faith of the person being charged, and

c. the history of previous violations.

SECTION 17. AMENDATORY 59 O.S. 1991, Section 698.14b, is amended to read as follows:

Section 698.14b A. Impairment is defined as the inability of a person to practice veterinary medicine with reasonable skill and safety by reason of:

1. Mental illness; or

2. Habitual use or excessive use or abuse of drugs or chemicals defined in law as controlled substances or habit-forming substances, to include, but not be limited to, alcohol or other substances that impair the ability of the licensee or certificate holder to practice veterinary medicine.

B. Upon probable cause, the State Board of Veterinary Medical Examiners may require a licensee or certificate holder or applicant for license or certificate to submit to ~~a~~ <u>any</u> test ~~or tests~~ to determine the use of alcohol or drugs which affects the ability of the licensee or certificate holder to practice veterinary medicine. The Board, by rule, shall establish the nature and criteria for <u>any</u> such test ~~or tests~~. The results of ~~said~~ <u>the</u> test ~~or tests~~ shall be admissible in any hearing before the Board. Failure to submit to the required test ~~or tests~~ by any licensee, certificate holder or applicant when properly directed to do so by the Board shall be grounds for disciplinary action against a licensee or certificate holder and, for any applicant, shall be grounds for denial of license or certificate.

C. Upon findings by the Board, after evaluation and hearing, that the licensee, certificate holder or applicant is impaired, the

Board may take one of the following actions or any other action deemed appropriate to the circumstances by the Board:

1. Direct the person to submit to care, counseling or treatment acceptable to the Board;

2. Suspend, limit or restrict the license or certificate to practice for the duration of the impairment; or

3. Revoke or refuse to renew the license or certificate or deny the application.

D. Any person who is prohibited from practicing ~~under~~ pursuant to the provisions of this section shall be afforded at reasonable intervals the opportunity to present evidence or material not before seen by the Board to demonstrate to the satisfaction of the Board that ~~he or she~~ such person can resume or begin the practice of veterinary medicine with reasonable skill and safety; provided, ~~however,~~ that all fees have been paid and all requirements for licensure, certification, reinstatement or other form of authorization to practice have been satisfactorily completed.

E. 1. All licensees, certificate holders or faculty of veterinary medical schools ~~should~~ shall report to the Board information about any and all colleagues that shows the colleagues are impaired.

2. The Board may establish rules ~~and regulations~~ for the approval of medically directed, nonprofit, voluntary treatment programs for impaired practitioners and to set standards for the treatment of practitioners.

3. The Board may exempt from reporting those who are conducting a Board-approved treatment program; provided that the impaired veterinarian who is participating in the program is doing so satisfactorily. Should the impaired veterinarian leave the program without first achieving a release by the program, the administrator of the program is required to report same to the Board. Participation in an approved treatment program does not protect an

impaired veterinarian from Board action resulting from a report from another source of violation of the Oklahoma Veterinary Practice Act, whether related to the impairment or not.

4. Programs for the treatment of impaired professionals approved by this Board shall be reviewed annually or more frequently at the Board's discretion.

SECTION 18. AMENDATORY 59 O.S. 1991, Section 698.15, is amended to read as follows:

Section 698.15 It ~~is hereby made~~ shall be the duty of every person engaged in the practice of veterinary medicine to report to the State Veterinarian of the State of Oklahoma the name of the owner or person in possession of all domestic animals afflicted with any contagious or infectious disease required to be reported ~~by~~ to the State Board of Agriculture together with the location of ~~said animal or~~ the animals and the disease with which ~~said animal is~~ the animals are afflicted immediately upon such knowledge or information coming to such practitioners.

SECTION 19. AMENDATORY 59 O.S. 1991, Section 698.16, is amended to read as follows:

Section 698.16 A. 1. Any animal except domestic animals as such term is defined in Section 85.1 of Title 4 of the Oklahoma Statutes placed in the custody of a licensed veterinarian for boarding, treatment or any other ~~care~~ such reason which ~~shall be~~ is abandoned by its owner, the owner's agent, or any other person for a period of more than ten (10) days after written notice, by registered or certified mail, return receipt requested, is given to the owner or the owner's agent at ~~his or her~~ the last-known address of the owner or the owner's agent, shall be deemed abandoned and may be sold or turned over to the custody of the nearest humane society ~~or~~, dog pound, or animal shelter in the area for disposal as ~~such custodian may deem~~ deemed proper by the humane society, dog pound or animal shelter. If no ~~such custodial institution~~ humane society,

dog pound or animal shelter is available in the county, the animal may be disposed of in a humane manner or sold by the licensed veterinarian or the sheriff of the county. ~~Abandonment shall mean to forsake entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.~~

2. Any animal except domestic animals as such term is defined in Section 85.1 of Title 4 of the Oklahoma Statutes placed in the custody of a licensed veterinarian for, but not limited to, boarding, treatment, or any other care, which is abandoned by an anonymous individual for a period of more than ten (10) days, shall be deemed to be abandoned and may be sold or turned over to the custody of the nearest humane society or dog pound or animal shelter in the area for disposal as deemed proper by the humane society, dog pound or animal shelter. If no humane society, dog pound or animal shelter is available in the county, the animal other than domestic animal may be disposed of in a humane manner or sold by the licensed veterinarian or sheriff of the county.

B. Any domestic animal as such term is defined by Section 85.1 of Title 4 of the Oklahoma Statutes placed in the custody of a licensed veterinarian for boarding, treatment or any other reason which is abandoned by the owner, the owner's agent or by an anonymous individual may be disposed of as required for estrays pursuant to Chapter 4 of Title 4 of the Oklahoma Statutes.

C. 1. Compliance with the notice provisions of this section by the licensed veterinarian or the disposal of an animal pursuant to subsection B of this section, as provided in subsection A of this section, shall relieve the licensed veterinarian and any custodian to whom such animal may be given of any further liability for disposal.

2. Such procedure by a licensed veterinarian shall not constitute grounds for disciplining pursuant to the Oklahoma Veterinary Practice Act.

3. Compliance with this section shall relieve the veterinarian from liability for such disposal or sale.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 698.16a of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Animal health records shall be the property of the owner or manager of a veterinary practice that has prepared such records, and shall include, but not be limited to, written records and notes, radiographs, sonographic images, video tapes, photographs, laboratory reports, or other diagnostic or case management information received as the result of consulting with other licensed veterinarians or medical specialists.

B. Each licensed veterinarian shall keep and maintain a legible patient record for a period of thirty-six (36) months from the date of the last visit of the patient. Each licensed or certificate holder veterinarian shall maintain records in a manner that will permit any authorized licensed veterinarian to proceed with the care and treatment of the animal, if required, by reading the medical record of that particular patient, and the record shall clearly explain the initial examination. The State Board of Veterinary Medical Examiners shall promulgate such rules as may be necessary to ensure that patient records include certain necessary elements.

C. The owner or manager of any veterinary practice maintaining animal health records shall provide the client or client's agent copies or a detailed written summary within ten (10) working days of a request made in writing by the owner, unless the records are required in an immediate life-threatening situation, at which time the original records, copies of the written records or a detailed written summary shall be forwarded to the attending or primary care-

licensed veterinarian within the same working day. The owner or manager of any veterinary practice maintaining records shall furnish the copies pertaining to the case upon tender of the expense of such copy or copies. Cost of each copy shall not exceed the amount specified in the Open Records Act per page, and no more than a reasonable cost of duplicating diagnostic images, tapes, or radiographs. There shall be no search fees assessed for the production or retrieval of any medical records.

D. 1. No veterinarian licensed pursuant to the Oklahoma Veterinary Practice Act shall be required to disclose any information concerning the licensed veterinarian's care of an animal except on written authorization or by other waiver by the licensed veterinarian's client or on appropriate court order, by subpoena or as otherwise provided by this section.

2. Copies of or information from veterinary records shall be provided without the owner's consent to public or animal health, wildlife or agriculture authorities, employed by federal, state or local governmental agencies who have a legitimate interest in the contents of said records for the protection of animal and public health.

E. 1. Any licensed veterinarian releasing information under written authorization or other waiver by the client or under court order, by subpoena or as otherwise provided by this section shall not be liable to the client or any other person.

2. The privilege provided by this section shall be waived to the extent that the licensed veterinarian's client or the owner of the animal places the licensed 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.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 59 of Title 698.16b, unless there is created a duplication in numbering, reads as follows:

No person or entity which, in good faith, reports or provides information or investigates any person as authorized by the Oklahoma Veterinary Practice Act, shall be liable in a civil action for damages or relief arising from the reporting, providing of information or investigation except upon clear and convincing evidence that the report of information was completely false, or that the investigation was based on false information, and that the falsity was actually known to the person or entity making the report, providing the information or conducting the investigation at the time thereof.

SECTION 22. AMENDATORY 59 O.S. 1991, Section 698.17, is amended to read as follows:

Section 698.17 Any ~~licensed~~ veterinarian who is licensed in this state or licensed veterinarian who is a resident of another state or the District of Columbia, and who in good faith renders or attempts to render emergency care or treatment to an animal at the scene of an accident or emergency care or treatment to ~~the~~ a human victim ~~or victims~~ thereof, shall not be liable for any civil damages as a result of any acts or omissions by such person rendering or attempting to render the emergency care or treatment.

SECTION 23. AMENDATORY 59 O.S. 1991, Section 698.18, is amended to read as follows:

Section 698.18 A. It shall be unlawful for any person to knowingly aid or abet in the unlicensed practice of veterinary medicine in this state.

B. Any person who ~~shall violate, aid or abet~~ violates, aids or abets in violating any of the provisions of ~~this act~~ the Oklahoma Veterinary Practice Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ~~Fifty Dollars ($50.00)~~ Five Hundred Dollars ($500.00) or not more than ~~Five Hundred Dollars ($500.00)~~ Two Thousand Five Hundred Dollars ($2,500.00), or by imprisonment in the county jail for not

less than thirty (30) days, nor more than six (6) months, or by both such fine and imprisonment.

SECTION 24. AMENDATORY 59 O.S. 1991, Section 698.21, as amended by Section 2, Chapter 56, O.S.L. 1992 (59 O.S. Supp. 1998, Section 698.21), is amended to read as follows:

Section 698.21 A person shall not act as a veterinary technician in this state unless that person is certified by the Board and is under direct supervision of a veterinarian licensed by this state. A person shall not be considered to be a veterinary technician in this state who:

1. Administers to animals for which ~~he~~ such person holds title, unless ~~he~~ such person has received title for the purpose of circumventing ~~this act~~ the Oklahoma Veterinary Practice Act;

2. Conducts experimentation, scientific research or testing, and uses animals in connection therewith;

3. Conducts routine vaccination and pullorum testing of poultry under supervision of the National Poultry Improvement Plan as administered by this state and the United States Department of Agriculture; or

4. Is a regular student in a legally chartered and recognized curriculum for veterinary technician training, while in the performance of studies and acts assigned by ~~his~~ instructors of the student.

SECTION 25. AMENDATORY 59 O.S. 1991, Section 698.22, as amended by Section 3, Chapter 56, O.S.L. 1992 (59 O.S. Supp. 1998, Section 698.22), is amended to read as follows:

Section 698.22 A. The State Board of Veterinary Medical Examiners shall examine a candidate for a certificate as a veterinary technician. A candidate for examination shall pay to the secretary of the Board a reasonable fee ~~to be~~ established by rule of the Board and shall furnish satisfactory proof of graduation from a school of veterinary technology approved by the Board.

~~Provided, that nothing in this act shall~~ B. The provisions of the Oklahoma Veterinary Practice Act shall not be construed to prohibit a licensed veterinarian from employing a noncertified animal veterinary technician.

~~B.~~ C. A licensed veterinarian shall not be required to hire a certified veterinary technician.

SECTION 26. AMENDATORY 59 O.S. 1991, Section 698.23, is amended to read as follows:

Section 698.23 A. Upon receiving from the State Board of Veterinary Medical Examiners a report that an applicant has successfully passed the examination and is recommended for certification, the Board shall issue a certificate in a form approved by the Board.

SECTION 27. AMENDATORY 59 O.S. 1991, Section 698.25, as last amended by Section 3, Chapter 143, O.S.L. 1997 (59 O.S. Supp. 1998, Section 698.25), is amended to read as follows:

Section 698.25 The State Board of Veterinary Medical Examiners may revoke ~~or~~, suspend or refuse to renew the certificate of a veterinary technician or place the veterinary technician on probation, after notice and opportunity for a hearing, upon a determination based on clear and convincing evidence of a violation of the Oklahoma Veterinary Practice Act or rules promulgated or orders issued pursuant thereto or any other law or rule relating to the practice of veterinary medicine.

SECTION 28. AMENDATORY 59 O.S. 1991, Section 698.26, as amended by Section 6, Chapter 56, O.S.L. 1992 (59 O.S. Supp. 1998, Section 698.26), is amended to read as follows:

Section 698.26 A. A veterinary technician shall not diagnose animal diseases, prescribe medical or surgical treatment, or perform as a surgeon.

B. A veterinary technician may perform emergency treatments in a life saving situation when a licensed veterinarian is not on the

premises, provided the veterinary technician has direct communication with the licensed veterinarian and is in accordance with rules promulgated by the Board.

C. Any person certified as a veterinary technician, who practices veterinary medicine contrary to ~~this act~~ the provisions of the Oklahoma Veterinary Practice Act, upon conviction thereof, shall be guilty of a misdemeanor and shall also be subject to revocation, suspension, probation or nonrenewal of certification by the Board.

~~B.~~ D. The penalties provided in subsection ~~A~~ B of this section shall not apply to a student enrolled in an accredited school of veterinary technology while the student is under the supervision of an instructor and is performing activities required as a part of the student's training.

~~C.~~ E. Any licensed veterinarian permitting or directing a veterinary technician, aide or animal attendant to perform a task or procedure in violation of ~~this act~~ the provisions of the Oklahoma Veterinary Practice Act, upon conviction thereof, shall be guilty of a misdemeanor and shall also be subject to revocation, probation, nonrenewal or suspension of ~~his~~ license by the Board.

SECTION 29. AMENDATORY 59 O.S. 1991, Section 698.28, is amended to read as follows:

Section 698.28 There is hereby created in the State Treasury a revolving fund to be designated the "Veterinary Medical Examiners Fund" which shall consist of all monies received by the State Board of Veterinary Medical Examiners as provided by statute. ~~Said~~ The fund shall be a continuing fund not subject to fiscal year limitations. Monies accruing to the credit of the fund are hereby appropriated and may be expended by the Board for carrying out the provisions of ~~this act~~ the Oklahoma Veterinary Practice Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims submitted by the Board to the Director of State Finance for audit and payment.

SECTION 30. REPEALER 59 O.S. 1991, Sections 698.13, 698.20, as amended by Section 1, Chapter 56, O.S.L. 1992, 698.24, as amended by Section 4, Chapter 56, O.S.L. 1992, and 698.27 (59 O.S. Supp. 1998, Sections 698.20 and 698.24), are hereby repealed.

SECTION 31. This act shall become effective November 1, 1999.

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