

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE BILL NO. 1344

By: Leist

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to professions and occupations;
9 amending 59 O.S. 1991, Sections 698.1, 698.2, as
10 amended by Section 1, Chapter 80, O.S.L. 1998,
11 698.3, as amended by Section 1, Chapter 112,
12 O.S.L. 1994, 698.4, 698.5, Section 2, Chapter 80,
13 O.S.L. 1998, 698.6, 698.7, as amended by Section
14 1, Chapter 143, O.S.L. 1997, 698.8, 698.8a,
15 698.9a, 698.10a, 698.11, 698.12, 698.14a, as
16 amended by Section 2, Chapter 143, O.S.L. 1997,
17 698.14b, 698.15, 698.16, 698.17, 698.18, 698.21,
18 as amended by Section 2, Chapter 56, O.S.L. 1992,
19 698.22, as amended by Section 3, Chapter 56,
20 O.S.L. 1992, 698.23, 698.25, as last amended by
21 Section 3, Chapter 143, O.S.L. 1997, 698.26, as
22 amended by Section 6, Chapter 56, O.S.L. 1992, and
23 698.28 (59 O.S. Supp. 1998, Sections 698.2, 698.3,
24 698.5a, 698.7, 698.14a, 698.21, 698.22, 698.25 and
25 698.26), which relate to the Oklahoma Veterinary
26 Practice Act; updating language; modifying and
27 adding definitions; increasing the State Board of
28 Veterinary Medical Examiners' membership; adding
29 certain qualifications; providing certain
30 procedure; modifying and adding to the powers and
31 duties of the Board; modifying licensure
32 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; adding to list of grounds for
disciplinary actions; providing exceptions;
authorizing issuance of subpoenas; providing for
abandonment of certain animals; providing for
liability of certain veterinarians; authorizing
sale or disposal; 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; making certain
subsequent offenses felonies; providing penalty;
providing for authority of veterinary technicians;
repealing 698.13, 698.20, as amended by Section 1,
Chapter 56, O.S.L. 1992, 698.24, as amended by

1 Section 4, Chapter 56, O.S.L. 1992 and 698.27 (59
2 O.S. Supp. 1998, Sections 698.20 and 698.24),
3 which relate to reciprocal licenses, definitions,
4 authority of veterinary technicians and
5 promulgation of certain rules; providing for
6 codification; and providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

8 7. "Direct supervision" means:

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

15 b. that, under certain circumstances, the presence of a
16 licensed veterinarian on the premises in an animal
17 hospital setting or in the same general area in a
18 range setting is required after directions have been
19 given to a veterinary certificate holder following the
20 examination of an animal by the veterinarian
21 responsible for the professional care of the animal;

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

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

31 10. "Veterinary premises" means any facility where the practice
32 of veterinary medicine occurs, including, but not limited to, a

1 mobile unit, mobile clinic, outpatient clinic, satellite clinic,
2 public service outreach of a veterinary facility, or veterinary
3 hospital or clinic. The term "veterinary premises" shall not
4 include the premises of a veterinary client or research facility;

5 11. "Veterinary prescription drugs" means such prescription
6 items that are in the possession of a person regularly and lawfully
7 engaged in the manufacture, transportation, storage, or wholesale or
8 retail distribution of veterinary drugs and are to be sold only to
9 or on the prescription, order, or under the supervision of a
10 licensed veterinarian for use in the course of professional
11 practice;

12 12. "ECFVG certificate" means a certificate issued by the
13 American Veterinary Medical Association Education Commission for
14 Foreign Veterinary Graduates, indicating that the holder has
15 demonstrated knowledge and skill equivalent to that possessed by a
16 graduate of an accredited or approved college of veterinary
17 medicine;

18 13. "Executive Director" means the Executive Director of the
19 State Board of Veterinary Medical Examiners or the authorized
20 representative of such official;

21 14. "Telemedicine" shall mean the transmission of diagnostic
22 images such as, but not limited to, radiographs, ultrasound,
23 cytology, endoscopy, photographs and case information over ordinary
24 or cellular phone lines to a licensed veterinarian or board-
25 certified medical specialist for the purpose of consulting regarding
26 case management with the primary care veterinarian who transmits the
27 cases;

28 15. "Person" means any individual, firm, partnership,
29 association, joint venture, cooperative, corporation, or any other
30 group or combination acting in concert, and whether or not acting as
31 a principal, trustee, fiduciary, receiver, or as any other kind of
32 legal or personal representative, or as the successor in interest,

1 assignee, agent, factor, servant, employee, director, officer,
2 fictitious name certificate, or any other representative of such
3 person;

4 16. "Food animal" means any mammals, poultry, fowl, fish, or
5 other animals that are raised primarily for human food consumption;

6 17. "Alternative medicine" means a variety of therapeutic
7 philosophies, tools and treatment approaches to veterinary health
8 care delivery, consisting of biochemical, biomechanical,
9 bioenergetic and lifestyle therapies, which include, but are not
10 limited to, acupuncture and acutherapy, chiropractic, physical
11 therapy, massage therapy, homeopathy, botanical medicine,
12 nutraceutical medicine and holistic medicine;

13 18. "Surgery" means the branch of veterinary science conducted
14 under elective or emergency circumstances, which treats diseases,
15 injuries and deformities by manual or operative methods including,
16 but not limited to, cosmetic, reconstructive, ophthalmic,
17 orthopedic, vascular, thoracic, and obstetric procedures, and are
18 surgical acts not prohibited in Section 698.12 of this title; and

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

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

27 Section 698.3 A. ~~A~~ The State Board of Veterinary Medical
28 Examiners is hereby re-created, to continue until July 1, 2000, in
29 accordance with the provisions of the Oklahoma Sunset Law, ~~Section~~
30 ~~3901 et seq. of Title 74 of the Oklahoma Statutes,~~ to regulate and
31 enforce the practice of veterinary medicine in this state in
32 accordance with the Oklahoma Veterinary Practice Act, ~~Section 698.1~~

1 ~~et seq. of this title, and otherwise to enforce this act, Section~~
2 ~~698.1 et seq. of this title.~~

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

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

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

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

26 C. The practice of veterinary medicine is a privilege granted
27 by the people of this state acting through their elected
28 representatives. It is not a natural right of individuals. In the
29 interest of the public, and to protect the public, it is necessary
30 to provide laws, and rules ~~and regulations~~ to govern the granting
31 and subsequent use of the privilege to practice veterinary medicine.
32 The primary responsibility and obligation of the ~~State Board of~~

1 ~~Veterinary Medical Examiners~~ is to protect the public from the
2 unprofessional, improper, incompetent and unlawful practice of
3 veterinary medicine.

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

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

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

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

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

24 4. Members must be residents of the State of Oklahoma and be
25 persons of ~~recognized professional ability,~~ integrity and good
26 reputation. No member shall be a registered lobbyist. No member
27 shall be an officer, board member or employee of a statewide or
28 national organization established for the purpose of advocating the
29 interests of or conducting peer review of veterinarians licensed
30 ~~under this act~~ pursuant to the Oklahoma Veterinary Practice Act.

31 B. Members of the Board shall be appointed for a term of five
32 (5) years. No member shall serve consecutively for more than two

1 (2) terms. ~~The~~ Not more than two (2) terms of only one member shall
2 expire in each year, and vacancies for the remainder of an unexpired
3 term shall be filled by appointment by the Governor. Members shall
4 serve beyond the expiration of their term until a successor is
5 appointed by the Governor. The initial appointee for the Board
6 position created on November 1, 1999, may be appointed for less than
7 five (5) years to abide by staggered term requirements. The
8 Governor shall appoint to a vacancy within ninety (90) days of the
9 beginning of the vacancy. Nominees considered by the Governor for
10 appointment to the Board must be found free of pending disciplinary
11 action or active investigation by the Board.

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

14 1. Ceases to be qualified;

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

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

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

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

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

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

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

30 2. The Board shall organize annually, at the last meeting of
31 the Board before the beginning of the next fiscal year, by electing
32 from its number a president, vice-president and secretary-treasurer.

1 Officers of the Board shall serve for terms of one (1) year or until
2 their successors are elected. ~~No officer~~ Officers may not succeed
3 ~~himself or herself~~ themselves for more than one term. The lay
4 member appointed to the Board shall not hold elective office.

5 B. 1. The president shall:

6 a. preside at Board meetings,

7 b. arrange the Board agenda,

8 c. sign Board orders and other required documents,

9 d. appoint Board committees and their ~~chairperson~~

10 chairpersons,

11 e. coordinate Board activities,

12 f. represent the Board before legislative committees, and

13 g. perform those other duties assigned by the Board and

14 this ~~statute~~ section.

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

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

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

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

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

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

3 Section 698.5a A. Investigators for the State Board of
4 Veterinary Medical Examiners shall perform such services as are
5 necessary in the investigation of criminal activity or preparation
6 of administrative actions. In addition, ~~such~~ investigators shall
7 have the authority and duty to investigate and inspect the records
8 of all licensees in order to determine ~~that~~ whether the licensee is
9 in compliance with applicable narcotics and dangerous drug laws and
10 regulations ~~have been complied with.~~

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

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

20 Section 698.6 A. The State Board of Veterinary Medical
21 Examiners shall meet at least once each year in the first half of
22 the calendar year and once each year in the second half of the
23 calendar year, ~~and~~. In addition, the Board may meet at other times
24 of the year as is deemed necessary to conduct the business of the
25 Board, The Board shall meet at the time and place fixed by order
26 of the Board president or by order of three members of the Board
27 acting jointly upon refusal of the president to call for or fix a
28 time and place for said meeting.

29 B. 1. Notice of meetings shall be filed in conformance with
30 the Oklahoma Open Meeting Act, ~~Section 301 et seq. of Title 25 of~~
31 ~~the Oklahoma Statutes.~~ Members shall be notified of each meeting at
32

1 least twenty (20) days before said meeting, except in the case of a
2 meeting called for emergency purposes.

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

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

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

16 ~~B.~~ C. All meetings of the Board and its committees shall be
17 open to the public except as set out in Article II of the
18 Administrative Procedures Act, ~~Section 309 et seq. of Title 75 of~~
19 ~~the Oklahoma Statutes,~~ and the Oklahoma Open Meeting Act, ~~Section~~
20 ~~301 et seq. of Title 25 of the Oklahoma Statutes.~~

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

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

28 2. All such revenues, with the exception of the ten percent
29 (10%) of its revenue required to be deposited in the General Revenue
30 Fund, shall be deposited to the Veterinary Medical Examiners Fund
31 and shall be credited to the account of the State Board of
32 Veterinary Medical Examiners. ~~Such~~ Any revenue ~~as remains~~ remaining

1 in the revolving fund at the end of any fiscal year shall be carried
2 over to the next fiscal year in the account of the State Board of
3 Veterinary Medical Examiners.

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

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

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

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

18 Section 698.7 The State Board of Veterinary Medical Examiners
19 shall have the powers and it shall also be its duty to regulate the
20 practice of veterinary medicine. In addition to any other powers
21 placed on it by ~~statute or provided for herein~~ the Oklahoma
22 Veterinary Practice Act or as otherwise provided by law, the Board,
23 ~~when acting in accordance with Section 698.1 et seq. of this title,~~
24 ~~shall have those powers necessary to fulfill its duties under~~
25 ~~Section 698.1 et seq. of this title. Said powers and duties shall~~
26 ~~include, but not be limited~~ the power and duty to:

- 27 1. a. ~~setting~~ set standards for licensure or certification
28 by examination and ~~developing~~ develop such
29 examinations as will provide assurance of competency
30 to practice, and
- 31 b. ~~employing~~ employ or ~~entering~~ enter into agreements
32 with organizations or agencies to provide examinations

1 acceptable to the Board or ~~employing~~ employ or
2 ~~entering~~ enter into agreements with organizations or
3 agencies to provide administration, preparation or
4 scoring of examinations;

5 2. ~~Setting~~ Set fees;

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

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

12 5. a. ~~issuing~~ issue or ~~denying~~ deny licenses and
13 certificates,

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

22 c. ~~determining~~ determine which professional schools,
23 colleges, universities, training institutions and
24 educational programs are acceptable in connection with
25 licensure ~~under Section 698.1 et seq. of this title~~
26 pursuant to the Oklahoma Veterinary Practice Act, and
27 ~~accepting~~ accept the approval of such facilities and
28 programs by American-Veterinary-Medical-Association-
29 accredited institutions in the United States and
30 Canada,

31 d. ~~requiring~~ require supporting documentation or other
32 acceptable verifying evidence for any information

1 provided the Board by an applicant for licensure or
2 certification, and

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

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

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

17 b. ~~conducting~~ conduct hearings in accordance with ~~Section~~
18 ~~698.1 et seq. of this title~~ the Oklahoma Veterinary
19 Practice Act, and

20 c. ~~adjudicating~~ adjudicate matters that come before the
21 Board for judgment ~~under Section 698.1 et seq. of this~~
22 ~~title~~ pursuant to the Oklahoma Veterinary Practice Act
23 upon clear and convincing evidence and ~~issuing~~ issue
24 final decisions on such matters to discipline
25 licensees and certificate holders;

26 8. a. ~~imposing~~ impose sanctions, ~~denying~~ deny licensure,
27 ~~levying~~ levy reimbursement costs, ~~seeking~~ seek
28 appropriate civil or criminal penalties or any
29 combination of these against those who violate
30 examination security, who attempt to or who do obtain
31 licensure by fraud, who knowingly assist in illegal
32

1 activities, or who aid and abet the illegal practice
2 of veterinary medicine,

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

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

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

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

21 f. ~~establishing~~ establish by rules cooperation with other
22 professional organizations for the identification and
23 monitoring of licensees and certificate holders in
24 treatment who are chemically dependent or addicted,
25 and

26 g. ~~issuing~~ issue conditional, restricted or otherwise
27 circumscribed modifications to licensure as determined
28 to be appropriate by due process procedures and
29 summarily ~~suspending~~ suspend a license if the Board
30 has cause to believe by clear and convincing evidence
31 such action is required to protect public health and
32

1 safety or to prevent continuation of incompetent
2 practices;

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

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

9 a. ~~acting~~

10 Act to halt the unlicensed or illegal practice of veterinary
11 medicine and ~~seeking~~ seek penalties against those engaged in such
12 practice ;

13 b. ~~establishing~~

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

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

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

19 d. ~~establishing~~

20 13. Establish policies for Board operations ;

21 e. ~~responding~~

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

25 f. ~~acting~~

26 15. Act on its own motion in disciplinary matters,
27 ~~administering~~ administer oaths, ~~issuing~~ issue notices, ~~issuing~~ issue
28 subpoenas in the name of the State of Oklahoma, including subpoenas
29 for client and animal records, ~~holding~~ hold hearings, ~~instituting~~
30 institute court proceedings for contempt to compel testimony or
31 obedience to its orders and subpoenas, ~~taking~~ take evidentiary
32

1 depositions and ~~performing~~ perform such other acts as are reasonable
2 and necessary under law to carry out its duties, ~~r;~~ i;

3 ~~g. using~~

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

7 ~~h. determining~~

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

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

16 ~~12. Determining~~ 19. Determine continuing education
17 requirements; i;

18 20. Establish minimum standards for veterinary premises;

19 21. Establish standards for veterinary labeling and dispensing
20 of drugs; and

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

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

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

29 B. Requirements for licensure shall be set by the Board and may
30 be changed as the education and training for the practice of
31 veterinary medicine changes. Prior to issuance of a license or
32 certificate to practice veterinary medicine in this state, the

1 applicant shall have been found by the Board to be of good moral
2 character and the Board shall consider but not be limited to the
3 following evidence of suitability to practice:

4 1. Graduation from an approved school of veterinary medicine
5 whose requirements at the time of graduation are acceptable to the
6 Board. Graduates of schools of veterinary medicine located outside
7 the United States and Canada shall be held to the same standards for
8 evidence of suitability to practice as are graduates of schools of
9 veterinary medicine located within the United States in that
10 applicants shall conform in all respects to the requirements set
11 forth in this section; where necessary, further examination shall be
12 administered by the Board or its designee to determine competency to
13 practice. In addition, applicants shall demonstrate a command of
14 the English language satisfactory to the Board. Documents and
15 material submitted in support of application for licensure or
16 certification, if in a foreign language, shall be translated and
17 certified as accurate by an organization acceptable to the Board;

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

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

23 4. Evidence that the applicant has passed examinations
24 satisfactory to the Board and that the examination score is
25 acceptable to the Board. The Board ~~shall have the authority to~~ may
26 set minimum passing scores for examinations and ~~to~~ limit the number
27 of times an applicant may take an examination in this state, or in
28 lieu of national examination requirements, an applicant shall have
29 actively engaged in the clinical practice of veterinary medicine for
30 a period of at least five thousand (5,000) hours during the five (5)
31 consecutive years immediately prior to making application in
32 Oklahoma and hold a license to practice veterinary medicine in

1 another state, territory, district or province of the United States
2 and Canada and successfully passed the Oklahoma State Jurisprudence
3 Examination;

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

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

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

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

23 9. Evidence that all required fees have been paid.

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

28 D. Certificates may be issued to any veterinarian who has
29 failed to obtain or failed to maintain a regular license to practice
30 veterinary medicine. Such certificates may be issued by the Board
31 at such times as the Board determines that all requirements for
32 possession of such certificate have been met as set by rules and

1 policies of the Board. Certificates may be issued for, but not
2 limited to:

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

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

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

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

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

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

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

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

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

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

4 3. The license issued ~~under~~ pursuant to this section may be
5 revoked or suspended or the licensee may be otherwise disciplined in
6 accordance with the provisions of the Oklahoma Veterinary Practice
7 Act; and

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

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

15 Section 698.9a A. 1. Licenses or certificates suspended or
16 revoked for any purpose may be reinstated upon the motion of the
17 State Board of Veterinary Medical Examiner upon proper application
18 of the licensee or certificate holder. ~~Provided, a~~

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

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

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

29 2. The applicant has not been convicted or his license or
30 certificate suspended or revoked in another state for violations of
31 an act that would constitute the same or similar penalty in this
32 state.

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

3 Section 698.10a A. Every licensed veterinarian who is the
4 holder of a license or certificate authorizing the practice of
5 veterinary medicine in any manner whatsoever shall on or before the
6 first day of July of each and every year apply to the State Board of
7 Veterinary Medical Examiners on forms furnished by the Board, for a
8 renewal certificate of registration entitling ~~him or her~~ such
9 veterinarian to practice veterinary medicine in this state during
10 the next fiscal year. Each such application shall be accompanied by
11 a renewal fee in an amount fixed by the Board.

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

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

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

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

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

31
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1 3. A license or certificate suspended for failure to renew may
2 be reinstated pursuant to the provisions of Section ~~§~~ 698.9a of this
3 ~~act~~ title.

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

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

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

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

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

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

30 B. Any person licensed to practice veterinary medicine pursuant
31 to the Oklahoma Veterinary Practice Act, may use the word "Doctor",
32 or an abbreviation thereof, and shall have the right to use, whether

1 or not in conjunction with the word "Doctor" or any abbreviation
2 thereof, the designation "D.V.M." or "V.M.D.".

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

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

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

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

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

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

27 5. Acts of a person who is a student in good standing in a
28 veterinary school, in performing duties or functions assigned by ~~his~~
29 the student's instructors, or working under the direct supervision
30 of a licensed veterinarian for each individual case and acts
31 performed by an instructor or student in a school of veterinary
32 medicine recognized by the Board and performed as a part of the

1 educational and training curriculum of the school under the direct
2 supervision of faculty. The unsupervised or unauthorized practice
3 of veterinary medicine even though on the premises of a school of
4 veterinary medicine is prohibited;

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

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

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

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

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

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

- 29 1. Revocation of licensure or certification;
- 30 2. Suspension of licensure or certification;
- 31 3. Probation of licensure or certification;

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1 4. Reprimand, censure, agreement to voluntary stipulation of
2 facts and imposition of terms of disciplinary action; and

3 5. Administrative citation and administrative penalties.

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

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

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

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

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

32

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

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

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

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

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

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

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

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

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

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

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

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

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

32

1 13. Violation of any laws relating to the administration,
2 prescribing or dispensing of controlled dangerous substances or
3 violation of any laws of the federal government or any state of the
4 United States relative to controlled dangerous substances;

5 14. Obtaining a fee by fraud or misrepresentation;

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

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

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

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

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

30 20. The practice of veterinary medicine in the absence of a
31 bona fide veterinarian-client-patient relationship. The preclusion
32 of a veterinarian-client-patient relationship by a veterinarian who

1 in good faith renders or attempts to render emergency care to a
2 victim or victims under a good samaritan application shall not
3 constitute grounds for discipline pursuant to the Oklahoma
4 Veterinary Practice Act;

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

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

15 F. 1. The Board may commence legal action to enforce the
16 provision of the Oklahoma Veterinary Practice Act and may exercise
17 full discretion and authority with respect to disciplinary actions;
18 provided it does so in accordance with Article II of the
19 Administrative Procedures Act, ~~Section 309 et seq. of Title 75 of~~
20 ~~the Oklahoma Statutes,~~ the Oklahoma Veterinary Practice Act, and
21 other applicable laws of this state. The Board shall take
22 appropriate disciplinary action when required, assuring fairness and
23 due process to the defendant.

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

30 G. The Board may summarily suspend a license or certificate
31 prior to a formal hearing when it has found upon clear and
32 convincing evidence that such action is required to protect the

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

6 H. The Board may issue an order to any licensee or certificate
7 holder, or obtain an injunction against any person or any
8 corporation or association, its officers, or directors, to restrain
9 said persons from violating the provisions of the Oklahoma
10 Veterinary Practice Act. Violations of such injunction shall be
11 punishable as contempt of court. No proof of actual damage to any
12 animal shall be required for issuance of an order or an injunction,
13 nor shall an injunction relieve those enjoined from administrative,
14 civil or criminal prosecution for violation of the Oklahoma
15 Veterinary Practice Act.

16 I. The State Board of Veterinary Medical Examiners may suspend
17 or revoke the license or certificate of any veterinarian holding
18 license or certificate to practice in this state for unprofessional
19 conduct, but no such suspension or revocation shall be made, unless
20 otherwise provided for herein, until such be cited to appear for
21 hearing. No such citation shall be issued except upon a sworn
22 complaint filed with the president or secretary-treasurer of said
23 Board charging the licensee or certificate holder with having been
24 guilty of unprofessional conduct and setting forth the particular
25 act or acts alleged to constitute such unprofessional conduct. In
26 the event it comes to the attention of the Board that a violation of
27 the rules of professional conduct may have occurred, even though a
28 formal complaint or charge may not have been filed, the Board may
29 conduct an investigation of such possible violation, and may, upon
30 its own motion, institute a formal complaint. In the course of such
31 investigation, persons appearing before the Board may be required to
32 testify under oath.

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

9 2. The accused shall file ~~his or her~~ a written answer under
10 oath with notice of intent to appear or be represented within twenty
11 (20) days after the service ~~upon him or her~~ of the citation.
12 Failure to respond to the citation within the prescribed time shall
13 constitute default and ~~his or her~~ the license or certificate of the
14 accused shall be suspended or revoked if the charges are found, by
15 clear and convincing evidence, sufficient by the Board; provided,
16 the president or secretary-treasurer of the Board may extend the
17 time of answer upon satisfactory showing that the defendant is for
18 reasonable cause, unable to answer within the prescribed twenty (20)
19 days, but in no case shall the time be extended beyond the date of
20 the next scheduled meeting for hearing the complaint, unless
21 continuance thereof be granted by the Board.

22 3. All citations and subpoenas under the contemplation of
23 ~~Section 698.1 et seq. of this title,~~ the Oklahoma Veterinary
24 Practice Act shall be served in general accordance with the statutes
25 of this state applying to the service of such documents, ~~and all.~~
26 All provisions of the statutes of this state relating to citations
27 and subpoenas are hereby made applicable to the citations and
28 subpoenas herein provided ~~for~~. All the provisions of the statutes
29 of this state governing the taking of testimony by depositions are
30 made applicable to the taking of depositions ~~under Section 698.1 et~~
31 ~~seq. of this title~~ pursuant to the Oklahoma Veterinary Practice Act.
32

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

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

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

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

29 2. The Board is empowered to enter into agreement with or
30 employ one or more attorneys to conduct the business of the Board in
31 the absence of representation by the Attorney General or ~~his or her~~
32

1 designee or in conjunction with representation by the Attorney
2 General or ~~his or her~~ designee.

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

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

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

- 21 1. Voluntary resignation from a professional partnership,
22 corporation or practice for reason of inability to practice;
- 23 2. Malpractice claims, judgments, settlements or awards;
- 24 3. Civil or criminal convictions; or
- 25 4. Other actions that indicate inability to practice with
26 reasonable skill and safety.

27 ~~O.~~ P. The Board shall consider violation of any of the Rules of
28 Professional Conduct a violation of the Oklahoma Veterinary Practice
29 Act section on unprofessional conduct and shall proceed with
30 disciplinary action as set out in the Oklahoma Veterinary Practice
31 Act.

32

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

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

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

21 SECTION 16. AMENDATORY 59 O.S. 1991, Section 698.14b, is
22 amended to read as follows:

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

26 1. Mental illness; or

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

32

1 B. Upon probable cause, the State Board of Veterinary Medical
2 Examiners may require a licensee or certificate holder or applicant
3 for license or certificate to submit to a test or tests to determine
4 the use of alcohol or drugs which affects the ability of the
5 licensee or certificate holder to practice veterinary medicine. The
6 Board, by rule, shall establish the nature and criteria for such
7 test or tests. The results of said test or tests shall be admissible
8 in any hearing before the Board. Failure to submit to the required
9 test or tests by any licensee, certificate holder or applicant when
10 properly directed to do so by the Board shall be grounds for
11 disciplinary action against a licensee or certificate holder and,
12 for any applicant, shall be grounds for denial of license or
13 certificate.

14 C. Upon findings by the Board, after evaluation and hearing,
15 that the licensee, certificate holder or applicant is impaired, the
16 Board may take one of the following actions or any other action
17 deemed appropriate to the circumstances by the Board:

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

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

22 3. Revoke the license or certificate or deny the application.

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

32

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

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

8 3. The Board may exempt from reporting those who are conducting
9 a Board-approved treatment program; provided that the impaired
10 veterinarian who is participating in the program is doing so
11 satisfactorily. Should the impaired veterinarian leave the program
12 without first achieving a release by the program, the administrator
13 of the program is required to report same to the Board.

14 Participation in an approved treatment program does not protect an
15 impaired veterinarian from Board action resulting from a report from
16 another source of violation of the Oklahoma Veterinary Practice Act,
17 whether related to the impairment or not. Programs for the
18 treatment of impaired professionals approved by this Board shall be
19 reviewed annually or more frequently at the Board's discretion.

20 SECTION 17. AMENDATORY 59 O.S. 1991, Section 698.15, is
21 amended to read as follows:

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

31 SECTION 18. AMENDATORY 59 O.S. 1991, Section 698.16, is
32 amended to read as follows:

1 Section 698.16 A. Any animal placed in the custody of a
2 licensed veterinarian for boarding, treatment or any other care such
3 reason which shall be is abandoned by its owner, the owner's agent,
4 or any other person for a period of more than ten (10) days after
5 written notice, by registered or certified mail, return receipt
6 requested, is given to the owner or the owner's agent at ~~his or her~~
7 the last-known address of the owner or the owner's agent, shall be
8 deemed abandoned and may be sold or turned over to the custody of
9 the nearest humane society ~~or,~~ dog pound, or animal shelter in the
10 area for disposal as such custodian may deem proper. If no such
11 custodial institution is available in the county, the animal may be
12 disposed of in a humane manner or sold. ~~Abandonment shall mean to~~
13 ~~forsake entirely or to neglect or refuse to provide or perform the~~
14 ~~legal obligations for care and support of an animal by its owner.~~

15 B. Any animal placed in the custody of a licensed veterinarian
16 for, but not limited to, treatment, boarding or any other care,
17 which is abandoned by an anonymous individual for a period of more
18 than ten (10) days, shall be deemed to be abandoned and may be sold
19 or turned over to the custody of the nearest humane society or dog
20 pound or animal shelter in the area for disposal as such custodian
21 may deem proper. If no such custodial institution is available in
22 the county, the animal may be disposed of in a humane manner or
23 sold.

24 C. The giving of notice to the owner, or the agent of the
25 owner, of such animal by the licensed veterinarian, as provided in
26 subsection A of this section, shall relieve the licensed
27 veterinarian and any custodian to whom such animal may be given of
28 any further liability for disposal. Such procedure by a licensed
29 veterinarian shall not constitute grounds for disciplining pursuant
30 to the Oklahoma Veterinary Practice Act.

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

1 SECTION 19. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 698.16a of Title 59, unless
3 there is created a duplication in numbering, reads as follows:

4 A. Animal health records shall be the property of the
5 proprietor of the practice that has prepared such records, and shall
6 include, but not be limited to, written records and notes,
7 radiographs, sonographic images, video tapes, photographs,
8 laboratory reports, or other diagnostic or case management
9 information received as the result of consulting with other
10 veterinarians or medical specialists.

11 B. Each licensed veterinarian shall keep and maintain a legible
12 patient record for a period of thirty-six (36) months from the date
13 of the last visit of the patient. Each veterinarian shall maintain
14 records in a manner that will permit any authorized licensed
15 veterinarian to proceed with the care and treatment of the animal,
16 if required, by reading the medical record of that particular
17 patient, and the record shall clearly explain the initial
18 examination. The Board shall promulgate such rules as may be
19 necessary to ensure that patient records include certain necessary
20 elements.

21 C. The proprietor of any practice maintaining animal health
22 records shall provide the client or client's agent copies or a
23 detailed written summary within ten (10) working days of a request
24 made in writing by the owner, unless the records are required in an
25 immediate life-threatening situation, at which time the original
26 records, copies of the written records or a detailed written summary
27 shall be forwarded to the attending or primary care-licensed
28 veterinarian within the same working day. The proprietor of any
29 practice maintaining records shall furnish said copies pertaining to
30 the case upon tender of the expense of such copy or copies. Cost of
31 each copy shall not exceed ten cents (\$0.10) per page, and no more
32 than a reasonable cost of duplicating diagnostic images, tapes, or

1 radiographs. There shall be no search fees assessed for the
2 production or retrieval of any medical records.

3 D. No veterinarian licensed pursuant to the Oklahoma Veterinary
4 Practice Act shall be required to disclose any information
5 concerning the veterinarian's care of an animal except on written
6 authorization or by other waiver by the veterinarian's client or on
7 appropriate court order or subpoena. Any veterinarian releasing
8 information under written authorization or other waiver by the
9 client or under court order or subpoena shall not be liable to the
10 client or any other person. The privilege provided by this section
11 shall be waived to the extent that the veterinarian's client or the
12 owner of the animal places the veterinarian's care and treatment of
13 the animal or the nature and extent of injuries to the animal at
14 issue in any civil or criminal proceeding.

15 E. Copies of or information from veterinary records shall be
16 provided without the owner's consent to public health authorities
17 employed by governmental agencies who have a legitimate interest in
18 the contents of said records for the protection of animal and public
19 health.

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

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

1 SECTION 21. AMENDATORY 59 O.S. 1991, Section 698.17, is
2 amended to read as follows:

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

11 SECTION 22. AMENDATORY 59 O.S. 1991, Section 698.18, is
12 amended to read as follows:

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

16 B. Any person who shall violate, aid or abet violates, aids or
17 abets in violating any of the provisions of this act the Oklahoma
18 Veterinary Practice Act shall be deemed guilty of a misdemeanor and
19 upon conviction thereof shall be punished by a fine of not less than
20 ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00) or not more
21 than ~~Five Hundred Dollars (\$500.00)~~ Two Thousand Five Hundred
22 Dollars (\$2,500.00), or by imprisonment in the county jail for not
23 less than thirty (30) days, nor more than six (6) months, or by both
24 such fine and imprisonment.

25 C. Any person who, after a previous conviction of a violation
26 of the provisions of the Oklahoma Veterinary Practice Act is
27 convicted of a second or subsequent offense pursuant to the Oklahoma
28 Veterinary Practice Act shall be deemed guilty of a felony and, upon
29 conviction thereof, shall be sentenced to the custody of the
30 Department of Corrections for not less than one (1) year nor more
31 than three (3) years, or by a fine of not less than One Thousand
32 Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00).

1 SECTION 23. AMENDATORY 59 O.S. 1991, Section 698.21, as
2 amended by Section 2, Chapter 56, O.S.L. 1992 (59 O.S. Supp. 1998,
3 Section 698.21), is amended to read as follows:

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

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

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

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

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

22 SECTION 24. AMENDATORY 59 O.S. 1991, Section 698.22, as
23 amended by Section 3, Chapter 56, O.S.L. 1992 (59 O.S. Supp. 1998,
24 Section 698.22), is amended to read as follows:

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

31 ~~Provided, that nothing in this act shall~~ B. The provisions of
32 the Oklahoma Veterinary Practice Act shall not be construed to

1 prohibit a licensed veterinarian from employing a noncertified
2 animal veterinary technician.

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

5 SECTION 25. AMENDATORY 59 O.S. 1991, Section 698.23, is
6 amended to read as follows:

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

12 SECTION 26. AMENDATORY 59 O.S. 1991, Section 698.25, as
13 last amended by Section 3, Chapter 143, O.S.L. 1997 (59 O.S. Supp.
14 1998, Section 698.25), is amended to read as follows:

15 Section 698.25 The State Board of Veterinary Medical Examiners
16 may revoke or suspend the certificate of a veterinary technician or
17 place the veterinary technician on probation, after notice and
18 opportunity for a hearing, upon a determination based on clear and
19 convincing evidence.

20 SECTION 27. AMENDATORY 59 O.S. 1991, Section 698.26, as
21 amended by Section 6, Chapter 56, O.S.L. 1992 (59 O.S. Supp. 1998,
22 Section 698.26), is amended to read as follows:

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

26 B. Any person certified as a veterinary technician, who
27 practices veterinary medicine contrary to ~~this act~~ the provisions of
28 the Oklahoma Veterinary Practice Act, upon conviction thereof, shall
29 be guilty of a misdemeanor and shall also be subject to revocation
30 of certification by the Board.

31 ~~B. C.~~ The penalties provided in subsection A B of this section
32 shall not apply to a student enrolled in an accredited school of

1 veterinary technology while the student is under the supervision of
2 an instructor and is performing activities required as a part of the
3 student's training.

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

10 SECTION 28. AMENDATORY 59 O.S. 1991, Section 698.28, is
11 amended to read as follows:

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

23 SECTION 29. REPEALER 59 O.S. 1991, Sections 698.13,
24 698.20, as amended by Section 1, Chapter 56, O.S.L. 1992, 698.24, as
25 amended by Section 4, Chapter 56, O.S.L. 1992, and 698.27 (59 O.S.
26 Supp. 1998, Sections 698.20 and 698.24), are hereby repealed.

27 SECTION 30. This act shall become effective November 1, 1999.

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