

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2109

By: Covey

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 698.2, 698.7, 698.12, 698.17, 698.21, 698.22 and 698.26, which relate to the Oklahoma Veterinary Practice Act; modifying, adding and deleting definitions; modifying powers and duties of the State Board of Veterinary Medical examiners relating to criminal history records search; providing procedures; modifying and clarifying certain exemptions to the Oklahoma Veterinary Practices Act; adding to list of persons authorized to perform certain emergency care or treatment to an animal; adding to list of titles and initials which may be used to designate a veterinary technician; prohibiting certain actions; providing for prima facie evidence; modifying certain exemptions; modifying certain accreditation requirements; authorizing certain delegation; adding to list of persons not authorized to perform certain actions regarding animals; removing certain restrictions; adding to penalties; making certain actions unlawful; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 698.2, is amended to read as follows:

Section 698.2 As used in the Oklahoma Veterinary Practice Act:

1. "Board" means the State Board of Veterinary Medical Examiners;
2. "Animal" means any animal other than 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 (AVMA) and which is recognized and approved by the Board;

6. "Veterinary technician" means a person who has graduated from a ~~school of animal technology~~ program accredited by the American Veterinary Medical Association, 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~~ passed the examination requirements set forth by the Board ~~as qualified,~~ is certified to practice under the direct supervision of a licensed veterinarian. For the purpose of the Oklahoma Veterinary Practice Act, "registered veterinary technician (RVT)" will be used interchangeably with veterinary technician who is certified pursuant to Sections 698.21 through 698.26 of this title;

7. "Veterinary technologist" means a person who has successfully graduated from an AVMA-accredited bachelor degree program of veterinary technology, or its AVMA equivalent;

8. "Veterinary assistant" means an individual that may perform the duties of a veterinary technician or veterinary technologist, however, has not graduated from an AVMA-accredited technology program or its equivalent, and has not been certified by the Board;

9. "Veterinary technology" means the science and art of providing all aspects of professional medical care, services, and treatment for animals with the exception of diagnosis, prognosis, surgery, and prescription of any treatments, drugs, medications, or

appliances, where a valid veterinarian-client-patient relationship exists;

10. "Direct supervision" means:

- a. directions have been given to 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.~~ 11. "License" means authorization to practice veterinary medicine granted by the Board to an individual found by the Board to meet certain requirements pursuant to the Oklahoma Veterinary Practice Act or any other applicable statutes;

~~9.~~ 12. "Supervised Doctor of Veterinary Medicine 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 has a certificate issued pursuant to Section 698.8 of this title;

~~10.~~ 13. "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.~~ 14. "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.~~ 15. "Veterinary prescription drugs" means such prescription items as 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 their toxicity or other potential for harmful effects, or method

of use, or the collateral measures necessary for use, are 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.~~ 16. "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.~~ 17. "Executive Director" means the Executive Director of the State Board of Veterinary Medical Examiners or the authorized representative of such official;

~~15.~~ 18. "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 veterinarian who transmits the cases;

~~16.~~ 19. "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.~~ 20. "Food animal" means any mammalian, poultry, fowl, fish, or other animal that is raised primarily for human food consumption;

~~18.~~ 21. "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;

~~19.~~ 22. "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;

~~20.~~ 23. "Animal chiropractic diagnosis and treatment" means treatment that includes vertebral subluxation complex (vcs) and spinal manipulation of nonhuman vertebrates. The term "animal chiropractic diagnosis and treatment" shall not be construed to allow the:

- a. use of x-rays,
- b. performing of surgery,
- c. dispensing or administering of medications, or
- d. performance of traditional veterinary care; and

~~21.~~ 24. "Animal euthanasia technician" means an employee of a law enforcement agency, an animal control agency, or animal shelter that is recognized and approved by the Board, who is certified by the Board and trained to administer sodium pentobarbital to euthanize injured, sick, homeless or unwanted domestic pets and other animals.

SECTION 2. AMENDATORY 59 O.S. 2001, 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 the Oklahoma Veterinary Practice Act or as otherwise provided by law, the Board shall have the power and duty to:

1. a. set standards for licensure or certification by examination and develop such examinations as will provide assurance of competency to practice, and
b. employ or enter into agreements with organizations or agencies to provide examinations acceptable to the Board or employ or enter into agreements with organizations or agencies to provide administration, preparation or scoring of examinations;
2. Set fees;
3. Prescribe the time, place, method, manner, scope and subjects of examination for licensure;
4. Prepare or select, conduct or direct the conduct of, set minimum requirements for, and assure security of licensing and other required examinations;
5. a. issue or deny licenses and certificates and renewals thereof,
b. acquire information about and evaluate the professional education and training of applicants for licensure or certification; and accept or 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. determine which professional schools, colleges, universities, training institutions and educational programs are acceptable in connection with licensure pursuant to the Oklahoma Veterinary Practice Act, and

accept the approval of such facilities and programs by American-Veterinary-Medical-Association-accredited institutions in the United States and Canada,

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

e. 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. Develop and use applications and other necessary forms and related procedures for purposes of the Oklahoma Veterinary Practice Act;

7. a. review and investigate complaints and adverse information about licensees and certificate holders,
b. conduct hearings in accordance with the Oklahoma Veterinary Practice Act and the Administrative Procedures Act, and

c. adjudicate matters that come before the Board for judgment pursuant to the Oklahoma Veterinary Practice Act upon clear and convincing evidence and issue final decisions on such matters to discipline licensees and certificate holders;

8. a. impose sanctions, deny licenses and certificates and renewals thereof, levy reimbursement costs, 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. review and investigate complaints and adverse information about licensees and certificate holders,
 - c. discipline licensees and certificate holders,
 - d. institute proceedings in courts of competent jurisdiction to enforce Board orders and provisions of the Oklahoma Veterinary Practice Act,
 - e. (1) establish mechanisms for dealing with licensees and certificate holders who abuse or are dependent on or addicted to alcohol or other chemical substances, and 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,
(2) 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
 - f. issue conditional, restricted or otherwise circumscribed modifications to licensure or certification as determined to be appropriate by due process procedures and summarily 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. Promulgate rules of professional conduct and require all licensees and certificate holders to practice in accordance therewith;

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

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

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

13. Establish policies for Board operations;

14. Respond to legislative inquiry regarding those changes in, or amendments to, the Oklahoma Veterinary Practice Act;

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

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

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

18. Promulgate uniform rules 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;

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;

22. Promulgate rules such as may be necessary for carrying out and enforcing provisions relating to certification of animal euthanasia technicians and approval of drugs to be used for euthanasia of animals in an animal shelter pursuant to the requirements of Section 502 of Title 4 of the Oklahoma Statutes;

23. May conduct a national criminal history records search for certified animal euthanasia technicians:

- a. the applicant shall furnish the Board two completed fingerprint cards and a money order or cashier's check made payable to the Oklahoma State Bureau of Investigation,
- b. the Board shall forward the fingerprint cards, along with the applicable fee for a national fingerprint criminal history records search, to the Bureau, and
- c. the Bureau shall retain one set of fingerprints in the Automated Fingerprint Identification System (AFIS) and submit the other set to the Federal Bureau of Investigation (FBI) for a national criminal history records search;

24. Establish standards for animal chiropractic diagnosis and treatment. The standards shall include but not be limited to a requirement that a veterinarian who holds himself or herself out to the public as certified to engage in animal chiropractic diagnosis and treatment shall:

- a. carry at least One Million Dollars (\$1,000,000.00) of additional malpractice coverage to perform animal chiropractic diagnosis and treatment, and
- b. have appropriate training in animal chiropractic diagnosis and treatment. The Veterinary Examining Board shall have the authority to establish educational criteria for certification standards in animal chiropractic diagnosis and treatment. The Veterinary Examining Board shall work in conjunction with the Board of Chiropractic Examiners to establish comparable standards for the practice of animal chiropractic diagnosis and treatment for both medical professions within thirty (30) days after the effective date of this act. The Board shall certify any licensed veterinarian wishing to engage in animal chiropractic diagnosis and treatment who meets the standards established by the Board pursuant to this paragraph. Upon request, the Board shall make available to the public a list of licensed veterinarians so certified; and

~~24.~~ 25. Perform such other duties and exercise such other powers as the provisions and enforcement of the Oklahoma Veterinary Practice Act may require.

SECTION 3. AMENDATORY 59 O.S. 2001, 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 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 the owner; 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 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 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 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 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 in programs

approved by the Oklahoma Department of Vocational and Technical Education; 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;

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;

10. Any chiropractic physician licensed in this state who is certified by the Board of Chiropractic Examiners to engage in animal chiropractic diagnosis and treatment from practicing animal chiropractic diagnosis and treatment; or

11. Any chiropractic physician licensed in this state who is not certified to practice animal chiropractic diagnosis and treatment by the Board of Chiropractic Examiners from providing chiropractic treatment to an animal referred to such chiropractic physician by a licensed veterinarian.

SECTION 4. AMENDATORY 59 O.S. 2001, Section 698.17, is amended to read as follows:

Section 698.17 Any veterinarian or registered veterinary technician who is licensed or certified in this state or licensed veterinarian or licensed veterinary technician 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 disaster or emergency care or treatment to a human victim 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 5. AMENDATORY 59 O.S. 2001, 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. Individuals certified as veterinary technicians pursuant to the Oklahoma Veterinary Practice Act may use the terms registered veterinary technician, veterinary technician, or abbreviations such as CVT, RVT, and VT.

B. It shall be unlawful for any person to use any recognized title, abbreviation, or sign to indicate that such person is a registered veterinary technician, unless that person has been certified as having met the qualifications provided for in the Oklahoma Veterinary Practice Act. Such use shall be prima facie evidence of the intention to represent oneself as a registered veterinary technician.

C. 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 pursuant to the provisions of the Oklahoma Veterinary Practice Act.

D. A person shall not be considered to be a registered veterinary technician in this state who:

1. Administers to animals for which such person holds title, unless such person has received title for the purpose of circumventing 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. 2. 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 that person's instructors ~~of the student.~~

SECTION 6. AMENDATORY 59 O.S. 2001, 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~~ certification as a veterinary technician. A candidate for examination shall pay to the secretary of the Board a reasonable fee established by rule of the Board and shall furnish satisfactory proof of graduation from a ~~school~~ program of veterinary technology accredited by the American Veterinary Medical Association and approved by the Board.

B. The provisions of the Oklahoma Veterinary Practice Act shall not ~~be construed to~~ require a licensed veterinarian to hire a registered veterinary technician nor prohibit a licensed veterinarian from employing a ~~noncertified animal~~ veterinary ~~technician~~ assistant. Licensed veterinarians may delegate animal care responsibilities to employees commensurate with their training, experience, and skills.

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

SECTION 7. AMENDATORY 59 O.S. 2001, Section 698.26, is amended to read as follows:

Section 698.26 A. A registered veterinary technician, veterinary technologist, nurse, veterinary assistant or other employee shall not diagnose animal diseases, prescribe medical or surgical treatment, or perform as a surgeon.

B. A registered 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 the provisions of the Oklahoma Veterinary Practice Act, violates, aids, or abets such actions, 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. Any person who assumes the title of registered veterinary technician, or the abbreviation RVT, or any other words, letters, signs, or figures that might induce a person to believe that the person using the name is a registered veterinary technician, when in fact they are not certified, upon conviction thereof shall be guilty of a misdemeanor.

D. The penalties provided in subsection C 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.

E. Any licensed veterinarian permitting or directing a veterinary technician, aide or animal attendant to perform a task or procedure in violation of 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 license by the Board.

SECTION 8. This act shall become effective November 1, 2002.

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