

EHB 3202

THE STATE SENATE
Wednesday, March 24, 2010

ENGROSSED

House Bill No. 3202

ENGROSSED HOUSE BILL NO. 3202 - By: Armes, Richardson and Shoemake of the House and Schulz of the Senate.

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 698.2, as amended by Section 1, Chapter 172, O.S.L. 2002, 698.4, as amended by Section 8, Chapter 375, O.S.L. 2002 and 698.12, as last amended by Section 1, Chapter 172, O.S.L. 2005 (59 O.S. Supp. 2009, Sections 698.2, 698.4 and 698.12), which relate to the Oklahoma Veterinary Practice Act; adding definition for teeth floating; adding certain requirements for board appointment; adding procedure not to be prohibited by the act; requiring certification for teeth floaters; outlining certification procedures; requiring continuing education; setting forth procedures for delivery of veterinary drugs; outlining procedure for handling complaints; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 698.2, as amended by Section 1, Chapter 172, O.S.L. 2002 (59 O.S. Supp. 2009, 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;

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

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

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

12 6. "Veterinary technician" means a person who has graduated
13 from a program accredited by the American Veterinary Medical
14 Association, or its equivalent which is recognized and approved by
15 the Board, and who has passed the examination requirements set forth
16 by the Board, is certified to practice under the direct supervision
17 of a licensed veterinarian. For the purpose of the Oklahoma
18 Veterinary Practice Act, "registered veterinary technician (RVT)"
19 will be used interchangeably with veterinary technician who is
20 certified pursuant to Sections 698.21 through 698.26 of this title;

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

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

5 9. "Veterinary technology" means the science and art of
6 providing all aspects of professional medical care, services, and
7 treatment for animals with the exception of diagnosis, prognosis,
8 surgery, and prescription of any treatments, drugs, medications, or
9 appliances, where a valid veterinarian-client-patient relationship
10 exists;

11 10. "Direct supervision" means:

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

18 b. that, under certain circumstances following the
19 examination of an animal by a licensed veterinarian
20 responsible for the professional care of the animal,
21 the presence of the licensed veterinarian on the
22 premises in an animal hospital setting or in the same
23 general area in a range setting is required after

1 directions have been given to a veterinarian who has a
2 certificate issued pursuant to Section 698.8 of this
3 title;

4 11. "License" means authorization to practice veterinary
5 medicine granted by the Board to an individual found by the Board to
6 meet certain requirements pursuant to the Oklahoma Veterinary
7 Practice Act or any other applicable statutes;

8 12. "Supervised Doctor of Veterinary Medicine Certificate"
9 means authorization to practice veterinary medicine with certain
10 limitations or restrictions on that practice, set by the Board or
11 authorization to perform certain enumerated functions peripheral to
12 the practice of veterinary medicine as set by the Board and has a
13 certificate issued pursuant to Section 698.8 of this title;

14 13. "Veterinarian-client-patient relationship" means when:
15 a. the licensed veterinarian has assumed the
16 responsibility for making medical judgments regarding
17 the health of an animal or animals and the need for
18 medical treatment, and the client, owner or other
19 caretaker has agreed to follow the instructions of the
20 licensed veterinarian, and
21 b. there is sufficient knowledge of the animal or animals
22 by the licensed veterinarian to initiate at least a

1 general or preliminary diagnosis of the medical
2 condition of the animal or animals in that:

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

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

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

13 d. would conform to applicable federal law and
14 regulations;

15 14. "Veterinary premises" means any facility where the practice
16 of veterinary medicine occurs, including, but not limited to, a
17 mobile unit, mobile clinic, outpatient clinic, satellite clinic,
18 public service outreach of a veterinary facility, or veterinary
19 hospital or clinic. The term "veterinary premises" shall not
20 include the premises of a client of a licensed veterinarian or
21 research facility;

22 15. "Veterinary prescription drugs" means such prescription
23 items as are in the possession of a person regularly and lawfully

1 engaged in the manufacture, transportation, storage, or wholesale or
2 retail distribution of veterinary drugs and the federal Food and
3 Drug Administration-approved human drugs for animals which because
4 of their toxicity or other potential for harmful effects, or method
5 of use, or the collateral measures necessary for use, are labeled by
6 the manufacturer or distributor in compliance with federal law and
7 regulations to be sold only to or on the prescription order or under
8 the supervision of a licensed veterinarian for use in the course of
9 professional practice. Veterinary prescription drugs shall not
10 include over-the-counter products for which adequate directions for
11 lay use can be written;

12 16. "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 17. "Executive Director" means the Executive Director of the
19 State Board of Veterinary Medical Examiners or the authorized
20 representative of such official;

21 18. "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

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

5 19. "Person" means any individual, firm, partnership,
6 association, joint venture, cooperative, corporation, or any other
7 group or combination acting in concert, and whether or not acting as
8 a principal, trustee, fiduciary, receiver, or as any other kind of
9 legal or personal representative, or as the successor in interest,
10 assignee, agent, factor, servant, employee, director, officer,
11 fictitious name certificate, or any other representative of such
12 person;

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

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

22 22. "Abandonment" means to forsake entirely or to neglect or
23 refuse to provide or perform the legal obligations for care and

1 support of an animal by its owner, or the owner's agent.
2 Abandonment shall constitute the relinquishment of all rights and
3 claims by the owner to an animal;

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

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

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

19 25. "Teeth floating", as provided by a nonveterinary equine
20 dental care provider, means the removal of enamel points and the
21 smoothing, contouring and leveling of dental arcades and incisors of
22 equine and other farm animals. It shall not include dental
23 procedures on canines and felines.

1 SECTION 2. AMENDATORY 59 O.S. 2001, Section 698.4, as
2 amended by Section 8, Chapter 375, O.S.L. 2002 (59 O.S. Supp. 2009,
3 Section 698.4), is amended to read as follows:

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

9 2. Each veterinary member shall be a graduate of an approved
10 school of veterinary medicine, shall be a currently licensed
11 veterinarian and shall have held an active license for the three (3)
12 years preceding appointment to the Board. One member shall be
13 appointed from each congressional district and any remaining members
14 shall be appointed from the state at large. However, when
15 congressional districts are redrawn each member appointed prior to
16 July 1 of the year in which such modification becomes effective
17 shall complete the current term of office and appointments made
18 after July 1 of the year in which such modification becomes
19 effective shall be based on the redrawn districts. Appointments
20 made after July 1 of the year in which such modification becomes
21 effective shall be from any redrawn districts which are not
22 represented by a board member until such time as each of the
23 modified congressional districts are represented by a board member.

1 No appointments may be made after July 1 of the year in which such
2 modification becomes effective if such appointment would result in
3 more than two members serving from the same modified district.

4 3. Of the five licensed veterinarian members, one must be an
5 equine practitioner and one must be a large animal practitioner.

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

9 ~~4-~~ 5. Members must be residents of the State of Oklahoma and be
10 persons of integrity and good reputation. No member shall be a
11 registered lobbyist. No member shall be an officer, board member or
12 employee of a statewide or national organization established for the
13 purpose of advocating the interests of or conducting peer review of
14 veterinarians licensed pursuant to the Oklahoma Veterinary Practice
15 Act.

16 B. Members of the Board shall be appointed for a term of five
17 (5) years. No member shall serve consecutively for more than two
18 (2) terms. Not more than two (2) terms shall expire in each year,
19 and vacancies for the remainder of an unexpired term shall be filled
20 by appointment by the Governor. Members shall serve beyond the
21 expiration of their term until a successor is appointed by the
22 Governor. The initial appointee for the Board position created on
23 November 1, 1999, shall be appointed for less than five (5) years to

1 abide by staggered term requirements. The Governor shall appoint to
2 a vacancy within ninety (90) days of the beginning of the vacancy.
3 Nominees considered by the Governor for appointment to the Board
4 must be free of pending disciplinary action or active investigation
5 by the Board.

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

8 1. Ceases to be qualified;

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

11 3. Is found guilty of malfeasance, misfeasance or nonfeasance
12 in relation to Board duties;

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

15 5. Is found in violation of the Oklahoma Veterinary Practice
16 Act; or

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

19 SECTION 3. AMENDATORY 59 O.S. 2001, Section 698.12, as
20 last amended by Section 1, Chapter 172, O.S.L. 2005 (59 O.S. Supp.
21 2009, Section 698.12), is amended to read as follows:

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

1 1. Acts of animal husbandry, dehorning, branding, tagging or
2 notching ears, teeth floating, farriery, pregnancy checking,
3 collecting semen, preparing semen, freezing semen, castrating,
4 worming, vaccinating, injecting or artificial insemination of farm
5 animals; or the acts or conduct of a person advising with respect to
6 nutrition, feeds or feeding;

7 2. The owner of an animal or the owner's employees or helpers
8 from caring for or treating animals belonging to the owner; provided
9 that, the acts of the owner's employees or helpers otherwise
10 prohibited by the Oklahoma Veterinary Practice Act are only an
11 incidental part of the employment duties and for which no special
12 compensation is made;

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

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

22 5. Acts of a person who is a student in good standing in a
23 veterinary school, in performing duties or functions assigned by

1 the student's instructors, or working under the direct supervision
2 of a licensed veterinarian for each individual case and acts
3 performed by an instructor or student in a school of veterinary
4 medicine recognized by the Board and performed as a part of the
5 educational and training curriculum of the school under the direct
6 supervision of faculty. The unsupervised or unauthorized practice
7 of veterinary medicine even though on the premises of a school of
8 veterinary medicine is prohibited;

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

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

14 8. Acts of vocational-agriculture instructors or students while
15 engaged in regular vocational-agriculture instruction in programs
16 approved by the Oklahoma Department of Career and Technology
17 Education; provided that said acts are under the supervision of
18 instructors and are carried out in the usual course of instruction
19 and not as independent practice by an unlicensed veterinarian
20 without supervision;

21 9. Any person employed by a licensed veterinarian who is
22 assisting with the professional duties of the licensed veterinarian
23 and who is under the direct supervision of the licensed veterinarian

1 from administering medication or rendering auxiliary or supporting
2 assistance under the direct supervision of such licensed
3 veterinarian, provided that the practice is conducted in compliance
4 with all laws of this state and rules of this Board;

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

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

14 12. Any individual that is certified in animal massage therapy
15 and acquires liability insurance from engaging in animal massage
16 therapy after referral from a licensed veterinarian; or

17 13. Any individual that is certified by the State Board of
18 Veterinary Medical Examiners and pays a certification fee of Two
19 Hundred Dollars (\$200.00) under subsection A of Section 4 of this
20 act to be a nonveterinary equine dental care provider.

21 SECTION 4. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 698.30 of Title 59, unless there
23 is created a duplication in numbering, reads as follows:

1 A. The State Board of Veterinary Medical Examiners shall
2 annually certify any practitioner of teeth floating, known as a
3 nonveterinary equine dental care provider and as defined by
4 paragraph 25 of Section 698.2 of Title 59 of the Oklahoma Statutes.
5 Certification shall be issued within ninety (90) days of
6 application, and to be eligible for this certification,
7 nonveterinary equine dental care providers shall provide proof of
8 qualification to be a nonveterinary equine dental care provider
9 using one of the following methods:

10 1. Completion of at least eighty (80) hours of training in
11 equine dentistry at the Texas Institute of Equine Dentistry, the
12 Academy of Equine Dentistry or a similar program approved by the
13 State Board of Veterinary Medical Examiners; or

14 2. Certification as an equine dental technician by the
15 International Association of Equine Dentistry or its equivalent by a
16 similar certifying organization approved by the State Board of
17 Veterinary Medical Examiners.

18 B. Prior to July 1, 2011, teeth floaters shall be granted
19 certification upon submission of a signed and notarized affidavit
20 from three persons who are residents of this state, stating that
21 they know this individual and the individual is known by the
22 community to be a nonveterinary equine dental care provider. Of the
23 three residents, one shall be from a veterinarian that is licensed

1 to practice in the state; and one shall be from the current
2 president of any official statewide association representing horses,
3 horse breeds or horsemen, or a horse owner currently residing in the
4 state.

5 C. Proof of four (4) hours of continuing education shall be
6 required for annual certification renewal for teeth floaters. This
7 continuing education shall be a course approved by the Texas
8 Institute of Equine Dentistry, the Academy of Equine Dentistry, the
9 State Board of Veterinary Medical Examiners, the International
10 Association of Equine Dentistry or a similar organization approved
11 by the State Board of Veterinary Medical Examiners and shall be
12 obtained in the twelve-month period immediately preceding the year
13 for which the certification is to be issued.

14 D. If prescription drugs are to be used in nonveterinary equine
15 dental care procedures, the equine owner shall contact a
16 veterinarian licensed by the state. If the veterinarian deems that
17 prescription drugs are necessary, the veterinarian may assemble the
18 prescription drugs and may allow the owner or the owner's agent, who
19 can be a nonveterinary equine dental care provider, to pick up the
20 prescription drugs and deliver them to the equine owner. No
21 prescription drugs shall be prescribed, dispensed, or administered
22 without the establishment of a valid client-patient relationship
23 between the equine owner and the veterinarian. Prescription drugs

1 must be used in accordance with United States Food and Drug
2 Administration regulations.

3 E. Complaints related to any teeth floater shall be filed with
4 the State Veterinarian through the Oklahoma Department of
5 Agriculture, Food, and Forestry. The State Veterinarian may
6 investigate complaints, and may forward findings as it deems
7 appropriate to the appropriate law enforcement entity.

8 SECTION 5. This act shall become effective July 1, 2010.

9 SECTION 6. It being immediately necessary for the preservation
10 of the public peace, health and safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

13 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT,
14 dated 3-22-10 - DO PASS.