

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 2752

By: Denney

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5
6 AS INTRODUCED

7 An Act relating to professions and occupations;
8 amending 59 O.S. 2001, Sections 698.7, as amended by
9 Section 2, Chapter 172, O.S.L. 2002, 698.12, as last
10 amended by Section 1, Chapter 172, O.S.L. 2005,
11 698.14a and 698.19A (59 O.S. Supp. 2009, Sections
12 698.7 and 698.12), which relate to the Oklahoma
13 Veterinary Practice Act; adding powers and duties;
14 allowing veterinarians to prescribe and dispense
15 drugs to wildlife agencies for certain uses;
16 modifying disciplinary actions; providing for
17 collections of certain amounts; increasing the
18 maximum administrative penalty for a first offense;
19 enacting guidelines and oversight of equine teeth
20 floaters; defining term; prohibiting certain acts;
21 requiring payment of application fee; providing for
22 codification; and providing an effective date.

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

24 SECTION 1. AMENDATORY 59 O.S. 2001, Section 698.7, as
amended by Section 2, Chapter 172, O.S.L. 2002 (59 O.S. Supp. 2009,
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

1 placed on it by the Oklahoma Veterinary Practice Act or as otherwise
2 provided by law, the Board shall have the power and duty to:

- 3 1. a. set standards for licensure or certification by
4 examination and develop such examinations as will
5 provide assurance of competency to practice, and
6 b. employ or enter into agreements with organizations or
7 agencies to provide examinations acceptable to the
8 Board or employ or enter into agreements with
9 organizations or agencies to provide administration,
10 preparation or scoring of examinations;
- 11 2. Set fees;
- 12 3. Prescribe the time, place, method, manner, scope and
13 subjects of examination for licensure;
- 14 4. Prepare or select, conduct or direct the conduct of, set
15 minimum requirements for, and assure security of licensing and other
16 required examinations;
- 17 5. a. issue or deny licenses and certificates and renewals
18 thereof,
19 b. acquire information about and evaluate the
20 professional education and training of applicants for
21 licensure or certification; and accept or deny
22 applications for licensure, certification or renewal
23 of either licensure or certification based on the
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- 1 evaluation of information relating to applicant
2 fitness, performance or competency to practice,
- 3 c. determine which professional schools, colleges,
4 universities, training institutions and educational
5 programs are acceptable in connection with licensure
6 pursuant to the Oklahoma Veterinary Practice Act, and
7 accept the approval of such facilities and programs by
8 American-Veterinary-Medical-Association-accredited
9 institutions in the United States and Canada,
- 10 d. require supporting documentation or other acceptable
11 verifying evidence for any information provided the
12 Board by an applicant for licensure or certification,
13 and
- 14 e. require information on an applicant's fitness,
15 qualification and previous professional record and
16 performance from recognized data sources including,
17 but not limited to, other licensing and disciplinary
18 authorities of other jurisdictions, professional
19 education and training institutions, liability
20 insurers, animal health care institutions and law
21 enforcement agencies;

22 6. Develop and use applications and other necessary forms and
23 related procedures for purposes of the Oklahoma Veterinary Practice
24 Act;

- 1 7. a. review and investigate complaints and adverse
2 information about licensees and certificate holders,
3 b. conduct hearings in accordance with the Oklahoma
4 Veterinary Practice Act and the Administrative
5 Procedures Act, and
6 c. adjudicate matters that come before the Board for
7 judgment pursuant to the Oklahoma Veterinary Practice
8 Act upon clear and convincing evidence and issue final
9 decisions on such matters to discipline licensees and
10 certificate holders;
11 8. a. impose sanctions, deny licenses and certificates and
12 renewals thereof, levy reimbursement costs, seek
13 appropriate administrative, civil or criminal
14 penalties or any combination of these against those
15 who violate examination security, who attempt to or
16 who do obtain licensure or certification by fraud, who
17 knowingly assist in illegal activities, or who aid and
18 abet the illegal practice of veterinary medicine,
19 b. review and investigate complaints and adverse
20 information about licensees and certificate holders,
21 c. discipline licensees and certificate holders,
22 d. institute proceedings in courts of competent
23 jurisdiction to enforce Board orders and provisions of
24 the Oklahoma Veterinary Practice Act,

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

11 (2) establish by rules cooperation with other
12 professional organizations for the identification
13 and monitoring of licensees and certificate
14 holders in treatment who are chemically dependent
15 or addicted, and

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

1 9. Promulgate rules of professional conduct and require all
2 licensees and certificate holders to practice in accordance
3 therewith;

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

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

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

11 13. In addition to regular full-time investigators, appoint
12 reserve investigators. Reserve investigators shall have the same
13 powers, duties and functions as regular full-time investigators for
14 the Board, except a reserve investigator shall serve on a part-time
15 basis, not more than twenty-five (25) hours per week. Reserve
16 investigators shall comply with the Council on Law Enforcement
17 Education and Training (CLEET) certification standards applicable to
18 reserve peace officers;

19 14. Establish policies for Board operations;

20 ~~14.~~ 15. Respond to legislative inquiry regarding those changes
21 in, or amendments to, the Oklahoma Veterinary Practice Act;

22 ~~15.~~ 16. Act on its own motion in disciplinary matters,
23 administer oaths, issue notices, issue subpoenas in the name of the
24 State of Oklahoma, including subpoenas for client and animal

1 records, hold hearings, institute court proceedings for contempt or
2 to compel testimony or obedience to its orders and subpoenas, take
3 evidentiary depositions and perform such other acts as are
4 reasonable and necessary under law to carry out its duties;

5 ~~16.~~ 17. Use clear and convincing evidence as the standard of
6 proof and issue final decisions when acting as trier of fact in the
7 performance of its adjudicatory duties;

8 ~~17.~~ 18. Determine and direct Board operating, administrative,
9 personnel and budget policies and procedures in accordance with
10 applicable statutes;

11 19. Purchase, maintain and sell passenger motor vehicles and
12 related equipment for official state use by investigators, reserve
13 investigators, the Executive Director and any other employee
14 authorized by the Board, in the same manner as other state agencies
15 authorized by law to purchase passenger motor vehicles;

16 ~~18.~~ 20. Promulgate uniform rules such as may be necessary for
17 carrying out and enforcing the provisions of the Oklahoma Veterinary
18 Practice Act and such as in its discretion may be necessary to
19 protect the health, safety and welfare of the public;

20 ~~19.~~ 21. Determine continuing education requirements;

21 ~~20.~~ 22. Establish minimum standards for veterinary premises;

22 ~~21.~~ 23. Establish standards for veterinary labeling and
23 dispensing of veterinary prescription drugs and federal Food and
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1 Drug Administration-approved human drugs for animals which would
2 conform to current applicable state and federal law and regulations;

3 24. Donate confiscated veterinary prescription drugs or
4 medications to a bona fide nonprofit entity or shelter that provides
5 food, care and shelter to animals or to state recognized educational
6 institutions, such as colleges, universities or vocational schools
7 for training and educational purposes;

8 ~~22.~~ 25. Promulgate rules such as may be necessary for carrying
9 out and enforcing provisions relating to certification of animal
10 euthanasia technicians and approval of drugs to be used for
11 euthanasia of animals in an animal shelter pursuant to the
12 requirements of Section 502 of Title 4 of the Oklahoma Statutes;

13 ~~23.~~ 26. Shall conduct a national criminal history records
14 search for certified animal euthanasia technicians:

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

1 Investigation (FBI) for a national criminal history
2 records search;

3 ~~24.~~ 27. Establish standards for animal chiropractic diagnosis
4 and treatment. The standards shall include but not be limited to a
5 requirement that a veterinarian who holds himself or herself out to
6 the public as certified to engage in animal chiropractic diagnosis
7 and treatment shall:

- 8 a. carry at least One Million Dollars (\$1,000,000.00) of
9 additional malpractice coverage to perform animal
10 chiropractic diagnosis and treatment, and
- 11 b. have appropriate training in animal chiropractic
12 diagnosis and treatment. The Veterinary Examining
13 Board shall have the authority to establish
14 educational criteria for certification standards in
15 animal chiropractic diagnosis and treatment. The
16 Veterinary Examining Board shall work in conjunction
17 with the Board of Chiropractic Examiners to establish
18 comparable standards for the practice of animal
19 chiropractic diagnosis and treatment for both medical
20 professions within thirty (30) days after the
21 effective date of this act. The Board shall certify
22 any licensed veterinarian wishing to engage in animal
23 chiropractic diagnosis and treatment who meets the
24 standards established by the Board pursuant to this

1 paragraph. Upon request, the Board shall make
2 available to the public a list of licensed
3 veterinarians so certified; and

4 ~~25.~~ 28. Perform such other duties and exercise such other
5 powers as the provisions and enforcement of the Oklahoma Veterinary
6 Practice Act may require.

7 SECTION 2. AMENDATORY 59 O.S. 2001, Section 698.12, as
8 last amended by Section 1, Chapter 172, O.S.L. 2005 (59 O.S. Supp.
9 2009, Section 698.12), is amended to read as follows:

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

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

17 2. The owner of an animal or the owner's employees or helpers
18 from caring for or treating animals belonging to the owner; provided
19 that, the acts of the owner's employees or helpers otherwise
20 prohibited by the Oklahoma Veterinary Practice Act are only an
21 incidental part of the employment duties and for which no special
22 compensation is made;

23 3. Acts of a person in lawful possession of an animal for some
24 other purpose than practicing veterinary medicine; provided that, no

1 charge may be made or included in any other charge or fee or
2 adjustment otherwise made of any charge or fee for acts performed
3 pursuant to this subsection unless the acts are performed by a
4 licensed veterinarian as provided by the Oklahoma Veterinary
5 Practice Act;

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

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

18 6. Acts of any employee in the course of employment by the
19 state or federal government or acts of a veterinarian practicing on
20 property and persons outside the jurisdiction of the State of
21 Oklahoma;

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

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1 8. Acts of vocational-agriculture instructors or students while
2 engaged in regular vocational-agriculture instruction in programs
3 approved by the Oklahoma Department of Career and Technology
4 Education; provided that said acts are under the supervision of
5 instructors and are carried out in the usual course of instruction
6 and not as independent practice by an unlicensed veterinarian
7 without supervision;

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

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

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

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

4 13. Acts of a veterinarian in prescribing and dispensing
5 prescription drugs to state or federal wildlife conservation
6 agencies for use in sedating or tranquilizing dangerous or wild
7 animals.

8 SECTION 3. AMENDATORY 59 O.S. 2001, Section 698.14a, is
9 amended to read as follows:

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

- 13 1. Revocation of licensure or certification;
- 14 2. Suspension of licensure or certification;
- 15 3. Probation of licensure or certification;
- 16 4. Refusal to renew a license or certification;
- 17 5. Injunctions and other civil court actions;
- 18 6. Reprimand, censure, agreement to voluntary stipulation of
19 facts and imposition of terms of disciplinary action;
- 20 7. Administrative citation and administrative penalties; and
- 21 8. Prosecution through the office of the district attorney.

22 B. 1. The Board may take such action as the nature of the
23 violation requires.

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1 2. Upon a determination that a violation has been committed,
2 the Board shall, by clear and convincing evidence, have the
3 authority to impose upon the alleged violator, the payment of costs
4 expended by the Board in investigating and prosecuting the cause, to
5 include, but not be limited to, staff time, salary and travel
6 expenses, witness fees and attorney fees and same shall be
7 considered part of the order of the Board.

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

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

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

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

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

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

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

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

16 5. The making of a false or misleading statement regarding
17 one's skill or the efficacy or value of the medicine, treatment or
18 remedy prescribed by the licensed veterinarian or at the licensed
19 veterinarian's direction in the treatment of any disease or other
20 condition of the animal;

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

23 7. Negligence in the practice of veterinary medicine;

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- 1 8. Practice or other behavior that demonstrates a manifest
2 incapacity or incompetence to practice veterinary medicine;
- 3 9. The use of any false, fraudulent or deceptive statement in
4 any document connected with the practice of veterinary medicine;
- 5 10. Failure to notify the Board of current address of practice;
- 6 11. Aiding or abetting the practice of veterinary medicine by
7 an unlicensed, incompetent or impaired person;
- 8 12. Habitual use or abuse of alcohol or of a habit-forming drug
9 or chemical which impairs the ability of the licensee or certificate
10 holder to practice veterinary medicine;
- 11 13. Violation of any laws relating to the administration,
12 prescribing or dispensing of controlled dangerous substances or
13 violation of any laws of the federal government or any state of the
14 United States relative to controlled dangerous substances;
- 15 14. Obtaining a fee by fraud or misrepresentation;
- 16 15. Directly or indirectly giving or receiving any fee,
17 commission, rebate or other compensation for professional services
18 not actually and personally rendered, not to preclude the legal
19 function of a lawful professional partnership, corporation or
20 association;
- 21 16. Failure to report to the Board any adverse action taken by
22 another jurisdictional body, by any peer review body, health-related
23 licensing or disciplinary jurisdiction, law enforcement agency or
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1 court for acts or conduct related to the practice of veterinary
2 medicine;

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

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

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

17 20. The practice of veterinary medicine in the absence of a
18 bona fide veterinarian-client-patient relationship. The preclusion
19 of a veterinarian-client-patient relationship by a veterinarian who
20 in good faith renders or attempts to render emergency care to a
21 victim pursuant to a Good Samaritan application shall not constitute
22 grounds for discipline pursuant to the Oklahoma Veterinary Practice
23 Act;

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

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

11 F. 1. The Board may commence any legal action to enforce the
12 provision of the Oklahoma Veterinary Practice Act and may exercise
13 full discretion and authority with respect to enforcement actions.
14 Administrative sanctions taken by the Board shall be made in
15 accordance with Article II of the Administrative Procedures Act, the
16 Oklahoma Veterinary Practice Act, and other applicable laws of this
17 state. The Board shall take appropriate enforcement action when
18 required, assuring fairness and due process to the defendant.

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

1 G. The Board may summarily suspend a license or certificate
2 prior to a formal hearing when it has found upon clear and
3 convincing evidence that such action is required to protect the
4 public or animal health or welfare or when a person under the
5 jurisdiction of the Board is convicted of a felony, whether or not
6 related to the practice of veterinary medicine; provided such action
7 is taken simultaneously with proceedings for setting a formal
8 hearing to be held within thirty (30) days after the summary
9 suspension.

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

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

21 I. 1. The State Board of Veterinary Medical Examiners may
22 suspend, revoke or refuse to renew the license or certificate of any
23 person holding license or certificate to practice veterinary
24 medicine in this state or place such person on probation for

1 unprofessional conduct, but no such suspension or revocation or
2 refusal to renew, or probation shall be made, unless otherwise
3 provided for herein, until such be cited to appear for hearing. No
4 such citation shall be issued except upon a sworn complaint filed
5 with the president or secretary-treasurer of said Board charging the
6 licensee or certificate holder with having been guilty of
7 unprofessional conduct and setting forth the particular act or acts
8 alleged to constitute such unprofessional conduct.

9 2. In the event it comes to the attention of the Board that a
10 violation of the rules of professional conduct may have occurred,
11 even though a formal complaint or charge may not have been filed,
12 the Board may conduct an investigation of such possible violation,
13 and may, upon its own motion, institute a formal complaint. In the
14 course of such investigation, persons appearing before the Board may
15 be required to testify under oath.

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

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

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

14 4. All citations and subpoenas under the contemplation of the
15 Oklahoma Veterinary Practice Act shall be served in general
16 accordance with the statutes of this state applying to the service
17 of such documents. All provisions of the statutes of this state
18 relating to citations and subpoenas are hereby made applicable to
19 the citations and subpoenas herein provided. All the provisions of
20 the statutes of this state governing the taking of testimony by
21 depositions are made applicable to the taking of depositions
22 pursuant to the Oklahoma Veterinary Practice Act.

23 K. The Executive Director of the State Board of Veterinary
24 Medical Examiners, secretary-treasurer, designee, or prosecuting

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

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

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

20 M. 1. The State of Oklahoma is a proper and necessary party in
21 the prosecution of all such actions and hearings before the Board in
22 all matters pertaining to unprofessional conduct and disciplinary
23 action. The Attorney General of the state, in person or by deputy,
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1 is authorized to appear in behalf thereof. The defendant in any
2 such actions shall have the right to be represented by counsel.

3 2. The Board is empowered to enter into agreement with or
4 employ one or more attorneys to conduct the business of the Board in
5 the absence of representation by the Attorney General or designee or
6 in conjunction with representation by the Attorney General or
7 designee.

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

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

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

- 3 1. Voluntary resignation from a professional partnership,
4 corporation or practice for reason of inability to practice;
- 5 2. Malpractice claims, judgments, settlements or awards;
- 6 3. Civil or criminal convictions; or
- 7 4. Other actions that indicate inability to practice with
8 reasonable skill and safety.

9 P. The Board shall consider violation of any of the Rules of
10 Professional Conduct a violation of the Oklahoma Veterinary Practice
11 Act section on unprofessional conduct and shall proceed with
12 disciplinary action as set out in the Oklahoma Veterinary Practice
13 Act.

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

21 2. The amount of the penalty shall be assessed by the Board
22 pursuant to the provisions of paragraph 1 of this subsection, after
23 notice and hearing. In determining the amount of the penalty, the
24 Board shall, by clear and convincing evidence, include, but not be

1 limited to, consideration of the nature, circumstances, and gravity
2 of the violation and, with respect to the person found to have
3 committed the violation, the degree of culpability, the effect on
4 ability of the person to continue to do business, and any show of
5 good faith in attempting to achieve compliance with the provisions
6 of the Oklahoma Veterinary Practice Act.

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

10 R. 1. An order of the Board issued with findings of fact and
11 conclusions of law after a hearing on the matter or upon default
12 after an opportunity for a hearing or a final order resulting from a
13 field citation, shall become final and binding on all parties unless
14 appealed to the district court in the manner and within the
15 requisite time period as provided in the Administrative Procedures
16 Act. If an appeal is not made, any order which requires a
17 respondent to pay a fine, penalty, cost or expense may be entered on
18 the judgment docket of the district court in a county in which the
19 respondent has property and thereafter enforced in the same manner
20 as an order of the district court for collection actions.

21 2. Payment in full of a fine or penalty, including any costs or
22 expenses assessed in connection therewith, shall be full and
23 complete satisfaction thereof for which the Board's order was
24 issued.

1 3. The Office of the Attorney General, at the request of the
2 Executive Director, may assist the Board in the assessment and
3 collection of any fine, penalty, cost or expense assessed in an
4 order of the Board, and the Board shall be entitled to recover
5 reasonable attorney fees and costs incurred in any collection action
6 taken by the Office of the Attorney General pursuant to the
7 provisions of this section.

8 SECTION 4. AMENDATORY 59 O.S. 2001, Section 698.19A, is
9 amended to read as follows:

10 Section 698.19A A. 1. If, upon completion of an
11 investigation, the Executive Director of the State Board of
12 Veterinary Medical Examiners has probable cause to believe that a
13 licensed veterinarian or any other person has violated provisions of
14 the Oklahoma Veterinary Practice Act or rules promulgated thereto,
15 the Executive Director may issue a field citation to the licensed
16 veterinarian or other person, as provided in this section. Each
17 field citation shall be in writing and shall describe with
18 particularity the nature of the violation, including but not limited
19 to a reference to the provision of the Oklahoma Veterinary Practice
20 Act alleged to have been violated.

21 2. In addition, each field citation may contain an order of
22 abatement fixing a reasonable time for abatement of the violation,
23 and may contain an assessment of an administrative penalty not to
24 exceed ~~Five Hundred Dollars (\$500.00)~~ Two Thousand Five Hundred

1 (\$2,500.00) for a first offense and not to exceed Five Thousand
2 Dollars (\$5,000.00) for a second or each subsequent offense. Each
3 day such violation continues shall constitute a separate offense.

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

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

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

1 therefore, the licensed veterinarian or other person shall, within
2 ten (10) business days after service of the field citation, notify
3 the Executive Director in writing, requesting an informal conference
4 with the probable cause committee.

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

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

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

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

5 F. A veterinarian or other person, in lieu of contesting a
6 field citation pursuant to this section, may transmit to the Board
7 the amount assessed in the citation as an administrative penalty,
8 within thirty (30) days after service of the field citation. If a
9 hearing is not requested pursuant to this section, payment of any
10 fine shall not constitute an admission of the violation charged.

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

20 2. After the hearing, the Board shall issue a decision based on
21 findings of the fact, affirming, modifying or vacating the citation,
22 or directing other appropriate relief which shall include, but need
23 not be limited to, a notice that the failure of the veterinarian or
24 other person to comply with any provision of the Board's decision

1 may subject such veterinarian or person to the imposition of the
2 sanctions authorized by the Oklahoma Veterinary Practice Act.

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

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

14 J. The Board shall promulgate rules covering the issuance of
15 field citations, the assessment of administrative penalties and
16 other duties specified by this section pursuant to this section
17 which give due consideration to the appropriateness of the penalty
18 with respect to the following factors:

19 a. ~~the~~

20 1. The gravity of the violation;

21 b. ~~the~~

22 2. The good faith of the person being charged; and

23 c. ~~the~~

24 3. The history of previous violations.

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 698.30 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 A. As used in this section, "equine teeth floater" means an
5 individual who satisfies the criteria established by the State Board
6 of Veterinary Medical Examiners for certification to perform duties
7 relating to the care and maintenance of equine teeth in accordance
8 with this section and regulations promulgated by the Board.

9 B. Until November 1, 2011, the Board may certify a person as an
10 equine teeth floater who meets the following criteria:

11 1. Satisfactory evidence that the person is a resident of the
12 state for the previous two (2) years;

13 2. Satisfactory written recommendations from at least two
14 licensed veterinarians;

15 3. Satisfactory evidence that the person holds certification
16 from a Board-approved certification program in equine teeth
17 floating;

18 4. Taking and passage of written or practical examination or
19 examinations as determined by the Board;

20 5. Provides written proof of liability insurance coverage for
21 the performance of equine teeth floating from an insurance company
22 duly licensed by the Oklahoma Insurance Department to conduct
23 business in the state. The liability insurance shall be at least in
24

1 the amount of One Hundred Thousand Dollars (\$100,000.00) per
2 occurrence; and

3 6. Pays the application fee required by subsection D of this
4 section.

5 C. Under no circumstances shall an equine teeth floater
6 administer any sedative, tranquilizer, analgesic, prescription
7 medication, or other drug in connection with equine teeth floating.

8 D. The application fee to become certified shall be Two Hundred
9 Dollars (\$200.00) and shall be payable to the Board.

10 E. Only after receiving a written referral from a state
11 licensed veterinarian may an individual, certified by the Board
12 under this section as an equine teeth floater, perform the flotation
13 or dressing of equine teeth consisting of the removal of enamel
14 points, and the removal of deciduous incisor and premolar teeth
15 (caps) of equine.

16 SECTION 6. This act shall become effective November 1, 2010.

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