STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1310 By: Richardson

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 698.2 and 698.12, as last amended by Sections 1 and 3, Chapter 112, O.S.L. 2010 (59 O.S. Supp. 2010, Sections 698.2 and 698.12), which relate to the Oklahoma Veterinary Practice Act; defining terms; modifying procedures that are not prohibited; describing certification process for nonveterinary reproductive services technicians; requiring documentation for use of certain drugs in procedures; prescribing continuing education requirements; providing for committee to oversee examination and continuing education; providing for committee to oversee advancements in animal husbandry; describing duties of committee chair; identifying committee members; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 698.2, as last amended by Section 1, Chapter 112, O.S.L. 2010 (59 O.S. Supp. 2010, 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 program accredited by the American Veterinary Medical Association, or its equivalent which is recognized and approved by the Board, and who has passed the examination requirements set forth by the Board, 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 who 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;

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;

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;

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~~ the licensed veterinarian has made 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. the licensed veterinarian's actions would conform to applicable federal law and regulations;

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;

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;

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;

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

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;

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;

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

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;

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;

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;

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; ~~and~~

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

26. "Nonveterinary reproductive services" means nonveterinary services provided by an individual certified by the Board as a nonveterinary reproductive services technician, and involves and shall be limited to nonsurgical embryo transfer in ruminating animals including cattle, sheep, goats, farmed deer and other ruminating exotic animals such as those found in zoos, and may include basic ultrasonography of their ovaries to evaluate the response to embryo-transfer-associated procedures and of the uterus to determine pregnancy by the detection of a heartbeat within the transferred embryo at or greater than twenty-eight (28) days of gestation of such ruminating animals;

27. "Embryo transfer" means the biosecure process of inducing increased ovulations within a donor female for the in vivo production of embryos, the flushing of those embryos, collecting, grading and transferring of those embryos to recipient females, or the cryopreservation of those embryos for storage and later transfer to recipient females;

28. "Animal Technology Advisory Committee" means the advisory committee established by the Board pursuant to Section 4 of this act to advise and make recommendations to the Board regarding any new and evolving technology, procedure, method or practice that may be considered or otherwise designated as an act of animal husbandry that should be included as an act not prohibited in paragraph 1 of Section 698.12 of the Oklahoma Veterinary Practice Act. Reference

to the advisory committee in this act shall mean the Animal Technology Advisory Committee; and

29. "Examination Committee" means the committee established and described in subsection E of Section 3 of this act.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 698.12, as last amended by Section 3, Chapter 112, O.S.L. 2010 (59 O.S. Supp. 2010, 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 animal husbandry~~,~~ consisting of dehorning, branding, tagging or notching ears, teeth floating, farriery, pregnancy checking by transrectal palpation, collecting semen, preparing semen, freezing semen, castrating, worming, vaccinating, injecting or nonsurgical artificial insemination of farm animals; or the acts or conduct of a person advising with respect to nutrition, feeds or feeding; and such other acts designated by administrative rule of the Board which may be recommended by the Animal Technology Advisory Committee;

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~~ agriculture education instructors or students while engaged in regular ~~vocational-agriculture~~ agriculture education instruction in programs approved by the Oklahoma Department of Career and Technology 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;

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;

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

13. Any individual that is certified by the State Board of Veterinary Medical Examiners and pays a certification fee of Two Hundred Dollars ($200.00) under subsection A of Section ~~4~~ 698.30 of this ~~act~~ title from engaging in nonveterinary equine dental care; or

14. Any individual that is certified by the Board pursuant to Section 3 of this act and pays a certification fee of Two Hundred Dollars ($200.00) from providing nonveterinary reproductive services as defined by Section 698.2 of this title.

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

A. The State Board of Veterinary Medical Examiners shall certify an individual as a nonveterinary reproductive services technician who qualifies and passes a written certification examination approved by the Board and who holds a Ph.D. from an accredited college or university with emphasis in animal reproductive physiology, or a Master of Science degree from an accredited college or university with emphasis in animal reproductive physiology and Board Certification in animal physiology by the American Registry of Professional Animal Scientists, which

certification authorizes them to provide nonveterinary reproductive services as defined in the Oklahoma Veterinary Practice Act.

B. Prior to July 1, 2012, an individual with a Bachelor of Science degree from an accredited college or university, which includes completion of at least six (6) semester hours in reproductive physiology and who has practical experience in embryo transfer in ruminating animals as verified in writing by sworn affidavit from at least two client animal owners and from two approved certified members of the American Embryo Transfer Association, shall be allowed to become certified as a nonveterinary reproductive services technician upon passing a written certification examination approved by the Board.

C. In connection with performing nonveterinary reproductive services, federal legend drugs shall be prescribed and dispensed only on the order of a licensed veterinarian who has an existing veterinarian-client-patient relationship as defined by the Oklahoma Veterinary Practice Act and the rules of the Board and shall only be administered in accordance with the act. Every nonveterinary reproductive services technician shall keep and maintain medical records that include the source of any prescription drugs used in connection with providing nonveterinary reproductive services, including the name and address of the veterinarian prescribing or dispensing the drugs, the date the drugs are received, the species and description of the animal involved, the animal owner or client

name and address, and the medications administered including date and dosage. All medical records pertaining to prescription drugs shall be made available for inspection by the Board or the Board's agent upon request and must be kept and maintained for a period of two (2) years from the date the drug was administered.

D. Proof of at least eight (8) hours of continuing education from courses and study approved by the Board shall be required for annual certification renewal as a nonveterinarian reproductive services technician.

E. The certification examination and continuing education described in this section shall be approved by the Examination Committee that is overseen by the Board and consists of:

1. A veterinarian designated by the Dean of the Oklahoma State University Center of Veterinary Health Sciences;

2. An animal scientist with a Ph.D. with an emphasis in animal reproductive physiology designated by the head of the Oklahoma State University Department of Animal Science; and

3. An animal embryologist as designated by the American Embryo Transfer Association.

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

A. The Animal Technology Advisory Committee shall be overseen by the Board and the Oklahoma Department of Agriculture, Food, and

Forestry and shall investigate, examine, discuss and determine whether any new or evolving technology, procedure, method or practice should be considered or designated an act of animal husbandry, the practice of veterinary medicine, or added to the list of acts not prohibited in paragraph 1 of Section 698.12 of the Oklahoma Veterinary Practice Act.

B. The Animal Technology Advisory Committee shall be chaired by the State Veterinarian employed by the Department who shall have the following duties:

1. Call and give notice of all meetings of the committee;

2. Establish the agenda for the meetings of the committee;

3. Keep and maintain minutes of all meetings of the committee; and

4. Publish and distribute all determinations of the committee to the State Board of Veterinary Medical Examiners and Oklahoma Department of Agriculture, Food, and Forestry.

C. In addition to the chairperson, who shall be a nonvoting member, the Animal Technology Advisory Committee shall be comprised of the following voting members:

1. Two veterinarians appointed by the Board;

2. One veterinarian appointed by the head of the Oklahoma State University Center of Veterinary Health Sciences;

3. Two individuals actively involved in the livestock industry appointed by the Secretary of Agriculture; and

4. One faculty member of the Oklahoma State University Department of Animal Science appointed by the head of the Department.

D. Recommendations of the Advisory Committee shall be made by a majority vote of the voting members of the committee and shall be presented to the Board, in writing, for consideration and review at least thirty (30) days before a regularly scheduled meeting of the Board. The Board shall consider the committee recommendations and if approved take necessary action through the rulemaking process to adopt the rules accordingly.

SECTION 5. This act shall become effective November 1, 2011.

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