Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 182

HOUSE BILL 2612

AN ACT

AMENDING SECTIONS 32-2201, 32-2207, 32-2211, 32-2215, 32-2216, 32-2231, 32-2232, 32-2233, 32-2234, 32-2237, 32-2239, 32-2241, 32-2242, 32-2244, 32-2245, 32-2247, 32-2248 AND 32-2249, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 21, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2235; RELATING TO VETERINARIANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 32-2201, Arizona Revised Statutes, is amended to read:

32-2201. Definitions

In this chapter, unless the context otherwise requires:

1. "Animal" means any animal other than human.

2. "Board" means the Arizona state veterinary medical examining board.

3. "CERTIFIED VETERINARY TECHNICIAN" MEANS EITHER:

(a) A GRADUATE OF A MINIMUM TWO YEAR AMERICAN VETERINARY MEDICAL ASSOCIATION ACCREDITED PROGRAM IN VETERINARY TECHNOLOGY WHO HAS PASSED A NATIONAL AND A STATE VETERINARY TECHNICIAN EXAMINATION.

(b) A PERSON WHO IS CERTIFIED ON OR BEFORE DECEMBER 31, 2010 PURSUANT TO THE RULES ADOPTED BY THE BOARD.

~~3.~~ 4. "Consulting" means providing professional or expert advice which is requested by a veterinarian licensed in this state and is rendered only on a specific case basis.

~~4.~~ 5. "Controlled substance" means any substance which is registered and controlled under the federal controlled substances act (P.L. 91-513).

~~5.~~ 6. "Cremation" means the heating process that reduces animal remains to bone fragments by combustion and evaporation.

~~6.~~ 7. "Crematory" means a building or portion of a building that is licensed pursuant to article 8 of this chapter and that houses a retort in which only animal remains are cremated.

~~7. "Diplomate" means a veterinarian certified as a specialist in a particular discipline by a national specialty board or college recognized by the American veterinary medical association after the completion of additional education and training, an internship or residency, passing required examinations and meeting any other criteria required by the various individual national specialty boards or colleges.~~

8. "DIRECT SUPERVISION" MEANS THAT A LICENSED VETERINARIAN IS PHYSICALLY PRESENT AT THE LOCATION WHERE ANIMAL HEALTH CARE IS BEING PERFORMED.

~~8.~~ 9. "Gross incompetence" means any professional misconduct or unreasonable lack of professional skill in the performance of professional practice.

~~9.~~ 10. "Gross negligence" means treatment of a patient or practice of veterinary medicine resulting in injury, unnecessary suffering or death that was caused by carelessness, negligence or the disregard of established principles or practices.

11. "INDIRECT SUPERVISION" MEANS THAT A LICENSED VETERINARIAN IS NOT PHYSICALLY PRESENT AT THE LOCATION WHERE ANIMAL HEALTH CARE IS BEING PERFORMED BUT HAS GIVEN EITHER WRITTEN OR ORAL INSTRUCTIONS FOR TREATMENT OF THE ANIMAL PATIENT.

~~10.~~ 12. "Letter of concern" means an advisory letter to notify a veterinarian that, while there is insufficient evidence to support disciplinary action, the board believes the veterinarian should modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the board may result in action against the veterinarian's license.

~~11.~~ 13. "Licensed veterinarian" means a person who is currently licensed to practice veterinary medicine in this state.

~~12.~~ 14. "Malpractice" means treatment in a manner contrary to accepted practices and with injurious results.

~~13.~~ 15. "Medical incompetence" means lacking sufficient medical knowledge or skills, or both, to a degree likely to endanger the health of patients or lacking equipment, supplies or medication to properly perform a procedure.

~~14.~~ 16. "Negligence" means the failure of a licensed veterinarian to exercise reasonable care in the practice of veterinary medicine.

~~15.~~ 17. "Regularly" means that veterinary services are offered to the public once a month or more frequently.

~~16.~~ 18. "Responsible veterinarian" means the veterinarian responsible to the board for compliance by licensed veterinary premises with the laws and rules of this state and of the federal government pertaining to the practice of veterinary medicine and responsible for the establishment of policy at such premises.

19. "SPECIALIST" MEANS A VETERINARIAN CERTIFIED AS A DIPLOMATE IN A PARTICULAR DISCIPLINE BY A NATIONAL SPECIALTY BOARD OR COLLEGE RECOGNIZED BY THE AMERICAN VETERINARY MEDICAL ASSOCIATION AFTER THE COMPLETION OF ADDITIONAL EDUCATION AND TRAINING, AN INTERNSHIP OR RESIDENCY, PASSING REQUIRED EXAMINATIONS AND MEETING ANY OTHER CRITERIA REQUIRED BY THE VARIOUS INDIVIDUAL NATIONAL SPECIALTY BOARDS OR COLLEGES.

20. "SUPERVISING VETERINARIAN" MEANS A LICENSED VETERINARIAN WHO IS RESPONSIBLE FOR THE CARE RENDERED TO AN ANIMAL BY A CERTIFIED VETERINARY TECHNICIAN OR A VETERINARY ASSISTANT.

~~17.~~ 21. "Temporary sites" means sites where outpatient veterinary services are performed.

~~18.~~ 22. "Twenty-four hour services" means veterinary services when a veterinarian is on the premises twenty-four hours a day.

~~19.~~ 23. "Veterinarian" means a person who has received a doctor's degree in veterinary medicine from a college of veterinary medicine.

24. "VETERINARY ASSISTANT" MEANS AN INDIVIDUAL WHO PROVIDES CARE UNDER THE DIRECT OR INDIRECT SUPERVISION OF A VETERINARIAN OR CERTIFIED VETERINARY TECHNICIAN.

~~20.~~ 25. "Veterinary college" means any veterinary college or division of a university or college that offers the degree of doctor of veterinary medicine or its equivalent and that conforms to the standards required for accreditation by the American veterinary medical association.

~~21.~~ 26. "Veterinary medicine" includes veterinary surgery, obstetrics, dentistry, acupuncture, manipulation and all other branches or specialties of veterinary medicine and the prescribing, administering or dispensing of drugs and medications for veterinary purposes.

Sec. 2. Section 32-2207, Arizona Revised Statutes, is amended to read:

32-2207. Veterinary board; powers and duties

The primary duty of the board is to protect the public from unlawful, incompetent, unqualified, impaired or unprofessional practitioners of veterinary medicine through licensure and regulation of the profession in this state. The powers and duties of the board include:

1. Administering and enforcing this chapter and board rules.

2. Regulating disciplinary actions, the granting, denial, revocation, renewal and suspension of licenses and certificates and the rehabilitation of licensees and certificate holders pursuant to this chapter and board rules.

3. Prescribing the forms, content and manner of application for licensure and certification and renewal of licensure and certification and setting deadlines for the receipt of materials required by the board.

4. Keeping a record of all licensees and certificate holders, board actions taken concerning all applicants, licensees and certificate holders and the receipt and disbursal of monies.

5. Adopting an official seal for attestation of licenses, certificates and other official papers and documents.

6. Investigating charges of violations of this chapter and board rules and orders.

7. Employing an executive director who serves at the pleasure of the board.

8. Adopting rules pursuant to title 41, chapter 6 that relate to the qualifications and regulation of doctors of veterinary medicine, CERTIFIED veterinary technicians, veterinary premises, mobile veterinary clinics and crematories and other rules that the board deems necessary for the administration of this chapter. The rules may include continuing education requirements for licensees and certificate holders and shall include:

(a) Minimum standards of veterinary practice.

(b) Provisions to ensure that the public has reasonable access to nonconfidential information about the licensing or certification status of persons regulated under this chapter and about resolved complaints against licensees and certificate holders.

(c) Provisions to ensure that members of the public have an opportunity to evaluate the services that the board provides to the public.

9. Establishing by rule fees and penalties as provided in this chapter, including fees for the following:

(a) Reproduction of documents.

(b) Verification of information about a licensed veterinarian at the request of a veterinary licensing board in another jurisdiction.

(c) Return of checks due to insufficient funds, an order to stop payment or a closed account.

(d) Provision of a list of the names of veterinarians, CERTIFIED veterinary technicians or veterinary premises licensed or certified by the board.

10. Adopting rules that require the board to inform members of the public about the existence of the office of the ombudsdman-citizens aide established by section 41-1375.

Sec. 3. Section 32-2211, Arizona Revised Statutes, is amended to read:

32-2211. Exceptions from application of chapter

This chapter shall not apply to:

1. A commissioned veterinary medical officer of the United States armed services, or employees of the animal disease eradication division of the United States department of agriculture.

2. A person treating an animal belonging to himself or his employer while in the regular service of such employer, or the animal of another without compensation therefor. Animals consigned by their legal owner for feeding or care to consignment livestock operations shall be considered to be the property of the consignee.

3. A licensed veterinarian of another state or foreign country consulting with a licensed veterinarian in this state.

4. A veterinary student regularly enrolled in the final half of the veterinary curriculum in any veterinary college approved by the American veterinary medical association and working under the direct and personal instruction, control or supervision of a licensed veterinarian, if such student's compensation is paid solely by such veterinarian. Such student may perform those acts of health care that are assigned by the veterinarian having responsibility for the care of the animal. The student is not permitted to perform anesthesia or surgery unless the student is directly assisting the supervising ~~licensed~~ veterinarian who is performing the anesthesia or surgery.

5. A veterinary assistant employed by a licensed veterinarian performing duties other than diagnosis, prognosis, prescription or surgery under the ~~direction and supervision~~ DIRECT SUPERVISION OR INDIRECT SUPERVISION of such veterinarian who shall be responsible for such assistant's performance.

Sec. 4. Section 32-2215, Arizona Revised Statutes, is amended to read:

32-2215. Qualifications for license

A. An applicant for a license issued under this chapter shall:

1. Be of good moral character.

2. Be a graduate of a veterinary college that is accredited by the American veterinary medical association or hold a certificate issued by the educational commission for foreign veterinary graduates, the program for the assessment of veterinary education equivalence or a foreign graduate testing program approved by the board.

3. Satisfactorily pass an examination given by the board as provided in this chapter.

B. An applicant may be denied licensure either before or after examination if the applicant has committed any act that if committed by a licensee would be grounds for suspension or revocation of a license to practice veterinary medicine under this chapter.

C. The board may waive the examination requirements pursuant to section 32-2214, subsection C, paragraph 2 and, except as provided in subsection E of this section, may issue a license by endorsement to an applicant to practice veterinary medicine if the applicant provides all required documentation pursuant to section 32-2213 and meets the following requirements:

1. The applicant holds an active license in one or more other states OR IN CANADA and submits verification that the applicant has previously taken and passed the examination required by section 32-2214, with a score at least equal to the score required to pass in this state. An applicant who received original licensure before the examination required by section 32-2214 was required in the state in which the applicant was originally licensed may be eligible for licensure without having taken that examination as required pursuant to this chapter if all other requirements are met.

2. The applicant has been lawfully and actively engaged in the practice of veterinary medicine for at least three of the preceding five years or six of the preceding ten years in one or more states IN THIS COUNTRY OR IN CANADA before filing an application for licensure in this state.

3. The applicant has graduated from a veterinary college recognized by the board.

4. The applicant passes a state examination approved by the board. A grade of at least seventy-five per cent is required to successfully pass the examination.

5. The applicant pays a fee for the license of seven hundred fifty dollars.

D. The board may waive the examination requirements pursuant to section 32-2214, subsection C, paragraph 2 and, except as provided in subsection E of this section, may issue a specialty license to an applicant to practice veterinary medicine if the applicant provides all required documentation pursuant to section 32-2213 and meets the following requirements:

1. The applicant holds a current certification as a ~~diplomate~~ SPECIALIST of a national specialty board or college recognized by the American veterinary medical association.

2. The applicant's practice is limited to the scope of the applicant's board certification.

3. The applicant successfully passes a state examination approved by the board with a score of at least seventy-five per cent.

4. The applicant pays a fee for the specialty license of seven hundred fifty dollars.

E. The board shall determine if previous disciplinary action prevents licensure by endorsement or specialty licensure of an applicant to practice veterinary medicine and the board may discipline the licensee at the time of licensure as a result of the previous disciplinary action.

Sec. 5. Section 32-2216, Arizona Revised Statutes, is amended to read:

32-2216. Issuance of temporary permits

A. THE BOARD MAY ISSUE TEMPORARY PERMITS TO applicants for a license ~~may be issued temporary permits by the board~~ who at the time of application are graduates of ~~a~~ AN AMERICAN VETERINARY MEDICAL ASSOCIATION ACCREDITED veterinary college OR WHO HOLD AN EDUCATION COMMISSION FOR FOREIGN VETERINARY GRADUATES CERTIFICATE OR A PROGRAM FOR THE ASSESSMENT OF VETERINARY EDUCATION EQUIVALENCE CERTIFICATE.

B. The temporary permit issued under ~~the provisions of~~ this section entitles the applicant to engage in the active practice of veterinary medicine in this state as an employee of a licensed veterinarian, the state or any county or municipality in this state. Such applicant shall be eligible for the next examination, if ~~he or she~~ THE APPLICANT has not violated any provision of this chapter. Such applicant working under the direct and personal instruction, control or supervision of a licensed veterinarian and whose compensation is paid by such veterinarian may perform those acts of animal health care assigned by the veterinarian having responsibility for the care of the animal. No temporary permit shall be valid beyond the time for the next license examination for which the applicant is qualified. In the event any such applicant fails for good and sufficient reason to take the examination, the board, by majority consent, may extend the permit until the next succeeding examination. Except as otherwise provided in this section, the holder of a temporary permit must be examined and satisfactorily pass the license examination next following the issuance of the permit and duly receive a license in order to continue active professional practice. No more than two temporary permits shall be issued to one individual. For THE purposes of this subsection, "direct and personal instruction, control or supervision" means that a veterinarian licensed by the board is physically present and personally supervising a temporary permittee when ~~a~~ THE permittee is practicing acts of veterinary medicine except if ~~a~~ THE permittee is at a temporary site for the purpose of delivering services to large animals or if ~~a~~ THE permittee is administering emergency services not during regular office hours. In these cases, phone contact constitutes direct and personal instruction, control or supervision.

C. If an employer, for any reason, terminates the employment of the applicant, the employing veterinarian shall notify the board and the temporary permit is immediately void.

Sec. 6. Section 32-2231, Arizona Revised Statutes, is amended to read:

32-2231. Acts constituting the practice of veterinary medicine; exceptions; definitions

A. A person shall be regarded as practicing veterinary medicine, surgery and dentistry within the meaning of this chapter who, within this state:

1. By advertisement, or by any notice, sign or other indication, or by a statement written, printed or oral, in public or in private, made, done or procured by himself or any other at his request claims, announces, makes known or pretends ~~his~~ ability or willingness to diagnose any animal condition, disease, deformity, defect, wound or injury or to perform any type of surgical procedure on animals.

2. Advertises or makes known or claims ~~his~~ ability and willingness to perform the following for hire, fee, compensation or reward that is directly or indirectly promised, offered, expected, received or accepted:

(a) Prescribe or administer any drug, medicine, treatment, method or practice for any animal.

(b) Perform any operation or manipulation on or apply any apparatus or appliance to any animal.

(c) Give any instruction or demonstration for the cure, amelioration, correction or reduction or modification of any animal condition, disease, deformity, defect, wound or injury.

3. Diagnoses or prognosticates any animal condition, disease, deformity, defect, wound or injury for hire, fee, reward or compensation that is directly or indirectly promised, offered, expected, received or accepted.

4. Prescribes or administers any drug, medicine, treatment, method or practice, performs any operation or manipulation, or applies any apparatus or appliance for the cure, amelioration, correction or modification of any animal condition, disease, deformity, defect, wound or injury for hire, fee, compensation or reward that is directly or indirectly promised, offered, expected, received or accepted.

B. This section does not apply to:

1. Duly authorized representatives of the United States department of agriculture in the discharge of any duty authorized by the director in charge of the animal disease eradication division.

2. A certified veterinary technician performing a task or function authorized by the rules of the board in the employ of and under the direction, supervision and control of a licensed veterinarian.

3. An equine dental practitioner if all of the following apply:

(a) The equine dental practitioner is certified by the international association of equine dentistry or the academy of equine dentistry.

(b) The equine dental practitioner performs any of the following procedures under the general supervision of a licensed veterinarian:

(i) The application of any apparatus used to work on the oral cavity.

(ii) The examination of dental conditions.

(iii) The removal of overgrowth from the teeth of horses and the removal of sharp enamel points from the teeth of horses, excluding any extractions unless the certified equine dental practitioner is under the direct supervision of a licensed veterinarian.

(iv) Any treatment of the oral cavity as authorized by the animal's owner, excluding any extractions unless the certified equine dental practitioner is under the direct supervision of a licensed veterinarian.

(c) The equine dental practitioner provides both of the following to the board:

(i) Proof of current certification from the international association of equine dentistry or the academy of equine dentistry.

(ii) A written statement signed by the supervising ~~licensed~~ veterinarian that the certified equine dental practitioner will be under the general or direct supervision of the licensed veterinarian when performing the procedures prescribed by this paragraph.

(d) Both the supervising ~~licensed~~ veterinarian and the certified equine dental practitioner maintain dental charts for procedures done pursuant to this paragraph.

C. Notwithstanding subsection B, paragraph 3, only a licensed veterinarian and not an equine dental practitioner may prescribe or administer, or both prescribe and administer, any drug or medicine.

D. For the purposes of this section:

1. "Direct supervision" means a licensed veterinarian must authorize and be physically present for the procedure.

2. "General supervision" means a licensed veterinarian must be available for consultation by telephone or other form of immediate communication.

Sec. 7. Section 32-2232, Arizona Revised Statutes, is amended to read:

32-2232. Unprofessional or dishonorable conduct

As used in this chapter, unprofessional or dishonorable conduct includes:

1. The fraudulent use of any certificate or other official form used in practice that would increase the hazard of dissemination of disease, the transportation of diseased animals or the sale of inedible food products of animal origin for human consumption.

2. Inadequate methods in violation of meat inspection procedures prescribed by the federal government and Arizona meat inspection laws or wilful neglect or misrepresentation in the inspection of meat.

3. Misrepresentation of services rendered.

4. Failure to report, or the negligent handling of, the serious epidemic diseases of animals, such as anthrax, rabies, glanders, brucellosis, tuberculosis, foot and mouth disease, hog cholera, and other communicable diseases known to medical science as being a menace to human or animal health.

5. The dispensing or giving to anyone of live culture or attenuated live virus vaccines to be administered by a layman without providing instruction as to their administration and use.

6. Having professional connection with, or lending one's name to, any illegal practitioner of veterinary medicine and the various branches thereof.

7. Chronic inebriety or unlawful use of narcotics, dangerous drugs or controlled substances.

8. Fraud or dishonesty in applying or reporting on any test or vaccination for disease in animals.

9. False, deceptive or misleading advertising, having for its purpose or intent deception or fraud.

10. Conviction of a crime involving moral turpitude, or conviction of a felony.

11. Malpractice, gross incompetence or gross negligence in the practice of veterinary medicine.

12. Violation of the ethics of the profession as defined by rules adopted by the board.

13. Fraud or misrepresentation in procuring a license.

14. Knowingly signing a false affidavit.

15. Distribution of narcotics, dangerous drugs, prescription-only drugs or controlled substances for other than legitimate purposes.

16. Violation of or failure to comply with any state or federal laws or regulations relating to the storing, labeling, prescribing or dispensing of controlled substances or prescription-only drugs as defined in section 32-1901.

17. Offering, delivering, receiving or accepting any rebate, refund, commission, preference, patronage, dividend, discount or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring animals or services to any person.

18. Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation or conspiracy to violate any of the provisions of this chapter, a rule adopted by the board or a written order of the board.

19. Failing to dispense drugs and devices in compliance with article 7 of this chapter.

20. Performing veterinary services without adequate equipment and sanitation considering the type of veterinary services provided.

21. Failure to maintain adequate records of veterinary services provided.

22. Medical incompetence in the practice of veterinary medicine.

23. Cruelty to or neglect of animals. For the purposes of this paragraph, "cruelty to or neglect of animals" means knowingly or negligently torturing, beating or mutilating an animal, killing an animal in an inhumane manner or depriving an animal of necessary food, water or shelter.

24. REPRESENTING THAT THE VETERINARIAN IS A SPECIALIST IF THE VETERINARIAN LACKS THE CREDENTIALS TO BE A SPECIALIST.

Sec. 8. Section 32-2233, Arizona Revised Statutes, is amended to read:

32-2233. Revocation or suspension of license or permit; civil penalty; report of perjury

A. The board, by majority consent, may revoke or suspend a permit or license granted to any person under ~~the provisions of~~ this chapter or may impose a civil penalty of not to exceed one thousand dollars against any veterinarian or the responsible veterinarian, or both, for:

1. Unprofessional or dishonorable conduct.

2. Publicly professing to cure or treat diseases of a highly contagious, infectious and incurable nature.

3. Curing or treating an injury or deformity in such a way as to deceive the public.

4. Testing any animal for any communicable disease and knowingly stating verbally or in writing that the animals are diseased or in a disease-free condition if the statement is contrary to the indication of the test made.

B. The board~~,~~ may sanction any of the following conduct as an administrative violation, rather than unprofessional conduct, and may impose a civil penalty of not more than one thousand dollars for ~~either~~ ANY of the following:

1. Failure to timely renew the veterinary license or the premises license while continuing to practice veterinary medicine or conducting business from that premises.

2. Failure to notify the board in writing within twenty days of any change in residence, practice, ownership, management or responsible veterinarian.

3. MINOR RECORDS VIOLATIONS THAT ARE ROUTINE ENTRIES INTO A MEDICAL RECORD AND THAT DO NOT AFFECT THE DIAGNOSIS OR CARE OF THE ANIMAL.

C. The civil penalties collected pursuant to this chapter shall be deposited in the state general fund.

D. THE BOARD MAY REPORT TO THE PROPER LEGAL AUTHORITIES FOR PERJURY ANYONE IT SUSPECTS OF GIVING DELIBERATE, FRAUDULENT TESTIMONY WHETHER THE TESTIMONY IS GIVEN PERSONALLY, TELEPHONICALLY OR IN WRITING.

Sec. 9. Section 32-2234, Arizona Revised Statutes, is amended to read:

32-2234. Informal and formal hearings; censure or probation; notice; consent agreements; rehearing; judicial review

A. If the board receives information indicating that a veterinarian may have engaged in unprofessional or dishonorable conduct, and if it appears after investigation that the information may be true, the board may issue a notice of formal hearing or the board may request an informal interview with the veterinarian. If the veterinarian refuses the interview, and other evidence indicates suspension or revocation of the veterinarian's license may

be in order, or if the veterinarian accepts and the results of the interview indicate suspension or revocation of the veterinarian's license may be in order, the board shall issue a notice of formal hearing and proceed pursuant to title 41, chapter 6, article 10. If the veterinarian refuses the interview, and other evidence relating to the veterinarian's professional competence indicates that disciplinary action should be taken other than suspension or revocation of the veterinarian's license, or if the veterinarian accepts the informal interview and the informal interview and other evidence relating to the veterinarian's professional competence indicate that disciplinary action should be taken other than suspension or revocation of the veterinarian's license, the board may take any or all of the following actions:

1. Issue a decree of censure.

2. Fix a period and terms of probation as are best adapted to protect the public and rehabilitate or educate the veterinarian. The terms of probation may include temporary suspension, for not to exceed thirty days, or restriction of the veterinarian's license to practice. The failure to comply with any term of the probation is cause to consider the entire case plus any other alleged violations of this chapter at a formal hearing pursuant to title 41, chapter 6, article 10.

3. Impose a civil penalty of not to exceed one thousand dollars per violation.

B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, THE BOARD MAY REQUIRE A VETERINARIAN OR CERTIFIED VETERINARY TECHNICIAN UNDER INVESTIGATION TO BE INTERVIEWED BY THE BOARD OR ITS REPRESENTATIVES. THE BOARD MAY REQUIRE A LICENSEE OR CERTIFICATE HOLDER WHO IS UNDER INVESTIGATION PURSUANT TO SUBSECTION A OF THIS SECTION TO UNDERGO AT THE LICENSEE'S OR CERTIFICATE HOLDER'S EXPENSE ANY COMBINATION OF MEDICAL, PHYSICAL OR MENTAL EXAMINATIONS THAT THE BOARD FINDS NECESSARY TO DETERMINE THE VETERINARIAN'S OR THE CERTIFIED VETERINARY TECHNICIAN'S CONDITION.

C. ON RECEIPT OF AN ALLEGATION OF DRUG OR ALCOHOL ABUSE, THE BOARD OR THE EXECUTIVE DIRECTOR ACTING WITH THE APPROVAL OF BOTH A VETERINARIAN MEMBER AND A PUBLIC MEMBER OF THE BOARD MAY REQUIRE A LICENSEE OR CERTIFICATE HOLDER WHO IS UNDER INVESTIGATION PURSUANT TO SUBSECTION A OF THIS SECTION TO UNDERGO, AT THE LICENSEE'S OR CERTIFICATE HOLDER'S EXPENSE, TESTING OR EXAMINATION TO DETECT THE PRESENCE OF ALCOHOL OR OTHER DRUGS.

~~B.~~ D. If, as a result of information ascertained during an investigation, informal interview or formal hearing of a veterinarian, the board has concern for the veterinarian's conduct but has not found the veterinarian's conduct in violation of section 32-2232, the board in its discretion may issue a letter of concern to the veterinarian regarding the veterinarian's conduct or issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the

necessary understanding of current developments, skills, procedures or treatment.

~~C.~~ E. Notwithstanding subsection A of this section, the board may enter into a consent agreement with a veterinarian either before or after conducting an informal interview. Pursuant to a consent agreement, the board may take any of the disciplinary actions listed in subsection A, paragraphs 1, 2 and 3 of this section or may act to otherwise limit or restrict the veterinarian's practice or to rehabilitate the veterinarian.

~~D.~~ F. If the board finds, based on information it receives pursuant to this section, that public or animal health, safety or welfare requires emergency action, and incorporates a finding that emergency action is necessary in its order, the board may order summary suspension of a license pending proceedings for revocation or other action. If the board orders a summary suspension, the board shall serve the licensee with a written notice that states the charges and that the licensee is entitled to a formal hearing before the board or an administrative law judge within sixty days pursuant to title 41, chapter 6, article 10.

~~E.~~ G. Before a permit or license may be revoked or suspended for any cause provided by section 32-2233, other than by terms of probation, the board must serve notice and conduct a hearing in the manner prescribed by title 41, chapter 6, article 10.

~~F.~~ H. After service of notice of the decision of the board suspending or revoking a license, censuring a licensee, placing a licensee on probation or dismissing the complaint, the licensee may apply for a rehearing or review by filing a motion pursuant to title 41, chapter 6, article 10. The filing of a motion for rehearing shall be a condition precedent to the right of appeal provided by this section. The filing of a motion for rehearing shall suspend the operation of the board's action in suspending or revoking a license or censuring or placing a licensee on probation and shall allow the licensee to continue to practice as a veterinarian pending denial or granting of the motion and pending the decision of the board on rehearing if the motion is granted. The board may also grant a rehearing on its own motion, if it finds newly discovered evidence or any other reason justifying a reconsideration of the matter.

~~G.~~ I. Except as provided in section 41-1092.08, subsection H, any party aggrieved by a final order or decision of the board may appeal to the superior court pursuant to title 12, chapter 7, article 6.

~~H.~~ J. If the state veterinary medical examining board acts to modify any veterinarian's prescription writing privileges, it shall immediately notify the Arizona state board of pharmacy of the modification.

~~I.~~ K. All notices that the board is required to provide to any person under this chapter are fully effective by personal service or by mailing a true copy of the notice by certified, return receipt mail addressed to the person's last known address of record in the board's files. Notice by mail is complete at the time of its deposit in the mail. Service on any person

represented in a matter by an attorney is complete when the notice is sent to the attorney at the last known address of record in the board's files.

~~J.~~ L. The board shall retain all complaint files for at least ten years and shall retain all complaint files in which disciplinary action was taken for at least twenty-five years.

Sec. 10. Title 32, chapter 21, article 3, Arizona Revised Statutes, is amended by adding section 32-2235, to read:

32-2235. Complaints

A. ANY PERSON MAY FILE A COMPLAINT AGAINST A LICENSEE FOR A VIOLATION OF THIS CHAPTER. EXCEPT AS PROVIDED IN SUBSECTION C, COMPLAINTS SHALL BE SUBMITTED IN PROPER FORM AND SIGNED BY THE COMPLAINANT. EACH COMPLAINT SHALL BE TURNED OVER TO AN APPOINTED STAFF INVESTIGATOR WHO SHALL COMPILE THE WRITTEN COMPLAINT AND THE WRITTEN RESPONSE AND MAY VERIFY STATEMENTS AND ANY EVIDENCE SUBMITTED BY THE COMPLAINANT AND THE RESPONDENT.

B. IF AFTER COMPLETION OF THIS PRELIMINARY INVESTIGATION THE STAFF INVESTIGATOR BELIEVES THAT THERE WOULD NOT BE A VIOLATION OF THIS CHAPTER IF THE ALLEGATIONS WERE PROVEN TO BE TRUE OR IF THE COMPLAINT DOES NOT FALL UNDER THE JURISDICTION OF THE BOARD, THE BOARD SHALL REVIEW THE WRITTEN INFORMATION AND INVESTIGATIVE REPORT AT A SCHEDULED BOARD MEETING AT WHICH TIME THE BOARD MAY DISMISS THE COMPLAINT OR PROCEED AS OTHERWISE AUTHORIZED.

C. A COMPLAINT MAY BE ANONYMOUS IF IT IS REGARDING EITHER OF THE FOLLOWING:

1. SUBSTANCE ABUSE BY A VETERINARIAN OR CERTIFIED VETERINARY TECHNICIAN.

2. A PERSON COMMITTING THE UNLICENSED PRACTICE OF VETERINARY MEDICINE.

D. THE BOARD, ON ITS OWN INITIATIVE AND BASED ON INFORMATION FROM ANY SOURCE, MAY INVESTIGATE ANY ALLEGED VIOLATION OF THIS CHAPTER.

Sec. 11. Section 32-2237, Arizona Revised Statutes, is amended to read:

32-2237. Committee to investigate violations; referral to county attorney or attorney general; inspection of records; subpoenas; civil penalty; injunctions; cease and desist orders; confidentiality

A. The board shall appoint one or more investigative committees, each consisting of three members of the general public who are not board members and two licensed veterinarians who are not board members. The investigative committee may interview witnesses, gather evidence and otherwise investigate any ~~charges~~ ALLEGATIONS accusing any person of violating any of the provisions of this chapter. An assistant attorney general shall advise the investigative committee on all questions of law arising out of its investigations. The expenses of the committee shall be paid out of the veterinary medical examining board fund.

B. The investigative committee shall prepare a written report relating to any ~~charge~~ ALLEGATIONS it investigates. The committee shall present its report to the board in an open meeting. The report shall include:

1. A summary of the investigation.
2. Findings of fact.
3. Either a recommendation to dismiss the ~~charge~~ ALLEGATION MADE IN THE COMPLAINT or a finding that a violation of this chapter or a rule adopted pursuant to this chapter occurred.

C. If the board rejects any recommendation contained in a report of the investigative committee, it shall document the reasons for its decision in writing.

D. Upon the complaint of any citizen of this state, or upon its own initiative, the board may investigate any alleged violation of this chapter. If after investigation the board has probable cause to believe that an unlicensed person is performing acts that are required to be performed by a person licensed pursuant to this chapter, the board may take one or more of the following enforcement actions:

1. Issue a cease and desist order.
2. Request the county attorney or attorney general to file criminal charges against the person.
3. File an action in the superior court to enjoin the person from engaging in the unlicensed practice of veterinary medicine.
4. After notice and an opportunity for a hearing, impose a civil penalty of not more than one thousand dollars for each violation.

E. The board or its agents or employees may at all reasonable times have access to and the right to copy any documents, reports, records or other physical evidence of any veterinarian including documents, reports, records or physical evidence maintained by and in the possession of any veterinary medical hospital, clinic, office or other veterinary medical premises being investigated if such documents, records, reports or other physical evidence relates to a specific investigation or proceeding conducted by the board.

F. The board on its own initiative or upon application of any person involved in an investigation or proceeding conducted by the board may issue subpoenas compelling the attendance and testimony of witnesses or demanding the production for examination or copying of documents, reports, records or any other physical evidence if such evidence relates to the specific investigation or proceeding conducted by the board.

G. Except as provided in this subsection, all materials, documents and evidence associated with a pending or resolved complaint or investigation are confidential and are not public records. The following materials, documents and evidence are not confidential and are public records if they relate to resolved complaints:

1. The complaint.
2. The response and any rebuttal statements submitted by the licensee or certificate holder.
3. Board discussions of complaints that are recorded pursuant to section 32-2204, subsection C.

4. Written reports of an investigative committee that are prepared pursuant to subsection B of this section.

5. Written statements of the board that are prepared pursuant to subsection C of this section.

Sec. 12. Section 32-2239, Arizona Revised Statutes, is amended to read:

32-2239. Duty of veterinarian to report suspected abuse, cruelty, neglect or animal fighting; immunity

~~A. A veterinarian shall report in writing concerning any dog fighting or animal abuse to a local law enforcement agency in the county where the veterinarian is practicing within thirty days of any examination or treatment administered to any dog or any animal which the veterinarian reasonably suspects and believes has participated in an organized dog fight or any animal which the veterinarian reasonably suspects and believes has been abused. The report shall contain the breed and description of the dog or any animal together with the name and address of the owner.~~

A. A VETERINARIAN WHO REASONABLY SUSPECTS OR BELIEVES THAT AN ANIMAL HAS BEEN A VICTIM OF ABUSE, CRUELTY OR NEGLECT OR HAS BEEN INVOLVED IN ANIMAL FIGHTING SHALL REPORT THAT SUSPICION, OR CAUSE A REPORT TO BE MADE, TO LAW ENFORCEMENT WITHIN FORTY-EIGHT HOURS AFTER TREATMENT OR EXAMINATION. THE REPORT SHALL INCLUDE THE BREED AND DESCRIPTION OF THE ANIMAL AND THE NAME AND ADDRESS OF THE OWNER OR PERSON WHO SOUGHT THE EXAMINATION OR TREATMENT. VETERINARY RECORDS SHALL BE PROVIDED TO LOCAL LAW ENFORCEMENT ON REQUEST IN FURTHERANCE OF ANY CRIMINAL INVESTIGATION FOR ABUSE, CRUELTY, NEGLECT OR ANIMAL FIGHTING.

B. A veterinarian shall report, in writing, suspected cases of abuse of livestock to the associate director of the division of animal services in the Arizona department of agriculture pursuant to title 3, chapter 11, article 1. The report shall be made within ~~thirty days of~~ FORTY-EIGHT HOURS AFTER treatment or examination and shall include the breed and description of the animal together with the name and address of the owner.

C. A veterinarian who files a report as provided in this section shall be immune from civil liability with respect to any report made in good faith.

Sec. 13. Section 32-2241, Arizona Revised Statutes, is amended to read:

32-2241. Certified veterinary technician; services performed

A CERTIFIED veterinary technician may perform those services authorized by the board pursuant to section 32-2245 in the employ of and under the direction, supervision and control of a licensed veterinarian who shall be responsible for the performance of the CERTIFIED veterinary technician. Compensation for such authorized services shall be derived solely from the employing veterinarian.

Sec. 14. Section 32-2242, Arizona Revised Statutes, is amended to read:

32-2242. Application for certification as veterinary technician; qualifications

A. A person desiring to be certified as a veterinary technician shall make written application to the board upon a form furnished by the board.

B. The applicant shall be of good moral character and at least eighteen years of age and shall furnish ~~one of the following:~~

~~1.~~ satisfactory evidence of graduation from a two-year curriculum in veterinary technology, or the equivalent of such graduation as determined by the board, in a college or other institution approved by the board.

~~2. Satisfactory evidence that the applicant has been employed for at least two years as a veterinary assistant under the supervision of a veterinarian regularly licensed in this state and is recommended to the board by the employing veterinarian or veterinarians.~~

C. The application shall be accompanied by the application and examination fee established by the board.

D. AN APPLICANT FROM ANOTHER STATE IS NOT REQUIRED TO RETAKE THE VETERINARY TECHNICIAN NATIONAL EXAMINATION IF THE APPLICANT CAN PROVIDE ALL OF THE FOLLOWING:

1. PROOF THAT THE APPLICANT'S ORIGINAL SCORE MEETS THE MINIMUM SCORE REQUIRED BY THE BOARD.

2. PROOF THAT THE APPLICANT HOLDS AN ACTIVE LICENSE IN GOOD STANDING IN ANOTHER STATE OR IN CANADA.

3. PROOF OF EMPLOYMENT AS A VETERINARY TECHNICIAN IN TWO OF THE PRECEDING FOUR YEARS OR FOUR OF THE PRECEDING SEVEN YEARS.

Sec. 15. Section 32-2244, Arizona Revised Statutes, is amended to read:

32-2244. Certificate

An applicant who passes the examination prescribed by the board ~~shall~~, ~~upon~~ ON payment of the fee established by the board WITHIN ONE YEAR AFTER PASSING THE EXAMINATION, SHALL receive a certificate in a form prescribed by the board.

Sec. 16. Section 32-2245, Arizona Revised Statutes, is amended to read:

32-2245. Certified veterinary technician; services; rules and regulations

A. The board shall adopt rules and regulations pertaining to and limiting the services performed by a CERTIFIED veterinary technician.

B. Services performed by a CERTIFIED veterinary technician shall not include surgery, diagnosis or prognosis of animal diseases or prescribing of drugs and medicine.

Sec. 17. Section 32-2247, Arizona Revised Statutes, is amended to read:

32-2247. Renewal of expired certificates

Except as otherwise provided in this article, an expired certificate may be renewed at any time within ~~five~~ THREE years after its expiration on filing of application for renewal on a form prescribed by the board and payment of the renewal fee in effect on the last preceding regular renewal date. Except as provided in section 32-4301, if the certificate is renewed more than thirty days after its expiration, the applicant as a condition precedent to renewal shall also pay the delinquency fee established by the board. Renewal under this section shall be effective on the date on which the application is filed, on the date the renewal fee is paid or on the date on which the delinquency fee, if any, is paid, whichever occurs last.

Sec. 18. Section 32-2248, Arizona Revised Statutes, is amended to read:

32-2248. Renewal of certification; certificates expired three years or more

Except as provided in section 32-4301, a person who fails to renew a certificate within ~~five~~ THREE years after its expiration may not renew it, and it shall not be restored, reissued or reinstated thereafter, but such person may apply for and obtain a new certificate if:

1. The applicant is of good moral character.

2. No fact, circumstance or condition exists which, if the certificate were issued, would justify its revocation or suspension.

3. The applicant takes and passes the examination, if any, which would be required on application for certification for the first time.

4. All fees are paid which would be required on application for certification for the first time.

Sec. 19. Section 32-2249, Arizona Revised Statutes, is amended to read:

32-2249. Revocation or suspension of certificate; grounds; emergency care by technician; letter of concern

A. Except as provided in subsection B OF THIS SECTION, the board may revoke or suspend a certificate or place a CERTIFIED VETERINARY technician on probation for any of the following reasons:

1. The employment of fraud, misrepresentation or deception in obtaining certification.

2. Conviction on a charge of cruelty to animals or conviction of a felony, in which case the record of such conviction will be conclusive evidence.

3. Chronic inebriety or habitual use of narcotics, dangerous drugs or controlled substances.

4. Gross ignorance or inefficiency in connection with the performance of technical procedures in veterinary medicine.

5. Representing himself as a doctor of veterinary medicine.

6. Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation or conspiracy to violate any of the provisions of this chapter, a rule adopted under this chapter or a written order of the board issued pursuant to this chapter.

7. Practicing veterinary medicine.

8. Gross incompetence or gross negligence.

9. Following orders that are in violation of this chapter or rules adopted pursuant to this chapter.

B. In an emergency, a CERTIFIED VETERINARY technician may render emergency care or first aid if the technician is supervised telephonically by a licensed veterinarian or until a licensed veterinarian arrives. This does not preclude emergency care as outlined in section 32-2261.

C. IF THE BOARD RECEIVES INFORMATION INDICATING THAT A CERTIFIED VETERINARY TECHNICIAN MAY HAVE ENGAGED IN UNPROFESSIONAL OR DISHONORABLE CONDUCT AND IT APPEARS AFTER INVESTIGATION THAT THE INFORMATION MAY BE TRUE, THE BOARD MAY REQUEST AN INFORMAL INTERVIEW. IF THE CERTIFIED VETERINARY TECHNICIAN REFUSES THE INTERVIEW OR IF OTHER EVIDENCE RELATING TO THE TECHNICIAN'S PROFESSIONAL COMPETENCE INDICATES THAT DISCIPLINARY ACTION SHOULD BE TAKEN, THE BOARD MAY TAKE THE ACTION AS PRESCRIBED BY SUBSECTION A OF THIS SECTION.

D. IF, AS A RESULT OF INFORMATION ASCERTAINED DURING AN INVESTIGATION, INFORMAL INTERVIEW OR FORMAL HEARING OF A CERTIFIED VETERINARY TECHNICIAN, THE BOARD HAS CONCERN FOR THE CERTIFIED VETERINARY TECHNICIAN'S CONDUCT BUT HAS NOT FOUND THE CONDUCT TO BE A REASON LISTED IN SUBSECTION A OF THIS SECTION, THE BOARD MAY ISSUE A LETTER OF CONCERN TO THE TECHNICIAN REGARDING THE TECHNICIAN'S CONDUCT.

APPROVED BY THE GOVERNOR APRIL 27, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 28, 2010.