

No. 326

AN ACT

HB 1276

Regulating the practice of veterinary medicine and imposing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.—This act shall be known and may be cited as the “Veterinary Medicine Practice Act.”

Section 2. Legislative Intent and Purpose.—It is hereby declared that the practice of veterinary medicine is a privilege which is granted by legislative authority in the interest of the public health, safety and welfare and to protect the public from being misled by incompetent, unscrupulous and unauthorized persons and from unprofessional or illegal practices by persons licensed to practice veterinary medicine. This act is enacted in the interest of society, health, safety and welfare of Pennsylvanians.

Section 3. Definitions.—As used in this act:

(1) “Board” means the Pennsylvania State Board of Veterinary Medical Examiners.

(2) “Rule” means any regulation, standard or statement of policy adopted by the board to implement, interpret or clarify the law which it enforces and administers and which governs its duties, functions, organization and procedures.

(3) “Hearing” means any proceeding initiated before the board in which the legal rights, duties, privileges or immunities of a specific party or parties are determined.

(4) “Complainant” means the board or any other person who initiates a proceeding.

(5) “Respondent” means any person against whom a proceeding is initiated.

(6) “License” means any permit, approval or certificate issued by the board.

(7) “Temporary permit” means temporary permission to practice veterinary medicine issued pursuant to section 10.

(8) “Veterinary college” means any veterinary school, legally organized, whose course of study in the art and science of veterinary medicine shall have been approved by the board and placed on its published list of approved schools.

(9) “Licensed doctor of veterinary medicine” means a person qualified by educational training and experience in the science and techniques of veterinary medicine and who is currently licensed by the board to practice veterinary medicine.

(10) "Veterinary medicine" means that branch of medicine which deals with the diagnosis, prognosis, treatment, administration, prescription, operation or manipulation or application of any apparatus or appliance for any disease, pain, deformity, defect, injury, wound or physical condition of any animal or for the prevention of or the testing for the presence of any disease.

(11) "Practice of veterinary medicine" includes, but is not limited to, the practice by any person who (i) diagnoses, prescribes, or administers a drug, medicine, biological product, appliance, application, or treatment of whatever nature, for the prevention, cure or relief of a wound, fracture or bodily injury or disease of animals, (ii) performs a surgical operation, including cosmetic surgery, upon any animal, (iii) performs any manual procedure upon an animal for the diagnosis or treatment of sterility or infertility of animals, (iv) represents himself as engaged in the practice of veterinary medicine, (v) offers, undertakes, or holds himself out as being able to diagnose, treat, operate, vaccinate, or prescribe for any animal disease, pain, injury, deformity, or physical condition or (vi) uses any words, letters, or titles in such connection or under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine and such use shall be prima facie evidence of the intention to represent himself as engaged in the practice of veterinary medicine.

Section 4. Pennsylvania State Board of Veterinary Medical Examiners.—The State Board of Veterinary Medical Examiners, hereinafter called the board, shall be created, appointed and organized in accordance with the provisions of "The Administrative Code of 1929."

Section 5. Board Duties, Rights, Privileges and Powers.—The board may:

(1) Adopt reasonable rules and regulations governing the practice of veterinary medicine as are necessary to enable it to carry out and make effective the purpose and intent of this statutory law.

(2) Adopt rules and regulations of professional conduct appropriate to establish and maintain a high standard of integrity, skills and practice in the profession of veterinary medicine. In prescribing such rules of professional conduct the board shall be guided by the Principles of Veterinary Medical Ethics adopted by the American Veterinary Medical Association and the Pennsylvania Veterinary Medical Association.

(3) Have its rules printed, which shall be distributed to all licensed doctors of veterinary medicine.

(4) Administer and enforce the law and rules and regulations regulating the practice of veterinary medicine.

(5) Hold at least two regular meetings each year at a place on and such dates as the board may select for the purpose of conducting examinations of applicants for license to practice veterinary medicine.

(6) Pass upon the qualifications of applicants for a license to practice veterinary medicine.

(7) Prescribe the subject, character, manner, time and place of holding examinations and the filing of applications for examinations and to conduct examinations.

(8) Issue temporary permits to duly qualified applicants which shall be signed by the chairman and attested by the secretary under its adopted seal.

(9) Provide for, regulate and require all persons licensed in accordance with the provisions of this act to register their license biennially, to require as a condition precedent to such biennial registration the payment of the biennial registration fee as provided herein, to issue biennial registration certificates to such persons and to suspend or revoke the registration of such persons who fail, refuse or neglect to register same or pay such fees.

(10) Conduct investigations and hearings upon complaints calling for discipline of a licensee.

(11) Have issued summons and subpoenas for any witnesses or subpoenas duces tecum in connection with any matter within the jurisdiction of the board.

(12) Adopt such forms as it may deem necessary.

Section 6. Board to Keep Records.—The board shall keep records of its proceedings especially with relation to the issuance, denial, registration, suspension and revocation of license to practice veterinary medicine. All licenses issued by the board shall be numbered and recorded by the secretary and a file kept for that purpose and such file or record shall be open to public inspection. In all actions or proceedings in any court a transcript of any record or any part thereof, which is certified to be a true copy by the secretary, shall be entitled to admission in evidence.

Section 7. Certain Information of Board Confidential.—Information received by the board through inspections and investigations shall be confidential and shall not be disclosed except in a proceeding involving the question of licensure.

Section 8. Board May Approve Schools and Colleges of Veterinary Medicine.—The board may approve schools and colleges of veterinary medicine which maintain standards of training and reputability sufficient to admit their graduates to the examinations given by the board.

Section 9. Applicants for License to Practice Veterinary Medicine; Qualifications.—(a) Any person wishing to practice veterinary medicine in this State shall obtain a license from the board and maintain

registration. Unless such person shall have obtained such a license it shall be unlawful for him to practice veterinary medicine as defined herein and if he shall so practice he shall be deemed to have violated the provisions of this act.

(b) The board may license any applicant who submits satisfactory evidence that he:

(1) Is eighteen years of age or over.

(2) Is a graduate from an approved school or college of veterinary medicine or in lieu thereof certification acceptable as equivalent to proof of graduation from an approved school or college of veterinary medicine.

(3) Has passed a license examination administered by the board.

Section 10. Applicants for Temporary Permits; Condition; Fee.—The board may issue, without examination, a temporary permit to practice veterinary medicine to an applicant for admission to the examination provided such applicant meets all conditions and requirements relating to the qualification of applicants for a license to practice veterinary medicine and provided further any person applying for a temporary permit shall associate himself with a licensed doctor of veterinary medicine and his work shall be limited to the practice of the licensed doctor of veterinary medicine and he shall not participate in any practice or operation of a branch office, clinic, or allied establishment. The permit, when granted, shall bear the name and address of a licensed doctor of veterinary medicine. The applicant must present himself for examination at the next scheduled examination of the board. There shall be a fee of at least fifty dollars (\$50) for the permit, twenty-five dollars (\$25) of which shall be applied towards the examination fee, but shall be forfeited if the applicant fails to present himself at the next scheduled examination, and the permit shall terminate and the applicant is disqualified to practice veterinary medicine. No more than two temporary permits may be issued to any one applicant. Such temporary permit shall expire on the day following the announcement of the grades of the first examination given after such temporary permit is issued. No temporary permit shall be issued to any applicant if he has previously failed the examination.

Section 11. Additional Duties of Board of Examiners.—(a) It shall further be the responsibility of the board to promulgate the qualifications and requirements for the licensure, or registration and regulation of animal technicians and the board shall have authority to establish reasonable fees for licensure or registration as hereinafter provided in this act.

(b) An animal technician is any person employed within the field of veterinary medicine within the meaning of this act who for compensation or personal profit is employed by, or under the supervision of, a veterinarian, to perform such duties as are required in

the physical care of animals and in carrying out of assignments directed by a licensed veterinarian and requiring an understanding of animal science but not requiring the professional services of a licensed veterinarian.

Section 12. Application for Examination; Time for Filing Form.—Any person desiring to take the examination for a license to practice veterinary medicine shall make application at least thirty days before the examination on a form provided by the board. The application shall be accompanied by such evidence as is required to show the eligibility of the applicant. All applications shall be in accordance with the rules of the board and shall be signed and sworn to by the applicant.

Section 13. Fees.—(a) Each person applying for a license to practice veterinary medicine shall pay such fee as is currently stated by the board. The fee shall be paid upon the filing of the application.

(b) By November 1 of every second year beginning with the year when this act becomes effective, the Commissioner of Professional and Occupational Affairs, shall in accordance with section 810 of "The Administrative Code of 1929" fix fees to be charged under this act for the ensuing two years.

Section 14. Fees Not to Be Returned.—Fees shall not be returned under any circumstances regardless of whether the applicant is accepted for examination, fails the examination, withdraws his application, or is issued or denied a license: Provided, however, That if an applicant fails to take the examination he may take same at a later time without having to pay another examining fee.

Section 15. Notice of Examination.—The board shall give notice of the time and place of all examinations in such manner as the board may deem expedient.

Section 16. Examination of Applicants.—(a) The examination of applicants for license to practice veterinary medicine shall be conducted according to the methods deemed by the board to be the most practical and expeditious to test the applicant's ability and qualifications.

(b) The minimum passing grade shall be established by the board.

(c) Each applicant shall be designated by a number instead of by name so that his identity shall not be disclosed to members of the board until after the examination papers are graded.

(d) All examination papers shall be filed with the secretary of the board who shall make a record of the grade of each applicant on each subject and said grade shall be a part of the examination papers which shall be preserved for two years.

Section 17. License to Be Displayed.—Each person to whom a license is issued shall keep such license conspicuously displayed in his principal office, place of business, or place of employment and shall, whenever required, exhibit said license to any member or authorized

representative of the board. Duplicate licenses for additional offices or branch offices may be obtained from the board for a fee established by the board.

Section 18. Biennial Educational Requirements.—Each license holder under this act shall be required to attend eight clock hours of educational programs in the twenty-four months preceding each renewal date. Certification of such attendance shall be in accordance with provisions of the board. All such educational programs shall be first approved by the board and shall meet the standards to be promulgated by the board to ensure that the programs meet the educational and professional requirements of the profession and are designed to keep the members of the profession abreast with current learning and scholarship.

Section 19. Restoration of License Suspended for Failure to Register.—Any person whose license has been suspended for failure to make biennial registration over a period not exceeding five years may have same reinstated on compliance with the following:

(1) Presentation to the board of satisfactory evidence of having completed an approved educational program in the year immediately preceding the application for reinstatement provided such was required of other licensees.

(2) Payment of all fees that would have been paid if he had maintained his license in good standing plus a special reinstatement fee as determined by the board.

Section 20. Reissue of Revoked License.—(a) The board, by majority vote at any time after revocation of a license for good and sufficient cause, may reissue a license to the person affected conferring upon him all the rights and privileges pertaining to the practice of veterinary medicine.

(b) Any person to whom such license may be reissued shall pay therefor the same fee as upon the issuance of the original license.

Section 21. Grounds for Disciplinary Proceedings.—The board shall immediately suspend or revoke any license or otherwise discipline an applicant or licensee who is found guilty by the board or by a court of one or more of the following:

(1) Wilful or repeated violations of any provisions of this act or any of the rules and regulations of the board.

(2) Fraud or deceit in the procuring or attempting to procure a license to practice veterinary medicine or presenting to the board dishonest or fraudulent evidence of qualifications. Fraud or deception in the process of examination for the purpose of securing a license.

(3) The wilful failure to display a license.

(4) Fraud, deception, misrepresentation, dishonest or illegal practices in or connected with the practice of veterinary medicine.

(5) Wilfully making any misrepresentation in the inspection of food for human consumption.

(6) Fraudulently issuing or using any health certificate, inspection certificate, vaccination certificate, test chart or other blank forms used in the practice of veterinary medicine to prevent the dissemination of animal disease. Transportation of diseased animals or the sale of inedible products of animal origin for human consumption.

(7) Fraud or dishonesty in applying, treating or reporting on any diagnostic or other biological test.

(8) Failure to keep the equipment and premises of the business establishment in a clean and sanitary condition.

(9) Refusing to permit the board, or duly authorized representatives of the board, to inspect the business premises of the licensee during regular business hours.

(10) Circulating untrue, fraudulent, misleading or deceptive advertising.

(11) Gross malpractice.

(12) Engaging in practices in connection with the practice of veterinary medicine which are in violation of the standards of professional conduct as defined herein or prescribed by the rules of the board.

(13) Revocation or suspension by another state of a license to practice veterinary medicine in that state on grounds similar to those which in this State allow disciplinary proceedings, in which case the record of such revocation or suspension shall be conclusive evidence.

(14) Conviction of a violation of "The Controlled Substance, Drug, Device and Cosmetic Act" in which case a record of conviction shall be conclusive evidence.

(15) Conviction of a felony in the courts of this State or any other state, territory or country which, if committed in this State, would be deemed a felony and suspension or revocation of the license is in the best interest of the public health and the general safety and welfare of the public.

A record of conviction in a court of competent jurisdiction shall be sufficient evidence for disciplinary action to be taken as may be deemed proper by the board.

(16) Permitting or allowing another to use his license for the purpose of treating or offering to treat sick, injured or afflicted animals.

(17) Engaging in the practice of veterinary medicine under a false or assumed name or the impersonation of another practitioner of a like, similar or different name.

(18) Maintaining a professional or business connection with any other person who continues to violate any of the provisions of this act or rules of the board after ten days' notice in writing by the board.

(19) Addiction to the habitual use of intoxicating liquors, narcotics or stimulants to such an extent as to incapacitate him from the performance of his professional obligations and duties.

(20) Professional incompetence.

(21) The wilful making of any false statement as to material matter in any oath or affidavit which is required by this act.

(22) Knowingly maintaining a professional connection or association with any person who is in violation of this act or regulation of the board or knowingly aiding, assisting, securing, advising, or having in the licensee's employment any unlicensed person to practice veterinary medicine contrary to this act or regulations of the board.

Section 22. Hearing Guaranteed.—The board shall not deny, suspend, revoke, refuse to renew, limit or condition a license, right, authority or privilege without first giving the person possessing, enjoying or applying for same, an opportunity to be heard unless otherwise provided.

Section 23. Hearing on Suspensions and Revocations of Licenses and Registrations Appeals.—Before the license of any licensee or any registration is suspended or revoked by the board, a written copy of the complaint shall be furnished to the licensee or registrant against whom the same is directed and an opportunity be afforded him or her to be heard before the board personally and by counsel. At least ten days' written notice of the time and place of such hearing shall be given the licensee or registrant by registered mail addressed to the post office address as shown on the biennial registration or other record or information in possession of the board. Any person aggrieved by the action of the board in suspending or revoking a license or registration, or by any other action of the board, which is alleged to be improper, unreasonable or unlawful may appeal from such action of the board in writing to the Commonwealth Court in accordance with the act of June 4, 1945 (P.L.1388, No.442), known as the "Administrative Agency Law." No such appeal shall act as a supersedeas, except on special allowance of the court before which the appeal is pending.

Section 24. Disciplinary Action Authorized; Revocation; Suspension; Denial of License; Probation, Etc.—The board shall have authority to enter an order to discipline any person who, after proper hearing, has been found guilty by the board of a violation, of one or more provisions of this act or any rule or regulation of the board. The board, based upon the evidence and its finding of fact, may enter its final order which may include one of the following provisions:

(1) Suspend or limit the right to practice veterinary medicine in the State for a period not to exceed two years.

(2) Revoke the license to practice veterinary medicine. Following revocation of such license the licensee may be relicensed at the discretion of the board with or without examination.

(3) Suspend the imposition of judgment and penalties.

(4) Impose judgment and penalties but suspend enforcement thereof and place the licensee or applicant for license on probation.

(5) Refuse to issue or renew a license.

(6) Withhold any license, either permanently or for a period of time, when the same has not been delivered.

(7) Take such other action in relation to disciplining as the board in its discretion may deem proper.

Section 25. Procedure After Order.—Immediately upon the entry of the final order by the board a copy thereof shall be delivered to the respondent and his counsel, if any, either personally or by registered or certified mail.

Section 26. Rehearing.—The board shall have a discretion to grant a rehearing if applied for within thirty days. For good cause the time may be extended.

Section 27. Enforcement Duties and Powers.—The enforcement of the laws and rules regulating the practice of veterinary medicine is primarily vested in the board with the following powers and duties:

(1) To employ investigators and clerical assistants or any other necessary personnel.

(2) To inspect all animal hospitals or veterinary establishments to determine sanitary conditions, physical equipment and methods of operation.

(3) To inspect the licenses.

(4) Conduct investigations of alleged violations.

Section 28. Penalties.—Any person who violates any of the provisions of this act or the rules of the board adopted pursuant hereto shall, upon conviction, be sentenced to pay a fine not exceeding five hundred dollars (\$500) or to imprisonment not exceeding six months, or both. The violations set forth herein whereby the board can discipline the holder of a license issued under this act, are specifically made a misdemeanor and shall be prosecuted and upon conviction shall be punished according to this section.

Section 29. Penalty for Filing Diploma of Another or Forged Diploma.—Any person filing or attempting to file, as his own, the diploma of another, or a forged or fictitious or fraudulently obtained diploma or certificate, upon conviction shall be subject to such fine and imprisonment as provided by the statutes of this State for the crime of forgery.

Section 30. Injunctions When Authorized.—In addition to the penalties herein provided, the board may institute legal proceedings to enjoin the violation of the provisions of this law or rules of the board in the court of common pleas in the judicial district wherein the violation is occurring or in the Commonwealth Court and the court may grant a temporary or permanent injunction restraining the violation thereof.

Section 31. Civil Liability for Practicing Veterinary Medicine Without a License or Permit.—In addition to the penalties imposed under section 28 of this act, any person who practices veterinary medicine without a license shall return any fees he collects for practicing veterinary medicine and shall be liable for any damages resulting from negligence.

Section 32. Exemptions and Exceptions.—This act shall not apply to:

(1) Students in schools or colleges of veterinary medicine in the performance of duties or actions assigned by their instructors or when working under the immediate supervision of a licensee.

(2) Any lawfully qualified doctor of veterinary medicine residing in some other state or country when meeting in consultation with a licensed doctor of veterinary medicine of this State.

(3) Any doctor of veterinary medicine in the employ of the United States Government while actually engaged in the performance of his official duties: Provided, however, That this exemption shall not apply to such person when he is not engaged in carrying out his official duties or is not working at the installations for which his services were engaged.

(4) Any person or his regular employe while practicing veterinary medicine on his own animals.

(5) Accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine or persons under the direct supervision thereof, which or who conduct experiments, and scientific research on animals in the development of pharmaceuticals, biologicals, serums, or methods of treatment or techniques for the diagnosis or treatment of human ailments or when engaged in the study and development of methods and techniques directly or indirectly applicable to the problems and practice of veterinary medicine.

(6) Any nurse, laboratory technician, intern or other employe of a licensed doctor of veterinary medicine when administering medication or rendering auxiliary or supporting assistance under the responsible supervision of such licensed practitioner.

(7) Any person performing normal husbandry practices on bovine, porcine, caprine, ovine or equine animals or avis.

Section 33. Associated Employment of Unlicensed Personnel by Licensed Doctors of Veterinary Medicine.—A licensed doctor of veterinary medicine may employ or be associated with a person who has obtained a temporary permit provided the services of such person will be limited to the practice of the licensed doctor of veterinary medicine.

Section 34. Abandonment of Animals by Owner; Procedure for Handling.—(a) Any animal placed in the custody of a licensed doctor of veterinary medicine for treatment, boarding, or other care which shall

be abandoned by its owner or his agent for a period of more than ten days after written notice by registered return receipt mail is given to the owner or his agent at his last known address and return receipt is received by the doctor, may be turned over to the custody of the nearest Humane Society or dog pound in the area for disposal after thirty days as such custodian may deem proper. During such thirty day period, the animal may be released only to the owner or his agent.

(b) The giving of notice to the owner, or the agent of the owner, of such animal by the licensed doctor of veterinary medicine as provided in subsection (a) and receipt of return receipt by the doctor which he shall retain for thirty days, shall relieve the doctor of veterinary medicine, and any custodian to whom such animal may be given of any further liability for disposal. It is further provided that such procedure by the licensed doctor of veterinary medicine shall not constitute grounds for disciplinary procedure under this act.

(c) For the purpose of this section, the term "abandonment" means to forsake entirely or to neglect or refuse to provide or perform the legal obligations for the care and support of an animal by its owner or his agent. Such abandonment shall constitute relinquishment of all rights and claims by the owner to such animal.

Section 35. Transitory Provisions.—(a) Every license, certificate, permit or order of the board in force on the effective date of this act, and which was issued under any law herein repealed, is valid until its expiration date, if any, unless earlier terminated, revoked or suspended.

(b) Any person holding a license to practice veterinary medicine in this State which is valid on the effective date of this act shall be deemed to be licensed to practice veterinary medicine under this act and shall be subject to all the provisions thereof.

(c) All rules adopted by the board and in effect immediately prior to the effective date of this act, which are not in direct conflict with any provision herewith, shall remain in full force and effect unless and until repealed, modified or amended by the board.

(d) All persons who were members of the board immediately prior to the effective date of this act shall serve as members of the board until the expiration of the term to which each member was appointed.

(e) This act shall not impair or affect any act done, offense committed, or right accruing, accrued, or acquired for liability, penalty, forfeiture or punishment incurred prior to the time this act takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this act had not been passed.

Section 36. Repeals.—The act of April 27, 1945 (P.L.321, No.141), known as "The Veterinary Law," is repealed.

APPROVED—The 27th day of December, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly
No. 326.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive style with a large initial "C" and a prominent "T" at the end.

Secretary of the Commonwealth.