

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

—
S.P. 288 - L.D. 814

An Act To Update the Maine Veterinary Practice Act

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA §3939-A, sub-§2, as enacted by PL 2007, c. 439, §23, is amended to read:

2. Detrimental to health. If a licensed veterinarian or licensed veterinary technician as defined in Title 32, section 4853 determines that a dog or cat is too sick or injured or that it would otherwise be detrimental to the health of the dog or cat to be spayed or neutered within 30 days of placement, the animal shelter or rescue group shall collect a deposit of not less than \$50 and not more than \$150 at the time of sale or placement. The animal shelter or rescue group shall determine the amount of the deposit based on the cost of spaying or neutering within the geographic area served by the animal shelter or rescue group. A person accepting ownership of the dog or cat under this subsection shall sign an agreement to have the animal sterilized as soon as it is medically advisable.

Upon receipt of proof of sterilization, the animal shelter or rescue group shall immediately and fully refund the deposit.

Sec. 2. 32 MRSA §4851, as enacted by PL 1975, c. 477, §4, is amended to read:

§4851. Legislative findings

The Legislature finds and declares that the public health, safety and welfare of the State of Maine requires the exercise of the police powers of this State to safeguard the people of Maine ~~from incompetent, dishonest or unprincipled practitioners of veterinary medicine~~ by ensuring the delivery of competent veterinary medical care and further that the right to practice veterinary medicine is a privilege conferred by legislative grant to persons possessed of personal and professional qualifications specified in this chapter.

Sec. 3. 32 MRSA §4853, sub-§1-A, as enacted by PL 1993, c. 404, Pt. A, §3, is amended to read:

1-A. Veterinary assistant. ~~"Animal health assistant"~~ "Veterinary assistant" means a person employed in a veterinary facility to assist a licensed veterinarian or a licensed veterinary technician, but who has neither had the formal training required for licensure nor passed the required examination for licensure as a veterinary technician.

Sec. 4. 32 MRSA §4853, sub-§4-A, as amended by PL 1997, c. 246, §3, is further amended to read:

4-A. Direct supervision. "Direct supervision" means any time when a supervisor is on the premises ~~or~~ and is quickly and easily available.

Sec. 5. 32 MRSA §4853, sub-§4-B, as enacted by PL 1993, c. 404, Pt. A, §5, is amended to read:

4-B. Indirect supervision. "Indirect supervision" means any time when a supervisor is not on the premises; ~~but that supervisor has issued written or oral instructions pertaining to the treatment of animal patients~~ is available for consultation on patient care.

Sec. 6. 32 MRSA §4853, sub-§5-A is enacted to read:

5-A. Patient. "Patient" means an animal or group of animals examined or treated by a veterinarian.

Sec. 7. 32 MRSA §4853, sub-§7, as repealed and replaced by PL 1997, c. 246, §4, is amended to read:

7. Practice of veterinary medicine. "Practice of veterinary medicine" means:

A. The diagnosis, treatment, correction, change, relief or prevention of animal disease, deformity, defect, injury or other physical or mental condition, including the prescription or administration of a drug, medicine, biologic, apparatus, application, anesthetic or other imaging, therapeutic or diagnostic technique or nutritional substance or technique on, for or to any animal, including, but not limited to, acupuncture, dentistry, homeopathic or chiropractic procedures, physical or massage therapy, surgery including ~~cosmetic elective surgery, implanting of microchips or similar devices~~ or any manual, mechanical, biological or chemical procedure used for pregnancy testing or correcting sterility or infertility;

~~B. The removal of an embryo from an animal for the purposes of transferring that embryo into another female animal or the processing or cryopreserving of that embryo. The practice of veterinary medicine does not include the removal of an embryo from the person's own animal;~~

C. The representation directly or indirectly of an ability and willingness to perform an act included in paragraph A; and

D. The use of any titles, word or abbreviations of letters in a manner or under circumstances that induce the belief that the person using them is legally authorized and qualified to perform any act included in paragraph A. That use is prima facie evidence of the intention to represent oneself as engaged in the practice of veterinary medicine.

The practice of veterinary medicine must occur within an established veterinarian-client-patient relationship.

Sec. 8. 32 MRSA §4853, sub-§7-B is enacted to read:

7-B. Practice of veterinary technology. "Practice of veterinary technology" means:

A. The performance of patient care or other services that require a technical understanding of veterinary medicine on the basis of written or oral instructions of a veterinarian. "Practice of veterinary technology" does not include diagnosing, making prognoses, performing surgery or prescribing a drug, medicine, biologic, apparatus, application, anesthetic or other imaging, therapeutic or diagnostic technique or nutritional substance or technique on, for or to any patient;

B. The representation directly or indirectly of an ability and willingness to perform an act authorized under paragraph A; and

C. The use of any titles, word or abbreviations of letters in a manner or under circumstances that induce the belief that the person using them is legally authorized and qualified to perform any act authorized under paragraph A. That use is prima facie evidence of the intention to represent oneself as engaged in the practice of veterinary technology.

Sec. 9. 32 MRSA §4853, sub-§8-A, as enacted by PL 1993, c. 404, Pt. A, §5, is amended to read:

8-A. Supervisor. "Supervisor" means a licensed veterinarian or, if the task being supervised warrants, a licensed veterinary technician.

Sec. 10. 32 MRSA §4853, sub-§11, as enacted by PL 1993, c. 404, Pt. A, §5, is amended to read:

11. Licensed veterinary technician. "~~Veterinary~~ Licensed veterinary technician" means a person who has completed a minimum of 2 years in a college program that is certified according to the standards adopted by the American Veterinary Medical Association's Committee on Veterinary Technician Education and Activities or an equivalent program, as determined by the board, and who has passed an examination for licensure prescribed by the board.

Sec. 11. 32 MRSA §4859, sub-§2, as amended by PL 2007, c. 402, Pt. R, §4, is further amended to read:

2. License; set standards. Grant and deny licenses and set standards of practice for veterinarians practicing veterinary medicine in this State and for the performance of duties by licensed veterinary technicians;

Sec. 12. 32 MRSA §4859, sub-§9, as enacted by PL 2011, c. 190, §11, is amended to read:

9. Veterinarian health program. The board may establish protocols for the operation of a professional review committee as defined in Title 24, section 2502,

subsection 4-A. The protocols must include the committee's reporting information the board considers appropriate regarding reports received, contracts or investigations made and the disposition of each report, as long as the committee is not required to disclose any personally identifiable information. The protocol may not prohibit an impaired veterinarian or licensed veterinary technician from seeking alternative forms of treatment.

The board has the power to contract with other agencies, individuals, firms or associations for the conduct and operation of a veterinarian health program operated by a professional review committee.

Sec. 13. 32 MRSA §4860, first ¶, as amended by PL 1983, c. 48, §3, is further amended to read:

~~No~~ A person may not practice veterinary medicine in this State who is not a licensed veterinarian or the holder of a ~~valid temporary permit or permit for the performance of relief veterinary service issued by the board.~~ This ~~shall~~ section does not apply to:

Sec. 14. 32 MRSA §4861, as amended by PL 2011, c. 189, §1, is further amended to read:

§4861. Application for license; qualifications and examination

A person desiring a license to practice veterinary medicine in this State must make written application and pay the license fee as set under section 4863-A. The application must show that the applicant holds a doctorate degree in veterinary medicine from an approved veterinary medicine program that is recognized by the United States Department of Education and by the board, and is trustworthy and competent and provide such other information and proof as the board may establish by rule. The board may adopt rules applicable to graduates of approved veterinary medicine programs by the Commissioner of Education and rules applicable to foreign educated graduates who can demonstrate equivalent education and training. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

1-A. Examinations. ~~Examinations, written or practical, must be prepared to measure the competence of an applicant to engage in the practice of veterinary medicine.~~ The board may ~~also~~ test an applicant's knowledge of the laws and rules relating to the practice of veterinary medicine. The board may require successful completion of an equivalency examination or assessment mechanism for foreign educated and trained applicants that is designed to evaluate educational equivalence, including clinical competencies and a command of the English language.

The board may employ and cooperate and contract with an organization or consultant in the preparation, administration and grading of an examination, but retains sole discretion and responsibility for determining which applicants have successfully passed the examination. The applicant shall pay the examination fee as set under section 4863-A.

~~**3. Temporary permit.** The board may issue without examination a temporary permit to practice veterinary medicine in this State to a qualified applicant for license pending examination. A temporary permit issued pursuant to this subsection expires the~~

~~day after the notice of results of the first examination given after the permit is issued. The applicant shall pay the temporary permit fee set under section 4863-A.~~

4. Permit for performance of relief veterinary service. The board may issue without examination a permit to perform relief veterinary service in this State to a qualified person who holds a doctorate degree in veterinary medicine from an approved veterinary medicine program that is recognized by the United States Department of Education and by the board or by rules of the board applicable to foreign educated graduates, and who holds a current license for the practice of veterinary medicine issued by another state, United States territory, province of Canada or other jurisdiction. The board may establish, by rule, the application process. The initial term of a permit issued under this subsection may not exceed 30 days. Extensions may be granted in the discretion of the board. The applicant shall pay the relief permit fee as set under section 4863-A.

4-A. Request by state veterinarian. Upon the request by the state veterinarian to the board for emergency situations as determined by the state veterinarian, a veterinarian licensed in another state may practice in the State for a period not to exceed 30 days without a state license or permit.

5. Licensure by endorsement. The board shall grant a license by endorsement to a veterinarian who:

- A. Has submitted a complete application;
- B. Has paid the examination and license fee as set under section 4863-A;
- C. Holds a valid license issued by another state, United States territory, province of Canada or other jurisdiction;
- D-1. Has successfully passed an examination pursuant to subsection 1-A pertaining to the practice of veterinary medicine as determined by board rule. The board may require the applicant to submit to an examination covering the laws and rules pertaining to the practice of veterinary medicine in this State; and
- E. Has actively practiced clinical veterinary medicine for 3,000 hours during the 3 years preceding application.

Notwithstanding this subsection, the board shall waive the requirement that a veterinarian pass an examination for veterinarians who have, during the 6 years preceding the application, actively practiced clinical veterinary medicine for at least 6,000 hours without disciplinary action relating to the practice of veterinary medicine by another state, United States territory or province of Canada.

Sec. 15. 32 MRSA §4861-A is enacted to read:

§4861-A. Application for veterinary technician license; qualifications and examination

In order to practice as a licensed veterinary technician in this State, a person must apply for a veterinary technician license by submitting a written application, paying the

license fee as set under section 4863-A and taking an examination for a license. In order to take the examination for a license, an applicant must:

1. Education completed. Have completed a minimum of 2 years in a college program that is certified according to the standards adopted by the American Veterinary Medical Association's Committee on Veterinary Technician Education and Activities or an equivalent program, as determined by the board; or

2. Within 6 months of completing education. Be within the final 6 months of professional study in a program of education for veterinary technology approved by the board or accredited by an accrediting organization approved by the board.

Upon the request of the state veterinarian to the board for emergency situations as determined by the state veterinarian, a licensed veterinary technician may practice in the State for a period not to exceed 30 days without a state license.

Sec. 16. 32 MRSA §4864, sub-§12, as amended by PL 2011, c. 594, §1, is further amended to read:

12. Unauthorized associations. A veterinarian may practice only in an individual capacity under that veterinarian's own name or in association with a licensed practitioner of veterinary medicine or professional association. ~~Notwithstanding paragraph A, for~~ For purposes of this subsection, a veterinarian who has an employment relationship with a corporation or other legal entity that provides a continuum of veterinary services and treatment, including, but not limited to, diagnostic laboratory, research and development services and health and import and export certification, is considered to be lawfully practicing under that veterinarian's own name as long as that veterinarian is individually accountable for conduct under that veterinarian's license. The following are deemed unauthorized associations:

~~A. Except as otherwise provided in this subsection, association for the joint practice of veterinary medicine with any person, corporation or partnership not licensed to practice veterinary medicine;~~

B. Knowingly aiding and abetting in the practice of veterinary medicine any person not licensed to practice in this State;

C. The lending, leasing or in any other manner placing of one's license at the disposal of or in the service of any other person not licensed to practice veterinary medicine in this State; and

D. The continuance of a veterinarian directly or indirectly in the employ of or in association with any veterinarian after knowledge that such veterinarian is engaged in the violation of the provisions of this chapter; or

Sec. 17. 32 MRSA §4865, as amended by PL 2005, c. 347, Pt. C, §3, is repealed.

Sec. 18. 32 MRSA §4866, as amended by PL 1997, c. 246, §§25 and 26, is further amended to read:

§4866. Duties of licensed veterinary technicians and veterinary assistants

~~An animal health~~ A veterinary assistant may, under the direct supervision of a licensed veterinarian or a ~~registered~~ licensed veterinary technician, perform duties of an animal health care nature. ~~The duties do not include~~ excluding diagnosing, making prognoses, performing surgery, ~~interpreting laboratory tests~~ or prescribing or ~~initiating~~ treatment.

~~A licensed~~ veterinary technician ~~registered~~ in the State may ~~perform, under the supervision and direction of a licensed veterinarian, such duties as drug administration, nursing care, x ray film exposure and processing, bandage changes, dental prophylaxis, restraint, blood and fecal collections, diagnostic laboratory procedures and other duties~~ the supervising veterinarian or the board may prescribe by rule, consistent with this chapter, ~~except no one but a veterinarian may diagnose, make prognoses, prescribe or initiate treatment or surgery or perform surgery~~ engage in the practice of veterinary technology on the basis of written or oral instruction of a veterinarian.

Sec. 19. 32 MRSA §4869, as amended by PL 1993, c. 404, Pt. A, §13, is further amended to read:

§4869. Reinstatement

A veterinarian or licensed veterinary technician whose license is revoked or suspended ~~or a veterinary technician whose registration is revoked or suspended~~ may, at the discretion of the board, be relicensed, ~~reregistered~~ or reinstated at any time without an examination by majority vote of the board on written application made to the board showing cause justifying the relicensing, ~~re-registration~~ or reinstatement.

Sec. 20. 32 MRSA §4870, as amended by PL 2007, c. 402, Pt. R, §10, is further amended to read:

§4870. Enforcement

Any person who practices veterinary medicine without a currently valid license, ~~temporary permit~~ or permit for the performance of relief veterinary service is subject to the provisions of Title 10, section 8003-C. A person engaged in the practice of veterinary technology without a valid license is subject to the provisions of Title 10, section 8003-C.

Sec. 21. 32 MRSA §4877 is enacted to read:

§4877. Veterinarian-client-patient relationship required; Good Samaritan exception

In order to practice veterinary medicine, a veterinarian must be engaged in a veterinarian-client-patient relationship. A veterinarian-client-patient relationship exists when a veterinarian:

- 1. Engaged by client.** Has been engaged by the client;
- 2. Assumed responsibility.** Has assumed responsibility for making medical judgments regarding the health of the patient;

3. Knowledge of patient. Has sufficient knowledge of the patient to initiate a preliminary diagnosis of the medical condition of the patient and has personal knowledge of the keeping and care of the patient as a result of:

A. A timely examination of the patient by the veterinarian; or

B. A medically appropriate and timely visit or visits by the veterinarian to the patient while that patient is under the care of the veterinarian's practice;

4. Follow-up evaluation. Is readily available for follow-up evaluation or has arranged for veterinary emergency coverage and continuing care and treatment; and

5. Records. Maintains patient records.

A licensed veterinarian who in good faith engages in the practice of veterinary medicine by rendering or attempting to render emergency care to a patient when a client cannot be identified and a veterinarian-client-patient relationship is not established is not subject to any disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A based solely upon the veterinarian's inability to establish a veterinarian-client-patient relationship.