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Legislative Document

No. 814

S.P. 288

In Senate, March 10, 2015

An Act To Update the Maine Veterinary Practice Act

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

Handwritten signature of Heather J.R. Priest in cursive.

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator DILL of Penobscot.
Cosponsored by Representative BLACK of Wilton and
Senators: DUTREMBLE of York, GRATWICK of Penobscot, JOHNSON of Lincoln,
PATRICK of Oxford, SAVIELLO of Franklin, VALENTINO of York, Representatives:
DUNPHY of Old Town, MAREAN of Hollis.

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

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

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

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

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

16 **§4851. Legislative findings**

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

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

25 **1-A. Veterinary assistant.** ~~"Animal health assistant"~~ "Veterinary assistant" means a
26 person employed in a veterinary facility to assist a licensed veterinarian or a licensed
27 veterinary technician, but who has neither had the formal training required for licensure
28 nor passed the required examination for licensure as a veterinary technician.

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

31 **4-A. Direct supervision.** "Direct supervision" means any time when a supervisor is
32 on the premises ~~or~~ and is quickly and easily available.

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

35 **4-B. Indirect supervision.** "Indirect supervision" means any time when a supervisor
36 is not on the premises, ~~but that supervisor has issued written or oral instructions~~
37 pertaining to the treatment of animal patients is available for consultation on patient care.

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

2 **5-A. Patient.** "Patient" means an animal or group of animals examined or treated by
3 a veterinarian.

4 **Sec. 7. 32 MRSA §4853, sub-§7,** as repealed and replaced by PL 1997, c. 246,
5 §4, is amended to read:

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

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

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

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

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

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

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

30 **7-B. Practice of veterinary technology.** "Practice of veterinary technology" means:

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

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

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

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

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

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

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

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

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

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

25 **9. Veterinarian health program.** The board may establish protocols for the
26 operation of a professional review committee as defined in Title 24, section 2502,
27 subsection 4-A. The protocols must include the committee's reporting information the
28 board considers appropriate regarding reports received, contracts or investigations made
29 and the disposition of each report, as long as the committee is not required to disclose any
30 personally identifiable information. The protocol may not prohibit an impaired
31 veterinarian or licensed veterinary technician from seeking alternative forms of treatment.

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

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

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

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

3 **§4861. Application for license; qualifications and examination**

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

14 **1-A. Examinations.** ~~Examinations, written or practical, must be prepared to~~
15 ~~measure the competence of an applicant to engage in the practice of veterinary medicine.~~
16 The board may also test an applicant's knowledge of the laws and rules relating to the
17 practice of veterinary medicine. The board may require successful completion of an
18 equivalency examination or assessment mechanism for foreign educated and trained
19 applicants that is designed to evaluate educational equivalence, including clinical
20 competencies and a command of the English language.

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

25 ~~**3. Temporary permit.** The board may issue without examination a temporary~~
26 ~~permit to practice veterinary medicine in this State to a qualified applicant for license~~
27 ~~pending examination. A temporary permit issued pursuant to this subsection expires the~~
28 ~~day after the notice of results of the first examination given after the permit is issued.~~
29 ~~The applicant shall pay the temporary permit fee set under section 4863 A.~~

30 **4. Permit for performance of relief veterinary service.** The board may issue
31 without examination a permit to perform relief veterinary service in this State to a
32 qualified person who holds a doctorate degree in veterinary medicine from an approved
33 veterinary medicine program that is recognized by the United States Department of
34 Education and by the board or by rules of the board applicable to foreign educated
35 graduates, and who holds a current license for the practice of veterinary medicine issued
36 by another state, United States territory, province of Canada or other jurisdiction. The
37 board may establish, by rule, the application process. The initial term of a permit issued
38 under this subsection may not exceed 30 days. Extensions may be granted in the
39 discretion of the board. The applicant shall pay the relief permit fee as set under section
40 4863-A.

1 **4-A. Request by state veterinarian.** Upon the request by the state veterinarian to
2 the board, a veterinarian licensed in another state may practice in the State for a period
3 not to exceed 30 days without a state license or permit.

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

6 A. Has submitted a complete application;

7 B. Has paid the examination and license fee as set under section 4863-A;

8 C. Holds a valid license issued by another state, United States territory, province of
9 Canada or other jurisdiction;

10 D-1. Has successfully passed an examination pursuant to subsection 1-A pertaining
11 to the practice of veterinary medicine as determined by board rule. The board may
12 require the applicant to submit to an examination covering the laws and rules
13 pertaining to the practice of veterinary medicine in this State; and

14 E. Has actively practiced clinical veterinary medicine for 3,000 hours during the 3
15 years preceding application.

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

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

22 **§4861-A. Application for veterinary technician license; qualifications and**
23 **examination**

24 In order to practice as a licensed veterinary technician in this State, a person must
25 apply for a veterinary technician license by submitting a written application, paying the
26 license fee as set under section 4863-A and taking an examination for a license. In order
27 to take the examination for a license, an applicant must:

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

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

35 Upon the request of the state veterinarian to the board, a licensed veterinary technician
36 may practice in the State for a period not to exceed 30 days without a state license.

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

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

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

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

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

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

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

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

25 **§4866. Duties of licensed veterinary technicians and veterinary assistants**

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

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

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

- 1 2. It changes the designation of "animal health assistant" to "veterinary assistant" and
2 fixes cross-references.
- 3 3. It defines "patient" as an animal or group of animals examined or treated by a
4 veterinarian.
- 5 4. It amends the definition of "practice of veterinary medicine."
- 6 5. It establishes a definition of "practice of veterinary technology."
- 7 6. Currently, veterinary technicians are registered under state law; this bill requires
8 that veterinary technicians be licensed and fixes cross-references.
- 9 7. It eliminates the Maine State Board of Veterinary Medicine's authority to issue a
10 temporary permit to a qualified applicant for a veterinary license pending examination,
11 and it authorizes a licensed veterinarian or a licensed veterinary technician to practice for
12 no more than 30 days in the State upon the request of the state veterinarian.
- 13 8. It requires that, in order to take the licensing examination for veterinary
14 technicians, the applicant must have completed the professional education requirements
15 for licensure or be within the final 6 months of professional study in an approved
16 program of education.
- 17 9. It removes the prohibition against a veterinarian's association for the joint practice
18 of veterinary medicine with any person, corporation or partnership not licensed to
19 practice veterinary medicine.
- 20 10. It updates language outlining the duties of licensed veterinary technicians and
21 veterinary assistants.