



SPONSOR: Sen. Huxtable & Rep. Dorsey Walker
Sen. Hoffner; Rep. Parker Selby

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 168

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO VETERINARY MEDICINE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 3303, Title 24 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 3303. License requirement and exceptions.

4 No person may practice veterinary medicine in the State who is not a Delaware licensed veterinarian or the holder
5 of a valid temporary permit issued by the Board. This chapter shall not be construed to prohibit:

6 (1) ~~An employee of the federal, state or local government performing official duties;~~

7 (2) ~~A person who is a regular student in a veterinary school or veterinary technician program performing~~
8 ~~duties or actions assigned by instructors, or working under the direct supervision of a licensed veterinarian during the~~
9 ~~school vacation period;~~

10 (3) ~~A person advising with respect to or performing acts which the Board rule has or has not prescribed as~~
11 ~~accepted livestock management practices;~~

12 (4) ~~A veterinarian regularly licensed in another state consulting with a licensed veterinarian in this State;~~

13 (5) ~~Any merchant or manufacturer selling at the merchant's or manufacturer's regular place of business~~
14 ~~medicines, feed, appliances or other products used in the prevention or treatment of animal diseases;~~

15 (6) ~~The owner of an animal and the owner's employee caring for and treating the animal belonging to such~~
16 ~~owner, except where the ownership of the animal was transferred for purposes of circumventing this chapter;~~

17 (7) ~~A member of the faculty of a veterinary school performing regular functions, or a person lecturing or~~
18 ~~giving instructions or demonstrations at a veterinary school or in connection with a continuing education course or~~
19 ~~seminar;~~

20 (8) ~~Any person selling or applying any pesticide, insecticide or herbicide;~~

21 (9) ~~Any person engaging in bona fide scientific research which reasonably requires experimentation involving~~
22 ~~animals;~~

23 ~~(10) Any person from performing support activities under the supervision, as determined by regulations~~
24 ~~adopted by the Board, of a Delaware licensed veterinarian. The support activities shall not include diagnosing,~~
25 ~~prognosing, prescribing, inducing anesthesia, performing surgery or other support activities as defined in regulations~~
26 ~~adopted by the Board.~~

27 ~~(11) A licensed veterinary technician from performing support activities under the supervision, as determined~~
28 ~~by regulations adopted by the Board, of a Delaware licensed veterinarian. The support activities shall not include~~
29 ~~diagnosing, prognosing, prescribing, performing surgery or other support activities as defined in regulations adopted by~~
30 ~~the Board.~~

31 A person may not practice veterinary medicine in this State unless the person is a Delaware-licensed veterinarian.

32 Section 2. Amend Subchapter I, Chapter 33, Title 24 of the Delaware Code by making deletions as shown by
33 strike through and insertions as shown by underline as follows:

34 § 3303A. Veterinarian-client-patient relationship.

35 (a) For a veterinarian to practice veterinary medicine, a veterinarian-client-patient relationship must be established
36 and maintained. Except as provided under subsection (b) of this section, a veterinarian-client-patient relationship is
37 established and maintained if all of the following are met:

38 (1) The veterinarian has assumed the responsibility for making medical judgements regarding the health of the
39 patient and the client has agreed to follow the veterinarian's instructions.

40 (2) The veterinarian has sufficient knowledge of the patient to initiate at least a general or preliminary
41 diagnosis of the medical condition of the patient. This means that the veterinarian is personally acquainted with the
42 keeping and care of the patient by virtue of a timely examination of the patient, or medically appropriate and timely
43 visits to the operation where the patient is managed.

44 (3) The veterinarian is readily available for follow-up evaluation or has arranged for the following: veterinary
45 emergency coverage and continuing care and treatment.

46 (4) The veterinarian provides oversight of treatment, compliance, and outcome.

47 (5) Patient records are maintained.

48 (b) In operations where there are several animals, such as shelters, farms, laboratories, or zoos, the veterinarian-
49 client-patient requirement may be established and maintained by one of the following:

50 (1) Examination of health, laboratory, or production records.

51 (2) Consultation with owners, managers, directors, caretakers, or other supervisory staff who oversee the
52 health care management of the operation.

53 (3) Maintenance of information regarding the local epidemiology of diseases for the appropriate species.

54 Section 3. Amend Subchapter I, Chapter 33, Title 24 of the Delaware Code by making deletions as shown by
55 strike through and insertions as shown by underline as follows:

56 § 3303B. Exemptions.

57 This chapter may not be construed to prohibit any of the following:

58 (1) An employee of the federal, state, or local government performing official duties.

59 (2) A person who is a regular student in a veterinary school or veterinary technician program performing
60 duties or actions assigned by instructors, or working under the direct supervision of a licensed veterinarian during the
61 school vacation period.

62 (3) A person advising with respect to or performing acts which the Board rule has or has not prescribed as
63 accepted livestock management practices.

64 (4) A veterinarian regularly licensed in another state consulting with a licensed veterinarian in this State.

65 (5) Any merchant or manufacturer selling at the merchant's or manufacturer's regular place of business
66 medicines, feed, appliances, or other products used in the prevention or treatment of animal diseases.

67 (6) The owner of an animal and the owner's employee caring for and treating the animal belonging to the
68 owner, except where the ownership of the animal was transferred for purposes of circumventing this chapter.

69 (7) A member of the faculty of a veterinary school performing regular functions, or a person lecturing or
70 giving instructions or demonstrations at a veterinary school or in connection with a continuing education course or
71 seminar.

72 (8) Any person selling or applying any pesticide, insecticide, or herbicide.

73 (9) Any person engaging in bona fide scientific research which reasonably requires experimentation involving
74 animals.

75 (10) Any person from performing support activities under the supervision, as determined by regulations
76 adopted by the Board, of a Delaware-licensed veterinarian. The support activities must not include diagnosing,
77 prognosing, prescribing, inducing anesthesia, performing surgery, or other support activities as defined in regulations
78 adopted by the Board.

79 (11) A licensed veterinary technician from performing support activities under the supervision, as determined
80 by regulations adopted by the Board, of a Delaware-licensed veterinarian. The support activities must not include
81 diagnosing, prognosing, prescribing, performing surgery, or other support activities as defined in regulations adopted
82 by the Board.

83 (12)a. A veterinarian or a veterinary technician who is licensed in another state, and who is in good standing
84 in the other state, providing services during an emergency or natural disaster within the scope and location of assigned
85 veterinary medical duties of the response efforts if all of the following apply:

86 1. An official declaration of the disaster or emergency has been made by the governor or the
87 delegated state official.

88 2. An official invitation has been extended to the veterinarian or veterinary technician for a specified
89 time by the authority that has jurisdiction for coordinating the animal or agricultural issues in this State during
90 emergencies.

91 b. A person practicing as a veterinarian or veterinary technician in this State under this paragraph (12) is
92 subject to the personal and subject matter jurisdiction and disciplinary and regulatory authority of the Board. The
93 person shall comply with applicable provisions of the laws, rules, and regulations of the Board.

94 Section 4. Amend § 3306, Title 24 of the Delaware Code by making deletions as shown by strike through and
95 insertions as shown by underline as follows:

96 § 3306. Board of Veterinary Medicine — Powers and duties.

97 (a) The Board of Veterinary Medicine shall have authority to:

98 (10) Where it has been determined after a disciplinary hearing that penalties or sanctions should be imposed,
99 to designate and impose the appropriate sanction or ~~penalty after time for appeal has lapsed.~~ penalty.

100 Section 5. Amend § 3313, Title 24 of the Delaware Code by making deletions as shown by strike through and
101 insertions as shown by underline as follows:

102 § 3313. Qualifications of applicant; report to Attorney General; judicial review.

103 (b) ~~In the event~~ If the applicant ~~shall have been the recipient of any administrative penalties~~ receives an
104 administrative penalty regarding that applicant's practice of veterinary medicine, including ~~but not limited to fines, a fine,~~
105 ~~formal reprimands, reprimand,~~ license suspension or revocation (except for a license ~~revocations~~ revocation for
106 nonpayment of a license renewal fees), fee), or probationary limitations, and/or has entered limitation, or enters into any a
107 "consent agreements" agreement" which ~~contain~~ contains conditions placed by a ~~Board~~ the Board or a veterinary medicine
108 licensing board of another state on that applicant's professional conduct and practice, including any voluntary surrender of
109 a license, the applicant shall furnish all information regarding ~~such penalties and/r agreements~~ the administrative penalty or
110 consent agreement to the Board. The Board may, after a ~~hearing,~~ hearing or review of documentation, determine that ~~such~~
111 the administrative penalty or consent agreement is grounds to deny licensure.

112 Section 6. Amend § 3314, Title 24 of the Delaware Code by making deletions as shown by strike through and
113 insertions as shown by underline as follows:

114 § 3314. Reciprocity.

115 (e) ~~In the event that~~ If a disciplinary proceeding or unresolved complaint is ~~pending,~~ pending in this State or
116 another state, the applicant ~~shall~~ may not be licensed in this State until the proceeding or complaint ~~has been~~ is resolved.
117 ~~Applicants~~ An applicant for licensure as ~~veterinarians~~ a veterinarian in this State ~~shall be~~ is deemed to have given consent
118 to the release of ~~such~~ information related to the pending disciplinary proceeding or unresolved complaint, and to waive all
119 objections to the admissibility of ~~such~~ the information as evidence at any hearing or other proceeding to which the applicant
120 may be subject. ~~Each application for licensure shall be accompanied by payment of the application fee.~~

121 Section 7. Amend § 3315, Title 24 of the Delaware Code by making deletions as shown by strike through and
122 insertions as shown by underline as follows:

123 § 3315. Temporary ~~license and permit.~~ license.

124 (b) ~~The Board may issue, without examination, a temporary permit to practice veterinary medicine in this State, to~~
125 ~~any nonresident veterinarian validly licensed in another state, territory, district of the United States or foreign country if~~
126 ~~such veterinarian pays a fee equivalent to $\frac{1}{2}$ of the biennial fee for license renewal paid by licensed Delaware veterinarians;~~
127 ~~provided, however, that such temporary permit shall be issued for a period of not more than 1 year; provided also, that~~
128 ~~applicants meet the provisions of § 3314 of this title for reciprocity applicants. [Repealed.]~~

129 Section 8. Amend § 3317, Title 24 of the Delaware Code by making deletions as shown by strike through and
130 insertions as shown by underline as follows:

131 § 3317. Disciplinary sanctions.

132 (a) The Board may impose any of the following sanctions, singly or in combination, when it finds that 1 of the
133 conditions or violations set forth in § 3316 of this title applies to a licensee regulated by this chapter:

134 (2) ~~Censure a licensee;~~ [Repealed.]

135 (4) Suspend any licensee's license; ~~or~~

136 (5) ~~Revoke~~ Permanently revoke a licensee's ~~license.~~ license; ~~or~~

137 (6) Impose a monetary penalty not to exceed \$2,000 for each violation.

138 Section 9. Amend § 3318, Title 24 of the Delaware Code by making deletions as shown by strike through and
139 insertions as shown by underline as follows:

140 § 3318. Practicing without a license; penalties.

141 (a) ~~Where the Board has reason to believe that a person is practicing veterinary medicine within this State without~~
142 ~~having lawfully obtained a license, or that a person previously licensed under this chapter is engaged in a practice regulated~~
143 ~~by this chapter, notwithstanding that the person's license has been suspended or revoked, or that a person not licensed~~
144 ~~under this chapter is using any name, title, description or designation, either orally or in writing, that will lead to the belief~~
145 ~~that such person is licensed to practice veterinary medicine as defined in this chapter, the Board shall submit a written~~
146 ~~complaint to the Division of Professional Regulation for investigation. If the investigation confirms such unlawful practice,~~
147 ~~the Board shall make a formal complaint to the Attorney General who may issue a cease and desist order. The complaint~~
148 ~~and/or order shall include all evidence known to, or in the possession of, the Board.~~

149 (b) ~~A person not currently licensed as a veterinarian under this chapter, when guilty of engaging in the practice of~~
150 ~~veterinary medicine, or using in connection with the licensee's own name, or otherwise assuming or using any title or~~
151 ~~description conveying, or tending to convey the impression that the licensee is qualified to practice veterinary medicine,~~
152 ~~such offender upon the first offense, shall be fined not less than \$500 nor more than \$1,000 for each offense, and the~~
153 ~~offender shall pay all costs. Each day a violation continues shall constitute a separate offense. The Court shall order all fees~~
154 ~~received for unlawful service to be refunded. Justice of the Peace Court shall have jurisdiction over any violation of this~~
155 ~~chapter.~~

156 (a) It is unlawful for a person who is not licensed under this subchapter to use, in connection with the person's
157 name or business, or otherwise assume or use any title or description conveying or tending to convey the impression that
158 the person is licensed under this subchapter.

159 (b) For a first offense, the court may impose a fine of not less than \$500 nor more than \$1,000 for each offense.
160 For a second or subsequent offense, the court may impose a fine of not less than \$1,000 nor more than \$2,000 for each
161 offense.

162 (c) The Justice of the Peace Court has jurisdiction over a violation of this subchapter.

163 Section 10. Amend § 3319, Title 24 of the Delaware Code by making deletions as shown by strike through and
164 insertions as shown by underline as follows:

165 § 3319. Qualifications of applicant; report to Attorney General; judicial review.

166 (a) An applicant who is applying for licensure as a veterinary technician under this chapter shall submit evidence,
167 verified by oath and satisfactory to the Board, that such person:

168 (1) Has received a degree from a veterinary technician program accredited by the American Veterinary
169 Medical Association ("AVMA") or from a foreign veterinary technician program approved by the ~~AVMA or, for a~~

170 period not to exceed 7 years provided that the Board may by regulation, for reasons stated, shorten the time, has
171 submitted evidence to the Board of one of the following: AVMA.

172 a. ~~A degree from a nonaccredited veterinary technician program or other program as defined by the~~
173 ~~Board's rules and regulations, combined with practical experience under the supervision of a licensed veterinarian~~
174 ~~for the period of time specified in the Board's rules and regulations, or~~

175 b. ~~Practical experience under the supervision of a licensed veterinarian for a period of time specified in~~
176 ~~the Board's rules and regulations;~~

177 (b) ~~In the event~~ If the applicant shall have been the recipient of any administrative penalties receives an
178 administrative penalty regarding that applicant's practice as a veterinary technician, including but not limited to fines, a
179 fine, formal reprimands, reprimand, license suspensions suspension or revocation (except for a license revocations
180 revocation for nonpayment of a license renewal fees), fee), or probationary limitations, and/or has entered limitation, or
181 enters into any a "consent agreements" agreement" which contain contains conditions placed by a Board the Board or a
182 veterinary medicine licensing board of another state on that applicant's professional conduct and practice, including any
183 voluntary surrender of a license, the applicant shall furnish all information regarding such penalties and/or agreements the
184 administrative penalty or consent agreement to the Board. The Board may, after a hearing, hearing or review of
185 documentation, determine that such the administrative penalty or consent agreement is grounds to deny licensure.

186 Section 11. Amend § 3320, Title 24 of the Delaware Code by making deletions as shown by strike through and
187 insertions as shown by underline as follows:

188 § 3320. Reciprocity, lapsed license, ~~reinstatement~~ reinstatement, and temporary licensure.

189 (a) ~~Upon~~ On payment of the appropriate fee and submission and acceptance of a written application on forms
190 provided by the Board, the Board shall grant a license to each applicant, who shall present proof of current licensure in
191 "good standing" in another state, the District of Columbia, or territory of the United States. A license in "good standing" is
192 defined in § 3319 of this title; and applicant who meets all of the following:

193 (1) Presents to the Board proof of current licensure in "good standing" in another state, the District of
194 Columbia, or territory of the United States. A license in "good standing" is defined in § 3319(a)(3) through (5) of this
195 title.

196 (b) ~~(2)~~ (2) Has received a degree from a veterinary technician program accredited by the American Veterinary
197 Medical Association ("AVMA") or from a foreign veterinary program approved by the AVMA or, for a period not to
198 exceed 7 years provided that the Board may by regulation, for reasons stated, shorten the time, has submitted evidence
199 to the Board of one of the following: AVMA.

200 A degree from a nonaccredited veterinary technician program or other program as defined by the Board's rules and
201 regulations, combined with practical experience under the supervision of a licensed veterinarian for the period of time
202 specified in the Board's rules and regulations, or practical experience under the supervision of a licensed veterinarian for a
203 period of time specified in the Board's rules and regulations; and

204 (e)(3) Has achieved the passing score on the written standardized national examination designated by the
205 Board pursuant to under § 3306 of this title, provided that this title. This requirement does not apply to any applicant
206 under this section who has continuously maintained a license in another state and graduated from an AVMA accredited
207 school prior to before 1990.

208 (d)(b) The Board shall grant a license to an applicant, who was previously licensed as a veterinary technician in
209 this State, and who has let that applicant's license lapse, subject to the applicant's meeting the requirements of subsection
210 (a) of this section, and continuing education requirements as provided for in the Board's rules and regulations; applicant
211 who meets all of the following:

212 (1) Was previously licensed as a veterinary technician in this State.

213 (2) Has allowed the applicant's license to lapse.

214 (3) Meets the continuing education requirements in the Board's rules and regulations.

215 (e)(c) Upon payment of the appropriate fee and on submission of a written application on forms provided by the
216 Board, the Board may issue a temporary license to a person who has applied for original or reciprocity licensure as a
217 veterinary technician under this subchapter. Such temporary license will be available to an applicant only with respect to
218 the first application for licensure, and the applicant shall use the temporary license only while under the supervision of a
219 licensed veterinarian. In all cases such temporary license shall expire automatically if application for permanent licensure is
220 denied. Upon expiration, the temporary license shall be surrendered to the Board. On payment of the appropriate fee and on
221 submission of an application, the Board shall issue a temporary license to a person who has applied for licensure as a
222 veterinary technician under this subchapter and who is eligible to take the examination provided for in this subchapter. A
223 temporary license is available to an applicant only with respect to the first application for licensure, and the applicant may
224 only use the temporary license while under the supervision of a licensed veterinarian. A temporary license expires
225 automatically if the applicant fails the examination or fails to sit for the examination at the earliest opportunity. If a
226 temporary license is issued to an applicant for licensure by reciprocity, the temporary license expires automatically on
227 written notice to the applicant by the Board that it proposes to deny the application. On expiration, the temporary license
228 must be surrendered to the Board.

229 ~~(f)(d) In the event that~~ If a disciplinary proceeding or unresolved complaint is pending, pending in this State or
230 another state, the applicant ~~shall~~ may not be licensed in this State until the proceeding or complaint ~~has been~~ is resolved.
231 ~~Applicants~~ An applicant for licensure as ~~veterinary technicians~~ a veterinary technician in this State ~~shall be~~ is deemed to
232 have given consent to the release of ~~such~~ information related to the pending disciplinary proceeding or unresolved
233 complaint and to waive all objections to the admissibility of ~~such~~ the information as evidence at any hearing or other
234 proceeding to which the applicant may be subject. ~~Each application for licensure shall be accompanied by payment of the~~
235 ~~application fee.~~

236 Section 12. Amend § 3322, Title 24 of the Delaware Code by making deletions as shown by strike through and
237 insertions as shown by underline as follows:

238 § 3322. Disciplinary sanctions.

239 (a) The Board may impose any of the following sanctions, singly or in combination, when it finds that 1 of the
240 conditions or violations set forth in § 3321 of this title applies to a licensee regulated by this subchapter:

241 ~~(2) Censure of a licensee; [Repealed.]~~

242 (4) Suspend a veterinary technician's license; ~~or~~

243 ~~(5) Revoke~~ Permanently revoke a veterinary technician's ~~license.~~ license; or

244 (6) Impose a monetary penalty not to exceed \$500 for each violation.

245 Section 13. Amend § 3323, Title 24 of the Delaware Code by making deletions as shown by strike through and
246 insertions as shown by underline as follows:

247 § 3323. Practicing without a license; penalties.

248 ~~(a) Where the Board has reason to believe that a person is practicing as a veterinary technician within this State~~
249 ~~without having lawfully obtained a license, or that a person previously licensed under this chapter is engaged in a practice~~
250 ~~regulated by this chapter, notwithstanding that the person's license has been suspended or revoked, or that a person not~~
251 ~~licensed under this chapter is using any name, title, description or designation, either orally or in writing, that will lead to~~
252 ~~the belief that such person is licensed to practice as a veterinary technician as defined in this chapter the Board shall submit~~
253 ~~a written complaint to the Division of Professional Regulation for investigation. If the investigation confirms such unlawful~~
254 ~~practice, the Board shall make a formal complaint to the Attorney General who may issue a cease and desist order. The~~
255 ~~complaint and/or order shall include all evidence known to, or in the possession of, the Board.~~

256 ~~(b) A person not currently licensed as a veterinary technician under this chapter, when guilty of practicing as a~~
257 ~~veterinary technician, or using in connection with the licensee's own name, or otherwise assuming or using any title or~~
258 ~~description conveying, or tending to convey the impression that the licensee is qualified to practice as a veterinary~~

259 technician, such offender upon the first offense, shall be fined not less than \$200 nor more than \$400 for each offense, and
260 the offender shall pay all costs. Each day a violation continues shall constitute a separate offense. The Court shall order all
261 fees received for unlawful service to be refunded. Justice of the Peace Court shall have jurisdiction over any violation of
262 this subchapter.

263 (a) It is unlawful for a person who is not licensed under this subchapter to use in connection with the person's
264 name or business, or otherwise assume or use any title or description conveying or tending to convey the impression that
265 the person is licensed under this subchapter.

266 (b) For a first offense, the court may impose a fine of not less than \$500 nor more than \$1,000 for each offense.
267 For a second or subsequent offense, the court may impose a fine of not less than \$1,000 nor more than \$2,000 for each
268 offense.

269 (c) The Justice of the Peace Court has jurisdiction over a violation of this subchapter.

SYNOPSIS

This Act does all of the following:

(1) Adds a requirement that, in order for a veterinarian to practice veterinary medicine, a relationship among the veterinarian, the client, and the patient must be established and maintained. The majority of states mandate the existence of a veterinarian-client-patient relationship as a prerequisite to treating an animal and such requirement is critical to the health of animals. This requirement is also consistent with Food and Drug Administration standards.

(2) Adds a licensure exemption for veterinarians and veterinary technicians who want to practice in Delaware in connection with a State emergency.

(3) Strikes a provision that allows issuance of a temporary permit to practice veterinary medicine to an individual who has not passed the licensing examination and also requires compliance with reciprocity requirements. These two requirements, taken together, cannot be met, and consequently, the section is very confusing and misleading. Temporary licenses will still be available for veterinarians where the applicant is either being considered for licensure under the reciprocity provision or is eligible to take the licensure examination.

(4) Strikes the 7 year grandfathering provision, which was adopted when the Board first began to license veterinary technicians, and which is now expired.

(5) Allows veterinary technicians to obtain temporary licenses pending passing of the licensure examination.

(6) Gives the Board the authority to impose monetary penalties on licensees who are found to have committed regulatory or statutory violations.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

This Act comes from the Division of Professional Regulation and has been approved by the Board of Veterinary Medicine.

Author: Senator Huxtable