

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
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As Engrossed: S2/6/19
A Bill

HOUSE BILL 1124

By: Representatives Vaught, Hillman, *Eubanks, Christiansen*

By: Senator Maloch

For An Act To Be Entitled

AN ACT TO AMEND THE LAWS CONCERNING VETERINARY
MEDICINE; TO ESTABLISH A VETERINARY TECHNOLOGIST
CERTIFICATION AND A VETERINARY TECHNICIAN SPECIALIST
CERTIFICATION; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAWS CONCERNING VETERINARY
MEDICINE; AND TO ESTABLISH A VETERINARY
TECHNOLOGIST CERTIFICATION AND A
VETERINARY TECHNICIAN SPECIALIST
CERTIFICATION.

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

SECTION 1. Arkansas Code § 17-101-102 is amended to read as follows:

17-101-102. Definitions.

As used in this chapter:

(1) “Accredited or approved college of veterinary medicine” means any veterinary college or any division of a university or college that offers the degree of Doctor of Veterinary Medicine, or its equivalent, and that conforms to the standards required for accreditation or approval by the American Veterinary Medical Association;

(2) “Animal” means any member of the animal kingdom, other than ~~man, and includes fowl, birds, fish, and reptiles, whether wild or domestic,~~ humans, whether living or dead;



~~(3)~~ “Board” means the Veterinary Medical Examining Board;

~~(4)~~(3) “Direct supervision” or “direct personal supervision” means the licensed veterinarian must be on-site and instantly available for consultation;

~~(5)~~(4) “Educational Commission for Foreign Veterinary Graduates Certificate” means a certificate issued by the American Veterinary Medical Association Educational Commission for Foreign Veterinary Graduates indicating that the holder has demonstrated knowledge and skills equivalent to those possessed by a graduate of an accredited or approved college of veterinary medicine;

~~(6)~~(5) “Immediate supervision” means observation, in the immediate vicinity, with the opportunity for the ~~supervising~~ licensed veterinarian to advise or physically intervene in each procedure;

(6)(A) "Indirect supervision" means the licensed veterinarian is not physically present but has given written or oral instructions for the treatment of the animal and is readily available for communication either in person or through use of electronic information and communication technology.

(B) "Indirect supervision" does not include the administration of a Schedule II controlled substance.

(C) A veterinarian shall retain control of and authority over the care of the animal during indirect supervision;

(7) “Licensed veterinarian” means a person who is validly and currently licensed to practice veterinary medicine in this state as a general practitioner or in a specialty area as the ~~board~~ Veterinary Medical Examining Board may by ~~regulation~~ rule provide;

(8) “Person” means any individual, firm, partnership, association, joint venture, cooperative, or corporation, or any other group or combination acting in concert, and whether or not acting as principal, trustee, fiduciary, receiver, or as any kind of legal or personal representative, or as the successor in interest, assigning agent, factor, servant, employee, director, officer, or any other representative of such a person;

(9) “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 prescribing or administration of any

prescription drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique on any animal, including, but not limited to, acupuncture, dentistry, animal psychology, animal chiropractic, theriogenology, surgery, including cosmetic surgery, any manual, mechanical, biological, or chemical procedure for testing for pregnancy or for correcting sterility or infertility or to tender service or recommendations with regard to any of the above;

(B) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in subdivision (9)(A) of this section;

(C) The use of any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subdivision (9)(A) of this section. Such use shall be prima facie evidence of the intention to represent oneself as engaged in the practice of veterinary medicine; and

(D) Collecting blood or other samples for the purpose of diagnosing disease or other conditions. This shall not apply to:

(i) Unlicensed personnel employed by the United States Department of Agriculture or the Arkansas Livestock and Poultry Commission in disease control programs carried out under the authority of the United States Department of Agriculture or the State of Arkansas; and

(ii) Veterinary technicians or assistants veterinary technologists acting under the ~~direct~~ indirect supervision of a veterinarian as set forth in ~~§ 17-101-306(b) and (c)~~ § 17-101-306(d) except for collecting ~~blood~~ samples for state or federal tests requiring that the licensed veterinarian draw the sample;

(10) "Veterinarian" means a person who has received a professional degree from a college of veterinary medicine or any person who is ~~now~~ licensed to practice veterinary medicine in this state;

(11) "Veterinarian-client-patient relationship" means:

(A) The veterinarian has assumed the responsibility for making medical judgments regarding the health of ~~the~~ a animal and the need for medical treatment, and the client, that is, the owner or caretaker, has agreed to follow the instruction of the veterinarian;

(B)(i) There is sufficient knowledge of the animal by the veterinarian to initiate at least a general or preliminary diagnosis of the

medical condition of the animal.

(ii) This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal, by virtue of an examination of the animal or by medically appropriate and timely visits to the premises where the animal is kept; and

(C) The practicing veterinarian is readily available for follow-up in case of adverse reactions or failure of the regimen or therapy;

(12) "Veterinary medicine" includes veterinary surgery, theriogenology, dentistry, acupuncture, animal psychology, chiropractic, and all other branches or specialties of veterinary practice;

(13) "Veterinary premises" means any place or unit from which the practice of veterinary medicine is conducted; ~~and~~

(14) "Veterinary technician" means a person who+

(A) Has received ~~a diploma~~ an associate degree or its equivalent from a college-level program accredited by the American Veterinary Medical Association; and

(B) Provides veterinary services under the supervision and direction of a licensed veterinarian who is responsible for the performance of that veterinary technician;

(15) "Veterinary technician specialist" means a veterinary technician or veterinary technologist who has completed a formal process of education, training, experience, and testing through a specialty academy approved by the Committee of Veterinary Technician Specialties of the National Association of Veterinary Technicians in America;

(16) "Veterinary technologist" means a person who performs veterinary technology services and is a graduate of a four-year baccalaureate program accredited by the American Veterinary Medical Association; and

(17)(A) "Veterinary technology" means the performance of all aspects of medical care, services, and treatment of an animal where a veterinary-client-patient relationship has been established.

(B) "Veterinary technology" does not include diagnosis, prognosis, surgery, or the prescription of appliances, drugs, medications, or treatment unless otherwise determined by the board.

(C) A veterinarian shall retain control of and authority over the care of the animal during the practice of veterinary technology.

SECTION 2. Arkansas Code § 17-101-306 is amended to read as follows:

17-101-306. Veterinary technician, veterinary technologist, and veterinary technician specialist – Certification.

(a) ~~No~~ A person shall not assist in the practice of veterinary medicine ~~under the direction, supervision, and responsibility of a veterinarian~~ as a veterinary technician or veterinary technologist without first applying for and obtaining a ~~certificate of qualification~~ certification from the Veterinary Medical Examining Board ~~as a veterinary technician~~ and having his or her employment with a licensed veterinarian registered ~~in accordance with board regulations~~ with the Veterinary Medical Examining Board.

~~(b) A veterinary technician shall perform only those acts and duties overseen by a supervising veterinarian that are within the scope of practice of the supervising veterinarian but shall not include diagnosis, prescribing medication, treatment, or surgery in the practice of animal husbandry.~~

~~(c)-(1)~~ (b)(1) An applicant for a ~~certificate of qualification~~ certification as a veterinary technician or veterinary technologist in this state may make written application to the ~~board~~ Veterinary Medical Examining Board showing that he or she is:

(A) A citizen of the United States or an applicant for citizenship; and

(B) A person of moral integrity and acceptable ethical standards.

(2) The application for certification as a veterinary technician or veterinary technologist in the State of Arkansas shall be written, signed by the applicant, and submitted to the ~~board~~ Veterinary Medical Examining Board at least thirty (30) days before the examination, including, ~~but not limited to,~~ without limitation the information set forth in this subdivision ~~(c)-(2)~~ (b)(2), and the application shall be accompanied by a nonrefundable application fee established by the ~~board~~ Veterinary Medical Examining Board:

(A) A current photograph of the applicant;

(B)(i) A copy of the applicant's diploma or its equivalent from a college-level program accredited by the American Veterinary Medical Association.

(ii) ~~A photocopy of the diploma is acceptable~~ If the applicant has not graduated at the time of application, an affidavit from the

program certifying the applicant's ability to graduate may be accepted with a copy of the diploma or its equivalent submitted upon availability;

(C) A certified copy of college transcripts;

(D) A passing score on the National Board Examination ~~passing score provided by the national testing agency~~ or Veterinary Technician National Examination, or future equivalent, reported through the American Association of Veterinary State Boards or its successor; and

(E) A letter of recommendation signed by a ~~licensed~~ veterinarian who is licensed in this state or another state, territory, or district of the United States and notarized.

(3) This section does not prevent the Veterinary Medical Examining Board from issuing a certification by endorsement to an applicant who:

(A) Holds a certification, or its equivalent, as a veterinary technician or veterinary technologist in another state, territory, or district of the United States;

(B) Is not a respondent in any pending or unresolved board action in any state, territory, or district of the United States;

(C) Has a passing score on the National Board Examination or Veterinary Technician National Examination, or its future equivalent, reported through the American Association of Veterinary State Boards or its successor;

(D) Submits a completed application, including without limitation a letter of recommendation that is:

(i) Signed by a veterinarian;

(ii) Notarized by a notary public; and

(iii) Accompanied by a nonrefundable application fee established by the Veterinary Medical Examining Board; and

(E) Signs a statement attesting that he or she has read and understands this chapter and the rules adopted by the Veterinary Medical Examining Board governing the practice of veterinary medicine in Arkansas.

~~(d)(c)(1) Each certified~~ A veterinary technician or veterinary technologist shall annually register his or her employment with the ~~board~~ Veterinary Medical Examining Board, stating:

(A) ~~his~~ His or her name and current address;

(B) ~~the~~ The name and office address of both his or her

employer and the supervising licensed veterinarian; and

(C) Any additional information as the board deems necessary required by the Veterinary Medical Examining Board.

(2) Upon any change of employment as a veterinary technician or veterinary technologist, the registration shall be considered suspended certification is inactive until:

(A) new New employment as a veterinary technician or veterinary technologist has been obtained; and

(B) the board The Veterinary Medical Examining Board has been notified in writing of the new employment.

~~(e) Nothing in this section shall prevent a veterinarian from utilizing the services of an employee to perform services not requiring the skill and judgment of a veterinary technician, which services are performed under the direct personal supervision of the veterinarian. Such a lay employee shall not be identified as a "veterinary technician", "animal technician", or "technician".~~

~~(f) A veterinarian licensed under the provisions of this chapter may not establish a separate office or clinic in a location other than his or her regular office and place the separate office or clinic under the control or supervision of a veterinary technician.~~

~~(g) After obtaining a degree from an accredited program in veterinary technology, and upon completing the application form for certification in Arkansas, the applicant will be issued a certificate of qualification.~~

(d)(1) A veterinary technician or veterinary technologist shall perform veterinary technology under the direction, supervision, and responsibility of the licensed veterinarian with which he or she is employed.

(2) Supervision of a veterinary technician or veterinary technologist may be direct supervision, indirect supervision, or immediate supervision.

(3) A veterinarian who utilizes indirect supervision of a veterinary technician or veterinary technologist shall:

(A) Retain control of and authority over the care of the animal; and

(B) Review all recordkeeping and notes documented by the veterinary technician or veterinary technologist on the charts regarding the care of the animal.

(e) The Veterinary Medical Examining Board shall promulgate rules to establish the appropriate level of supervision under which a veterinary technician or veterinary technologist can perform veterinary technology.

~~(h)(1)(f)(1)~~ Every A licensed veterinarian using, supervising, or employing a registered veterinary technician or veterinary technologist shall be is individually responsible and liable for the performance of the acts and omissions delegated to the veterinary technician or veterinary technologist.

(2) Nothing in this subsection shall be construed to This subsection does not relieve the a veterinary technician or veterinary technologist of any responsibility and liability for any of his or her own acts and omissions.

(g) A licensed veterinarian shall not establish a separate office or clinic in a location other than his or her regular office and place the separate office or clinic under the control or supervision of a veterinary technician or veterinary technologist.

(h)(1) This section does not prevent a licensed veterinarian from utilizing the services of an employee to perform services not requiring the skill and judgment of a veterinary technician, veterinary technologist, or veterinary technician specialist, if the services performed by the employee are under the direct personal supervision of a licensed veterinarian.

(2) An employee described under subdivision (h)(1) of this section shall not be identified as a "veterinary technician", "animal technician", "technician", "veterinary technologist", "animal technologist", "technologist", or "veterinary technician specialist".

(i) A veterinary technician, veterinary technologist, or veterinary technician specialist shall not receive a fee or other compensation for veterinary services or veterinary technology services other than the salary or other compensation paid to the veterinary technician, veterinary technologist, or veterinary technician specialist by the veterinary clinic, veterinary practice, or veterinarian where he or she is employed.

(j)(1) The Veterinary Medical Examining Board may issue additional certifications for a veterinary technician specialist.

(2) For an applicant seeking certification as a veterinary technician specialist, the Veterinary Medical Examining Board may require an initial application, application fee as determined by the Veterinary Medical Examining Board, renewal application, renewal application fee as determined

by the Veterinary Medical Examining Board, and any other relevant information determined by the Veterinary Medical Examining Board.

SECTION 3. Arkansas Code § 17-101-307(b)(6), concerning exemptions for licensing of veterinarians and veterinary technicians, is amended to read as follows:

(6) A member of the faculty of a veterinary school from performing his or her regular functions or a person from lecturing or giving instruction or demonstration at a veterinary school or in connection with a continuing education course or seminar for licensed veterinarians, ~~or registered~~ veterinary technicians, or veterinary technologists;

SECTION 4. Arkansas Code § 17-101-307(b)(9)(A), concerning exemptions for licensing of veterinarians and veterinary technicians, is amended to read as follows:

(9)(A) Any act, task, or function performed by a veterinary technician or veterinary technologist at the direction of and under the supervision of a licensed veterinarian, when:

(i) The veterinary technician or veterinary technologist is certified by ~~and annually registered with~~ the board as ~~one being~~ qualified by training or experience to function as an assistant to a veterinarian;

(ii) The act, task, or function is performed at the direction of and under the supervision of a licensed veterinarian in accordance with rules promulgated by the board; and

(iii) The services of the veterinary technician or veterinary technologist are limited to assisting the veterinarian in the particular fields for which ~~the assistant~~ he or she has been trained, and certified, ~~and registered.~~

SECTION 5. Arkansas Code § 17-101-309(a)(2), concerning renewal and reinstatement of a license, certificate, and registration, is amended to read as follows:

(2) Not later than March 1 each year, the board shall mail a notice to each licensed veterinarian, ~~and registered~~ veterinary technician, and veterinary technologist that his or her license, ~~registration,~~ or

certificate will expire on March 31 and shall provide a renewal application form.

SECTION 6. Arkansas Code § 17-101-309(b) and (c), concerning renewal and reinstatement of a license, certificate, and registration, are amended to read as follows:

(b)(1) Any person may reinstate an expired license, ~~registration~~, or certificate within five (5) years of its expiration by making application to the board for renewal and paying the current renewal fee along with all delinquent renewal fees.

(2) After five (5) years have elapsed since the date of expiration, a license, ~~registration~~, or certificate may not be renewed, and the holder must apply for a new license, ~~registration~~, or certificate and take the required examinations.

(c) The board may provide by ~~regulation~~ rule for waiver of payment of any renewal fee of a licensed veterinarian, ~~or registered~~ veterinary technician, or veterinary technologist during any period when he or she is on active duty with any branch of the United States Armed Forces for not to exceed three (3) years or for the duration of a national emergency, whichever is longer.

SECTION 7. Arkansas Code § 17-101-310 is amended to read as follows:
17-101-310. Continuing education required – Exemptions.

(a)(1) ~~Each~~ A veterinarian, ~~or~~ veterinary technician, or veterinary technologist under this chapter ~~shall be~~ is required to attend an educational program in the twelve (12) months preceding each renewal date.

(2) The postgraduate study or attendance at an institution or at an educational session approved by the Veterinary Medical Examining Board shall be considered equivalent to continuing education requirements.

(3) The board shall have the right, for good cause shown, to prescribe the type and character of postgraduate study to be done by any licensed veterinarian in order to comply with the requirements of this chapter.

(b) The board shall excuse licentiates or certificate holders, as a group or as individuals, from the annual educational requirements in any of the following instances:

- (1) When no educational program meeting the requirements approved by the board is conducted within the state;
- (2) When an affidavit is submitted to the board evidencing that the licensee, for good cause assigned, was prevented from attending an educational program at the proper time;
- (3) In the event of an unusual emergency; or
- (4) If that person holds an inactive license or certificate.

(c)(1) ~~Each~~ A veterinarian, ~~or~~ veterinary technician, or veterinary technologist ~~must~~ shall fulfill his or her annual education requirements at his or her own expense.

(2) The ~~registration~~ fee for his or her annual education requirements is not included in the license fee.

SECTION 8. Arkansas Code Title 17, Chapter 101, Subchapter 3, is amended to add an additional section to read as follows:

17-101-317. Veterinary technologist and veterinary technician specialist – Grounds for denial, suspension, or revocation.

(a) Upon written complaint by any person or on the Veterinary Medical Examining Board's own motion and after notice and hearing as prescribed in the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the board may deny or suspend any certification or deny or revoke any certificate of qualification of the applicant, veterinary technologist, or veterinary technician specialist for the following conduct:

- (1) Solicitation patients on behalf of a veterinarian or veterinary technician;
- (2) Solicitation or receiving any form of compensation from any person other than his or her registered employer for his or her employment;
- (3) Willfully or negligently disclosure a professional secret or discussing a veterinarian's diagnosis or treatment without the express permission of the veterinarian;
- (4)(A) Any offense punishable by incarceration in the Department of Correction or federal prison.
 - (B) A copy of the record of conviction, certified by the clerk of the court entering the conviction, shall be evidence;
- (5) Inability to practice as a veterinary technologist or a veterinary technician specialist with reasonable skill and safety to patients

due to illness, the use of drugs, alcohol, narcotics, or chemicals, or as a result of any mental or physical condition;

(6) Fraud or misrepresentation in applying for or procuring:

(A) A certificate of qualification to perform as a veterinary technologist or veterinary technician specialist in Arkansas; or

(B) An annual employment registration;

(7) Impersonation of another person registered as a veterinary technologist or veterinary technician specialist or authorization of any person to use his or her certificate of qualification or registration;

(8) Aids or abets the practice of veterinary medicine by a person not licensed by the board;

(9) Incompetence, gross negligence, or other malpractice in the performance of duties, tasks, or functions assigned to him or her by a licensed veterinarian;

(10) Incapacity or incompetence to perform as a veterinary technologist or veterinary technician specialist;

(11) Cruelty to animals;

(12) Failure:

(A) Of any applicant or licensee to cooperate with the board during any investigation, if the investigation does not concern the applicant or licensee;

(B) To comply with any subpoena or subpoena duces tecum from the board or an order of the board; or

(C) To timely pay certification or renewal fees; or

(13) Unprofessional conduct or conduct that is detrimental to the best interests of the public.

(b) At the discretion of the board, a person whose certificate of qualification is suspended or revoked by the board under this section may be:

(1) Recertified or reinstated by the board at any time upon written application to the board showing cause to justify recertification or reinstatement; and

(2) Subject to civil penalties under § 17-101-311 as determined by the board.

/s/Vaught