

LEGISLATIVE BILL 463

Approved by the Governor May 22, 2009

Introduced by Dierks, 40; Langemeier, 23.

FOR AN ACT relating to veterinary medicine and surgery; to amend sections 38-1,140, 38-3301, 38-3302, 38-3314, and 38-3321, Reissue Revised Statutes of Nebraska, and sections 71-8909, 71-8910, and 71-8922, Revised Statutes Cumulative Supplement, 2008; to provide for licensure of animal therapists; to change provisions relating to the practice of veterinary medicine and surgery and the performance of collaborative animal health care tasks; to provide for a civil penalty and disciplinary grounds; to redefine terms under the Veterinary Drug Distribution Licensing Act; to change provisions relating to the distribution of veterinary legend drugs; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 38-1,140, Reissue Revised Statutes of Nebraska, is amended to read:

38-1,140 Any person who holds a valid credential in the State of Nebraska in a health care profession or occupation regulated under the Uniform Credentialing Act may consult with a licensed veterinarian ~~who has contracted with or is employed by an accredited zoological park or garden~~ regarding an animal ~~on behalf of such zoological park or garden~~ or perform collaborative animal health care tasks on an animal under the care of such veterinarian ~~for such zoological park or garden~~ if all such tasks are performed under the immediate supervision of such veterinarian. Engaging in such conduct is hereby authorized and shall not be considered a part of the credential holder's scope of practice or a violation of the credential holder's scope of practice.

Sec. 2. Section 38-3301, Reissue Revised Statutes of Nebraska, is amended to read:

38-3301 Sections 38-3301 to 38-3330 and sections 4, 5, and 8 to 11 of this act shall be known and may be cited as the Veterinary Medicine and Surgery Practice Act.

Sec. 3. Section 38-3302, Reissue Revised Statutes of Nebraska, is amended to read:

38-3302 For purposes of the Veterinary Medicine and Surgery Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-3303 to 38-3318 and sections 4 and 5 of this act apply.

Sec. 4. Health care therapy means health care activities that require the exercise of judgment for which licensure is required under the Uniform Credentialing Act.

Sec. 5. Licensed animal therapist means an individual who (1) has and maintains an undisciplined license under the Uniform Credentialing Act for a health care profession other than veterinary medicine and surgery, (2) has met the standards for additional training regarding the performance of that health care profession on animals as required by rules and regulations adopted and promulgated by the department upon the recommendation of the board, and (3) is licensed as an animal therapist by the department.

Sec. 6. Section 38-3314, Reissue Revised Statutes of Nebraska, is amended to read:

38-3314 Unlicensed assistant means an individual who is not a licensed veterinarian, ~~or~~ a licensed veterinary technician, or a licensed animal therapist and who is working in veterinary medicine.

Sec. 7. Section 38-3321, Reissue Revised Statutes of Nebraska, is amended to read:

38-3321 No person may practice veterinary medicine and surgery in the state who is not a licensed veterinarian, no person may perform delegated animal health care tasks in the state who is not a licensed veterinary technician or an unlicensed assistant performing such tasks within the limits established under subdivision (2) of section 38-3326, and no person may perform health care therapy on animals in the state who is not a licensed animal therapist. The Veterinary Medicine and Surgery Practice Act shall not be construed to prohibit:

(1) An employee of the federal, state, or local government from performing his or her official duties;

(2) A person who is a student in a veterinary school from performing duties or actions assigned by his or her instructors or from working under the direct supervision of a licensed veterinarian;

(3) A person who is a student in an approved veterinary technician program from performing duties or actions assigned by his or her instructors or from working under the direct supervision of a licensed veterinarian or a licensed veterinary technician;

(4) Any merchant or manufacturer from selling feed or feeds whether medicated or nonmedicated;

(5) A veterinarian regularly licensed in another state from consulting with a licensed veterinarian in this state;

(6) Any merchant or manufacturer from selling from his or her established place of business medicines, appliances, or other products used in the prevention or treatment of animal diseases or any merchant or manufacturer's representative from conducting educational meetings to explain the use of his or her products or from investigating and advising on problems developing from the use of his or her products;

(7) An owner of livestock or a bona fide farm or ranch employee from performing any act of vaccination, surgery, pregnancy testing, or the administration of drugs in the treatment of domestic animals under his or her custody or ownership nor the exchange of services between persons or bona fide employees who are principally farm or ranch operators or employees in the performance of these acts;

(8) A member of the faculty of a veterinary school or veterinary science department from performing his or her regular functions, or a person lecturing or giving instructions or demonstrations at a veterinary school or veterinary science department or in connection with a continuing competency activity;

(9) Any person from selling or applying any pesticide, insecticide, or herbicide;

(10) Any person from engaging in bona fide scientific research which reasonably requires experimentation involving animals;

(11) Any person from treating or in any manner caring for domestic chickens, turkeys, or waterfowl, which are specifically exempted from the Veterinary Medicine and Surgery Practice Act;

(12) Any person from performing dehorning or castrating livestock, not to include equidae.

For purposes of the Veterinary Medicine and Surgery Practice Act, castration shall be limited to the removal or destruction of male testes; or

(13) Any person who holds a valid credential in the State of Nebraska in a health care profession or occupation regulated under the Uniform Credentialing Act from consulting with a licensed veterinarian ~~who has contracted with or is employed by an accredited zoological park or garden regarding an animal on behalf of such zoological park or garden~~ or performing collaborative animal health care tasks on an animal under the care of such veterinarian ~~for such zoological park or garden~~ if all such tasks are performed under the immediate supervision of such veterinarian.

Sec. 8. (1) In addition to the remedies authorized in section 38-140 or 38-1,124, a person who engages in the practice of veterinary medicine and surgery without being licensed or otherwise authorized to do so under the Veterinary Medicine and Surgery Practice Act shall be subject to a civil penalty of not less than one thousand dollars nor more than five thousand dollars for the first offense and not less than five thousand dollars nor more than ten thousand dollars for the second or subsequent offense. If a violation continues after notification, this constitutes a separate offense.

(2) The civil penalties shall be assessed in a civil action brought for such purpose by the Attorney General in the district court of the county in which the violation occurred.

(3) Any civil penalty assessed and unpaid under this section shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property. The department may also collect in such action attorney's fees and costs incurred in the collection of the civil penalty. The department shall, within thirty days after receipt, transmit any collected civil penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 9. Each applicant for a license as an animal therapist in this state shall present to the department:

(1) Proof that the applicant holds and maintains an undisciplined license under the Uniform Credentialing Act for a health care profession other than veterinary medicine and surgery;

(2) Proof that the applicant has met the standards for additional training regarding the performance of that health care profession on animals as required by rules and regulations adopted and promulgated by the department

upon the recommendation of the board; and

(3) Such other information and proof as the department, with the recommendation of the board, may require by rule and regulation.

Sec. 10. (1) A licensed animal therapist may perform health care therapy on an animal only if:

(a) The health care therapy is consistent with the licensed animal therapist's training required for the license referred to under subdivision (1) of section 9 of this act;

(b) The owner of the animal presents to the licensed animal therapist a prior letter of referral for health care therapy that includes a veterinary medical diagnosis and evaluation completed by a licensed veterinarian who has a veterinarian-client-patient relationship with the owner and the animal and has made the diagnosis and evaluation within ninety days immediately preceding the date of the initiation of the health care therapy; and

(c) The licensed animal therapist provides health care therapy reports at least monthly to the referring veterinarian, except that a report is not required for any month in which health care therapy was not provided.

(2) A licensed veterinarian who prepares a letter of referral for health care therapy by a licensed animal therapist shall not be liable for damages caused to the animal as a result of the health care therapy performed by the licensed animal therapist.

Sec. 11. In addition to the grounds for disciplinary action found in sections 38-178 and 38-179, a license to practice as a licensed animal therapist may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 38-196 when the applicant or licensee is subjected to disciplinary measures with regard to his or her license referred to under subdivision (1) of section 9 of this act.

Sec. 12. Section 71-8909, Revised Statutes Cumulative Supplement, 2008, is amended to read:

71-8909 Veterinary drug distributor means any person or entity, other than a pharmacy, that engages in the distribution of veterinary legend drugs in the State of Nebraska other than a pharmacy or a veterinarian licensed under the Uniform Credentialing Act acting within the scope of practice of veterinary medicine and surgery as defined in section 38-3312.

Sec. 13. Section 71-8910, Revised Statutes Cumulative Supplement, 2008, is amended to read:

71-8910 Veterinary drug order means a lawful order or prescription of a veterinarian licensed to practice in this state, which order or prescription is issued pursuant to a bona fide veterinarian-client-patient relationship. For purposes of the Veterinary Drug Distribution Licensing Act, a veterinary drug order expires and becomes void one hundred eighty days after the date of issue.

Sec. 14. Section 71-8922, Revised Statutes Cumulative Supplement, 2008, is amended to read:

71-8922 A veterinary drug distributor may distribute veterinary legend drugs to:

(1) A licensed veterinarian or to another veterinary drug distributor subject to the requirements of section 71-8921; and

(2) A layperson responsible for the control of an animal if:

(a) A licensed veterinarian has issued, prior to such distribution, a veterinary drug order for the veterinary legend drug in the course of an existing, valid veterinarian-client-patient relationship and the veterinary drug order is in compliance with all federal laws and regulations;

(b) At the time the veterinary legend drug leaves the licensed location of the veterinary drug distributor, those in the employ of the veterinary drug distributor possess a copy of the veterinary drug order for the veterinary legend drug issued according to subdivision (a) of this subdivision and deliver a copy to the layperson responsible for the control of the animal at the time of the distribution;

(c) The original veterinary drug order issued according to subdivision (a) of this subdivision is retained on the premises of the veterinary drug distributor or an authorized central location for three years after the date of the last transaction affecting the veterinary drug order; and includes the following information:

(i) Client name;

(ii) Veterinarian name;

(iii) Veterinary legend drug sold or delivered;

(iv) Quantity of the veterinary legend drug;

(v) Date of issue of veterinary drug order; and

(vi) Expiration date of veterinary drug order;

(d) All veterinary legend drugs distributed on the veterinary drug order ~~of a licensed veterinarian~~ issued according to subdivision (a) of this subdivision are sold in the original, unbroken manufacturer's containers; and

(e) The veterinary legend drugs, once distributed, are not returned to the veterinary drug distributor for resale or redistribution.

Nothing contained in Nebraska statutes governing the practice of pharmacy shall be construed to prohibit a veterinary drug distributor from selling or otherwise distributing a veterinary legend drug pursuant to a veterinary drug order by a veterinarian licensed in this state and, when a valid veterinarian-client-patient relationship exists, to the layperson responsible for the control of the animal.

(3) If all federal labeling requirements are met, labeling provisions of Nebraska laws governing the practice of pharmacy shall not apply to veterinary legend drugs distributed pursuant to the Veterinary Drug Distribution Licensing Act.

Sec. 15. Original sections 38-1,140, 38-3301, 38-3302, 38-3314, and 38-3321, Reissue Revised Statutes of Nebraska, and sections 71-8909, 71-8910, and 71-8922, Revised Statutes Cumulative Supplement, 2008, are repealed.