2013

STATE OF NEBRASKA

STATUTES RELATING TO VETERINARY MEDICINE AND SURGERY PRACTICE ACT

Department of Health and Human Services
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VETERINARY MEDICINE AND SURGERY PRACTICE ACT

38-3301. Act, how cited. Sections 38-3301 to 38-3335 shall be known and may be cited as the Veterinary Medicine and Surgery Practice Act.

Source: Laws 1967, c. 439, § 1, p. 1353; Laws 1988, LB 1100, § 54; Laws 2000, LB 833, § 3; R.S.1943, (2003), § 71-1,153; Laws 2007, LB463, § 1083; Laws 2009, LB463, § 2; Laws 2011, LB687, § 2. Effective Date: May 19, 2011.

38-3302 Definitions, where found. 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 apply.

Source: Laws 2007, LB463, § 1084; Laws 2009, LB463, § 3. Effective Date: August 30, 2009.

38-3303. Accredited school of veterinary medicine, defined. Accredited school of veterinary medicine means:

(1) One approved by the board;

(2) A veterinary college or division of a university or college that offers the degree of Doctor of Veterinary Medicine or its equivalent; and

(3) One that conforms to the standards required for accreditation by the American Veterinary Medical Association.

Source: Laws 2007, LB463, § 1085. Operative date December 1, 2008.

38-3304. Animal, defined. Animal means any animal other than man and includes birds, fish, and reptiles, wild or domestic, living or dead, except domestic poultry.

Source: Laws 2007, LB463, § 1086. Operative date December 1, 2008.

38-3305. Approved veterinary technician program, defined. Approved veterinary technician program means:

(1) One approved by the board;

(2) A school or college that offers the degree of Veterinary Technician, a degree in veterinary technology, or the equivalent; and

(3) One that conforms to the standards required for accreditation by the American Veterinary Medical Association.

Source: Laws 2007, LB463, § 1087. Operative date December 1, 2008.

38-3306. Board, defined. Board means the Board of Veterinary Medicine and Surgery.

Source: Laws 2007, LB463, § 1088. Operative date December 1, 2008.

38-3307. Direct supervision, defined. Direct supervision means that the supervisor is on the premises and is available to the veterinary technician or unlicensed assistant who is treating the animal and the animal has been examined by a veterinarian at such times as acceptable veterinary practice requires consistent with the particular delegated animal health care task.

Source: Laws 2007, LB463, § 1089. Operative date December 1, 2008.

38-3307.01 Health care therapy, defined. Health care therapy means health care activities that require the exercise of judgment for which licensure is required under the Uniform Credentialing Act.

Source: Laws 2009, LB463, § 4. Effective Date: August 30, 2009.

38-3308. Immediate supervision, defined. Immediate supervision means that the supervisor is on the premises and is in direct eyesight and hearing range of the animal and the veterinary technician or unlicensed assistant who is treating the animal and the animal has been examined by a veterinarian at such times as acceptable veterinary practice requires consistent with the particular delegated animal health care task.

Source: Laws 2007, LB463, § 1090. Operative date December 1, 2008.

38-3309. Indirect supervision, defined. Indirect supervision means that the supervisor is not on the premises but is easily accessible and has given written or oral instructions for treatment of the animal and the animal has been examined by a veterinarian at such times as acceptable veterinary practice requires consistent with the particular delegated animal health care task.

Source: Laws 2007, LB463, § 1091. Operative date December 1, 2008.

38-3309.01 Licensed animal therapist, defined. 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.
Source: Laws 2009, LB463, § 5. Effective Date: August 30, 2009.

38-3310. Licensed veterinarian, defined. Licensed veterinarian means a person who is validly and currently licensed to practice veterinary medicine and surgery in this state.
Source: Laws 2007, LB463, § 1092. Operative date December 1, 2008.

38-3311. Licensed veterinary technician, defined. Licensed veterinary technician means an individual who is validly and currently licensed as a veterinary technician in this state.
Source: Laws 2007, LB463, § 1093. Operative date December 1, 2008.

38-3312. Practice of veterinary medicine and surgery, defined. Practice of veterinary medicine and surgery means:
(1) To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury, or other physical or mental conditions, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any manual or mechanical procedure for testing for pregnancy or fertility or for correcting sterility or infertility. The acts described in this subdivision shall not be done without a valid veterinarian-client-patient relationship;
(2) To render advice or recommendation with regard to any act described in subdivision (1) of this section;
(3) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in subdivision (1) of this section; and
(4) To use 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 (1) of this section.
Source: Laws 2007, LB463, § 1094. Operative date December 1, 2008.

38-3313. Supervision, defined. Supervisor means a licensed veterinarian or licensed veterinary technician as required by statute or rule or regulation for the particular delegated task being performed by a veterinary technician or unlicensed assistant.
Source: Laws 2007, LB463, § 1095. Operative date December 1, 2008.

38-3314 Unlicensed assistant, defined. Unlicensed assistant means an individual who is not a licensed veterinarian, a licensed veterinary technician, or a licensed animal therapist and who is working in veterinary medicine.
Source: Laws 2007, LB463, § 1096; Laws 2009, LB463, § 6. Effective Date: August 30, 2009.

38-3315. Veterinarian, defined. Veterinarian means a person who has received a degree of Doctor of Veterinary Medicine from an accredited school of veterinary medicine or its equivalent.
Source: Laws 2007, LB463, § 1097. Operative date December 1, 2008.

38-3316. Veterinarian-client-patient relationship, defined. Veterinarian-client-patient relationship means that:
(1) The veterinarian has assumed the responsibility for making clinical judgments regarding the health of the animal and the need for medical treatment, and the client has agreed to follow the veterinarian's instructions;
(2) The veterinarian has sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal. 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
(3) The veterinarian is readily available or has arranged for emergency coverage and for followup evaluation in the event of adverse reactions or the failure of the treatment regimen.
Source: Laws 2007, LB463, § 1098. Operative date December 1, 2008.

38-3317. Veterinary medicine and surgery, defined. Veterinary medicine and surgery includes veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine.
Source: Laws 2007, LB463, § 1099. Operative date December 1, 2008.

38-3318. Veterinary technician, defined. Veterinary technician means an individual who has received a degree in veterinary technology from an approved veterinary technician program or its equivalent.
Source: Laws 2007, LB463, § 1100. Operative date December 1, 2008.

38-3319. Board; membership; qualifications. The board shall consist of five members, including three licensed veterinarians, one licensed veterinary technician, and one public member.
Source: Laws 2007, LB463, § 1101. Operative date December 1, 2008.

38-3320. Board; purpose. The purpose of the board is to: (1) Provide for the health, safety, and welfare of the citizens; (2) insure that veterinarians and veterinary technicians serving the public meet minimum standards of proficiency and competency; (3) insure that schools of veterinary medicine and surgery and veterinary technician programs meet the educational needs of the students and qualify students to serve the public in a safe and efficient manner; and (4) control the field of veterinary medicine and surgery in the interest of consumer protection.
Source: Laws 1979, LB 96, § 1; Laws 1999, LB 828, § 127; Laws 2000, LB 833, § 2; R.S.1943, (2003) § 71-1,152.01; Laws 2007, LB463, § 1102. Operative date December 1, 2008.

38-3321. Veterinarian; veterinary technician; animal therapist; license; required; exceptions. 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, retrievable transplantation of embryos on bovine, including recovering, freezing, and transferring embryos on bovine, 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;

(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 or performing collaborative animal health care tasks on an animal under the care of such veterinarian if all such tasks are performed under the immediate supervision of such veterinarian; or

(14) A person from performing a retrievable transplantation of embryos on bovine, including recovering, freezing, and transferring embryos on bovine, if the procedure is being performed by a person who (a) holds a doctorate degree in animal science with an emphasis in reproductive physiology from an accredited college or university and (b) has and can show proof of valid professional liability insurance.

(2) An applicant for a license to practice as a licensed veterinary technician based on a license in another state or territory of the United States, the District of Columbia, or a Canadian province shall meet the standards set by the board pursuant to section 38-126 and shall have been actively engaged in the practice of such profession at least one of the three years immediately preceding the application under a license in another state or territory of the United States, the District of Columbia, or a Canadian province.

Source: Laws 2007, LB463, § 1109. Operative date December 1, 2008.

38-3328. Fees. The department shall establish and collect fees for credentialing under the Veterinary Medicine and Surgery Practice Act as provided in sections 38-151 to 38-157.

Source: Laws 2007, LB463, § 1110. Operative date December 1, 2008.

38-3329. Advertising; offer of services; limitation. (1) Only a licensed veterinarian may advertise or offer his or her services in a manner calculated to lead others to believe that he or she is a licensed veterinarian.

(2) Only a licensed veterinary technician may advertise or offer his or her services in a manner calculated to lead others to believe that he or she is a licensed veterinary technician.

Source: Laws 2007, LB463, § 1111. Operative date December 1, 2008.

38-3330. Disclosure of information; restrictions. (1) Unless required by any state or local law for contagious or infectious disease reporting or other public health and safety purpose, no veterinarian licensed under the Veterinary Medicine and Surgery Practice Act shall be required to disclose any information concerning the veterinarian's care of an animal except under a written authorization or other waiver by the veterinarian's client or pursuant to a court order or a subpoena. A veterinarian who releases information under a written authorization or other waiver by the client or pursuant to a court order or a subpoena is not liable to the client or any other person.

(2) The privilege provided by this section is waived to the extent that the veterinarian's client or the owner of the animal places the veterinarian's care and treatment of the animal or the nature and extent of injuries to the animal at issue in any civil or criminal proceeding.

(3) The privilege provided by this section is waived to the extent and for purposes of notifying any owner or manager of cattle that have a significant risk for exposure to bovine trichomoniasis. A veterinarian who releases information about the risk for exposure to bovine trichomoniasis is not liable to the client or any other person.

(4) For purposes of this section, veterinarian includes the employees or agents of the licensed veterinarian while acting for or on behalf of such veterinarian.

Source: Laws 2000, LB 833, § 5; R.S.1943, (2003), § 71-1,164; Laws 2007, LB463, § 1112; Laws 2013, LB423, § 3. Effective Date: September 6, 2013.

38-3331 Civil penalty; recovery; lien. (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.

Source: Laws 2009, LB463, § 8. Effective Date: August 30, 2009

38-3332 Animal therapist; license; application; qualifications. 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.
Source: Laws 2009, LB463, § 9. Effective Date: August 30, 2009

38-3333 Animal therapist; health care therapy; conditions; letter of referral; liability. (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 38-3332;

(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.
Source: Laws 2009, LB463, § 10. Effective Date: August 30, 2009

38-3334 Animal therapist; additional disciplinary grounds. 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 38-3332.
Source: Laws 2009, LB463, § 11. Effective Date: August 30, 2009

38-3335. Veterinarian locum tenens; issuance; requirements; term. When circumstances indicate a need for the issuance of a veterinarian locum tenens in the State of Nebraska, the department, with the recommendation of the board, may issue a veterinarian locum tenens to an individual who holds an active license to practice veterinary medicine and surgery in another state if the requirements regarding education and examination for licensure in that state are equal to or exceed the requirements regarding education and examination for licensure in Nebraska. A veterinarian locum tenens may be issued for a period not to exceed ninety days in any twelve-month period.
Source: Laws 2011, LB687, § 3. Effective Date: May 19, 2011.

71-1,152. Repealed. Laws 1967, c. 439, §18.
71-1,152.01. Transferred to section 38-3320.
71-1,153. Transferred to section 38-3301.
71-1,154. Repealed. Laws 2007, LB 463, § 1319.
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71-1,180 and 71-1,181. Repealed. Laws 2000, LB 833, § 12.
71-1,182. Repealed. Laws 1988, LB 1100, §185.
71-1,183 to 71-1,185. Repealed. Laws 2000, LB 833, § 12.