

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 628

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Judy Vanderstar Russell

AN ACT

RELATING TO VETERINARY MEDICINE; AMENDING SECTIONS OF THE  
VETERINARY PRACTICE ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-14-5 NMSA 1978 (being Laws 1967,  
Chapter 62, Section 4, as amended) is amended to read:

"61-14-5. BOARD--DUTIES.--The board shall:

A. examine and determine the qualifications and  
fitness of applicants for a license to practice veterinary  
medicine in New Mexico and issue, renew, deny, suspend or  
revoke licenses;

B. regulate artificial insemination and pregnancy  
diagnosis by establishing standards of practice and issuing  
permits to persons found qualified;

C. establish [~~annually~~] a schedule of license and

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 permit fees based on the board's financial requirements for  
2 the ensuing year;

3 D. conduct investigations necessary to determine  
4 violations of the Veterinary Practice Act and discipline  
5 persons found in violation;

6 E. employ personnel necessary to carry out its  
7 duties;

8 F. promulgate and enforce regulations necessary to  
9 establish recognized standards for the practice of veterinary  
10 medicine and to carry out the provisions of the Veterinary  
11 Practice Act. The board shall make available to interested  
12 members of the public copies of the Veterinary Practice Act  
13 and all regulations promulgated by the board;

14 G. examine applicants for veterinary technician  
15 certification purposes. Such examination shall be held at  
16 least once a year at the times and places designated by the  
17 board;

18 H. establish a five-member veterinary technician  
19 examining committee;

20 I. adopt regulations establishing continuing  
21 education requirements as a condition for license renewal; and

22 ~~[J. adopt regulations for the inspection and~~  
23 ~~operation of facilities in accordance with recognized~~  
24 ~~standards for the practice of veterinary medicine as a~~  
25 ~~condition for licensure]~~

. 126340. 3

underscored material = new  
[bracketed material] = delete

1                   J. regulate the operation of veterinary  
2 facilities, including:

3                   (1) establishing requirements for operation  
4 of a veterinary facility in accordance with recognized  
5 standards for the practice of veterinary medicine;

6                   (2) issuing permits to qualified veterinary  
7 facilities; and

8                   (3) adopting standards for inspection of  
9 veterinary facilities.

10                   For purposes of this subsection, "veterinary facility"  
11 means any building, mobile unit, vehicle or other location  
12 where services included within the practice of veterinary  
13 medicine are provided. "

14                   Section 2. Section 61-14-13 NMSA 1978 (being Laws 1967,  
15 Chapter 62, Section 9, as amended) is amended to read:

16                   "61-14-13. DENIAL, SUSPENSION OR REVOCATION OF  
17 LICENSE. --

18                   ~~[A. The board may place a licensee on probation;~~  
19 ~~impose on a licensee an administrative penalty in an amount~~  
20 ~~not to exceed two thousand five hundred dollars (\$2,500);~~  
21 ~~reprimand a licensee; deny, suspend for a definite period or~~  
22 ~~revoke a license, certificate or permit of a licensee; or take~~  
23 ~~any other reasonable action as established by the board if the~~  
24 ~~board determines after receiving a complaint and providing~~  
25 ~~notice and a hearing pursuant to the Uniform Licensing Act~~

. 126340. 3

underscored material = new  
[bracketed material] = delete

1 ~~that a licensee]~~

2           A. In accordance with the procedures contained in  
3 the Uniform Licensing Act, the board may deny, suspend for a  
4 definite period or revoke a license, certificate or permit  
5 held or applied for under the Veterinary Practice Act, or may  
6 reprimand, place on probation, enter a stipulation with or  
7 impose an administrative penalty in an amount not to exceed  
8 five thousand dollars (\$5,000) on a holder of a license,  
9 certificate or permit, upon a finding by the board that the  
10 licensee, certificate or permit holder, or applicant :

11                   (1) has committed an act of fraud,  
12 misrepresentation or deception in obtaining a license or  
13 permit;

14                   (2) has been adjudicated insane or manifestly  
15 incapacitated;

16                   (3) has used advertising or solicitation that  
17 is false, misleading or is otherwise deemed unprofessional  
18 under rules promulgated by the board;

19                   (4) has been convicted of a felony or other  
20 crime involving moral turpitude;

21                   (5) is guilty of dishonesty, incompetence,  
22 gross negligence or other malpractice in the practice of  
23 veterinary medicine;

24                   (6) has a professional association with or  
25 employs any person practicing veterinary medicine unlawfully;

. 126340. 3

underscored material = new  
[bracketed material] = delete

1 (7) is guilty of fraud or dishonesty in the  
2 application or reporting of any test for disease in animals;

3 (8) has failed to maintain his professional  
4 premises and equipment in a clean and sanitary condition in  
5 compliance with facility permit rules promulgated by the  
6 board;

7 (9) is guilty of habitual or excessive use of  
8 intoxicants or drugs;

9 (10) is guilty of cruelty to animals;

10 (11) has had his license to practice  
11 veterinary medicine revoked by another state, territory or  
12 district of the United States on grounds other than nonpayment  
13 of license or permit fees;

14 (12) is guilty of unprofessional conduct by  
15 violation of a rule promulgated by the board pursuant to  
16 provisions of the Veterinary Practice Act;

17 (13) has failed to perform as a veterinary  
18 technician under the direct supervision of a licensed  
19 veterinarian;

20 (14) has failed as a licensed veterinarian to  
21 reasonably exercise direct supervision with respect to a  
22 veterinary technician;

23 (15) is guilty of aiding or abetting the  
24 practice of veterinary medicine by a person not licensed,  
25 certified or permitted by the board;

. 126340. 3

underscored material = new  
[bracketed material] = delete

1 (16) has used any controlled drug or  
2 substance on any animal for the purpose of illegally  
3 influencing the outcome of a competitive event;

4 (17) has willfully or negligently  
5 administered a drug or substance that will adulterate meat,  
6 milk, poultry, fish or eggs;

7 (18) has failed to maintain required logs and  
8 records;

9 (19) has used a prescription or has sold any  
10 prescription drug or prescribed extra-label use of any over-  
11 the-counter drug in the absence of a valid veterinarian-  
12 client-patient relationship;

13 (20) has failed to report, as required by  
14 law, or has made a false report of any contagious or  
15 infectious disease; [or]

16 (21) has engaged in an unfair or deceptive  
17 practice; or

18 (22) has engaged in the practice of  
19 veterinary medicine on any animal or group of animals in the  
20 absence of a valid veterinarian-client-patient relationship.

21 B. Disciplinary proceedings may be instituted by  
22 sworn complaint by any person and shall conform with the  
23 provisions of the Uniform Licensing Act.

24 [~~B.~~] C. Any person whose license, certificate or  
25 permit is suspended or revoked by the board pursuant to

underscored material = new  
[bracketed material] = delete

1 provisions of this section may, at the discretion of the  
2 board, be relicensed or reinstated by the board at any time  
3 without examination upon written application to the board  
4 showing cause to justify relicensing or reinstatement. "

5 Section 3. Section 61-14-14 NMSA 1978 (being Laws 1967,  
6 Chapter 62, Section 10, as amended) is amended to read:

7 "61-14-14. EXEMPTIONS. -- Provisions of the Veterinary  
8 Practice Act do not apply to:

9 A. employees of federal, state or local  
10 governments performing official duties;

11 B. regular students in a veterinary school  
12 performing duties or actions assigned by an instructor or  
13 working under direct supervision of a licensed veterinarian  
14 during a school vacation period;

15 C. reciprocal aid of neighbors in performing  
16 routine accepted livestock management practices;

17 D. any veterinarian licensed in any foreign  
18 jurisdiction consulting with a licensed veterinarian;

19 E. any merchant or manufacturer selling at his  
20 regular place of business any medicine, feed, appliance or  
21 other product used in the prevention or treatment of animal  
22 disease;

23 F. the owner of an animal, his consignees and  
24 their employees while performing routine accepted livestock  
25 management practices in the care of animals belonging to the

underscored material = new  
[bracketed material] = delete

1 owner;

2 G. a member of the faculty of a veterinary school  
3 performing his regular functions or a person lecturing or  
4 giving instruction or demonstration at a veterinary school or  
5 in connection with ~~[the]~~ a continuing education course or  
6 seminar for licensed veterinarians, veterinary technicians or  
7 persons holding or training for valid permits for artificial  
8 insemination or diagnosing pregnancy;

9 H. a person selling or applying any pesticide,  
10 insecticide or herbicide; or

11 I. a person engaging in bona fide scientific  
12 research that reasonably requires experimentation involving  
13 animals

14 ~~[J. a person who is artificially inseminating or~~  
15 ~~diagnosing pregnancy with a valid permit issued by the board;~~  
16 ~~or~~

17 ~~K. any act, task or function performed by a~~  
18 ~~veterinary technician under the direct supervision of a~~  
19 ~~licensed or license-exempt veterinarian, when:-~~

20 ~~(1) the veterinary technician is certified by~~  
21 ~~and annually registered with the board as one qualified by~~  
22 ~~training or experience to function as an assistant to a~~  
23 ~~veterinarian;~~

24 ~~(2) the act, task or function is performed in~~  
25 ~~accordance with rules and regulations promulgated by the~~

underscored material = new  
[bracketed material] = delete

1 board; and

2                   ~~(3) the services of the veterinary technician~~  
3 ~~are limited to assisting the veterinarian in the particular~~  
4 ~~fields for which the assistant has been trained, certified and~~  
5 ~~registered; provided that this subsection shall not limit or~~  
6 ~~prevent any veterinarian from delegating to a qualified person~~  
7 ~~any acts, tasks or functions that are otherwise permitted by~~  
8 ~~law but that do not include diagnosis, prescription or~~  
9 ~~surgery]. "~~

10           Section 4. Section 61-14-18 NMSA 1978 (being Laws 1967,  
11 Chapter 62, Section 13) is amended to read:

12           "61-14-18. PRACTICING WITHOUT LICENSE--PENALTY. --It is a  
13 misdemeanor for any person to [~~engage in the practice of~~  
14 ~~veterinary medicine in this state unless he is a licensed~~  
15 ~~veterinarian]~~ practice veterinary medicine or attempt to  
16 practice veterinary medicine without complying with the  
17 provisions of the Veterinary Practice Act and without being  
18 the holder of a license entitling him to practice veterinary  
19 medicine in New Mexico. "

20           Section 5. Section 61-14-19 NMSA 1978 (being Laws 1967,  
21 Chapter 62, Section 14) is amended to read:

22           "61-14-19. INJUNCTION. --The board or any person may  
23 bring an action in the district court to enjoin any person who  
24 is not a licensed veterinarian from engaging in the practice  
25 of veterinary medicine. If the court finds that the defendant

underscored material = new  
[bracketed material] = delete

1 is violating or threatening to violate the Veterinary Practice  
2 Act, it shall enter an order restraining him from the  
3 ~~[violating without regard to any criminal provisions of the~~  
4 ~~Veterinary Practice Act]~~ violation. Any person so enjoined  
5 who violates the injunction shall be punished for contempt of  
6 court. This remedy by injunction shall be in addition to any  
7 remedy provided for criminal prosecution of the offender. "

8 Section 6. A new section of the Veterinary Practice Act  
9 is enacted to read:

10 "[NEW MATERIAL] PROTECTED ACTIONS-- COMMUNICATION. --

11 A. No current or former member of the board,  
12 officer, administrator, staff member, committee member,  
13 examiner, representative, agent, employee, consultant, witness  
14 or any other person serving or having served the board shall  
15 bear liability or be subject to civil damages or criminal  
16 prosecutions for any action or omission undertaken or  
17 performed within the scope of the board's duties.

18 B. All written and oral communications made by any  
19 person to the board relating to actual or potential  
20 disciplinary action shall be confidential communications and  
21 are not public records for the purposes of the Inspection of  
22 Public Records Act. All data, communications and information  
23 acquired by the board relating to actual or potential  
24 disciplinary action shall not be disclosed except to the  
25 extent necessary to carry out the board's purposes or in a

1 judicial appeal from the board's actions.

2 C. The board shall make available to interested  
3 members of the public information about a disciplinary action  
4 taken by the board pursuant to Section 61-14-13 NMSA 1978,  
5 including the name of the licensee, the nature of the  
6 violation of the Veterinary Practice Act and the disciplinary  
7 action taken.

8 D. No person or legal entity providing information  
9 to the board, whether as a report, a complaint or testimony,  
10 shall be subject to civil damages or criminal prosecutions."

1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
3  
4  
5

6 March 2, 1999  
7

8 Mr. Speaker:  
9

10 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has  
11 been referred  
12

13 HOUSE BILL 628  
14

15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, and thence referred to the  
17 JUDICIARY COMMITTEE.

18 Respectfully submitted,  
19  
20

21  
22 \_\_\_\_\_  
23 Debbie A. Rodella, Vice  
24 Chairwoman  
25

underscored material = new  
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

3 HBIC/HB 628

Page 13

4 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

6 (Chief Clerk)

(Chief Clerk)

8 Date \_\_\_\_\_

10 The roll call vote was 7 For 0 Against

11 Yes: 7

12 Excused: Irwin, Kissner, Lutz, J. Taylor, T. Taylor

13 Absent: None

15 J: \99BillSWP\H0628

underscored material = new  
[bracketed material] = delete

1 FORTY- FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
3

4 March 10, 1999  
5

6  
7 Mr. Speaker:  
8

9 Your JUDICIARY COMMITTEE, to whom has been referred  
10

11 HOUSE BILL 628  
12

13 has had it under consideration and reports same with  
14 recommendation that it DO PASS, amended as follows:  
15

16 1. On page 9, line 15, strike "or attempt to" and on  
17 page  
18 9, line 16 strike "practice veterinary medicine".

19 2. On page 10, line 5, strike "shall" and insert in lieu  
20 thereof "may".  
21  
22  
23  
24  
25

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HJC/HB 628

Page 15

Respectfully submitted,

\_\_\_\_\_  
R. David Pederson, Chairman

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 9 For 1 Against

Yes: 9

No: Garcia

Excused: Luna, Sanchez

Absent: None

J:\99BillSWP\H0628]

. 126340. 3

underscored material = new  
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

1 HJC/HB 628

Page 16

2

3

4

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

5

6

7

March 15, 1999

8

9

Mr. President:

10

Your CORPORATIONS & TRANSPORTATION COMMITTEE, to

11

whom has been referred

12

13

HOUSE BILL 628, as amended

14

15

has had it under consideration and reports same with  
recommendation that it DO PASS.

16

17

Respectfully submitted,

18

19

20

21

22

---

Roman M. Maes, Chairman

23

24

25

. 126340. 3

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

1 HJC/HB 628

Page 17

2

3

Adopted \_\_\_\_\_ Not

4

Adopted \_\_\_\_\_

5

(Chief Clerk)

(Chief Clerk)

6

7

8

Date \_\_\_\_\_

9

10

11

The roll call vote was 6 For 1 Against

12

Yes: 6

13

No: McKibben

14

Excused: Aragon, Fidel, Robinson

15

Absent: None

16

17

H0628CT1

18

19

20

21

22

23

24

25

. 126340. 3

underscored material = new  
[bracketed material] = delete