

1 HB188
2 147998-1
3 By Representatives Todd, Hubbard (M) and Sanderford
4 RFD: Boards, Agencies and Commissions
5 First Read: 07-FEB-13

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8 SYNOPSIS: Under existing law, the Alabama Veterinary
9 Practice Act governs the practice of veterinary
10 medicine in the state.

11 This bill would provide further for the
12 definition of the practice of veterinary medicine
13 to prohibit any person, other than a licensed
14 veterinarian, from directly supervising veterinary
15 medical services or making certain decisions
16 relating to the medical or surgical treatment of
17 animals.

18 This bill would include a spay neuter clinic
19 under the definition of a veterinary facility, and
20 would limit the scope of services offered at a spay
21 neuter clinic.

22 This bill would exempt licensed
23 veterinarians employed by nonprofit spay neuter
24 clinics from certain prohibitions against
25 practicing veterinary medicine as an employee of a
26 person not licensed by the board.

This bill would subject spay neuter clinics to the same permits and requirements as other veterinary facilities.

This bill would also specify that licensed veterinarians continue to exercise the standard of care, professional judgment, and humane treatment of animals required under the practice act as amended.

A BILL

TO BE ENTITLED

AN ACT

To amend Sections 34-29-61, 34-29-87, and 34-29-88,

Code of Alabama 1975, relating to the Alabama Veterinary Practice Act; to provide further for the definition of the practice of veterinary medicine to prohibit any person, other than a licensed veterinarian, from directly supervising veterinary medical services or making certain decisions relating to the medical or surgical treatment of animals; to include a spay neuter clinic under the definition of a veterinary facility, and to limit the scope of services offered at a spay neuter clinic; to exempt licensed veterinarians employed by nonprofit spay neuter clinics from certain prohibitions against practicing veterinary medicine as an employee of a person not licensed by the board; subject spay neuter clinics to the same permits and requirements as

1 other veterinary facilities; and to specify that licensed
2 veterinarians continue to exercise the standard of care,
3 professional judgment, and humane treatment of animals
4 required under the practice act as amended.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 34-29-61, 34-29-87, and 34-29-88
7 of the Code of Alabama 1975, are amended to read as follows:

8 "§34-29-61.

9 "For the purposes of this article, the following
10 terms shall have the following meanings ascribed by this
11 section:

12 "(1) ACCREDITED SCHOOL OF VETERINARY MEDICINE. Any
13 veterinary college or division of a university or college that
14 offers the degree of doctor of veterinary medicine or its
15 equivalent and is accredited by the American Veterinary
16 Medical Association (AVMA) .

17 "(2) ANIMAL. Any animal or mammal other than man,
18 including birds, fish, reptiles, wild or domestic, living or
19 dead.

20 "(3) APPLICANT. A person who files an application to
21 be licensed to practice veterinary medicine or licensed as a
22 veterinary technician.

23 "(4) BOARD. Alabama State Board of Veterinary
24 Medical Examiners.

25 "(5) CONSULTING VETERINARIAN. A veterinarian
26 licensed in another state who gives advice or demonstrates
27 techniques to a licensed Alabama veterinarian or group of

1 licensed Alabama veterinarians. A consulting veterinarian
2 shall not utilize this privilege to circumvent the law.

3 "(6) DIRECT SUPERVISION. The supervising
4 veterinarian has initially examined the animal and will
5 examine at other times as acceptable veterinary medical
6 practice requires, consistent with the particular delegated
7 animal health care task. The supervising veterinarian is on
8 the premises and is quickly and easily available.

9 "(7) EMERGENCY. The animal has been placed in a life
10 threatening condition and immediate treatment is necessary to
11 sustain life.

12 "(8) FOREIGN VETERINARY GRADUATE, EXCLUDING CANADA.
13 Any person, including a foreign national or an American
14 citizen, who has received a professional veterinarian medical
15 degree from an American Veterinary Medical Association listed
16 veterinary college that is not accredited by the American
17 Veterinary Medical Association.

18 "(9) IMMEDIATE SUPERVISION. The supervising
19 veterinarian is on the premises and in audible or visual range
20 of the animal patient and the person treating the patient.

21 "(10) INDIRECT SUPERVISION. The supervising
22 veterinarian has examined the animal and has given written or
23 oral instructions for the treatment of the animal while the
24 supervising veterinarian is away from the premises.

25 "(11) LICENSE. Any permit, approval, registration,
26 or certificate of qualification issued by the board.

1 "(12) LICENSED VETERINARIAN. A person who is validly
2 and currently licensed to practice veterinary medicine in
3 Alabama.

4 "(13) LICENSED VETERINARY TECHNICIAN. A person who
5 is validly and currently licensed to practice as a veterinary
6 technician in Alabama.

7 "(14) PERSON. Any individual, firm, partnership,
8 association, joint venture, cooperative, or corporation or any
9 other group or combination acting in concert; and whether or
10 not acting as a principal, trustee, fiduciary, receiver, or as
11 any kind of legal or personal representative, or as the
12 successor in interest, assigning agent, factor, servant,
13 employee, director, officer, or any other representative of
14 such person.

15 "(15) PRACTICE OF VETERINARY MEDICINE:

16 "a. To diagnose, treat, correct, change, relieve, or
17 prevent animal disease, deformity, defect, injury, or other
18 physical or mental condition; including the prescription or
19 administration of any drug, medicine, biologic, apparatus,
20 application, anesthesia, or other therapeutic or diagnostic
21 substance or technique on any animal including but not limited
22 to acupuncture, dentistry, animal psychology, animal
23 chiropractic, theriogenology, surgery, including cosmetic
24 surgery, any manual, mechanical, biological, or chemical
25 procedure for testing for pregnancy or for correcting
26 sterility or infertility, or to render service or
27 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 paragraph a.

"c. To use any title, words, abbreviations, 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 paragraph a. Such use shall be prima facie evidence of the intention to represent oneself as engaged in the practice of veterinary medicine.

"d. ~~Collects~~ To collect blood or other samples for the purpose of diagnosing disease or other conditions. This paragraph shall not apply to unlicensed personnel employed by the United States Department of Agriculture or the Alabama Department of Agriculture who are engaged in the Brucellosis eradication program or external parasite control program pursuant to Section 2-15-192.

"e. To remove any embryo from a food animal or companion animal for the purpose of transplanting the embryo into another female animal or for the purpose of cryopreserving the embryo, or to implant the embryo into a food or companion animal. It shall not be considered the practice of veterinary medicine for a person or his or her full-time employees to remove an embryo from the food or companion animal of the person for the purpose of transplanting or cryopreserving the embryo, or to implant an embryo into the food or companion animal of the person, provided ownership of the food or companion animal shall not

1 be transferred or employment of the person shall not be
2 changed for the purpose of circumventing this article.

3 "f. To provide veterinary medical services to a
4 client or patient in this state, through telephonic,
5 electronic, or other means, regardless of the location of the
6 veterinarian, shall constitute the practice of veterinary
7 medicine in this state and shall require licensure within this
8 state and a veterinarian-client-patient relationship must be
9 established.

10 "g. It shall be unlawful for any person, other than
11 a licensed veterinarian, to undertake the direct supervision
12 of the veterinary medical services or to make any policy or
13 decision relating to the medical or surgical treatment of
14 animals including, but not limited to, the number of surgical
15 procedures to be performed per day per veterinarian or the
16 number of auxiliary veterinary medical personnel, including
17 licensed veterinary technicians and unlicensed veterinary
18 assistants, necessary to provide adequate outpatient surgery
19 services.

20 "(16) SUPERVISING VETERINARIAN. A veterinarian who
21 assumes responsibility for the professional care given to an
22 animal by a person working under his or her direction.

23 "(17) TEMPORARY LICENSE. Temporary permission to
24 practice veterinary medicine issued by the board pursuant to
25 this article.

"(18) UNLICENSED ASSISTANT. Any individual who is not a licensed veterinary technician or veterinarian and is employed by a licensed veterinarian.

"(19) VETERINARIAN-CLIENT-PATIENT RELATIONSHIP (VCPR). A relationship when the veterinarian has assumed responsibility for making medical judgments regarding the health of the animal or animals and the need for medical treatment and is created by actual examination by the veterinarian of the animal or a representative segment of a consignment or herd.

"(20) VETERINARIAN, DOCTOR OF VETERINARY MEDICINE, DVM, VMD, or EQUIVALENT TITLE. A person who has received a doctor's degree in veterinary medicine from an accredited school of veterinary medicine or holds an Educational Commission for Foreign Veterinary Graduates (ECFVG) certificate issued by the American Veterinary Medical Association (AVMA).

"(21) VETERINARY FACILITIES. Any place or unit from which the practice of veterinary medicine is conducted. The following are types of veterinary facilities:

"a. Veterinary or Animal Hospital or Clinic. Meets or exceeds all mandatory requirements as listed in the administrative code of the board for veterinary facilities. In doing so, it provides quality examination, diagnostic, and health maintenance services for medical and surgical treatment of animals and is equipped to provide housing and nursing care for the animals during illness or convalescence.

"b. Specialty Practice or Clinic. Provides complete specialty service by a veterinarian who has advanced training in that specialty and is a diplomat of an approved specialty college. It meets all minimum standards that are applicable to that specialty.

"c. Central Hospital. Shall meet all requirements of paragraph a., as well as provide specialized care including 24-hour nursing care and specialty consultation on a permanent or on-call basis. It is mainly utilized on referral from area veterinary hospitals or clinics.

"d. Satellite, Outpatient, or Mobile Small Animal Clinics. A supportive facility owned by or associated with, or both, and has ready access to, within a reasonable distance, a full-service veterinary hospital or clinic or a central hospital providing all mandatory services and meeting all minimum standards. The public shall be informed of the limitation of services by way of a posted notice in plain view and easily readable or by notice provided to the client by flyer or card which clearly specifies those mandatory veterinary medical services which are not provided. In addition, the main location and telephone number of the veterinary hospital or clinic providing the required service, as well as the signed agreement with the veterinary hospital or clinic shall also be posted in plain view and be easily readable. A veterinarian associated with this veterinary hospital or clinic shall be on call during and after operation of the satellite, outpatient, or mobile clinic to render aid

1 if necessary. The personnel of satellite, outpatient, or
2 mobile clinics shall consist of one or more veterinarians and
3 auxiliary personnel necessary to provide adequate outpatient
4 service. Operation of any satellite, outpatient, or mobile
5 clinic shall be under the direct supervision of a licensed
6 veterinarian who remains on the premises during the entire
7 time of operation.

8 "e. Large Animal Mobile Clinic. Must provide
9 examination, diagnostic, and preventive medicine, and minor
10 surgical services for large animals not requiring confinement
11 or hospitalization. Emergency service and radiology service
12 shall be provided by that veterinarian or by written agreement
13 with another veterinarian or group of veterinarians in
14 practice in that locale. These clinics shall provide a degree
15 of veterinary care compatible with the level of standards
16 considered adequate to the practice of veterinary medicine
17 currently available in the area. Complete hospital facilities
18 may be provided by the nearest large animal hospital or
19 veterinary school.

20 "f. Emergency Clinic. A facility established to
21 receive patients and to treat illnesses and injuries of an
22 emergency nature requiring treatment. The clinic shall provide
23 professional diagnostic and emergency treatment during hours
24 when local veterinary hospitals are normally closed. Emergency
25 clinics shall meet all mandatory requirements of a veterinary
26 hospital or clinic.

"g. Spay Neuter Clinic. A limited service veterinary clinic providing spay and neuter services, where no patient shall be allowed on the premises for more than 36 hours. Services provided by a spay neuter clinic shall be limited to spay and neuters. One-year rabies vaccinations and treatment of intestinal and external parasites may be administered only at the time of the surgery. A spay neuter clinic shall meet or exceed all physical requirements and minimum standards established by this article, and the rules of the board, for veterinary facilities providing limited services on an outpatient basis. Service contracts with a full-service veterinary facility that provides emergency and after-hour care shall be required for after-hour emergencies.

"(22) VETERINARY INTERN. A person who is working towards completion of an ECFVG certificate and who is working under the direct or indirect supervision of a board approved licensed veterinarian in any state to complete the practical experience internship required for licensing in Alabama.

"(23) VETERINARY MEDICINE. Includes veterinary surgery, theriogenology, dentistry, acupuncture, animal psychology, chiropractic, and all other branches or specialties of veterinary practice.

"(24) VETERINARY STUDENT PRECEPTEE. A person who is pursuing a veterinary degree in an accredited school of veterinary medicine which has a preceptor or extern program and who has completed the academic requirements of the program.

1 "(25) VETERINARY TECHNICIAN STUDENT. Any person
2 enrolled in an AVMA accredited veterinary technology program;
3 gaining clinical experience under the supervision of a
4 licensed veterinarian or licensed veterinary technician in a
5 clinical setting.

6 "(26) VETERINARY TECHNOLOGY. The skills and
7 knowledge accrued in a post-high school course of study,
8 accredited by the AVMA Committee on Education (COE) or the
9 board, in the area of care and treatment of animals. It
10 embodies limited skills, responsibility, and minimal exercise
11 of independent judgment in the treatment of patients of
12 veterinarians while under direct, indirect, or immediate
13 supervision of a veterinarian.

14 "(27) WHOLESALE VETERINARY DRUG DISTRIBUTOR. A
15 person engaged in the business of distributing veterinary
16 drugs and medicines for resale to veterinary practitioners and
17 other veterinary wholesalers and possesses a current permit
18 issued by the Alabama Board of Pharmacy to engage in the
19 selling of veterinary drugs or medicines in the State of
20 Alabama.

21 "§34-29-87.

22 "(a) Whenever the practice of veterinary medicine is
23 carried on by a partnership, all partners shall be either
24 licensed or holders of temporary licenses to practice
25 veterinary medicine in the State of Alabama.

26 "(b) It shall be unlawful for any licensed
27 veterinarian to practice veterinary medicine as an employee of

1 any person or other entity not engaged primarily in the
2 practice of veterinary medicine or for any person that is the
3 owner or owners of an active veterinary practice to be other
4 than a veterinarian or veterinarians duly licensed in the
5 State of Alabama.

6 "(c) The following shall be exempt from this
7 section:

8 "(1) A veterinarian employed by a person treating
9 his or her employer's animals.

10 "(2) A veterinarian employed by an official agency
11 of the federal or state government or any subdivision thereof.

12 "(3) A veterinarian employed by any licensed
13 research facility.

14 "(4) An heir or heirs inheriting under the terms of
15 a will or by intestate succession for a period of ~~two~~ five
16 years following the death of the licensee.

17 "(5) A licensed veterinarian employed by a spay
18 neuter clinic owned and operated by a nonprofit, tax exempt
19 entity, as defined under Section 501(c)(3) of the Internal
20 Revenue Code. Each licensed veterinarian employed by a
21 501(c)(3) spay neuter clinic shall be subject to the standards
22 of care for veterinary medicine as established in this
23 article, rules promulgated by the board pursuant to this
24 article, and the standards of care for veterinary medicine and
25 surgery as established in this article and by rule of the
26 board.

27 "§34-29-88.

"(a) Any facility, including mobile clinics, spay neuter clinics, or any other premises where a licensed veterinarian practices shall have a premise permit issued by the board. Upon application and payment of a premise permit fee and an inspection fee, if necessary to cover the cost of inspection, the board shall cause a facility to be inspected. A premise permit shall be issued if the facility meets minimum standards to be adopted by the administrative code of the board as to sanitary conditions and physical plant. In lieu of the above procedure, the board may issue a premise permit to any premise which is accredited by a recognized organization whose standards meet or exceed minimum board standards as established by the administrative code of the board.

"(b) Each application for premise permit shall set forth the names of all licensed veterinarians who shall be responsible for the management of the premises.

"(c) The premise permit may be revoked, suspended, or denied when inspection reveals that the premises do not meet the standards set by the administrative code of the board or when the license of the responsible veterinarian or veterinarians has been suspended or revoked.

"(d) The board may cause the closure of a facility and impose a penalty against any owner, operator, or responsible veterinarian of any premises operating without a premise permit in violation of this section or in violation of the administrative code of the board. No penalties so imposed shall exceed one thousand dollars (\$1,000) for each count or

1 separate offense. In order that the board and the executive
2 director may determine whether or not a danger to the public
3 or to animals exists, the executive director or investigators
4 employed by the board may conduct inspections or
5 investigations of premises suspected of being in violation of
6 any rule of the board. If a violation is found in conducting
7 an inspection which is determined to be a hazard and a danger
8 to the public or to animals, the executive director may
9 suspend that premise permit until further notice.

10 "(e) All premise permits shall be renewed yearly by
11 payment of a fee to the board.

12 "(f) Veterinary facilities shall be reinspected
13 periodically as determined by the board.

14 "(g) Premise permits issued to satellite,
15 outpatient, spay neuter clinics, or mobile small animal
16 clinics shall state the name of the full service veterinary
17 facility in that locale providing emergency and after hours
18 service. Premise permits issued to mobile large animal clinics
19 shall state the name of the full service veterinary facility
20 in that locale providing radiology, emergency, and after hours
21 service. Mobile clinics operating in more than one locale,
22 i.e. city, shall have a premise permit for each locale. If the
23 agreement between the outpatient, satellite, mobile large
24 animal clinic, mobile small animal clinic, spay neuter clinic,
25 and the full service veterinary clinic providing back-up
26 service ceases, the board shall be notified immediately and a

new agreement for back-up service shall be provided before the issuance of a new premise permit."

Section 2. Nothing in Sections 34-29-61, 34-29-87, and 34-29-88, Code of Alabama 1975, as amended by this act, shall restrict a licensed veterinarian from doing all of the following:

(1) Exercising the same degree of care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by members of the veterinary medical profession in good standing in the locality or community in which he or she practices, or in similar communities.

(2) Deciding what employment he or she will accept in his or her professional capacity and what course of treatment will be followed once he or she has accepted employment.

(3) Treating all animals entrusted to him or her by his or her clients in keeping with the veterinary medical professional standards of humane treatment and care.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.