

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1468

H.P. 1051

House of Representatives, March 11, 1997

An Act to Amend the Maine Veterinary Practice Act of 1975.

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Business and Economic Development suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative SHANNON of Lewiston.

Cosponsored by Representatives: SIROIS of Caribou, WRIGHT of Berwick.

2 comply with section 60. A person may not serve on the board who
is, or has been during the 2 years preceding appointment, a
4 trustee or a member of the faculty or advisory board of a
veterinary school.

6 **Sec. 5. 32 MRSA §4855**, as amended by PL 1995, c. 397, §§62
and 63, is further amended to read:

8
10 **§4855. Officers**

12 The board shall organize annually by electing a president
chair, a secretary who need not be a member of the board and any
14 other officers as may be determined necessary. The secretary
board shall maintain the correspondence of the board, and keep a
16 record of all proceedings, ~~including the disposition of all~~
~~applications for license or registration as veterinary~~
18 ~~technicians, and keep a register of all persons currently~~
~~licensed by the board or registered as a veterinary technician.~~
All board records must be open to public inspection during
20 regular office hours.

22 **Sec. 6. 32 MRSA §4856**, as enacted by PL 1975, c. 477, §4, is
amended to read:

24
26 **§4856. Meetings**

28 The board shall meet at least once a year at a time and
place fixed by the board. Other meetings may be called by the
president chair by giving notice as required by rule. A majority
30 of the board constitutes a quorum.

32 **Sec. 7. 32 MRSA §4859, sub-§3**, as amended by PL 1979, c. 291,
§2, is further amended to read:

34
36 **3. After hearing, adopt, amend or repeal rules.** After
hearing, adopt, amend or repeal rules ~~and regulations~~ in
accordance with ~~the Maine Administrative Procedure Act, Title 5,~~
38 ~~section 8051, et seq.,~~ chapter 375, subchapter II, necessary to
carry into effect this chapter. These rules ~~and regulations shall~~
40 must be made in accordance with the purpose and intent of the law
and the standards set forth in this chapter and shall include,
42 but are not limited to, rules ~~and regulations~~ concerning
misconduct, fraud, advertising, standards of competency, personal
44 conduct, standards of sanitation for the operation of veterinary
hospitals, associations with other veterinarians and
46 unprofessional conduct.

48 **Sec. 8. 32 MRSA §4859, sub-§4**, as amended by PL 1995, c. 502,
Pt. H, §33, is further amended to read:

2 **4. Establish schedule of fees.** Establish a schedule of
fees for the licensing and--registration of veterinarians and
4 registration of veterinary technicians. The board shall set the
fees in an amount not to exceed \$150 for veterinarians and \$75
6 for veterinary technicians.

8 **Sec. 9. 32 MRS §4859, sub-§§5 and 8,** as enacted by PL 1975, c.
477, §4, are amended to read:

10 **5. Conduct investigations.** Conduct investigations of
alleged violations of this chapter and the rules and--regulations
12 adopted thereunder.

14 **8. Bring proceedings.** Bring proceedings in the courts for
the enforcement of this chapter or any rules and--regulations made
16 pursuant thereto.

18 **Sec. 10. 32 MRS §4861, first ¶,** as enacted by PL 1975, c. 477,
§4, is amended to read:

20 Any person desiring a license to practice veterinary
22 medicine in this State shall make written application to the
board. The application shall must show that the applicant is a
24 ~~citizen of the United States or Canada, or an applicant for~~
~~citizenship,~~ a graduate of a veterinary school recognized and
26 approved by the American Veterinary Medical Association and by
the board, a person of good moral character and such other
28 information and proof as the board may require. The application
shall must be accompanied by a fee in the amount established by
30 the board.

32 **Sec. 11. 32 MRS §4861,** as amended by PL 1983, c. 48, §§4 and
5, is further amended by adding after the first paragraph a new
34 paragraph to read:

36 An applicant who is not a graduate of a school of veterinary
medicine accredited by the American Veterinary Medical
38 Association must possess a certificate issued by the Educational
Commission for Foreign Veterinary Graduates or a Certificate of
40 Qualification issued by the Canadian Veterinary Medical
Association, unless the applicant is applying for licensure by
42 endorsement and at the time the applicant became licensed in the
state, province or territory from which the applicant is
44 applying, an Educational Commission for Foreign Veterinary
Graduates certificate was not required by this State.

46 **Sec. 12. 32 MRS §4861, 2nd ¶,** as amended by PL 1979, c. 291,
48 §5, is further amended to read:

2 If the board determines that the applicant possesses the
proper qualifications, it shall admit the applicant to the next
3 examination, ~~or if the applicant is eligible for a license~~
4 ~~without examination under subsection 2, the board may forthwith~~
grant him a license. If an applicant is found not qualified to
5 take the examination ~~or for a license without examination~~, the
secretary of the board shall immediately notify the applicant in
6 writing of such a finding and the grounds therefor. An applicant
7 found unqualified may request a hearing on the question of his
8 the applicant's qualifications under the procedure set forth in
9 Title 5, ~~Chapter~~ chapter 375, subchapter IV.

12

13 **Sec. 13. 32 MRSA §4861, sub-§1**, as amended by PL 1983, c. 48,
14 §4, is further amended to read:

15 **1. Examinations.** The board shall hold at least one
examination during each year and may hold such additional
16 examinations as are necessary. The secretary shall give public
17 notice of the time and place for each examination reasonably in
18 advance of the date set for the examination. A person desiring to
19 take an examination shall make application at least 45 days
20 before the date of the examination.

21 The preparation, administration and grading of examinations shall
22 be ~~is~~ governed by ~~regulations~~ rules prescribed by the board.

26

27 After each examination, the secretary shall notify each examinee
28 of the result of his the examination, and the board shall issue a
certificate to each person successfully completing the
29 examination. The secretary shall record the certificate and issue
a license upon payment of the license fee. Any person failing an
30 examination shall must be admitted to any subsequent examination
31 upon payment of the application fee.

34

35 **Sec. 14. 32 MRSA §4861, sub-§2**, as enacted by PL 1975, c. 477,
36 §4, is repealed and the following enacted in its place:

37 **2. Oral or practical examination.** At its discretion, the
board may orally or practically examine any person qualifying for
38 licensure under this section. The examination may cover laws and
39 rules relating to the practice of veterinary medicine.

42

43 **Sec. 15. 32 MRSA §4861, sub-§5** is enacted to read:

44

45 **5. Licensure by endorsement.** The board shall grant a
license by endorsement to a veterinarian who:

48

A. Has submitted a complete application;

2 B. Has paid the application and license fees established by
3 the board;

4 C. Is licensed in good standing in another state, United
5 States territory or province of Canada or, if an applicant
6 does not meet the definition of good standing, as
7 established by the board, the applicant shall provide, to
8 the satisfaction of the board, that the applicant is
9 qualified for licensure in the State and may practice under
10 the restrictions and limitations on that license, and those
11 limitations, if any, may include conditions of probation
12 before the issuance of a license;

13 D. Has passed the National Board of Examination and the
14 Clinical Competency Test as prepared under the authority of
15 the National Board of Examination Committee for Veterinary
16 Medicine or its predecessor organization, the National Board
17 of Veterinary Medical Examiners or a subsequent national
18 licensing examination prepared under the authority of the
19 National Board of Examination Committee for Veterinary
20 Medicine or the American Association of Veterinary State
21 Boards, or an equivalent examination as established by the
22 board unless, at the time the applicant became licensed in
23 the state, province or territory from which the applicant is
24 applying, the National Board Examination, Clinical
25 Competency Test or subsequent examination prepared under the
26 authority of the National Board of Examination Committee for
27 Veterinary Medicine was not required in the State in which
28 case the applicant need only have passed whatever national
29 licensing examinations were required of entry level
30 licensees in the State at the time;

31 E. Has actively practiced clinical veterinary medicine for
32 3,000 hours during the 3 years preceding application; and

33 F. Has successfully completed an examination, established
34 by the board, covering the laws and rules pertaining to the
35 practice of veterinary medicine in the State.

36 Sec. 16. 32 M RSA §4862, as enacted by PL 1975, c. 477, §4, is
37 amended to read:

38 §4862. Status of persons currently licensed

39 Any person holding a valid license to practice veterinary
40 medicine in this State on the date this chapter becomes effective
41 shall must be recognized as a licensed veterinarian and shall ~~be~~
42 is entitled to retain this status so long as he the licensee
43 complies with this chapter, including annual renewal of the
44 license within 30 days of notification ~~of its being due.~~

2 **Sec. 17. 32 MRSA §4863**, as amended by PL 1991, c. 509, §25,
is further amended to read:

4
6 **§4863. License renewal**

8 All licenses expire annually on ~~December-31st, or-ether~~ such
date as the commissioner may designate, and may be renewed by
10 ~~registration~~ with the board and by payment of a renewal fee
established by the board. At least 30 days prior to the annual
12 renewal date, the Department of Professional and Financial
Regulation shall mail a notice to each ~~licensed--veterinarian~~
14 licensee and registrant that the license ~~or registration~~ will
expire on the renewal date and provide a renewal application form
16 for reregistration. ~~The--department--shall--issue--a--renewal~~
~~certificate-to-all-persons-registering-under-this-chapter.~~

18 Licenses may be ~~renewed~~ reinstated up to 90 days after the
date of expiration upon payment of a late fee of \$10 in addition
20 to the renewal fee. A person who submits an application for
renewal more than 90 days after the license renewal date is
22 subject to all requirements governing new applicants under this
chapter, except that the board may, giving due consideration to
24 the protection of the public, waive examination if that renewal
application is made within 2 years from the date of the
26 expiration. In addition, the board may levy penalties for
nonrenewal.

28 By rule the board may waive the payment of the registration
30 renewal fee of a licensed veterinarian during the period when
that veterinarian is on active duty with any branch of the Armed
32 Services of the United States, not to exceed the longer of 3
years or the duration of a national emergency.

34 **Sec. 18. 32 MRSA §4864, first ¶**, as repealed and replaced by PL
36 1977, c. 694, §641, is amended to read:

38 The board on its own motion or upon complaint made to it,
may hold a hearing to determine whether or not violations of this
40 chapter or the standards for the practice of veterinary medicine
adopted by the board have been violated. Hearings conducted under
42 this section ~~shall-be-considered~~ are "adjudicatory proceedings"
and shall must be conducted in accordance with the provisions of
44 Title 5, chapter 375, subchapter IV. The board ~~shall-have~~ has
the authority to issue subpoenas subject to the provisions of
46 Title 5, section 9060. If the board considers a licensee has
committed any of the acts set forth in this section, it shall
48 either report its findings to the Attorney General for
prosecution in the Administrative Court for suspension or
50 revocation in accordance with Title 4, chapter 25, or place the

licensee on probation for a certain period of time during which
the licensee shall file periodic affidavits of ~~his~~ the licensee's
practice in accordance with the standards set by the board, or
censure, by letter, the licensee. The following acts are grounds
for disciplinary action by the board or for revocation or
suspension by the Administrative Court:

Sec. 19. 32 MRSA §4864, sub-§11, as enacted by PL 1975, c.
477, §1, is amended to read:

11. Unprofessional conduct. Unprofessional conduct, as
defined in the rules ~~and regulations~~ of the board, ~~which shall~~
~~include~~ includes, but is not limited to, the following:

A. Advertising in any manner considered by the board to be
false, misleading or otherwise deemed unprofessional;

B. Knowingly making any false or fraudulent statement,
written or oral, in connection with the practice of
veterinary medicine;

C. Refusing to divulge to the board upon demand, the means,
method, device or instrumentality used in the treatment of a
disease, injury, ailment or infirmity of any animal; or

D. Fraud or dishonesty in the application or reporting of
any test for disease in animals or making a false report of
any contagious or infectious disease;

Sec. 20. 32 MRSA §4864, sub-§12, as amended by PL 1979, c.
291, §9, is further amended to read:

12. Unauthorized associations. A veterinarian shall ~~may~~
practice only in an individual capacity under ~~his~~ that
veterinarian's own name or in association with a licensed
practitioner of veterinary medicine or professional association.
The following ~~shall be~~ are deemed unauthorized associations:

A. Association for the joint practice of veterinary
medicine with any person, corporation or partnership not
licensed to practice veterinary medicine;

B. Knowingly aiding and abetting in the practice of
veterinary medicine any person not licensed to practice in
this State;

C. The lending, leasing or in any other manner placing of
one's certificate of registration or license at the disposal
of or in the service of any other person not licensed to
practice veterinary medicine in this State; and

2 D. The continuance of a veterinarian directly or indirectly
4 in the employ of or in association with any veterinarian
6 after knowledge that such veterinarian is engaged in the
violation of the provisions of this chapter; or

8 **Sec. 21. 32 MRSA §4865-A, sub-§10**, as amended by PL 1993, c.
404, Pt. A, §12, is further amended to read:

10 **10. Unprofessional conduct.** Unprofessional conduct, as
12 defined in the rules and regulations of the board, ~~which shall~~
~~include~~ includes, but is not limited to, the following:

14 A. Knowingly making any false or fraudulent statement,
16 written or oral, in connection with the treatment or care of
animals as defined in section 4866;

18 B. Refusing to divulge to the board upon demand, the means,
20 method, device or instrumentality used in the treatment of a
disease, injury, ailment or infirmity; or

22 C. Fraud or dishonesty in the application or reporting of
24 any test for disease in animals, or making a false report of
any contagious or infectious disease or while performing any
other duties of a registered veterinary technician.

26 **Sec. 22. 32 MRSA §4866**, as amended by PL 1993, c. 404, Pt. A,
28 §13, is further amended by repealing the section headnote and
inserting in its place the following:

30 **§4866. Duties of veterinary technicians and animal health**
32 **assistants**

34 **Sec. 23. 32 MRSA §4871, sub-§2**, as enacted by PL 1975, c. 477,
36 §4, is amended to read:

38 **2. Adopt rules.** Adopt ~~regulations~~ rules, when deemed
40 determined necessary, that require veterinarians in this State to
present evidence to the board that they have complied with the
requirements of continuing education for relicensure.

42 **Sec. 24. 32 MRSA §4872**, as amended by PL 1979, c. 291, §12,
44 is further amended to read:

46 **§4872. Disposal of abandoned animals**

48 Any veterinarian may dispose of any animal ~~he~~ the
veterinarian has reason to believe has been abandoned in ~~his~~ the
veterinarian's establishment, ~~--provided--he--shall--give~~ if the
50 veterinarian gives notice of ~~his~~ the veterinarian's intention to

do so to the owner at his the owner's last known address by
2 registered or certified mail, return receipt requested and shall
allow allows a period of 5 days to elapse after the receipt is
4 returned before disposing of such animal; but if the owner cannot
can not be located at such that address, the veterinarian shall
6 give such the notice by publication in a newspaper having a
circulation in the town in which such the owner was last known to
8 reside, and shall allow a period of 10 days to elapse after such
the publication before disposing of such the animal. The animal
10 ~~shall be deemed~~ is considered abandoned if the owner was not
located by registered mail or notice by publications and did not
12 reply in person or by mail within the time periods outlined
stating his the owner's intent to claim the animal.

14

16

SUMMARY

18

This bill amends the Maine Veterinary Practice Act of 1975
to modernize and clarify definitions and other provisions, make
20 the language gender neutral and revise the qualifications for
reciprocal licensure to enhance the mobility of practitioners
22 between Maine and other states with equivalent requirements.