

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1269

AN ACT

AMENDING SECTIONS 32-2201, 32-2202, 32-2232, 32-2237, 32-2249, 32-2276 AND 32-2296, ARIZONA REVISED STATUTES; RELATING TO VETERINARIANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-2201, Arizona Revised Statutes, is amended to
3 read:

4 32-2201. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Animal" means any animal other than human.

7 2. "Board" means the Arizona state veterinary medical examining board.

8 3. "Certified veterinary technician" means either:

9 (a) A graduate of a minimum two year American veterinary medical
10 association accredited program in veterinary technology who has passed a
11 national and a state veterinary technician examination.

12 (b) A person who is certified on or before December 31, 2010 pursuant
13 to the rules adopted by the board.

14 4. "Consulting" means providing professional or expert advice ~~which~~
15 ~~THAT~~ is requested by a veterinarian licensed in this state and ~~THAT~~ is
16 rendered only on a specific case basis.

17 5. "Controlled substance" means any substance ~~which~~ ~~THAT~~ is registered
18 and controlled under the federal controlled substances act (P.L. 91-513).

19 6. "Cremation" means the heating process that reduces animal remains
20 to bone fragments by combustion and evaporation.

21 7. "Crematory" means a building or portion of a building that is
22 licensed pursuant to article 8 of this chapter and that houses a retort in
23 which only animal remains are cremated.

24 8. "Direct supervision" means that a licensed veterinarian is
25 physically present at the location where animal health care is being
26 performed.

27 9. "Gross incompetence" means any professional misconduct or
28 unreasonable lack of professional skill in the performance of professional
29 practice.

30 10. "Gross negligence" means treatment of a patient or practice of
31 veterinary medicine resulting in injury, unnecessary suffering or death that
32 was caused by carelessness, negligence or the disregard of established
33 principles or practices.

34 11. "Indirect supervision" means that a licensed veterinarian is not
35 physically present at the location where animal health care is being
36 performed but has given either written or oral instructions for treatment of
37 the animal patient.

38 12. "Letter of concern" means an advisory letter to notify a
39 veterinarian that, while there is insufficient evidence to support
40 disciplinary action, the board believes the veterinarian should modify or
41 eliminate certain practices and that continuation of the activities that led
42 to the information being submitted to the board may result in action against
43 the veterinarian's license.

44 13. "Licensed veterinarian" means a person who is currently licensed to
45 practice veterinary medicine in this state.

1 14. "Malpractice" means treatment in a manner contrary to accepted
2 practices and with injurious results.

3 15. "Medical incompetence" means lacking sufficient medical knowledge
4 or skills, or both, to a degree likely to endanger the health of patients or
5 lacking equipment, supplies or medication to properly perform a procedure.

6 16. "Negligence" means the failure of a licensed veterinarian to
7 exercise reasonable care in the practice of veterinary medicine.

8 17. "Regularly" means that veterinary services are offered to the
9 public once a month or more frequently.

10 18. "Responsible veterinarian" means the veterinarian WHO IS
11 responsible to the board for compliance by licensed veterinary premises with
12 the laws and rules of this state and of the federal government pertaining to
13 the practice of veterinary medicine and responsible for the establishment of
14 policy at such premises.

15 19. "Specialist" means a veterinarian WHO IS certified as a diplomate
16 in a particular discipline by a national specialty board or college
17 recognized by the American veterinary medical association after the
18 completion of additional education and training, an internship or residency,
19 passing required examinations and meeting any other criteria required by the
20 various individual national specialty boards or colleges.

21 20. "Supervising veterinarian" means a licensed veterinarian who is
22 responsible for the care rendered to an animal by a certified veterinary
23 technician or a veterinary assistant.

24 21. "Temporary sites" means sites where outpatient veterinary services
25 are performed.

26 22. "Twenty-four hour services" means veterinary services when a
27 veterinarian is on the premises twenty-four hours a day.

28 23. "Veterinarian" means a person who has received a doctor's degree in
29 veterinary medicine from a college of veterinary medicine.

30 24. "VETERINARIAN CLIENT PATIENT RELATIONSHIP" MEANS ALL OF THE
31 FOLLOWING:

32 (a) THE VETERINARIAN HAS ASSUMED THE RESPONSIBILITY FOR MAKING MEDICAL
33 JUDGMENTS REGARDING THE ANIMAL'S HEALTH AND NEED FOR MEDICAL TREATMENT AND
34 THE CLIENT, OWNER OR CARETAKER HAS AGREED TO FOLLOW THE VETERINARIAN'S
35 INSTRUCTIONS.

36 (b) THE VETERINARIAN HAS SUFFICIENT KNOWLEDGE OF THE ANIMAL TO
37 INITIATE AT LEAST A GENERAL OR PRELIMINARY DIAGNOSIS OF THE ANIMAL'S MEDICAL
38 CONDITION. SUFFICIENT KNOWLEDGE IS OBTAINED WHEN THE VETERINARIAN HAS
39 RECENTLY SEEN AND IS PERSONALLY ACQUAINTED WITH THE KEEPING AND CARING OF THE
40 ANIMAL AS A RESULT OF EXAMINING THE ANIMAL, WHEN THE VETERINARIAN MAKES
41 MEDICALLY APPROPRIATE AND TIMELY VISITS TO THE PREMISES WHERE THE ANIMAL IS
42 KEPT OR WHEN A VETERINARIAN AFFILIATED WITH THE PRACTICE HAS REVIEWED THE
43 MEDICAL RECORD OF SUCH EXAMINATIONS OR VISITS.

1 (c) THE VETERINARIAN IS READILY AVAILABLE FOR A FOLLOW-UP EVALUATION
2 OR THE VETERINARIAN HAS ARRANGED FOR EITHER OF THE FOLLOWING:

3 (i) EMERGENCY COVERAGE.

4 (ii) CONTINUING CARE AND TREATMENT BY ANOTHER VETERINARIAN WHO HAS
5 ACCESS TO THE ANIMAL'S MEDICAL RECORDS.

6 ~~24-~~ 25. "Veterinary assistant" means an individual who provides care
7 under the direct or indirect supervision of a veterinarian or certified
8 veterinary technician.

9 ~~25-~~ 26. "Veterinary college" means any veterinary college or division
10 of a university or college that offers the degree of doctor of veterinary
11 medicine or its equivalent and that conforms to the standards required for
12 accreditation by the American veterinary medical association.

13 ~~26-~~ 27. "Veterinary medicine" includes veterinary surgery, obstetrics,
14 dentistry, acupuncture, manipulation and all other branches or specialties of
15 veterinary medicine and the prescribing, administering or dispensing of drugs
16 and medications for veterinary purposes.

17 Sec. 2. Section 32-2202, Arizona Revised Statutes, is amended to read:

18 ~~32-2202.~~ Board; appointment; term; qualifications; officers;
19 compensation

20 A. There shall be an Arizona state veterinary medical examining board
21 consisting of nine members appointed by the governor pursuant to section
22 38-211.

23 B. Each member shall serve for a term of ~~five~~ FOUR years. ~~No~~ A member
24 shall NOT serve more than two full terms. After notice and a hearing before
25 the governor, a member of the board may be removed on a finding by the
26 governor of continued neglect of duty, incompetence or unprofessional or
27 dishonorable conduct. The term of any member automatically ends on written
28 resignation submitted to the board or to the governor.

29 C. Five members shall be licensed veterinarians who have an
30 established practice location in this state or are employed by a university
31 or a political subdivision of the state and who have resided and practiced in
32 the state for AT LEAST five years immediately preceding appointment, no more
33 than three of whom shall be from the same veterinary college. ~~Four~~ THREE
34 members shall NOT be ~~lay persons~~ VETERINARIANS, ~~three~~ TWO representing the
35 general public and one representing the livestock industry. ONE MEMBER SHALL
36 BE A CERTIFIED VETERINARY TECHNICIAN WHO HAS HELD THE DESIGNATION FOR AT
37 LEAST FIVE YEARS, IS CURRENTLY EMPLOYED IN THE VETERINARY FIELD IN THIS STATE
38 AND HAS PRACTICED AND RESIDED IN THIS STATE FOR AT LEAST FIVE YEARS
39 IMMEDIATELY PRECEDING APPOINTMENT. Except as provided in subsection F of
40 this section, a person who has been convicted of a violation of any provision
41 of this chapter is ineligible for appointment.

42 D. The board shall elect a chairman and such other officers as it
43 deems necessary. The term of each officer shall be one year ending June 30,
44 or until the officer's successor is elected and qualifies.

1 E. Each member of the board shall receive compensation at a rate not
2 exceeding one hundred dollars for each day engaged in the service of the
3 board.

4 F. The governor may appoint a person to the board who has previously
5 been sanctioned pursuant to section 32-2233, subsection B.

6 Sec. 3. Section 32-2232, Arizona Revised Statutes, is amended to read:
7 32-2232. Unprofessional or dishonorable conduct

8 As used in this chapter, unprofessional or dishonorable conduct
9 includes:

10 1. The fraudulent use of any certificate or other official form used
11 in practice that would increase the hazard of dissemination of disease, the
12 transportation of diseased animals or the sale of inedible food products of
13 animal origin for human consumption.

14 2. Inadequate methods in violation of meat inspection procedures
15 prescribed by the federal government and Arizona meat inspection laws or
16 wilful neglect or misrepresentation in the inspection of meat.

17 3. Misrepresentation of services rendered.

18 4. Failure to report, or the negligent handling of, the serious
19 epidemic diseases of animals, such as anthrax, rabies, glanders, brucellosis,
20 tuberculosis, foot and mouth disease, hog cholera, and other communicable
21 diseases known to medical science as being a menace to human or animal
22 health.

23 5. The dispensing or giving to anyone of live culture or attenuated
24 live virus vaccines to be administered by a layman without providing
25 instruction as to their administration and use.

26 6. Having professional connection with, or lending one's name to, any
27 illegal practitioner of veterinary medicine and the various branches thereof.

28 7. Chronic inebriety or unlawful use of narcotics, dangerous drugs or
29 controlled substances.

30 8. Fraud or dishonesty in applying or reporting on any test or
31 vaccination for disease in animals.

32 9. False, deceptive or misleading advertising, having for its purpose
33 or intent deception or fraud.

34 10. Conviction of a crime involving moral turpitude, or conviction of a
35 felony.

36 11. Malpractice, gross incompetence or gross negligence in the practice
37 of veterinary medicine.

38 12. Violation of the ethics of the profession as defined by rules
39 adopted by the board.

40 13. Fraud or misrepresentation in procuring a license.

41 14. Knowingly signing a false affidavit.

42 15. Distribution of narcotics, dangerous drugs, prescription-only drugs
43 or controlled substances for other than legitimate purposes.

44 16. Violation of or failure to comply with any state or federal laws or
45 regulations relating to the storing, labeling, prescribing or dispensing of

1 controlled substances or prescription-only drugs as defined in section
2 32-1901.

3 17. Offering, delivering, receiving or accepting any rebate, refund,
4 commission, preference, patronage, dividend, discount or other consideration,
5 whether in the form of money or otherwise, as compensation or inducement for
6 referring animals or services to any person.

7 18. Violating or attempting to violate, directly or indirectly, or
8 assisting or abetting the violation or conspiracy to violate any of the
9 provisions of this chapter, a rule adopted by the board or a written order of
10 the board.

11 19. Failing to dispense drugs and devices in compliance with article 7
12 of this chapter.

13 20. Performing veterinary services without adequate equipment and
14 sanitation considering the type of veterinary services provided.

15 21. Failure to maintain adequate records of veterinary services
16 provided.

17 22. Medical incompetence in the practice of veterinary medicine.

18 23. Cruelty to or neglect of animals. For the purposes of this
19 paragraph, "cruelty to or neglect of animals" means knowingly or negligently
20 torturing, beating or mutilating an animal, killing an animal in an inhumane
21 manner or depriving an animal of necessary food, water or shelter.

22 24. Representing that the veterinarian is a specialist if the
23 veterinarian lacks the credentials to be a specialist.

24 25. PERFORMING VETERINARY SERVICES WITHOUT HAVING A VALID VETERINARIAN
25 CLIENT PATIENT RELATIONSHIP.

26 26. RELEASING, PRESCRIBING OR DISPENSING ANY PRESCRIPTION DRUGS IN THE
27 ABSENCE OF A VALID VETERINARIAN CLIENT PATIENT RELATIONSHIP.

28 Sec. 4. Section 32-2237, Arizona Revised Statutes, is amended to read:

29 32-2237. Committee to investigate violations; referral to
30 county attorney or attorney general; inspection of
31 records; subpoenas; civil penalty; injunctions;
32 cease and desist orders; confidentiality

33 A. The board shall appoint one or more investigative committees, each
34 consisting of three ~~members of the general public~~ LICENSED VETERINARIANS who
35 are not board members and two ~~licensed veterinarians~~ MEMBERS OF THE GENERAL
36 PUBLIC who are not board members. THE BOARD SHALL APPOINT AND DISMISS
37 MEMBERS OF INVESTIGATIVE COMMITTEES. EACH MEMBER SHALL SERVE FOR A TERM OF
38 TWO YEARS. A COMMITTEE MEMBER MAY NOT SERVE MORE THAN FOUR CONSECUTIVE
39 TERMS. A MEMBER OF THE INVESTIGATIVE COMMITTEE MUST RESIGN WHEN THE MEMBER
40 FILES AN APPLICATION TO SERVE ON THE BOARD. A QUORUM FOR AN INVESTIGATIVE
41 COMMITTEE SHALL INCLUDE AT LEAST THREE MEMBERS, AT LEAST TWO OF WHOM MUST BE
42 VETERINARIANS.

43 B. The investigative committee may interview witnesses, gather
44 evidence and otherwise investigate any allegations accusing any person of
45 violating any of the provisions of this chapter. An assistant attorney

1 general shall advise the investigative committee on all questions of law
2 arising out of its investigations. The expenses of the committee shall be
3 paid out of the veterinary medical examining board fund.

4 ~~B.~~ C. The investigative committee shall prepare a written report
5 relating to any allegations it investigates. The committee shall present its
6 report to the board in an open meeting. The report shall include:

7 1. A summary of the investigation.

8 2. Findings of fact.

9 3. Either a recommendation to dismiss the allegation made in the
10 complaint or a finding that a violation of this chapter or a rule adopted
11 pursuant to this chapter occurred.

12 ~~C.~~ D. If the board rejects any recommendation contained in a report
13 of the investigative committee, it shall document the reasons for its
14 decision in writing.

15 ~~D.~~ E. Upon the complaint of any citizen of this state, or upon its
16 own initiative, the board may investigate any alleged violation of this
17 chapter. If after investigation the board has probable cause to believe that
18 an unlicensed person is performing acts that are required to be performed by
19 a person licensed pursuant to this chapter, the board may take one or more of
20 the following enforcement actions:

21 1. Issue a cease and desist order.

22 2. Request the county attorney or attorney general to file criminal
23 charges against the person.

24 3. File an action in the superior court to enjoin the person from
25 engaging in the unlicensed practice of veterinary medicine.

26 4. After notice and an opportunity for a hearing, impose a civil
27 penalty of not more than one thousand dollars for each violation.

28 ~~E.~~ F. The board or its agents or employees may at all reasonable
29 times have access to and the right to copy any documents, reports, records or
30 other physical evidence of any veterinarian, including documents, reports,
31 records or physical evidence maintained by and in the possession of any
32 veterinary medical hospital, clinic, office or other veterinary medical
33 premises being investigated, if such documents, records, reports or other
34 physical evidence relates to a specific investigation or proceeding conducted
35 by the board.

36 ~~F.~~ G. The board on its own initiative or upon application of any
37 person involved in an investigation or proceeding conducted by the board may
38 issue subpoenas compelling the attendance and testimony of witnesses or
39 demanding the production for examination or copying of documents, reports,
40 records or any other physical evidence if such evidence relates to the
41 specific investigation or proceeding conducted by the board.

42 ~~G.~~ H. Except as provided in this subsection, all materials, documents
43 and evidence associated with a pending or resolved complaint or investigation
44 are confidential and are not public records. The following materials,

1 documents and evidence are not confidential and are public records if they
2 relate to resolved complaints:

- 3 1. The complaint.
- 4 2. The response and any rebuttal statements submitted by the licensee
5 or certificate holder.
- 6 3. Board discussions of complaints that are recorded pursuant to
7 section 32-2204, subsection C.
- 8 4. Written reports of an investigative committee that are prepared
9 pursuant to subsection ~~B~~ C of this section.
- 10 5. Written statements of the board that are prepared pursuant to
11 subsection ~~C~~ D of this section.

12 Sec. 5. Section 32-2249, Arizona Revised Statutes, is amended to read:

13 32-2249. Revocation or suspension of certificate; grounds;
14 emergency care by technician; letter of concern

15 A. Except as provided in subsection B of this section, the board may:

16 1. TAKE ONE OR MORE OF THE FOLLOWING ACTIONS:

17 (a) Revoke or suspend a certificate.

18 (b) ISSUE A DECREE OF CENSURE. ~~or~~

19 (c) Place a certified veterinary technician on probation.

20 (d) IMPOSE A CIVIL PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS PER
21 VIOLATION.

22 2. TAKE ONE OR MORE OF THE ACTIONS DESCRIBED IN PARAGRAPH 1 for any of
23 the following reasons:

24 ~~1-~~ (a) The employment of fraud, misrepresentation or deception in
25 obtaining certification.

26 ~~2-~~ (b) Conviction on a charge of cruelty to animals or conviction of
27 a felony, in which case the record of such conviction will be conclusive
28 evidence.

29 ~~3-~~ (c) Chronic inebriety or habitual use of narcotics, dangerous
30 drugs or controlled substances.

31 ~~4-~~ (d) Gross ignorance or inefficiency in connection with the
32 performance of technical procedures in veterinary medicine.

33 ~~5-~~ (e) Representing himself as a doctor of veterinary medicine.

34 ~~6-~~ (f) Violating or attempting to violate, directly or indirectly, or
35 assisting or abetting the violation or conspiracy to violate any of the
36 provisions of this chapter, a rule adopted under this chapter or a written
37 order of the board issued pursuant to this chapter.

38 ~~7-~~ (g) Practicing veterinary medicine.

39 ~~8-~~ (h) Gross incompetence or gross negligence.

40 ~~9-~~ (i) Following orders that are in violation of this chapter or
41 rules adopted pursuant to this chapter.

42 B. In an emergency, a certified veterinary technician may render
43 emergency care or first aid if the technician is supervised telephonically by
44 a licensed veterinarian or until a licensed veterinarian arrives. This does
45 not preclude emergency care as outlined in section 32-2261.

1 C. If the board receives information indicating that a certified
2 veterinary technician may have engaged in unprofessional or dishonorable
3 conduct and it appears after investigation that the information may be true,
4 the board may request an informal interview. If the certified veterinary
5 technician refuses the interview or if other evidence relating to the
6 technician's professional competence indicates that disciplinary action
7 should be taken, the board may take the action as prescribed by subsection A
8 of this section.

9 D. If, as a result of information ascertained during an investigation,
10 informal interview or formal hearing of a certified veterinary technician,
11 the board has concern for the certified veterinary technician's conduct but
12 has not found the conduct to be a reason listed in subsection A of this
13 section, the board may issue a letter of concern to the technician regarding
14 the technician's conduct.

15 Sec. 6. Section 32-2276, Arizona Revised Statutes, is amended to read:

16 32-2276. Retention of jurisdiction

17 The lapsing or suspension of a license by operation of law or by order
18 of the board or a court of law or the voluntary surrender of a license does
19 not deprive the board of jurisdiction to do any of the following:

20 1. Proceed with any investigation of or action or disciplinary
21 proceeding against the licensee.

22 2. Render a decision suspending or revoking the license or denying the
23 renewal or right of renewal of the license.

24 3. Assess a civil penalty pursuant to section 32-2233 or section
25 32-2237, subsection ~~D~~ E.

26 Sec. 7. Section 32-2296, Arizona Revised Statutes, is amended to read:

27 32-2296. Retention of jurisdiction

28 The lapsing or suspension of a license by operation of law or by order
29 of the board or a court of law or the voluntary surrender of a license does
30 not deprive the board of jurisdiction to do any of the following:

31 1. Proceed with any investigation of or action or disciplinary
32 proceeding against the licensee.

33 2. Render a decision suspending or revoking the license or denying the
34 renewal or right of renewal of the license.

35 3. Assess a civil penalty pursuant to section 32-2233 or section
36 32-2237, subsection ~~D~~ E.

37 Sec. 8. Retention of members

38 Notwithstanding section 32-2202, Arizona Revised Statutes, as amended
39 by this act, all persons serving as members of the Arizona state veterinary
40 medical examining board on the effective date of this act may continue to
41 serve until the expiration of their normal terms. The governor shall make
42 all subsequent appointments as prescribed by statute.