

1 SENATE BILL NO. 106

2 INTRODUCED BY W. SALES

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A LICENSE AND QUALIFICATIONS FOR
 5 VETERINARY TECHNICIANS UNDER THE BOARD OF VETERINARY MEDICINE; OUTLINING A SCOPE OF
 6 PRACTICE FOR LICENSED VETERINARY TECHNICIANS; PROVIDING A PENALTY FOR FALSELY
 7 CLAIMING TO BE A LICENSED VETERINARY TECHNICIAN; ADDING A MEMBER TO THE BOARD OF
 8 VETERINARY MEDICINE TO REPRESENT LICENSED VETERINARY TECHNICIANS; PROVIDING
 9 DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-1742, 37-18-101, 37-
 10 18-102, 37-18-104, AND 37-18-502, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
 14 **NEW SECTION. Section 1. License required for veterinary technicians -- requirements --**
 15 **license renewal -- use of initials or terms.** (1) (a) An individual seeking to practice as a veterinary technician
 16 in this state must be licensed as a veterinary technician by the board.

17 (2) To be eligible for licensure as a veterinary technician, an applicant:

18 (a) shall file an application on a form furnished by the department and pay fees as prescribed by rule;

19 (b) must meet the requirements of subsection (3); and

20 (c) must meet additional requirements set by the board by rule.

21 (3) (a) Except as provided in subsection (3)(b), an applicant must be a graduate of a program
 22 accredited by the American veterinary ~~medicine~~-MEDICAL association as determined by board rule and pass an
 23 examination as prescribed by the board.

24 (b) An applicant who does not meet the qualifications required in subsection (3)(a) shall:

25 (i) obtain a minimum of ~~5,000~~ 4,500 hours of experience equivalent to that of a licensed veterinary
 26 technician ~~within a consecutive period of time that may begin 5 years before [the effective date of this act]~~
 27 ~~and end in a time period after [the effective date of this act] as determined by the board;~~ and

28 (ii) pass an examination as prescribed by the board.

1 (4) Subject to review by the board, a person who does not hold an active license as a veterinary
2 technician may not state or imply orally, in writing, or in print that the person is a "licensed veterinary technician"
3 or use the initials "LVT".
4

5 NEW SECTION. Section 2. Licensed veterinary technician scope of practice. (1) A licensed
6 veterinary technician may, under written authorization and direction of a veterinarian licensed under this
7 chapter, administer or dispense drugs, medicines, or appliances and perform procedures as provided by rule.

8 (2) In an emergency, a licensed veterinary technician is subject to the authority of the supervising
9 licensed veterinarian as provided in [section 4].
10

11 NEW SECTION. Section 3. Penalties. (1) A person found guilty by the board of violating use of the
12 term "licensed veterinary technician" or use of the initials "LVT" to describe the person's qualifications when not
13 licensed as a veterinary technician is guilty of a misdemeanor.

14 (2) The penalties under 37-18-501 apply to a licensed veterinary technician who performs a
15 procedure that is not within the scope of practice allowed to a licensed veterinary technician as provided in
16 [section 2].
17

18 NEW SECTION. Section 4. Supervision of licensed veterinary technician ~~or support staff~~ --
19 **failure to comply.** (1) A veterinarian licensed under 37-18-302 is responsible for determining whether tasks
20 delegated to a licensed veterinary technician ~~or support staff~~ are:

- 21 (a) within the employees' training, expertise, and skills;
22 (b) allowed by rule under direct supervision, immediate supervision, or indirect supervision; and
23 (c) clearly defined by written orders, established office protocols, or verbal directions in the case of an
24 emergency.

25 (2) Even in a case of emergency, a veterinarian licensed under 37-18-302 is responsible for
26 authorizing the licensed veterinary technician ~~or support staff~~ to perform only those duties within the employees'
27 scope of practice as provided in [section 2] or by rule.

28 (3) A veterinarian subject to this section may be cited for unprofessional conduct for failure to comply

1 with this section.

2

3 **Section 5.** Section 2-15-1742, MCA, is amended to read:

4 **"2-15-1742. Board of veterinary medicine.** (1) There is a board of veterinary medicine.

5 (2) The board consists of ~~six~~seven members appointed by the governor with the consent of the
6 senate, ~~five of whom~~Five members must be ~~licensed~~licensed veterinarians licensed under Title 37, chapter 18 and one
7 ~~of whom, one~~ member must be a veterinary technician licensed under Title 37, chapter 18, and one member
8 must be a public member who is a consumer of veterinary services and ~~who may is~~is not be a licensee of the
9 board or of any other board under the department of labor and industry.

10 (3) (a) Each veterinarian board member must be a reputable licensed veterinarian who has
11 graduated from a college that is authorized by law to confer degrees and that has educational standards equal
12 to those approved by the American veterinary medical association. Each veterinarian board member must have
13 actually and legally practiced veterinary medicine in either private practice or public service in this state for at
14 least 5 years immediately before appointment.

15 (b) The individual initially appointed as the licensed veterinary technician board member must have
16 practiced in this state for at least 5 years prior to [the effective date of this act] and shall obtain a license under
17 Title 37, chapter 18, as a licensed veterinary technician by the time the individual becomes a board member.
18 An individual appointed subsequent to the initial appointment must only meet the requirement that the individual
19 be a veterinary technician licensed under Title 37, chapter 18.

20 (4) (a) Each member shall serve for a term of is 5 years. A member may be reappointed.

21 (b) The governor may, after notice and hearing, remove a member for misconduct, incapacity, or
22 neglect of duty.

23 (5) The board is allocated to the department for administrative purposes only as provided in 2-15-
24 121."

25

26 **Section 6.** Section 37-18-101, MCA, is amended to read:

27 **"37-18-101. Definitions.** Unless the context requires otherwise, in this chapter the following
28 definitions apply:

1 (1) "Board" means the board of veterinary medicine provided for in 2-15-1742.

2 (2) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part
3 17."

4 (3) "Direct supervision" means direction on an animal patient's care provided by a veterinarian
5 licensed under this chapter who is on the premises and readily available to take over direct care or to consult
6 on animal care directly with a licensed veterinary technician.

7 (4) "Emergency" means a life-threatening condition in which immediate treatment is necessary to
8 sustain life or, if death is imminent, to relieve pain and suffering.

9 (5) "Immediate supervision" means direction on an animal patient's care provided by a veterinarian
10 licensed under this chapter who is within direct eyesight and hearing range of a licensed veterinary technician
11 or support staff.

12 (6) "Indirect supervision" means direction on an animal patient's care provided by a veterinarian
13 licensed under this chapter who is not on the premises but is available to perform the duties of a licensed
14 veterinarian by maintaining direct communication with a licensed veterinary technician or support staff and who
15 is in compliance with [section 4]."

16

17 **Section 7.** Section 37-18-102, MCA, is amended to read:

18 **"37-18-102. Veterinary medicine defined.** (1) A person is considered to be practicing veterinary
19 medicine when the person does any of the following:

20 (a) represents to the public that the person is a veterinarian or is engaged in the practice of veterinary
21 medicine in any of its branches, either directly or indirectly;

22 (b) uses words, titles, or letters in this connection or on a display or advertisement or under
23 circumstances so as to induce the belief the person using them is engaged in the practice of veterinary
24 medicine. This use is prima facie evidence of the intention to represent oneself as engaged in the practice of
25 veterinary medicine in any of its branches.

26 (c) diagnoses, prescribes, or administers a drug, medicine, appliance, application, or treatment of
27 whatever nature or performs a surgical operation or manipulation for the prevention, cure, or relief of a pain,
28 deformity, wound, fracture, bodily injury, physical condition, or disease of animals;

1 (d) instructs, demonstrates, or solicits by a notice, sign, or other indication, with contract either
 2 express or implied, or otherwise, with or without the necessary instruments, for the administration of biologics or
 3 medicines or animal disease cures for the prevention and treatment of disease of animals and remedies for the
 4 treatment of internal parasites in animals;

5 (e) performs a manual or laboratory procedure on livestock for the diagnosis of pregnancy, sterility, or
 6 infertility for remuneration or hire;

7 (f) performs acupuncture, ova or embryo transfer, or dentistry on animals;

8 (g) instructs others, except those covered under the provisions of 37-18-104(4), for compensation, in
 9 any manner how to perform any acts that constitute the practice of veterinary medicine.

10 (2) Subsection (1)(e) may not in any way be construed to prohibit the pregnancy testing by any
 11 person of the person's own farm animals or by the person's employees regularly employed in the conduct of the
 12 person's business or by other persons whose services are rendered gratuitously.

13 (3) A licensed veterinary technician engaged in tasks as provided in [section 2] is practicing only
 14 those forms of veterinary medicine allowed by law or by rule and must be under the direct, immediate, or
 15 indirect supervision of a licensed veterinarian as provided by law or by rule promulgated by the board or
 16 working under written instructions within the scope of practice allowed under [section 2] or by rule.

17 ~~(3)(4)~~ This section may not be construed as modifying, amending, altering, or repealing any part of
 18 37-18-104."

19

20 **Section 8.** Section 37-18-104, MCA, is amended to read:

21 **"37-18-104. Exemptions -- rules.** (1) This chapter does not apply to:

22 (a) a veterinarian in the performance of the veterinarian's official duties, either civil or military, in the
 23 service of the United States unless the veterinarian is engaged in the practice of veterinary medicine in a
 24 private capacity;

25 (b) laboratory technicians and veterinary research workers, as distinguished from veterinarians, in the
 26 employ of this state or the United States and engaged in labors in laboratories under the direct supervision of
 27 the board of livestock, Montana state university-Bozeman, or the United States;

28 (c) a veterinarian practicing in another state or country and authorized under the laws of that state or

1 country to practice veterinary medicine, whose practice in this state is limited to an occasional case as that term
2 is defined in board rule. The board may, by rule, define conditions in which a veterinary technician licensed or
3 registered in another state may engage in occasional veterinary technician tasks in this state, as provided in
4 [section 2];.

5 (d) the employment of a veterinary medical student who has successfully completed 3 years of the
6 professional curriculum in veterinary medicine at a college having educational standards equal to those
7 approved by the American veterinary medical association, if the student is employed by and works under the
8 immediate supervision of a veterinarian licensed and registered under this chapter; or

9 (e) a person advising with respect to or performing acts that the board defines by rule as accepted
10 livestock management practices.

11 (2) The operations known and designated as castrating or dehorning of cattle, sheep, horses, and
12 swine are not the practice of veterinary medicine within the meaning of this chapter.

13 (3) Nonsurgical embryo transfers in bovines may be performed under the indirect supervision of a
14 veterinarian licensed and residing in Montana. At a minimum, board rules regarding nonsurgical embryo
15 transfers in bovines must address:

16 (a) minimum education requirements;

17 (b) minimum requirements of practical experience;

18 (c) continuing education requirements;

19 (d) limitations on practices and procedures that may be performed by certified individuals;

20 (e) the use of specific drugs necessary for safe and proper practice of certified procedures;

21 (f) content and administration of the certification test, including written and practical testing;

22 (g) application and reexamination procedures; and

23 (h) conduct of certified individuals, including rules for suspension, revocation, and denial of
24 certification.

25 (4) This chapter does not prohibit a person from caring for and treating the person's own farm animals
26 or being assisted in this treatment by the person's full-time employees, as defined in 2-18-601, employed in the
27 conduct of the person's business or by other persons whose services are rendered gratuitously in case of
28 emergency.

1 (5) This chapter does not prohibit the selling of veterinary remedies and instruments by a registered
2 pharmacist at the pharmacist's regular place of business.

3 (6) This chapter does not prohibit an employee of a licensed veterinarian from performing activities
4 determined by board rule to be acceptable, when performed under the direct, immediate, or indirect supervision
5 of the employing veterinarian. The board shall adopt rules regarding which veterinary practices may be
6 performed under direct, immediate, or indirect supervision by a licensed veterinary technician or support staff.

7 (7) This chapter does not prohibit an employee of a licensed veterinarian from rendering care for that
8 veterinarian's animal patients in cases of emergency. Permissible emergency employee activities under this
9 subsection include activities determined by board rule to be acceptable but do not include the performance of
10 surgery or the rendering of diagnoses.

11 (8) This chapter does not prohibit a certified agency from possessing, or a certified euthanasia
12 technician from administering, any controlled substance authorized by the board for the purpose of euthanasia
13 pursuant to part 6 of this chapter."
14

15 **Section 9.** Section 37-18-502, MCA, is amended to read:

16 "**37-18-502. Injunction.** The board or any person may bring an action in the district court to enjoin a
17 person who is not licensed from engaging in the practice of veterinary medicine or the practice of a licensed
18 veterinary technician unless otherwise exempted under 37-18-104(4). ~~If the A~~ A court that finds ~~that~~
19 is violating or threatening to violate any provision of Title 37, chapter 18, ~~it shall may~~ enter an order restraining
20 the defendant from the violation, without regard to any criminal provisions of Title 37, chapter 18."
21

22 NEW SECTION. Section 10. Codification instruction. (1) [Sections 1 through 3] are intended to be
23 codified as an integral part of Title 37, chapter 18, and the provisions of Title 37, chapter 18, apply to [sections
24 1 through 3].

25 (2) [Section 4] is intended to be codified as an integral part of Title 37, chapter 18, part 3, and the
26 provisions of Title 37, chapter 18, part 3, apply to [section 4].
27

28 NEW SECTION. Section 11. Effective date. [This act] is effective January 1, ~~2022~~ 2023.

