

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 251

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES DICK AND JOULE

Introduced: 1/20/12

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Board of Veterinary Examiners and the practice of veterinary
2 medicine."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 08.98 is amended by adding a new section to read:

5 **Sec. 08.98.122. Persons practicing without compensation.** (a)

6 Notwithstanding AS 08.98.250(5)(C), a person who is not licensed under
7 AS 08.98.120 may practice veterinary medicine in this state and use a description,
8 title, abbreviation, or letters in a manner or under circumstances that induce the belief
9 that the person is qualified or licensed to practice veterinary medicine if

10 (1) the person is licensed to practice veterinary medicine in another
11 state or country and practicing within the scope of that license; and

12 (2) the person's practice in this state is uncompensated practice.

13 (b) Except as provided in (c) of this section, with respect to the
14 uncompensated practice of veterinary medicine by a person authorized under (a) of

1 this section and the uncompensated practice of veterinary medicine by a person
2 licensed under this chapter,

3 (1) the board may not take disciplinary action under AS 08.01.075 or
4 AS 08.98.050, impose disciplinary sanctions under AS 08.98.235, establish or enforce
5 standards of practice through regulations adopted under AS 08.98.050 or any other
6 law, hold a hearing on a complaint made to the board or the department, or otherwise
7 act to regulate the uncompensated practice;

8 (2) the department may not accept or investigate a complaint made
9 under AS 08.98.245 or conduct an investigation under AS 08.01.087.

10 (c) Notwithstanding (b)(1) and (2) of this section, the board and the
11 department may take actions necessary to determine the license status of a person who
12 claims to be authorized to practice in this state under (a) of this section.

13 (d) A licensee or a person practicing under (a) of this section is not immune
14 from criminal or civil actions based on gross negligence or reckless or intentional
15 misconduct committed while performing uncompensated practice.

16 (e) In this section, "uncompensated practice" means practice for which no
17 wages or other remuneration is given as payment for services, but does not include
18 practice for which the person receives only reimbursement for actual expenses
19 incurred, nonmonetary donations, or other nonmonetary consideration.

20 * **Sec. 2.** AS 08.98 is amended by adding a new section to read:

21 **Sec. 08.98.205. Surrender and reinstatement of a license.** (a) The board may
22 accept the voluntary surrender of a license, as long as the licensee surrendering the
23 license is not under investigation by the board or the department or the surrender is not
24 because of imposition of a sanction in this state or any other state.

25 (b) In addition to the authority to renew a surrendered license under
26 AS 08.01.075(e), the board may reinstate a surrendered license within two years after
27 the date the license was surrendered without determining whether the licensee is
28 competent to resume practice if the licensee

29 (1) is currently in good standing, as defined by the board in
30 regulations;

31 (2) has not surrendered the license because of the imposition of a

1 disciplinary sanction in this state or another jurisdiction;

2 (3) has not surrendered the license in lieu of the imposition of a
3 disciplinary sanction in this state or another jurisdiction; and

4 (4) pays the required renewal fee.

5 * **Sec. 3.** AS 08.98.235 is amended to read:

6 **Sec. 08.98.235. Grounds for imposition of disciplinary sanctions.** After a
7 hearing, the board may impose a disciplinary sanction on a person licensed under this
8 chapter when the board finds that the person

9 (1) secured a license through deceit, fraud, or intentional
10 misrepresentation;

11 (2) engaged in deceit, fraud, or intentional misrepresentation in the
12 course of providing professional services or engaging in professional activities;

13 (3) advertised professional services in a false or misleading manner;

14 (4) has been convicted of a felony or other crime **that** [WHICH]
15 affects the person's ability to continue to practice competently and safely;

16 (5) intentionally or negligently engaged in **animal care** or permitted
17 the performance of animal care by the person's supervisees **that** [WHICH] does not
18 conform to minimum professional standards regardless of whether actual injury to the
19 animal occurred;

20 (6) failed to comply with this chapter, with a regulation adopted under
21 this chapter, or with an order of the board;

22 (7) continued to practice after becoming unfit due to

23 (A) professional incompetence, **gross negligence, or repeated**
24 **negligent conduct; the board may not base a finding of professional**
25 **incompetence, gross negligence, or negligent conduct solely on the**
26 **unconventional or experimental nature of the licensee's practice in the**
27 **absence of demonstrable physical harm to an animal patient;**

28 (B) addiction or severe dependency on alcohol or other drugs
29 **that** [WHICH] impairs the person's ability to practice safely;

30 (C) physical or mental disability;

31 (8) engaged in lewd or immoral conduct in connection with the

1 delivery of professional service.

2 * **Sec. 4.** AS 08.98 is amended by adding a new section to article 3 to read:

3 **Sec. 08.98.245. Complaints, investigations, and hearings.** (a) A complaint
4 against a person licensed under this chapter

5 (1) may be filed only

6 (A) by a person who owns or is responsible for the care of the
7 animal whose treatment is the subject of the complaint;

8 (B) against a licensee who treated the animal;

9 (2) must include documentation of the details described in (1) of this
10 subsection;

11 (3) must be made under oath;

12 (4) must be filed within six months of the date of the occurrence of the
13 act or omission that is the basis of the complaint.

14 (b) The department shall send notice to the complainant describing the
15 complaint or allegation.

16 (c) During the investigation of a complaint submitted in compliance with (a)
17 of this section, the department shall

18 (1) interview, under oath, the complainant, the licensee, and, if
19 applicable, the licensee's technician or assistant, and determine, among other issues,
20 whether the complainant followed aftercare procedures, if any, recommended by the
21 licensee;

22 (2) include in its investigative report all relevant information, including
23 exculpatory evidence, obtained under (1) of this subsection.

24 (d) A board member whose principal place of veterinary practice lies within
25 five miles of a licensee's principal place of veterinary practice may not participate in a
26 disciplinary hearing relating to that licensee.