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MAR 16 1983

SENATE FILE 444

BY COMMITTEE ON AGRICULTURE
Reported 3/9/83

Passed Senate, Date 3-31-83 (p. 1065) Passed House, Date 4-14-83 (P. 1333)
Vote: Ayes 43 Nays 1 Vote: Ayes 83 Nays 3
Approved May 12, 1983

A BILL FOR

1 An Act relating to the practice of veterinary medicine.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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444 35

1 Section 1. Section 169.3, Code 1983, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. "Veterinary assistant" means an assistant
4 employed by a licensed veterinarian as an animal technician
5 and any other assistant the board designates by rule.

6 Sec. 2. Section 169.4, subsection 9, Code 1983, is amended
7 to read as follows:

8 9. ~~Any~~ A veterinary ~~lay~~ assistant employed by a licensed
9 veterinarian from performing duties other than diagnosis,
10 prescription, or surgery under the direct supervision of ~~such~~
11 the veterinarian ~~which if the~~ assistant has been issued a
12 certificate by the secretary of agriculture after a proper
13 showing of competency.

14 Sec. 3. Section 169.5, subsection 1, Code 1983, is amended
15 to read as follows:

16 1. For the purpose of administering examinations to
17 applicants for license to practice veterinary medicine and
18 performing other duties, functions and responsibilities as
19 outlined in this chapter, the governor shall appoint, subject
20 to confirmation by the senate, a board of ~~five~~ six individuals,
21 three of whom shall be licensed veterinarians, one of whom
22 shall be a certified veterinary assistant, and two of whom
23 shall not be licensed veterinarians, but shall be knowledgeable
24 in the area of animal husbandry and who shall represent the
25 general public. The representatives of the general public
26 shall not prepare, grade or otherwise administer examinations
27 to applicants for ~~license~~ licenses to practice veterinary
28 medicine. The board shall be known as the Iowa board of
29 veterinary medicine. Each licensed veterinarian shall be
30 actively engaged in veterinary medicine and shall have been
31 so engaged for a period of five years immediately preceding
32 appointment, the last two of which shall have been in Iowa.
33 A member of the board shall not be employed by ~~any~~ a wholesale
34 or jobbing house dealing in supplies, equipment or instruments
35 used or useful in the practice of veterinary medicine or be

1 a member of the faculty of a college of veterinary medicine.
2 The person designated as the state veterinarian shall serve
3 as a seventh voting member and as secretary of the board.
4 A majority of the board is a quorum.

5 Professional associations or societies composed of licensed
6 veterinarians may recommend the names of potential board
7 members to the governor, but the governor is not bound by
8 the recommendations.

9 Sec. 4. Section 169.5, subsection 9, unnumbered paragraph
10 1 and paragraphs h and i, Code 1983, are amended to read as
11 follows:

12 ~~Upon a two-thirds vote with the secretary of agriculture~~
13 ~~sitting as a voting board member for these purposes, the~~ The
14 board may:

15 h. ~~Through the offices of the secretary of agriculture~~
16 ~~and the attorney general, bring~~ Bring proceedings in the
17 courts for the enforcement of this chapter or ~~any regulations~~
18 rules made pursuant to this chapter.

19 i. Adopt, amend, or repeal rules relating to the standards
20 of conduct for, testing of, and revocation or suspension of
21 certificates issued to veterinary ~~lay~~ assistants; providing
22 that no certificate can be suspended or revoked by less than
23 ~~two-thirds~~ a vote of five members of the entire board in a
24 proceeding conducted in compliance with section 17A.12.

25 Sec. 5. Section 169.13, Code 1983, is amended by striking
26 the section and inserting in lieu thereof the following:

27 169.13 DISCIPLINE OF LICENSEES. The board of veterinary
28 medicine, after due notice and hearing, may revoke or suspend
29 a license to practice veterinary medicine if it determines
30 that a veterinarian licensed to practice veterinary medicine
31 is guilty of any of the following acts or offenses:

- 32 1. Knowingly making misleading, deceptive, untrue, or
- 33 fraudulent representation in the practice of the profession.
- 34 2. Being convicted of a felony in the courts of this state
- 35 or another state, territory, or country. Conviction as used

1 in this paragraph includes a conviction of an offense which
2 if committed in this state would be deemed a felony without
3 regard to its designation elsewhere, or a criminal proceeding
4 in which a finding or verdict of guilt is made or returned,
5 but the adjudication or guilt is either withheld or not
6 entered. A certified copy of the final order or judgment
7 of conviction or plea of guilty in this state or in another
8 state is conclusive evidence.

9 3. Violating a statute or law of this state, another
10 state, or the United States, without regard to its designation
11 as either felony or misdemeanor, which statute or law relates
12 to the practice of veterinary medicine.

13 4. Having the person's license to practice veterinary
14 medicine revoked or suspended, or having other disciplinary
15 action taken by a licensing authority of another state, ter-
16 ritory, or country. A certified copy of the record or order
17 of suspension, revocation, or disciplinary action is conclusive
18 or prima facie evidence.

19 5. Knowingly aiding, assisting, procuring, or advising
20 a person to unlawfully practice veterinary medicine.

21 6. Being adjudged mentally incompetent by a court of
22 competent jurisdiction. The adjudication shall automatically
23 suspend a license for the duration of the license unless the
24 board orders otherwise.

25 7. Being guilty of a willful or repeated departure from,
26 or the failure to conform to, the minimal standard of
27 acceptable and prevailing practice of veterinary medicine
28 as defined in rules adopted by the board, in which proceeding
29 actual injury to an animal need not be established; or the
30 committing by a veterinarian of an act contrary to honesty,
31 justice, or good morals, whether the act is committed in the
32 course of the practice or otherwise, and whether committed
33 within or without this state.

34 8. Inability to practice veterinary medicine with reason-
35 able skill and safety by reason of illness, drunkenness,

1 excessive use of drugs, narcotics, chemicals, or other type
2 of material or as a result of a mental or physical condition.
3 The board, upon probable cause, may compel a veterinarian
4 to submit to a mental or physical examination by designated
5 physicians. Failure of a veterinarian to submit to an
6 examination constitutes an admission to the allegations made
7 against that veterinarian and the finding of fact and decision
8 of the board may be entered without the taking of testimony
9 or presentation of evidence. At reasonable intervals, a
10 veterinarian shall be afforded an opportunity to demonstrate
11 that the veterinarian can resume the competent practice of
12 veterinary medicine with reasonable skill and safety to
13 animals.

14 A person licensed to practice veterinary medicine who makes
15 application for the renewal of the person's license as required
16 by section 169.12 gives consent to submit to a mental or
17 physical examination as provided by this paragraph when
18 directed in writing by the board. All objections shall be
19 waived as to the admissibility of the examining physician's
20 testimony or examination reports on the grounds that they
21 constitute privileged communication. The medical testimony
22 or examination reports shall not be used against a veterinarian
23 in another proceeding and are confidential except for other
24 actions filed against a veterinarian to revoke or suspend
25 that person's license.

26 9. Willful or repeated violation of lawful rules adopted
27 by the board or violation of a lawful order of the board,
28 previously entered by the board in a disciplinary hearing.

29 Sec. 8. Section 169.14, Code 1983, is amended by striking
30 the section and inserting in lieu thereof the following:

31 169.14 PROCEEDINGS. A proceeding for the revocation or
32 suspension of a license to practice veterinary medicine or
33 to discipline a person licensed to practice veterinary medicine
34 shall be substantially in accord with the following:

35 1. The board, upon its own motion or upon verified

1 complaint in writing, may issue an order fixing the time and
2 place for hearing. A written notice of the time and place
3 of the hearing, together with a statement of the charges,
4 shall be served upon the licensee at least ten days before
5 the hearing in the manner required for the service of notice
6 of the commencement of an ordinary action.

7 2. If the licensee has left the state, the notice and
8 statement of the charges shall be so served at least twenty
9 days before the date of the hearing, wherever the licensee
10 may be found. If the whereabouts of the licensee is unknown,
11 service may be had by publication as provided in the rules
12 of civil procedure upon filing the affidavit required by those
13 rules. If the licensee fails to appear either in person or
14 by counsel at the time and place designated in the notice,
15 the board shall proceed with the hearing.

16 3. The hearing shall be before a member or members desig-
17 nated by the board or before a hearing officer appointed by
18 the board. The presiding board member or hearing officer
19 may issue subpoenas, administer oaths, and take or cause
20 depositions to be taken in connection with the hearing. The
21 member or officer shall issue subpoenas at the request and
22 on behalf of the licensee.

23 4. A mechanized or stenographic record of the proceedings
24 shall be kept. The licensee shall be given the opportunity
25 to appear personally and by attorney, with the right to produce
26 evidence in one's own behalf, to examine and cross-examine
27 witnesses, and to examine documentary evidence produced against
28 the licensee.

29 5. If a person refuses to obey a subpoena issued by the
30 presiding member or hearing officer or to answer a proper
31 question put to that person during the hearing, the presiding
32 member or hearing officer may invoke the aid of a court of
33 competent jurisdiction in requiring the attendance and
34 testimony of that person and the production of papers. A
35 failure to obey the order of the court may be punished by

1 the court as a civil contempt may be punished.

2 6. Unless the hearing is before the entire board, a
3 transcript of the proceeding, together with exhibits pre-
4 sented, shall be considered by the entire board at the earliest
5 practicable time. The licensee and attorney shall be given
6 the opportunity to appear personally to present the licensee's
7 position and arguments to the board. The board shall determine
8 the charge upon the merits on the basis of the evidence in
9 the record before it.

10 7. Upon five members of the board voting in favor of
11 finding the licensee guilty of an act or offense specified
12 in section 169.13, the board shall prepare written findings
13 of fact and its decision imposing one or more of the following
14 disciplinary measures:

15 a. Suspend the license to practice veterinary medicine
16 for a period to be determined by the board.

17 b. Revoke the license to practice veterinary medicine.

18 c. Suspend imposition of judgment and penalty or impose
19 the judgment and penalty, but suspend enforcement and place
20 the veterinarian on probation. The probation ordered may
21 be vacated upon noncompliance. The board may restore and
22 reissue a license to practice veterinary medicine, and may
23 impose a disciplinary or corrective measure which it might
24 originally have imposed.

25 8. Judicial review of the board's action may be sought
26 in accordance with the terms of chapter 17A.

27 9. The filing of a petition for review does not in itself
28 stay execution or enforcement of board action. Upon applica-
29 tion, the board or the review court, in appropriate cases,
30 may order a stay pending the outcome of the review proceedings.

31 Sec. 9. Section 169.16, Code 1983, is amended by striking
32 the section and inserting in lieu thereof the following:

33 169.16 REINSTATEMENT. A person whose license is suspended
34 or revoked may be relicensed or reinstated at any time by
35 a vote of five members of the board after written application

1 made to the board showing cause justifying relicensing or
2 reinstatement. Examination of the applicant may be waived
3 by the board.

4 EXPLANATION

5 This bill changes the board of veterinary medicine by
6 adding a veterinary assistant and the state veterinarian as
7 members of the board and prohibiting faculty members of
8 veterinary colleges from service on the board.

9 The bill also revises the procedures for the revocation
10 and suspension of veterinary licenses and the grounds upon
11 which a license may be revoked or suspended.

12 The bill takes effect July 1 following enactment.

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SENATE FILE 444

S-3419

1 Amend Senate File 444 as follows:

2 1. Page 1, by inserting before line 1 the follow-
3 ing:

4 "Section 1. Chapter 169, Code 1983, is amended
5 by adding the following new section:

6 NEW SECTION. A veterinarian may employ certified
7 veterinary assistants for any purpose other than
8 diagnosis, prescription or surgery. Veterinary
9 assistants must act under the direct supervision of
10 a licensed veterinarian.

11 The board shall issue certificates to veterinary
12 assistants who have met the educational, experience
13 and testing requirements as the board shall specify
14 by rule. The certificate is not a license and does
15 not expire. The certificate may be suspended or
16 revoked, or any other disciplinary action may be taken
17 as specified in section 258A.3, subsection 2. All
18 disciplinary actions shall be taken pursuant to section
19 169.14."

20 2. By striking page 1, line 6 through page 2,
21 line 24, and inserting in lieu thereof the following:

22 "Sec. 3. Section 169.4, subsections 2 and 9, Code
23 1983, are amended to read as follows:

24 2. A person who is a veterinary student in an
25 accredited or approved college of veterinary medicine
26 from performing duties or actions assigned by
27 instructors, or working under the direct supervision
28 of a licensed veterinarian. The ~~secretary-of~~
29 agriculture board shall issue to any veterinary
30 medicine student who attends an accredited veterinary
31 medicine college or school and who has been certified
32 as being competent by an instructor of such college
33 or school to perform veterinary duties under the
34 direction of an instructor of veterinary medicine
35 or under the direct supervision of a licensed
36 veterinarian, a certificate authorizing the veterinary
37 medicine student to perform such functions.

38 9. Any veterinary ~~lay~~ assistant employed by a
39 licensed veterinarian from performing duties other
40 than diagnosis, prescription, or surgery under the
41 direct supervision of such veterinarian which assistant
42 has been issued a certificate by the ~~secretary-of~~
43 agriculture-after-a-proper-showing-of-competency board
44 subject to section 1 of this Act.

45 Sec. 4. Section 169.5, subsections 1 and 7 and
46 subsection 9, unnumbered paragraph 1 and paragraph
47 h, Code 1983, are amended to read as follows:

48 1. ~~For-the-purpose-of-administering-examinations~~
49 ~~to-applicants-for-license-to-practice-veterinary~~
50 ~~medicine-and-performing-other-duties,-functions-and~~

1 ~~responsibilities-as-outlined-in-this-chapter,-the~~
2 The governor shall appoint, subject to confirmation
3 by the senate, a board of five individuals, three
4 of whom shall be licensed veterinarians and two of
5 whom shall not be licensed veterinarians, but shall
6 be knowledgeable in the area of animal husbandry and
7 who shall represent the general public. The
8 representatives of the general public shall not
9 prepare, grade or otherwise administer examinations
10 to applicants for license to practice veterinary
11 medicine. The board shall be known as the Iowa board
12 of veterinary medicine. Each licensed veterinarian
13 shall be actively engaged in veterinary medicine and
14 shall have been so engaged for a period of five years
15 immediately preceding appointment, the last two of
16 which shall have been in Iowa. A member of the board
17 shall not be employed by any wholesale or jobbing
18 house dealing in supplies, equipment or instruments
19 used or useful in the practice of veterinary medicine.
20 The person designated as the state veterinarian shall
21 serve as secretary of the board.

22 Professional associations or societies composed
23 of licensed veterinarians may recommend the names
24 of potential board members to the governor, but the
25 governor is not bound by the recommendations.
26 7. At its annual meeting, the board shall organize
27 by electing a president and such other officers as
28 may be necessary. Officers of the board serve for
29 terms of one year and until a successor is elected,
30 without limitation on the number of terms an officer
31 may serve. The president shall serve as chairperson
32 of board meetings.

33 The duties of the ~~secretary~~ board shall include
34 carrying on the correspondence of the board, keeping
35 permanent accounts and records of all receipts and
36 disbursements by the board and of all board
37 proceedings, including the disposition of all
38 applications for license, and keeping a register of
39 all persons currently licensed by the board. All
40 board records shall be open to public inspection
41 during regular office hours.

42 At the end of each fiscal year, the president and
43 secretary shall submit to the governor a report on
44 the transactions of the board, including an account
45 of moneys received and disbursed.

46 9. Upon a ~~two-thirds~~ three-fifths vote with the
47 ~~secretary-of-agriculture-sitting-as-a-voting-board~~
48 ~~member-for-these-purposes~~, the board may:

49 h. Through the offices of the secretary of
50 agriculture and the attorney general, Bring

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PAGE 3

1 proceedings in the courts for the enforcement of this
2 chapter or any regulations made pursuant to this
3 chapter.

4 Sec. 5. Section 169.8, unnumbered paragraph 3,
5 Code 1983, is amended by striking the unnumbered
6 paragraph.

7 Sec. 6. Section 169.8, unnumbered paragraph 6,
8 Code 1983, is amended to read as follows:

9 When any person licensed to practice under this
10 chapter changes residence, the ~~department-of~~
11 ~~agriculture board~~ shall be notified within thirty
12 days and such change shall be noted in the registry
13 book.

14 Sec. 7. Section 169.9, unnumbered paragraph 3,
15 Code 1983, is amended to read as follows:

16 After each examination, the ~~secretary board~~ shall
17 notify each examinee of the examination result, and
18 the board shall issue licenses to the individuals
19 successfully completing the examination. The ~~secretary~~
20 ~~board~~ shall record the new licenses and issue a
21 certificate of registration to the new licensees.
22 Any individual failing an examination shall be admitted
23 to any subsequent examination on payment of the
24 application fee."

25 3. Page 6, line 10, by striking the word "five"
26 and inserting in lieu thereof the word "three".

27 4. Page 6, by inserting after line 30 the follow-
28 ing:

29 "Sec. 10. Section 169.15, Code 1983, is amended
30 to read as follows:

31 169.15 APPEAL. Any party aggrieved by a decision
32 of the board may appeal the matter to the district
33 court ~~within-thirty-days-after-receipt-of-notice-of~~
34 ~~the-board's-final-determination as provided in section~~
35 ~~17A.19. Appeals-shall-be-taken-by-filing-the-action~~
36 ~~with-the-court-and-serving-upon-the-secretary-of-the~~
37 ~~board-written-notice-of-the-appeal,-stating-the-grounds~~
38 ~~thereof.--The-attorney-general-shall-represent-the~~
39 ~~board-and-the-secretary-of-agriculture-in-any-such~~
40 ~~court-proceedings--"~~

41 5. Page 7, by inserting after line 3 the follow-
42 ing:

43 "Sec. 12. Section 169.19, subsection 3, Code 1983,
44 is amended to read as follows:

45 3. The county attorney of the county in which
46 any violation of this chapter occurs shall conduct
47 the necessary prosecution for such violation.
48 Notwithstanding this provision, the board of veterinary
49 medicine ~~or-the-secretary-of-agriculture,~~ or any
50 citizen of this state may bring an action to enjoin

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PAGE 4

1 any person from practicing veterinary medicine without
2 a currently valid license or temporary permit. The
3 action brought to restrain a person from engaging
4 in the practice of veterinary medicine without
5 possessing a license shall be brought in the name
6 of the state of Iowa. If the court finds that the
7 individual is violating or threatening to violate
8 this chapter it shall enter an injunction restraining
9 the individual from such unlawful acts."
10 6. By renumbering to conform with this amendment.

S-3419 FILED
MARCH 30, 1983
Adopted 3/31/83 (# 1064)

BY EDGAR H. HOLDEN
BERL E. PRIEBE
DALE L. TIEDEN
C. W. BILL HUTCHINS

SENATE FILE 444

S-3322

1 Amend Senate File 444 as follows:
2 1. Page 1, line 20, by striking the words "five
3 six" and inserting in lieu thereof the word "five".
4 2. Page 1, lines 21 and 22, by striking the words
5 "one of whom shall be a certified veterinary
6 assistant,".
7 3. Page 2, by striking lines 3 and 4 and inserting
8 in lieu thereof the words "as secretary of the board."
9 4. Page 2, by striking line 23 and inserting in
10 lieu thereof the words "two-thirds vote of the entire
11 board in a".

S-3322 FILED
MARCH 24, 1983
Placed out of order 3/31 (# 1064)

BY EDGAR H. HOLDEN

Ag. Committee 4/6/83

Senate File 444

Agriculture: Zimmerman, Chair; Skow and Handorf.

SENATE FILE 444

BY COMMITTEE ON AGRICULTURE

(AS AMENDED AND PASSED BY THE SENATE MARCH 31, 1983)

Passed Senate, Date 4-19-83 (p. 1315) Passed House, Date 4-14-83 (p. 1353)

Vote: Ayes 45 Nays 0 Vote: Ayes 87 Nays 3

Approved May 13, 1983 (p. 1719)

A BILL FOR

- 1 An Act relating to the practice of veterinary medicine.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 444

H-3626

- 1 Amend Senate File 444 as amended, passed and
- 2 reprinted by the Senate as follows:
- 3 1. Page 2, line 24, by inserting after the word
- 4 "by" the words "or have any material or financial
- 5 interest in".

H-3626 FILED APRIL 11, 1983

BY COMMITTEE ON AGRICULTURE

Rept. 4/14/83 (p. 1353)

HOUSE AMENDMENT TO SENATE FILE 444

S-3591

- 1 Amend Senate File 444 as amended, passed and
- 2 reprinted by the Senate as follows:
- 3 1. Page 2, line 24, by inserting after the word
- 4 "by" the words "or have any material or financial
- 5 interest in".

S-3591 FILED
APRIL 18, 1983

RECEIVED FROM THE HOUSE

Senate concurred 4/19/83 (p. 1315)

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1 Section 1. Chapter 169, Code 1983, is amended by adding
2 the following new section:

3 NEW SECTION. A veterinarian may employ certified veterinary
4 assistants for any purpose other than diagnosis, prescription
5 or surgery. Veterinary assistants must act under the direct
6 supervision of a licensed veterinarian.

7 The board shall issue certificates to veterinary assistants
8 who have met the educational, experience and testing
9 requirements as the board shall specify by rule. The
10 certificate is not a license and does not expire. The
11 certificate may be suspended or revoked, or any other
12 disciplinary action may be taken as specified in section
13 258A.3, subsection 2. All disciplinary actions shall be taken
14 pursuant to section 169.14.

15 Sec. 2. Section 169.3, Code 1983, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. "Veterinary assistant" means an assistant
18 employed by a licensed veterinarian as an animal technician
19 and any other assistant the board designates by rule.

20 Sec. 3. Section 169.4, subsections 2 and 9, Code 1983,
21 are amended to read as follows:

22 2. A person who is a veterinary student in an accredited
23 or approved college of veterinary medicine from performing
24 duties or actions assigned by instructors, or working under
25 the direct supervision of a licensed veterinarian. The
26 secretary-of-agriculture board shall issue to any veterinary
27 medicine student who attends an accredited veterinary medicine
28 college or school and who has been certified as being competent
29 by an instructor of such college or school to perform
30 veterinary duties under the direction of an instructor of
31 veterinary medicine or under the direct supervision of a
32 licensed veterinarian, a certificate authorizing the veterinary
33 medicine student to perform such functions.

34 9. Any veterinary lay assistant employed by a licensed
35 veterinarian from performing duties other than diagnosis,

1 prescription, or surgery under the direct supervision of such
2 veterinarian which assistant has been issued a certificate
3 by the secretary-of-agriculture-after-a-proper-showing-of
4 competency board subject to section 1 of this Act.

5 Sec. 4. Section 169.5, subsections 1 and 7 and subsection
6 9, unnumbered paragraph 1 and paragraph h, Code 1983, are
7 amended to read as follows:

8 1. For-the-purpose-of-administering-examinations-to
9 applicants-for-license-to-practice-veterinary-medicine-and
10 performing-other-duties,-functions-and-responsibilities-as
11 outlined-in-this-chapter, the The governor shall appoint,
12 subject to confirmation by the senate, a board of five
13 individuals, three of whom shall be licensed veterinarians
14 and two of whom shall not be licensed veterinarians, but shall
15 be knowledgeable in the area of animal husbandry and who shall
16 represent the general public. The representatives of the
17 general public shall not prepare, grade or otherwise administer
18 examinations to applicants for license to practice veterinary
19 medicine. The board shall be known as the Iowa board of
20 veterinary medicine. Each licensed veterinarian shall be
21 actively engaged in veterinary medicine and shall have been
22 so engaged for a period of five years immediately preceding
23 appointment, the last two of which shall have been in Iowa.
24 A member of the board shall not be employed by any wholesale
25 or jobbing house dealing in supplies, equipment or instruments
26 used or useful in the practice of veterinary medicine. The
27 person designated as the state veterinarian shall serve as
28 secretary of the board.

29 Professional associations or societies composed of licensed
30 veterinarians may recommend the names of potential board
31 members to the governor, but the governor is not bound by
32 the recommendations.

33 7. At its annual meeting, the board shall organize by
34 electing a president and such other officers as may be
35 necessary. Officers of the board serve for terms of one year

1 and until a successor is elected, without limitation on the
2 number of terms an officer may serve. The president shall
3 serve as chairperson of board meetings.

4 The duties of the secretary board shall include carrying
5 on the correspondence of the board, keeping permanent accounts
6 and records of all receipts and disbursements by the board
7 and of all board proceedings, including the disposition of
8 all applications for license, and keeping a register of all
9 persons currently licensed by the board. All board records
10 shall be open to public inspection during regular office
11 hours.

12 At the end of each fiscal year, the president and secretary
13 shall submit to the governor a report on the transactions
14 of the board, including an account of moneys received and
15 disbursed.

16 9. Upon a two-thirds three-fifths vote with-the-secretary
17 of-agriculture-sitting-as-a-voting-board-member-for-these
18 purposes, the board may:

19 h. Through-the-offices-of-the-secretary-of-agriculture
20 and-the-attorney-general, bring Bring proceedings in the
21 courts for the enforcement of this chapter or any regulations
22 made pursuant to this chapter.

23 Sec. 5. Section 169.8, unnumbered paragraph 3, Code 1983,
24 is amended by striking the unnumbered paragraph.

25 Sec. 6. Section 169.8, unnumbered paragraph 6, Code 1983,
26 is amended to read as follows:

27 When any person licensed to practice under this chapter
28 changes residence, the department-of-agriculture board shall
29 be notified within thirty days and such change shall be noted
30 in the registry book.

31 Sec. 7. Section 169.9, unnumbered paragraph 3, Code 1983,
32 is amended to read as follows:

33 After each examination, the secretary board shall notify
34 each examinee of the examination result, and the board shall
35 issue licenses to the individuals successfully completing

1 the examination. The secretary board shall record the new
2 licenses and issue a certificate of registration to the new
3 licensees. Any individual failing an examination shall be
4 admitted to any subsequent examination on payment of the
5 application fee.

6 Sec. 8. Section 169.13, Code 1983, is amended by striking
7 the section and inserting in lieu thereof the following:

8 169.13 DISCIPLINE OF LICENSEES. The board of veterinary
9 medicine, after due notice and hearing, may revoke or suspend
10 a license to practice veterinary medicine if it determines
11 that a veterinarian licensed to practice veterinary medicine
12 is guilty of any of the following acts or offenses:

13 1. Knowingly making misleading, deceptive, untrue, or
14 fraudulent representation in the practice of the profession.

15 2. Being convicted of a felony in the courts of this state
16 or another state, territory, or country. Conviction as used
17 in this paragraph includes a conviction of an offense which
18 if committed in this state would be deemed a felony without
19 regard to its designation elsewhere, or a criminal proceeding
20 in which a finding or verdict of guilt is made or returned,
21 but the adjudication or guilt is either withheld or not
22 entered. A certified copy of the final order or judgment
23 of conviction or plea of guilty in this state or in another
24 state is conclusive evidence.

25 3. Violating a statute or law of this state, another
26 state, or the United States, without regard to its designation
27 as either felony or misdemeanor, which statute or law relates
28 to the practice of veterinary medicine.

29 4. Having the person's license to practice veterinary
30 medicine revoked or suspended, or having other disciplinary
31 action taken by a licensing authority of another state, ter-
32 ritory, or country. A certified copy of the record or order
33 of suspension, revocation, or disciplinary action is conclusive
34 or prima facie evidence.

35 5. Knowingly aiding, assisting, procuring, or advising

1 a person to unlawfully practice veterinary medicine.

2 6. Being adjudged mentally incompetent by a court of
3 competent jurisdiction. The adjudication shall automatically
4 suspend a license for the duration of the license unless the
5 board orders otherwise.

6 7. Being guilty of a willful or repeated departure from,
7 or the failure to conform to, the minimal standard of
8 acceptable and prevailing practice of veterinary medicine
9 as defined in rules adopted by the board, in which proceeding
10 actual injury to an animal need not be established; or the
11 committing by a veterinarian of an act contrary to honesty,
12 justice, or good morals, whether the act is committed in the
13 course of the practice or otherwise, and whether committed
14 within or without this state.

15 8. Inability to practice veterinary medicine with reason-
16 able skill and safety by reason of illness, drunkenness,
17 excessive use of drugs, narcotics, chemicals, or other type
18 of material or as a result of a mental or physical condition.
19 The board, upon probable cause, may compel a veterinarian
20 to submit to a mental or physical examination by designated
21 physicians. Failure of a veterinarian to submit to an
22 examination constitutes an admission to the allegations made
23 against that veterinarian and the finding of fact and decision
24 of the board may be entered without the taking of testimony
25 or presentation of evidence. At reasonable intervals, a
26 veterinarian shall be afforded an opportunity to demonstrate
27 that the veterinarian can resume the competent practice of
28 veterinary medicine with reasonable skill and safety to
29 animals.

30 A person licensed to practice veterinary medicine who makes
31 application for the renewal of the person's license as required
32 by section 169.12 gives consent to submit to a mental or
33 physical examination as provided by this paragraph when
34 directed in writing by the board. All objections shall be
35 waived as to the admissibility of the examining physician's

1 testimony or examination reports on the grounds that they
2 constitute privileged communication. The medical testimony
3 or examination reports shall not be used against a veterinarian
4 in another proceeding and are confidential except for other
5 actions filed against a veterinarian to revoke or suspend
6 that person's license.

7 9. Willful or repeated violation of lawful rules adopted
8 by the board or violation of a lawful order of the board,
9 previously entered by the board in a disciplinary hearing.

10 Sec. 9. Section 169.14, Code 1983, is amended by striking
11 the section and inserting in lieu thereof the following:

12 169.14 PROCEEDINGS. A proceeding for the revocation or
13 suspension of a license to practice veterinary medicine or
14 to discipline a person licensed to practice veterinary medicine
15 shall be substantially in accord with the following:

16 1. The board, upon its own motion or upon verified
17 complaint in writing, may issue an order fixing the time and
18 place for hearing. A written notice of the time and place
19 of the hearing, together with a statement of the charges,
20 shall be served upon the licensee at least ten days before
21 the hearing in the manner required for the service of notice
22 of the commencement of an ordinary action.

23 2. If the licensee has left the state, the notice and
24 statement of the charges shall be so served at least twenty
25 days before the date of the hearing, wherever the licensee
26 may be found. If the whereabouts of the licensee is unknown,
27 service may be had by publication as provided in the rules
28 of civil procedure upon filing the affidavit required by those
29 rules. If the licensee fails to appear either in person or
30 by counsel at the time and place designated in the notice,
31 the board shall proceed with the hearing.

32 3. The hearing shall be before a member or members desig-
33 nated by the board or before a hearing officer appointed by
34 the board. The presiding board member or hearing officer
35 may issue subpoenas, administer oaths, and take or cause

1 depositions to be taken in connection with the hearing. The
2 member or officer shall issue subpoenas at the request and
3 on behalf of the licensee.

4 4. A mechanized or stenographic record of the proceedings
5 shall be kept. The licensee shall be given the opportunity
6 to appear personally and by attorney, with the right to produce
7 evidence in one's own behalf, to examine and cross-examine
8 witnesses, and to examine documentary evidence produced against
9 the licensee.

10 5. If a person refuses to obey a subpoena issued by the
11 presiding member or hearing officer or to answer a proper
12 question put to that person during the hearing, the presiding
13 member or hearing officer may invoke the aid of a court of
14 competent jurisdiction in requiring the attendance and
15 testimony of that person and the production of papers. A
16 failure to obey the order of the court may be punished by
17 the court as a civil contempt may be punished.

18 6. Unless the hearing is before the entire board, a
19 transcript of the proceeding, together with exhibits pre-
20 sented, shall be considered by the entire board at the earliest
21 practicable time. The licensee and attorney shall be given
22 the opportunity to appear personally to present the licensee's
23 position and arguments to the board. The board shall determine
24 the charge upon the merits on the basis of the evidence in
25 the record before it.

26 7. Upon three members of the board voting in favor of
27 finding the licensee guilty of an act or offense specified
28 in section 169.13, the board shall prepare written findings
29 of fact and its decision imposing one or more of the following
30 disciplinary measures:

31 a. Suspend the license to practice veterinary medicine
32 for a period to be determined by the board.

33 b. Revoke the license to practice veterinary medicine.

34 c. Suspend imposition of judgment and penalty or impose
35 the judgment and penalty, but suspend enforcement and place

1 the veterinarian on probation. The probation ordered may
2 be vacated upon noncompliance. The board may restore and
3 reissue a license to practice veterinary medicine, and may
4 impose a disciplinary or corrective measure which it might
5 originally have imposed.

6 8. Judicial review of the board's action may be sought
7 in accordance with the terms of chapter 17A.

8 9. The filing of a petition for review does not in itself
9 stay execution or enforcement of board action. Upon applica-
10 tion, the board or the review court, in appropriate cases,
11 may order a stay pending the outcome of the review proceedings.

12 Sec. 10. Section 169.15, Code 1983, is amended to read
13 as follows:

14 169.15 APPEAL. Any party aggrieved by a decision of the
15 board may appeal the matter to the district court within
16 thirty-days-after-receipt-of-notice-of-the-board's-final
17 determination as provided in section 17A.19. Appeals shall
18 be-taken-by-filing-the-action-with-the-court-and-serving-upon
19 the-secretary-of-the-board-written-notice-of-the-appeal,
20 stating-the-grounds-thereof.--The-attorney-general shall
21 represent-the-board-and-the-secretary-of-agriculture-in-any
22 such-court-proceedings.

23 Sec. 11. Section 169.16, Code 1983, is amended by striking
24 the section and inserting in lieu thereof the following:

25 169.16 REINSTATEMENT. A person whose license is suspended
26 or revoked may be relicensed or reinstated at any time by
27 a vote of five members of the board after written application
28 made to the board showing cause justifying relicensing or
29 reinstatement. Examination of the applicant may be waived
30 by the board.

31 Sec. 12. Section 169.19, subsection 3, Code 1983, is
32 amended to read as follows:

33 3. The county attorney of the county in which any violation
34 of this chapter occurs shall conduct the necessary prosecution
35 for such violation. Notwithstanding this provision, the board

1 of veterinary medicine ~~or the secretary of agriculture~~, or
2 any citizen of this state may bring an action to enjoin any
3 person from practicing veterinary medicine without a currently
4 valid license or temporary permit. The action brought to
5 restrain a person from engaging in the practice of veterinary
6 medicine without possessing a license shall be brought in
7 the name of the state of Iowa. If the court finds that the
8 individual is violating or threatening to violate this chapter
9 it shall enter an injunction restraining the individual from
10 such unlawful acts.

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SENATE FILE 444

AN ACT

RELATING TO THE PRACTICE OF VETERINARY MEDICINE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Chapter 169, Code 1983, is amended by adding the following new section:

NEW SECTION. A veterinarian may employ certified veterinary assistants for any purpose other than diagnosis, prescription or surgery. Veterinary assistants must act under the direct supervision of a licensed veterinarian.

The board shall issue certificates to veterinary assistants who have met the educational, experience and testing requirements as the board shall specify by rule. The certificate is not a license and does not expire. The certificate may be suspended or revoked, or any other disciplinary action may be taken as specified in section 258A.3, subsection 2. All disciplinary actions shall be taken pursuant to section 169.14.

Sec. 2. Section 169.3, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. "Veterinary assistant" means an assistant employed by a licensed veterinarian as an animal technician and any other assistant the board designates by rule.

Sec. 3. Section 169.4, subsections 2 and 9, Code 1983, are amended to read as follows:

2. A person who is a veterinary student in an accredited or approved college of veterinary medicine from performing duties or actions assigned by instructors, or working under the direct supervision of a licensed veterinarian. The ~~secretary of agriculture~~ board shall issue to any veterinary medicine student who attends an accredited veterinary medicine college or school and who has been certified as being competent by an instructor of such college or school to perform

veterinary duties under the direction of an instructor of veterinary medicine or under the direct supervision of a licensed veterinarian, a certificate authorizing the veterinary medicine student to perform such functions.

9. Any veterinary ~~lay~~ assistant employed by a licensed veterinarian from performing duties other than diagnosis, prescription, or surgery under the direct supervision of such veterinarian which assistant has been issued a certificate by the ~~secretary of agriculture after a proper showing of competency~~ board subject to section 1 of this Act.

Sec. 4. Section 169.5, subsections 1 and 7 and subsection 9, unnumbered paragraph 1 and paragraph h, Code 1983, are amended to read as follows:

1. ~~For the purpose of administering examinations to applicants for license to practice veterinary medicine and performing other duties, functions and responsibilities as outlined in this chapter, the~~ The governor shall appoint, subject to confirmation by the senate, a board of five individuals, three of whom shall be licensed veterinarians and two of whom shall not be licensed veterinarians, but shall be knowledgeable in the area of animal husbandry and who shall represent the general public. The representatives of the general public shall not prepare, grade or otherwise administer examinations to applicants for license to practice veterinary medicine. The board shall be known as the Iowa board of veterinary medicine. Each licensed veterinarian shall be actively engaged in veterinary medicine and shall have been so engaged for a period of five years immediately preceding appointment, the last two of which shall have been in Iowa. A member of the board shall not be employed by or have any material or financial interest in any wholesale or jobbing house dealing in supplies, equipment or instruments used or useful in the practice of veterinary medicine. The person designated as the state veterinarian shall serve as secretary of the board.

Professional associations or societies composed of licensed veterinarians may recommend the names of potential board members to the governor, but the governor is not bound by the recommendations.

7. At its annual meeting, the board shall organize by electing a president and such other officers as may be necessary. Officers of the board serve for terms of one year and until a successor is elected, without limitation on the number of terms an officer may serve. The president shall serve as chairperson of board meetings.

The duties of the secretary board shall include carrying on the correspondence of the board, keeping permanent accounts and records of all receipts and disbursements by the board and of all board proceedings, including the disposition of all applications for license, and keeping a register of all persons currently licensed by the board. All board records shall be open to public inspection during regular office hours.

At the end of each fiscal year, the president and secretary shall submit to the governor a report on the transactions of the board, including an account of moneys received and disbursed.

9. Upon a ~~two-thirds~~ three-fifths vote with the ~~secretary of agriculture sitting as a voting board member for these purposes~~, the board may:

h. ~~Through the offices of the secretary of agriculture and the attorney general, bring~~ Bring proceedings in the courts for the enforcement of this chapter or any regulations made pursuant to this chapter.

Sec. 5. Section 169.8, unnumbered paragraph 3, Code 1983, is amended by striking the unnumbered paragraph.

Sec. 6. Section 169.8, unnumbered paragraph 6, Code 1983, is amended to read as follows:

When any person licensed to practice under this chapter changes residence, the ~~department of agriculture board~~ shall be notified within thirty days and such change shall be noted in the registry book

Sec. 7. Section 169.9, unnumbered paragraph 3, Code 1983, is amended to read as follows:

After each examination, the secretary board shall notify each examinee of the examination result, and the board shall issue licenses to the individuals successfully completing the examination. The secretary board shall record the new licenses and issue a certificate of registration to the new licensees. Any individual failing an examination shall be admitted to any subsequent examination on payment of the application fee.

Sec. 8. Section 169.13, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

169.13 DISCIPLINE OF LICENSEES. The board of veterinary medicine, after due notice and hearing, may revoke or suspend a license to practice veterinary medicine if it determines that a veterinarian licensed to practice veterinary medicine is guilty of any of the following acts or offenses:

1. Knowingly making misleading, deceptive, untrue, or fraudulent representation in the practice of the profession
2. Being convicted of a felony in the courts of this state or another state, territory, or country. Conviction as used in this paragraph includes a conviction of an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere, or a criminal proceeding in which a finding or verdict of guilt is made or returned, but the adjudication or guilt is either withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state is conclusive evidence.
3. Violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of veterinary medicine.
4. Having the person's license to practice veterinary medicine revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, ter-

ritory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is conclusive or prima facie evidence.

5. Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice veterinary medicine.

6. Being adjudged mentally incompetent by a court of competent jurisdiction. The adjudication shall automatically suspend a license for the duration of the license unless the board orders otherwise.

7. Being guilty of a willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of veterinary medicine as defined in rules adopted by the board, in which proceeding actual injury to an animal need not be established; or the committing by a veterinarian of an act contrary to honesty, justice, or good morals, whether the act is committed in the course of the practice or otherwise, and whether committed within or without this state.

8. Inability to practice veterinary medicine with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition. The board, upon probable cause, may compel a veterinarian to submit to a mental or physical examination by designated physicians. Failure of a veterinarian to submit to an examination constitutes an admission to the allegations made against that veterinarian and the finding of fact and decision of the board may be entered without the taking of testimony or presentation of evidence. At reasonable intervals, a veterinarian shall be afforded an opportunity to demonstrate that the veterinarian can resume the competent practice of veterinary medicine with reasonable skill and safety to animals.

A person licensed to practice veterinary medicine who makes application for the renewal of the person's license as required by section 169.12 gives consent to submit to a mental or

physical examination as provided by this paragraph when directed in writing by the board. All objections shall be waived as to the admissibility of the examining physician's testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against a veterinarian in another proceeding and are confidential except for other actions filed against a veterinarian to revoke or suspend that person's license.

9. Willful or repeated violation of lawful rules adopted by the board or violation of a lawful order of the board, previously entered by the board in a disciplinary hearing.

Sec. 9. Section 169.14, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

169.14. PROCEEDINGS. A proceeding for the revocation or suspension of a license to practice veterinary medicine or to discipline a person licensed to practice veterinary medicine shall be substantially in accord with the following:

1. The board, upon its own motion or upon verified complaint in writing, may issue an order fixing the time and place for hearing. A written notice of the time and place of the hearing, together with a statement of the charges, shall be served upon the licensee at least ten days before the hearing in the manner required for the service of notice of the commencement of an ordinary action.

2. If the licensee has left the state, the notice and statement of the charges shall be so served at least twenty days before the date of the hearing, wherever the licensee may be found. If the whereabouts of the licensee is unknown, service may be had by publication as provided in the rules of civil procedure upon filing the affidavit required by those rules. If the licensee fails to appear either in person or by counsel at the time and place designated in the notice, the board shall proceed with the hearing.

3. The hearing shall be before a member or members designated by the board or before a hearing officer appointed by

the board. The presiding board member or hearing officer may issue subpoenas, administer oaths, and take or cause depositions to be taken in connection with the hearing. The member or officer shall issue subpoenas at the request and on behalf of the licensee.

4. A mechanized or stenographic record of the proceedings shall be kept. The licensee shall be given the opportunity to appear personally and by attorney, with the right to produce evidence in one's own behalf, to examine and cross-examine witnesses, and to examine documentary evidence produced against the licensee.

5. If a person refuses to obey a subpoena issued by the presiding member or hearing officer or to answer a proper question put to that person during the hearing, the presiding member or hearing officer may invoke the aid of a court of competent jurisdiction in requiring the attendance and testimony of that person and the production of papers. A failure to obey the order of the court may be punished by the court as a civil contempt may be punished.

6. Unless the hearing is before the entire board, a transcript of the proceeding, together with exhibits presented, shall be considered by the entire board at the earliest practicable time. The licensee and attorney shall be given the opportunity to appear personally to present the licensee's position and arguments to the board. The board shall determine the charge upon the merits on the basis of the evidence in the record before it.

7. Upon three members of the board voting in favor of finding the licensee guilty of an act or offense specified in section 169.13, the board shall prepare written findings of fact and its decision imposing one or more of the following disciplinary measures:

- a. Suspend the license to practice veterinary medicine for a period to be determined by the board.
- b. Revoke the license to practice veterinary medicine.
- c. Suspend imposition of judgment and penalty or impose

the judgment and penalty, but suspend enforcement and place the veterinarian on probation. The probation ordered may be vacated upon noncompliance. The board may restore and reissue a license to practice veterinary medicine, and may impose a disciplinary or corrective measure which it might originally have imposed.

8. Judicial review of the board's action may be sought in accordance with the terms of chapter 17A.

9. The filing of a petition for review does not in itself stay execution or enforcement of board action. Upon application, the board or the review court, in appropriate cases, may order a stay pending the outcome of the review proceedings.

Sec. 10. Section 169.15, Code 1983, is amended to read as follows:

169.15 APPEAL. Any party aggrieved by a decision of the board may appeal the matter to the district court within ~~thirty days after receipt of notice of the board's final determination as provided in section 17A.19. Appeals shall be taken by filing the action with the court and serving upon the secretary of the board written notice of the appeal, stating the grounds thereof. The attorney general shall represent the board and the secretary of agriculture in any such court proceedings.~~

Sec. 11. Section 169.16, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

169.16 REINSTATEMENT. A person whose license is suspended or revoked may be relicensed or reinstated at any time by a vote of five members of the board after written application made to the board showing cause justifying relicensing or reinstatement. Examination of the applicant may be waived by the board.

Sec. 12. Section 169.19, subsection 3, Code 1983, is amended to read as follows:

3. The county attorney of the county in which any violation of this chapter occurs shall conduct the necessary prosecution for such violation. Notwithstanding this provision, the board

of veterinary medicine ~~or the secretary of agriculture~~, or any citizen of this state may bring an action to enjoin any person from practicing veterinary medicine without a currently valid license or temporary permit. The action brought to restrain a person from engaging in the practice of veterinary medicine without possessing a license shall be brought in the name of the state of Iowa. If the court finds that the individual is violating or threatening to violate this chapter it shall enter an injunction restraining the individual from such unlawful acts.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 444, Seventieth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved _____, 1983

TERRY E. BRANSTAD
Governor

S.F. 444