

CHAPTER 114**DISPOSAL OF RIGHTS OF WAY BY DEPARTMENT OF TRANSPORTATION***S.F. 145*

AN ACT requiring the state department of transportation to dispose of all right of way owned by the department and not needed for projects by July 1, 1992.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. 1981 Iowa Acts, Second Extraordinary Session, chapter 2, section 18, is amended to read as follows:

SEC. 18. It is the intent of the general assembly that not later than ~~January 1, 1985~~ July 1, 1992, the state department of transportation shall dispose of all right of way owned by the department and not needed for projects. In determining need, the department shall consider both its five-year program requirements and its long-range, statewide corridor development needs. In determining need based upon long-range, statewide corridor development, the department shall give careful consideration to economically depressed urban areas not served directly by the national system of interstate and defense highways.

Approved May 12, 1983

CHAPTER 115**PRACTICE OF VETERINARY MEDICINE***S.F. 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, territory, 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.

Approved May 12, 1983