

AMENDED IN SENATE APRIL 14, 2011

SENATE BILL

No. 697

Introduced by Senator ~~Negrete McLeod~~ *Emmerson*

February 18, 2011

An act to amend Sections 4826 and ~~4875.1~~ of, 4875.1, and 4875.2 of, and to Article 4.5 (commencing with Section 4890) to Chapter 11 of Division 2 of, the Business and Professions Code, relating to veterinary medicine.

LEGISLATIVE COUNSEL'S DIGEST

SB 697, as amended, ~~Negrete McLeod~~ *Emmerson*. Veterinary medicine.

Existing law, the Veterinary Medicine Practice Act, provides for the licensure and registration of veterinarians and registered veterinary technicians by the Veterinary Medical Board and makes a violation of the act a crime.

Under existing law, a person practices veterinary medicine when he or she, among other things, represents himself or herself as engaged in the practice of veterinary medicine.

This bill would additionally provide that a person practices veterinary medicine when he or she advertises himself or herself as engaged in the practice of veterinary medicine.

Existing law makes it unlawful for any person to practice veterinary medicine without a license and prohibits a person from using the title "registered veterinary technician" unless he or she has satisfied the requirements for registration. Existing law requires the board to prioritize its investigative and prosecutorial resources to ensure that disciplinary cases against veterinarians and registered veterinary technicians are handled expeditiously.

~~This bill would additionally require the board to prioritize its resources to ensure that cases against unlicensed and unregistered persons and any person aiding and abetting these unlicensed and unregistered persons, as specified, are brought in a similar manner provide that, if upon completion of an inspection or investigation, the board's executive officer has probable cause to believe that an unlicensed person acting as a veterinarian or registered veterinarian technician has violated the act, he or she may issue a civil citation, as specified, and would provide for the person cited to contest the citation. The bill would also authorize the executive officer to seek injunctive relief, as specified. The bill would also provide that failure to comply with a citation is a misdemeanor, and would designate the distribution of fine moneys collected through convictions of that crime.~~

By changing the definition of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4826 of the Business and Professions
2 Code is amended to read:
3 4826. A person practices veterinary medicine, surgery, and
4 dentistry, and the various branches thereof, when he or she does
5 any one of the following:
6 (a) Advertises or represents himself or herself as engaged in the
7 practice of veterinary medicine, veterinary surgery, or veterinary
8 dentistry in any of its branches.
9 (b) Diagnoses or prescribes a drug, medicine, appliance,
10 application, or treatment of whatever nature for the prevention,
11 cure or relief of a wound, fracture, bodily injury, or disease of
12 animals.
13 (c) Administers a drug, medicine, appliance, application, or
14 treatment of whatever nature for the prevention, cure, or relief of
15 a wound, fracture, bodily injury, or disease of animals, except

1 where the medicine, appliance, application, or treatment is
2 administered by a registered veterinary technician or an
3 unregistered assistant at the direction of and under the direct
4 supervision of a licensed veterinarian subject to Article 2.5
5 (commencing with Section 4832) or where the drug, including,
6 but not limited to, a drug that is a controlled substance, is
7 administered by a registered veterinary technician or an
8 unregistered assistant pursuant to Section 4836.1. However, no
9 person, other than a licensed veterinarian, may induce anesthesia
10 unless authorized by regulation of the board.

11 (d) Performs a surgical or dental operation upon an animal.

12 (e) Performs any manual procedure for the diagnosis of
13 pregnancy, sterility, or infertility upon livestock or Equidae.

14 (f) Uses any words, letters or titles in such connection or under
15 such circumstances as to induce the belief that the person using
16 them is engaged in the practice of veterinary medicine, veterinary
17 surgery, or veterinary dentistry. This use shall be prima facie
18 evidence of the intention to represent himself or herself as engaged
19 in the practice of veterinary medicine, veterinary surgery, or
20 veterinary dentistry.

21 SEC. 2. Section 4875.1 of the Business and Professions Code
22 is amended to read:

23 4875.1. (a) In order to ensure that its resources are maximized
24 for the protection of the public, the board shall prioritize its
25 investigative and prosecutorial resources to ensure that
26 veterinarians and registered veterinary technicians, ~~and unlicensed~~
27 ~~persons acting as veterinarians, unregistered persons acting as~~
28 ~~registered veterinary technicians, and any person aiding and~~
29 ~~abetting these unlicensed or unregistered persons, representing~~
30 *reporting* the greatest threat of harm are identified and disciplined
31 expeditiously. Cases involving any of the following allegations
32 shall be handled on a priority basis, as follows, with the highest
33 priority being given to cases in paragraph (1):

34 (1) Negligence or incompetence that involves death or serious
35 bodily injury to an animal patient, such that the veterinarian, *or*
36 ~~registered veterinary technician, or unlicensed person~~ represents
37 a danger to the public.

38 (2) Cruelty to animals.

1 (3) A conviction or convictions for a criminal charge or charges
2 or being subject to a felony criminal proceeding without
3 consideration of the outcome of the proceeding.

4 (4) Practicing veterinary medicine while under the influence of
5 drugs or alcohol.

6 (5) Drug or alcohol abuse by a veterinarian or registered
7 veterinary technician involving death or serious bodily injury to
8 an animal patient or to the public.

9 (6) Self-prescribing of any dangerous drug, as defined in Section
10 4022, or any controlled substance, as defined in Section 4021.

11 (7) Repeated acts of excessive prescribing, furnishing, or
12 administering of controlled substances, as defined in Section 4021,
13 or repeated acts of prescribing, dispensing, or furnishing of
14 controlled substances, as defined in Section 4021, without having
15 first established a veterinarian-client-patient relationship pursuant
16 to Section 2032.1 of Title 16 of the California Code of Regulations.

17 (8) Extreme departures from minimum sanitary conditions such
18 that there is a threat to an animal patient or the public and animal
19 health and safety, only if the case has already been subject to
20 Section 494 and board action.

21 (b) The board may prioritize cases involving an allegation of
22 conduct that is not described in subdivision (a). Those cases
23 prioritized shall not be assigned a priority equal to or higher than
24 the priorities established in subdivision (a).

25 (c) The board shall annually report and make publicly available
26 the number of disciplinary actions that are taken in each priority
27 category specified in subdivisions (a) and (b).

28 *SEC. 3. Section 4875.2 of the Business and Professions Code*
29 *is amended to read:*

30 4875.2. If, upon completion of an *inspection or investigation*,
31 the executive officer has probable cause to believe that a
32 veterinarian; *or a registered veterinary technician; or an unlicensed*
33 ~~person acting as a veterinarian or a registered veterinary technician~~
34 has violated provisions of this chapter, he or she may issue a
35 citation to the veterinarian; *or registered veterinary technician; or*
36 ~~unlicensed person~~, as provided in this section. Each citation shall
37 be in writing and shall describe with particularity the nature of the
38 violation, including a reference to the provision of this chapter
39 alleged to have been violated. In addition, each citation may contain
40 an order of abatement fixing a reasonable time for abatement of

1 the violation, and may contain an assessment of a civil penalty.
2 The citation shall be served upon the veterinarian; *or* registered
3 veterinary technician, ~~or unlicensed individual~~ personally or by
4 any type of mailing requiring a return receipt. Before any citation
5 may be issued, the executive officer shall submit the alleged
6 violation for review and investigation to at least one designee of
7 the board who is a veterinarian licensed in or employed by the
8 state. The review shall include attempts to contact the veterinarian;
9 *or* registered veterinary technician, ~~or unlicensed person~~ to discuss
10 and resolve the alleged violation. Upon conclusion of the board
11 designee's review, the designee shall prepare a finding of fact and
12 a recommendation. If the board designee concludes that probable
13 cause exists that the veterinarian; *or* registered veterinary
14 technician, ~~or unlicensed person~~ has violated any provisions of
15 this chapter, a civil citation shall be issued to the veterinarian; *or*
16 registered veterinary technician, ~~or unlicensed person~~.

17 *SEC. 4. Article 4.5 (commencing with Section 4890) is added*
18 *to Chapter 11 of Division 2 of the Business and Professions Code,*
19 *to read:*

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Article 4.5. Unlicensed Activity

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23 *4890. If, upon completion of an inspection or investigation,*
24 *the executive officer has probable cause to believe that an*
25 *unlicensed person acting as a veterinarian or a registered*
26 *veterinary technician has violated provisions of this chapter, he*
27 *or she may issue a citation to the unlicensed person, as provided*
28 *in this section. Each citation shall be in writing and shall describe*
29 *with particularity the nature of the violation, including a reference*
30 *to the provision of this chapter alleged to have been violated. In*
31 *addition, each citation may contain an order of abatement fixing*
32 *a reasonable time for abatement of the violation, and may contain*
33 *an assessment of a civil penalty. The citation shall be served upon*
34 *the unlicensed individual personally or by any type of mailing*
35 *requiring a return receipt. Before any citation may be issued, the*
36 *executive officer shall submit the alleged violation for review and*
37 *investigation to at least one designee of the board who is a*
38 *veterinarian licensed in or employed by the state. The review shall*
39 *include attempts to contact the unlicensed person to discuss and*
40 *resolve the alleged violation. Upon conclusion of the board*

1 *designee's review, the designee shall prepare a finding of fact and*
2 *a recommendation. If the board designee concludes that probable*
3 *cause exists that the unlicensed person has violated any provisions*
4 *of this chapter, a civil citation shall be issued to the unlicensed*
5 *person. The unlicensed person may administratively contest the*
6 *civil citation of the board or the proposed assessment of civil*
7 *penalty pursuant to Section 4875.6.*

8 *4891. In addition to all other remedies, when it appears to the*
9 *executive officer, either upon complaint or otherwise, that an*
10 *unlicensed person acting as a veterinarian or a registered*
11 *veterinary technician has violated provisions of this chapter,*
12 *whether or not there is substantial injury, the executive officer*
13 *may, either through the Attorney General or through the district*
14 *attorney of the county in which the violation is alleged to have*
15 *been committed, apply to the superior court of that county, for an*
16 *injunction restraining the person from acting as a veterinarian or*
17 *a registered veterinary technician in violation of this chapter, and,*
18 *upon a proper showing, a temporary restraining order, a*
19 *preliminary injunction, or a permanent injunction shall be granted.*

20 *4892. (a) The failure of an unlicensed individual to comply*
21 *with a citation after it is final is a misdemeanor.*

22 *(b) Notwithstanding Section 1462.5 or 1463 of the Penal Code*
23 *or any other provision of law, any fine collected upon conviction*
24 *in a criminal action brought under this section shall be distributed*
25 *as follows:*

26 *(1) If the action is brought by a district attorney, any fine*
27 *collected shall be paid to the treasurer of the county in which the*
28 *judgment was entered to be designated for use by the district*
29 *attorney.*

30 *(2) If the action is brought by a city attorney or city prosecutor,*
31 *any fine collected shall be paid to the treasurer of the city in which*
32 *the judgment was entered, to be designated for use by the city*
33 *attorney.*

34 ~~SEC. 3.~~

35 *SEC. 5. No reimbursement is required by this act pursuant to*
36 *Section 6 of Article XIII B of the California Constitution because*
37 *the only costs that may be incurred by a local agency or school*
38 *district will be incurred because this act creates a new crime or*
39 *infraction, eliminates a crime or infraction, or changes the penalty*
40 *for a crime or infraction, within the meaning of Section 17556 of*

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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