



# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 1202

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H.P. 846

House of Representatives, March 26, 2013

### An Act To Update the Maine Veterinary Practice Act

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Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative DILL of Old Town.  
Cosponsored by Senator CAIN of Penobscot and  
Representatives: BLACK of Wilton, CRAY of Palmyra, MAREAN of Hollis, MORIARTY of  
Cumberland, NOON of Sanford, PRINGLE of Windham, SHAW of Standish.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 32 MRSA §4851**, as enacted by PL 1975, c. 477, §4, is amended to read:

3 **§4851. Legislative findings**

4 The Legislature finds and declares that the public health, safety and welfare of the  
5 State of Maine requires the exercise of the police powers of this State to safeguard the  
6 people of Maine ~~from incompetent, dishonest or unprincipled practitioners of veterinary~~  
7 ~~medicine~~ by ensuring the delivery of competent veterinary medical care and further that  
8 the right to practice veterinary medicine is a privilege conferred by legislative grant to  
9 persons possessed of personal and professional qualifications specified in this chapter.

10 **Sec. 2. 32 MRSA §4853, sub-§1-A**, as enacted by PL 1993, c. 404, Pt. A, §3, is  
11 amended to read:

12 **1-A. Veterinary assistant.** ~~"Animal health assistant"~~ "Veterinary assistant" means a  
13 person employed in a veterinary facility to assist a licensed veterinarian or a licensed  
14 veterinary technician, but who has neither had the formal training required for licensure  
15 nor passed the required examination for licensure as a veterinary technician.

16 **Sec. 3. 32 MRSA §4853, sub-§4-A**, as amended by PL 1997, c. 246, §3, is  
17 further amended to read:

18 **4-A. Direct supervision.** "Direct supervision" means any time when a supervisor is  
19 on the premises ~~or~~ and is quickly and easily available.

20 **Sec. 4. 32 MRSA §4853, sub-§4-B**, as enacted by PL 1993, c. 404, Pt. A, §5, is  
21 further amended to read:

22 **4-B. Indirect supervision.** "Indirect supervision" means any time when a supervisor  
23 is not on the premises, but ~~that supervisor has issued written or oral instructions~~  
24 pertaining to the treatment of animal patients is available for consultation on patient care.

25 **Sec. 5. 32 MRSA §4853, sub-§5-A** is enacted to read:

26 **5-A. Patient.** "Patient" means an animal or group of animals examined or treated by  
27 a veterinarian.

28 **Sec. 6. 32 MRSA §4853, sub-§7**, as repealed and replaced by PL 1997, c. 246,  
29 §4, is amended to read:

30 **7. Practice of veterinary medicine.** "Practice of veterinary medicine" means:

31 A. The diagnosis, treatment, correction, change, relief or prevention of animal  
32 disease, deformity, defect, injury or other physical or mental condition, including the  
33 prescription or administration of a drug, medicine, biologic, apparatus, application,  
34 anesthetic or other imaging, therapeutic or diagnostic technique or nutritional  
35 substance or technique on, for or to any animal, including, but not limited to,  
36 acupuncture, dentistry, homeopathic or chiropractic procedures, physical or massage

1 therapy, surgery including ~~cosmetic elective surgery, implanting of microchips or~~  
2 ~~similar devices~~ or any manual, mechanical, biological or chemical procedure used for  
3 pregnancy testing or correcting sterility or infertility;

4 ~~B. The removal of an embryo from an animal for the purposes of transferring that~~  
5 ~~embryo into another female animal or the processing or cryopreserving of that~~  
6 ~~embryo. The practice of veterinary medicine does not include the removal of an~~  
7 ~~embryo from the person's own animal;~~

8 C. The representation directly or indirectly of an ability and willingness to perform  
9 an act included in paragraph A; and

10 D. The use of any titles, word or abbreviations of letters in a manner or under  
11 circumstances that induce the belief that the person using them is legally authorized  
12 and qualified to perform any act included in paragraph A. That use is prima facie  
13 evidence of the intention to represent oneself as engaged in the practice of veterinary  
14 medicine.

15 The practice of veterinary medicine must occur within an established veterinarian-client-  
16 patient relationship.

17 **Sec. 7. 32 MRSA §4853, sub-§7-B** is enacted to read:

18 **7-B. Practice of veterinary technology.** "Practice of veterinary technology" means:

19 A. The performance of patient care or other services that require a technical  
20 understanding of veterinary medicine, on the basis of written or oral instructions of a  
21 veterinarian. "Practice of veterinary technology" does not include diagnosing, making  
22 prognoses, performing surgery or prescribing a drug, medicine, biologic, apparatus,  
23 application, anesthetic or other imaging, therapeutic or diagnostic technique or  
24 nutritional substance or technique on, for or to any patient;

25 B. The representation directly or indirectly of an ability and willingness to perform  
26 an act authorized under paragraph A; and

27 C. The use of any titles, word or abbreviations of letters in a manner or under  
28 circumstances that induce the belief that the person using them is legally authorized  
29 and qualified to perform any act authorized under paragraph A.

30 **Sec. 8. 32 MRSA §4853, sub-§8-A**, as enacted by PL 1993, c. 404, Pt. A, §5, is  
31 amended to read:

32 **8-A. Supervisor.** "Supervisor" means a licensed veterinarian or, if the task being  
33 supervised warrants, a licensed veterinary technician.

34 **Sec. 9. 32 MRSA §4853, sub-§11**, as enacted by PL 1993, c. 404, Pt. A, §5, is  
35 amended to read:

36 **11. Licensed veterinary technician.** "~~Veterinary~~ Licensed veterinary technician"  
37 means a person who has completed a minimum of 2 years in a college program that is  
38 certified according to the standards adopted by the American Veterinary Medical  
39 Association's Committee on Veterinary Technician Education and Activities or an

1 equivalent program, as determined by the board, and who has passed an examination  
2 prescribed by the board.

3 **Sec. 10. 32 MRSA §4860, first ¶**, as amended by PL 1983, c. 48, §3, is further  
4 amended to read:

5 ~~No~~ A person may not practice veterinary medicine in this State who is not a licensed  
6 veterinarian or the holder of a ~~valid temporary permit or~~ permit for the performance of  
7 relief veterinary service issued by the board. ~~This shall~~ section does not apply to:

8 **Sec. 11. 32 MRSA §4860, sub-§5**, as enacted by PL 1975, c. 477, §4, is amended  
9 to read:

10 **5. Owner or caretaker of livestock or animal.** The owner or caretaker of ~~an animal~~  
11 livestock or another food-producing animal and the owner's regular employee caring for  
12 and treating the ~~animal~~ livestock or other food-producing animal belonging to such  
13 owner, except ~~where~~ when the care requires anesthesia or when the ownership of the  
14 ~~animal~~ livestock or other food-producing animal was transferred for purposes of  
15 circumventing this chapter. This subsection does not apply to companion animals,  
16 including but not limited to cats and dogs.

17 **Sec. 12. 32 MRSA §4860, sub-§7**, as enacted by PL 1975, c. 477, §4, is repealed.

18 **Sec. 13. 32 MRSA §4861**, as amended by PL 2011, c. 189, §1, is further amended  
19 to read:

20 **§4861. Application for license; qualifications and examination**

21 A person desiring a license to practice veterinary medicine in this State must make  
22 written application and pay the license fee as set under section 4863-A. The application  
23 must show that the applicant holds a doctorate degree in veterinary medicine from an  
24 approved veterinary medicine program that is recognized by the United States  
25 Department of Education and by the board, and is trustworthy and competent and provide  
26 such other information and proof as the board may establish by rule. The board may  
27 adopt rules applicable to graduates of approved veterinary medicine programs by the  
28 Commissioner of Education and rules applicable to foreign educated graduates who can  
29 demonstrate equivalent education and training. Rules adopted pursuant to this section are  
30 routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

31 **1-A. Examinations.** ~~Examinations, written or practical, must be prepared to~~  
32 ~~measure the competence of an applicant to engage in the practice of veterinary medicine.~~  
33 The board may ~~also~~ test an applicant's knowledge of the laws and rules relating to the  
34 practice of veterinary medicine. The board may require successful completion of an  
35 equivalency examination or assessment mechanism for foreign educated and trained  
36 applicants that is designed to evaluate educational equivalence, including clinical  
37 competencies and a command of the English language.

38 The board may employ and cooperate and contract with an organization or consultant in  
39 the preparation, administration and grading of an examination, but retains sole discretion

1 and responsibility for determining which applicants have successfully passed the  
2 examination. The applicant shall pay the examination fee as set under section 4863-A.

3 ~~**3. Temporary permit.** The board may issue without examination a temporary  
4 permit to practice veterinary medicine in this State to a qualified applicant for license  
5 pending examination. A temporary permit issued pursuant to this subsection expires the  
6 day after the notice of results of the first examination given after the permit is issued.  
7 The applicant shall pay the temporary permit fee set under section 4863-A.~~

8 **4. Permit for performance of relief veterinary service.** The board may issue  
9 without examination a permit to perform relief veterinary service in this State to a  
10 qualified person who holds a doctorate degree in veterinary medicine from an approved  
11 veterinary medicine program that is recognized by the United States Department of  
12 Education and by the board or by rules of the board applicable to foreign educated  
13 graduates, and who holds a current license for the practice of veterinary medicine issued  
14 by another state, United States territory, province of Canada or other jurisdiction. The  
15 board may establish, by rule, the application process. The initial term of a permit issued  
16 under this subsection may not exceed 30 days. Extensions may be granted in the  
17 discretion of the board. The applicant shall pay the relief permit fee as set under section  
18 4863-A.

19 **4-A. Request by state veterinarian.** Upon the request by the state veterinarian to  
20 the board, a veterinarian licensed in another state may practice in the State for a period  
21 not to exceed 30 days without a state license or permit.

22 **5. Licensure by endorsement.** The board shall grant a license by endorsement to a  
23 veterinarian who:

- 24 A. Has submitted a complete application;
- 25 B. Has paid the examination and license fee as set under section 4863-A;
- 26 C. Holds a valid license issued by another state, United States territory, province of  
27 Canada or other jurisdiction;
- 28 D-1. Has successfully passed an examination pursuant to subsection 1-A pertaining  
29 to the practice of veterinary medicine as determined by board rule. The board may  
30 require the applicant to submit to an examination covering the laws and rules  
31 pertaining to the practice of veterinary medicine in this State; and
- 32 E. Has actively practiced clinical veterinary medicine for 3,000 hours during the 3  
33 years preceding application.

34 Notwithstanding this subsection, the board shall waive the requirement that a veterinarian  
35 pass an examination for veterinarians who have, during the 6 years preceding the  
36 application, actively practiced clinical veterinary medicine for at least 6,000 hours  
37 without disciplinary action relating to the practice of veterinary medicine by another  
38 state, United States territory or province of Canada.

39 **Sec. 14. 32 MRSA §4861-A** is enacted to read:

1 **§4861-A. Application for veterinary technician license; qualifications and**  
2 **examination**

3 In order to practice as a licensed veterinary technician in this State, a person must  
4 apply for a veterinary technician license by submitting a written application, paying the  
5 license fee as set under section 4863-A and taking an examination for a license. In order  
6 to take the examination for a license, an applicant must:

7 **1. Education completed.** Have completed a minimum of 2 years in a college  
8 program that is certified according to the standards adopted by the American Veterinary  
9 Medical Association's Committee on Veterinary Technician Education and Activities or  
10 an equivalent program, as determined by the board; or

11 **2. Within 6 months of completing education.** Be within the final 6 months of  
12 professional study in a program of education for veterinary technology approved by the  
13 board or accredited by an accrediting organization approved by the board.

14 Upon the request of the state veterinarian to the board, a licensed veterinary technician  
15 may practice in the State for a period not to exceed 30 days without a state license.

16 **Sec. 15. 32 MRSA §4864, sub-§12,** as amended by PL 2011, c. 594, §1, is  
17 further amended to read:

18 **12. Unauthorized associations.** A veterinarian may practice only in an individual  
19 capacity under that veterinarian's own name or in association with a licensed practitioner  
20 of veterinary medicine or professional association. ~~Notwithstanding paragraph A, for~~ For  
21 purposes of this subsection, a veterinarian who has an employment relationship with a  
22 corporation or other legal entity that provides a continuum of veterinary services and  
23 treatment, including, but not limited to, diagnostic laboratory, research and development  
24 services and health and import and export certification, is considered to be lawfully  
25 practicing under that veterinarian's own name as long as that veterinarian is individually  
26 accountable for conduct under that veterinarian's license. The following are deemed  
27 unauthorized associations:

28 ~~A. Except as otherwise provided in this subsection, association for the joint practice~~  
29 ~~of veterinary medicine with any person, corporation or partnership not licensed to~~  
30 ~~practice veterinary medicine;~~

31 B. Knowingly aiding and abetting in the practice of veterinary medicine any person  
32 not licensed to practice in this State;

33 C. The lending, leasing or in any other manner placing of one's license at the  
34 disposal of or in the service of any other person not licensed to practice veterinary  
35 medicine in this State; and

36 D. The continuance of a veterinarian directly or indirectly in the employ of or in  
37 association with any veterinarian after knowledge that such veterinarian is engaged in  
38 the violation of the provisions of this chapter; or

39 **Sec. 16. 32 MRSA §4865,** as amended by PL 2005, c. 347, Pt. C, §3, is repealed.

1           **Sec. 17. 32 MRSA §4866**, as amended by PL 1997, c. 246, §§25 and 26, is further  
2 amended to read:

3           **§4866. Duties of licensed veterinary technicians and veterinary assistants**

4           ~~An animal health~~ A veterinary assistant may, under the direct supervision of a  
5 licensed veterinarian or a registered licensed veterinary technician, perform duties of an  
6 animal health care nature. ~~The duties do not include~~ excluding diagnosing, making  
7 prognoses, performing surgery, ~~interpreting laboratory tests~~ or prescribing or ~~initiating~~  
8 treatment.

9           A licensed veterinary technician ~~registered~~ in the State may ~~perform, under the~~  
10 ~~supervision and direction of a licensed veterinarian, such duties as drug administration,~~  
11 ~~nursing care, x ray film exposure and processing, bandage changes, dental prophylaxis,~~  
12 ~~restraint, blood and fecal collections, diagnostic laboratory procedures and other duties~~  
13 ~~the supervising veterinarian or the board may prescribe by rule, consistent with this~~  
14 ~~chapter, except no one but a veterinarian may diagnose, make prognoses, prescribe or~~  
15 ~~initiate treatment or surgery or perform surgery~~ engage in the practice of veterinary  
16 technology on the basis of written or oral instruction of a veterinarian.

17           **Sec. 18. 32 MRSA §4869**, as amended by PL 1993, c. 404, Pt. A, §13, is further  
18 amended to read:

19           **§4869. Reinstatement**

20           A veterinarian or licensed veterinary technician whose license is revoked or  
21 suspended ~~or a veterinary technician whose registration is revoked or suspended~~ may, at  
22 the discretion of the board, be relicensed, ~~reregistered~~ or reinstated at any time without an  
23 examination by majority vote of the board on written application made to the board  
24 showing cause justifying the relicensing, ~~reregistration~~ or reinstatement.

25           **Sec. 19. 32 MRSA §4870**, as amended by PL 2007, c. 402, Pt. R, §10, is further  
26 amended to read:

27           **§4870. Enforcement**

28           Any person who practices veterinary medicine without a currently valid license,  
29 ~~temporary permit~~ or permit for the performance of relief veterinary service is subject to  
30 the provisions of Title 10, section 8003-C. A person engaged in the practice of veterinary  
31 technology without a valid license is subject to the provisions of Title 10, section 8003-C.

32           **Sec. 20. 32 MRSA §4877** is enacted to read:

33           **§4877. Veterinarian-client-patient relationship required**

34           In order to practice veterinary medicine, a veterinarian must be engaged in a  
35 veterinarian-client-patient relationship. A veterinarian-client-patient relationship exists  
36 when a veterinarian:

37           **1. Engaged by client.** Has been engaged by the client;



1 for licensure or be within the final 6 months of professional study in an approved  
2 program of education.

3 11. It removes the prohibition against association for the joint practice of veterinary  
4 medicine with any person, corporation or partnership not licensed to practice veterinary  
5 medicine.

6 12. It updates language outlining the duties of licensed veterinary technicians and  
7 veterinary assistants.