WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1967

ENROLLED
SENATE BILL NO. 223

(By Mr. McKinnon, original sponsor)

PASSED March 19, 1967

In Effect July 1, 1967

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 3-21-67
AN ACT to amend and reenact article ten, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the licensing of veterinarians, the regulation of veterinary medicine and to the West Virginia board of veterinary medicine; prescribing the powers and duties of such board; and providing penalties.

Be it enacted by the Legislature of West Virginia:

That article ten, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
ARTICLE 10. VETERINARIANS.

§30-10-1. Definitions.

Unless the context in which used, clearly requires a different meaning, as used in this article:

(a) “Animal” or “animals” means any animal or animals other than man, wild or domestic, living or dead, and includes fowls and birds.

(b) “Veterinary medicine” or the “practice of veterinary medicine” means, as the case may be:

(1) For a fee or other compensation, to diagnose, treat, correct, change, relieve or prevent any disease, deformity, defect, injury, or other physical or mental condition, of any animal, or to prescribe for or to administer to any animal any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, or to render advice or any recommendation with respect to any of the foregoing;

(2) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in subparagraph (b) (1) above; or

(3) To use any title, words, abbreviation, or letters
in a manner or under circumstances inducing or tending
to induce the belief that the person using them is qualified
to do any act described in subparagraph (b) (1) above.

(c) "Veterinarian" means a person who has received a
doctor's degree in veterinary medicine, or its equivalent,
from a school of veterinary medicine.

(d) "Licensed veterinarian" means a veterinarian who
is validly and currently licensed to practice veterinary
medicine in this state.

(e) "School of veterinary medicine" means any veter-
inary college or division of a university or college which
offers the degree of doctor of veterinary medicine or its
equivalent.

(f) "Person" means any individual, firm, partnership,
association, joint venture, cooperative or corporation, or
any other group or combination acting in concert, and
whether acting as principal, trustee, fiduciary, receiver,
or as any other kind of legal or personal representative,
or as the successor in interest, assignee, agent, factor,
servant, employee, director, officer, or any other repre-
sentative of any such person.
(g) "Board" means the West Virginia board of veterinary medicine.

§30-10-2. License or permit required; exceptions.

No person may, for a fee or other compensation, practice veterinary medicine in this state without a license or a temporary permit issued by the board in accordance with the provisions of this article, which license or permit remains unexpired, unsuspended and unrevoked. This article shall, however, not be construed to prohibit:

(a) Any employee of the federal, state or local government from performing his official duties, as defined by his employing agency;

(b) Any person who is a regular student in a veterinary school from performing research assigned by his instructors, or from working under the direct supervision of a licensed veterinarian during a school vacation period;

(c) Any person from advising with respect to or performing acts which the board has prescribed as accepted livestock management practices;

(d) Any veterinarian regularly licensed in another state from consulting with a licensed veterinarian in this state;
(e) The owner of an animal, the owner's employees, or persons assisting the owner without any fee or compensation, from caring for and treating such animal, except where the ownership of such animal was transferred for the purpose of circumventing the provisions of this article;

(f) Any member of the faculty of a veterinary school from performing his regular functions, or any person from lecturing, or giving instructions or demonstrations, at a veterinary school or in connection with a continuing education course or seminar;

(g) Any person from selling or applying any pesticide, insecticide, or herbicide;

(h) Any person from engaging in bona fide scientific research which reasonably requires experimentation involving animals; or

(i) Any person from engaging in bona fide scientific research in consultation with a licensed veterinarian in this state.

(j) The treatment or relief of any living animal in the case of an emergency or the disposal of the carcass of a dead animal.
(k) Any person, with reference to domestic animals, from performing the simple operation of castrating, spaying, dehorning, or from the use of blackleg vaccine and hog cholera serum, or, in case the services of a licensed veterinarian cannot be had within a reasonable time or at a reasonable cost, from performing any of the services described in section one of this article as "Veterinary Medicine" or "Practice of Veterinary Medicine": Provided, however, That such person has been regularly performing such services for a period of not less than ten years.

§30-10-3. West Virginia board of veterinary medicine; composition; qualifications for appointment; compensation and expenses; meetings; officers; fund.

The "West Virginia Veterinary Board", heretofore created, shall continue in existence but on and after the effective date of this article shall be known and designated as "The West Virginia Board of Veterinary Medicine", and shall consist of five members, not more than three of whom shall belong to the same political party to be appointed by the governor with the advice and consent
of the Senate. The three members of the board in office
on the effective date of this article shall, unless sooner
removed, continue to serve until their terms expire and
until their successors have been appointed and have
qualified. On or before July one, one thousand nine
hundred sixty-seven, the governor shall appoint one mem-
ber to serve until June thirty, one thousand nine hun-
dred sixty-eight and one member to serve until June
thirty, one thousand nine hundred seventy, or until their
successors have been appointed and have qualified. As
the terms of the three members of the board in office
on the effective date of this article expire and as the terms
of the two members to be appointed by the governor on
or before July one, one thousand nine hundred sixty-
seven expire, members shall be appointed for overlapping
terms of five years, so that one term expires each year,
or until their successors have been appointed and have
qualified. Any vacancy in the office of a member of the
board shall be filled by appointment by the governor for
the unexpired term of the member whose office shall be
vacant. No person shall be appointed to two consecutive
full terms, but a person appointed for a term of less
than five years may be appointed to succeed himself. The
governor may remove any member of the board for
neglect of duty or other sufficient cause.
No person shall be appointed to the board unless he be
a graduate of a veterinary school and a resident of this
state, and unless he shall have been licensed to practice
veterinary medicine in this state for at least three years
immediately preceding his appointment.
As compensation for his services on the board, each
member shall receive, out of the moneys collected here-
under, the sum of twenty-five dollars for each day or sub-
stantial portion thereof that he is engaged in the work of
the board. Each member shall also be entitled to be reim-
bursed, out of the moneys collected hereunder, for any
reasonable and necessary expenses actually incurred in
the discharge of his duties as a member of the board.
The board shall meet at least once each year, the time
and place of such meeting to be fixed by the board, and
at such annual meeting shall elect from its membership
a president, a secretary-treasurer and such other officers
as may be desired. Other meetings of the board may be
called by the president on such notice to the other mem-
bers as may be prescribed by the board. A majority of
the board shall constitute a quorum for the transaction
of the business of the board. All meetings of the board
shall be open and public, except that the board may meet
in closed session to prepare, approve, administer, or grade
examinations, to deliberate decisions to be reached on
disciplinary proceedings, or to review the qualifications
of an applicant for a license.

It shall be the duty of the secretary-treasurer to carry
on the correspondence of the board, keep permanent ac-
counts and records of all receipts and disbursements by
the board and of all board proceedings, including the dis-
position of all applications for license, and keep a register
of all persons currently licensed by the board. All board
records, except as otherwise provided by law, shall be
open to public inspection during regular office hours. The
secretary-treasurer shall furnish to the board a fidelity
surety bond in such sum and conditioned as the board
may require, the cost of such bond to be paid by the board out of the moneys collected hereunder. As soon as possible after the close of each fiscal year, the president and secretary-treasurer shall submit to the governor a report on the transactions of the board, including an accounting of all moneys received and disbursed. All moneys received by the board shall be accepted by the secretary-treasurer and deposited by him with the treasurer of the state and credited by the treasurer to an account to be known as the “Board of Veterinary Medicine Fund”. All expenses of the board shall be paid from such fund by voucher signed by the secretary-treasurer of the board, and no part of the state's general revenue fund shall be expended for this purpose.

§30-10-4. Powers of the board.

The board shall have the power to:

(a) Examine and determine the qualifications and fitness of any applicant for a license to practice veterinary medicine in this state;

(b) Issue, renew, deny, suspend or revoke licenses and
temporary permits to practice veterinary medicine in
this state or otherwise discipline licensed veterinarians
consistent with the provisions of this article and reason-
able rules and regulations promulgated by the board as
specified in subparagraphs (i) of this section;
(c) Establish and publish annually a schedule of rea-
sonable fees for the licensing and registration of veteri-
narians, such fee schedule to be based on the board’s
anticipated financial requirements for the year;
(d) Conduct investigations for the purpose of discov-
ering violations of this article or grounds for disciplining
licensed veterinarians;
(e) Hold hearings as specified in section twelve of this
article;
(f) Employ such full-time or part-time professional,
clerical or special personnel as may be necessary to ef-
fectuate the provisions of this article, and purchase or
rent necessary office space, equipment and supplies;
(g) Appoint from its own membership one or more
members to act as an official representative or represen-
tatives of the board at any meeting within or without this
state where such representation is deemed desirable;
(h) Institute appropriate court proceedings for the enforcement of the provisions of this article or any reasonable rules and regulations of the board promulgated as specified in subparagraph (i) of this section; and

(i) Promulgate, amend or repeal reasonable rules and regulations, in accordance with the provisions of chapter twenty-nine-a of this code, to implement the provisions of this article, including rules and regulations establishing standards of professional conduct for the practice of veterinary medicine.

The powers enumerated above are granted for the purpose of enabling the board to effectively supervise the practice of veterinary medicine, and are to be construed liberally to accomplish this objective.

§30-10-5. Status of persons previously licensed.

Any person holding a valid license to practice veterinary medicine in this state on the date this article becomes effective shall be recognized as a licensed veterinarian and shall be entitled to retain this status so long as he complies with the provisions of this article, including annual renewal of his license to practice veterinary
medicine, and his license is not suspended or revoked in accordance with the provisions of this article.

§30-10-6. Application for license; qualifications; action thereon.

Any resident of this state desiring a license to practice veterinary medicine in this state shall make written application therefor to the board. The application shall show that the applicant is (1) either a graduate of a school of veterinary medicine accredited by the American veterinary medical association or a graduate of a foreign veterinary school who holds a certificate of competence issued by the educational commission for foreign veterinary graduates, (2) twenty-one years of age or over, (3) a citizen of the United States or an applicant for citizenship, and (4) a person of good moral character, and shall contain such other information and proof as the board may require by reasonable rules and regulations promulgated as aforesaid. The application shall be accompanied by the appropriate fee specified in the fee schedule established and published by the board.

If the board determines that an applicant possesses the proper qualifications, it shall admit the applicant to the
next examination, or if the applicant is eligible for a license without examination under the provisions of section eight of this article, the board may forthwith grant him a license. If an applicant is found not qualified to take the examination or for a license without examination, the secretary-treasurer shall immediately notify the applicant in writing of such finding and the grounds therefor. An applicant found not qualified may demand a hearing on the question of his qualifications in accordance with the provisions of section twelve of this article. The application fee of any applicant found not qualified shall be returned to such applicant.

§30-10-7. Examinations; issuance or denial of license.

The board shall hold at least one examination during each year and may hold such additional examinations as are necessary. The secretary-treasurer shall give public notice of the time and place of each examination at least one hundred twenty days in advance of the date set for such examination. A person desiring to take an examination shall make application for a license at least sixty days before the date of such examination.
Procedures concerning the preparation, administration and grading of examinations shall be prescribed by the board. Examinations shall be designed to test the examinee's knowledge of and proficiency in the subjects and techniques commonly taught in veterinary schools. To pass the examination, the examinee must demonstrate scientific and practical knowledge sufficient to prove himself a competent person to practice veterinary medicine in the judgment of the board. All examinees shall be tested by a written examination, supplemented by such oral interviews and practical demonstrations as the board may deem necessary. The board may adopt and use the examination prepared by the national board of veterinary examiners.

The secretary-treasurer shall notify each examinee of the result of his examination within forty-five days thereafter, and the board shall issue a license to each person who passes the examination. The application for a license by any person failing an examination shall be denied, but such person shall be admitted to any subsequent examination upon payment of another application fee.
§30-10-8. License without examination.

(a) The board may issue a license without written examination, and, subject to the provisions of subsection (b) of this section, without any type of examination, to a qualified applicant who is a resident of this state and furnishes satisfactory proof that he is a graduate of a veterinary school and who:

(1) Has for the five years next prior to filing his application been a practicing veterinarian licensed in a state, territory, or district of the United States whose license requirements, at the time the applicant was first licensed, were substantially equivalent to the requirements of this article; or

(2) Has within the three years next prior to filing his application successfully completed an examination conducted by the national board of veterinary examiners.

(b) In its discretion, the board may orally or practically examine any person qualifying for licensing under this section, and may enter into agreements for reciprocal licensing with other jurisdictions having substantially similar requirements for licensure.

The board may issue without examination a temporary permit to practice veterinary medicine in this state:

(a) To a qualified applicant for license pending examination: Provided, That such temporary permit shall expire the day after the giving of notice of the results of the first examination held after the permit is issued; or

(b) To a nonresident veterinarian validly licensed in another state, territory, or district of the United States or a foreign country who pays the registration fee specified in the fee schedule established and published by the board. A temporary permit shall not be issued to a nonresident veterinarian for a period of more than sixty days, but may be renewed in the discretion of the board. A temporary permit may be summarily revoked by majority vote of the board without a hearing.

§3-10-10. License renewal.

All licenses shall expire annually on December thirty-one of each year, but may be renewed upon payment of the renewal fee specified in the fee schedule established and published by the board. On December one of each
year, the secretary-treasurer shall mail a notice to each licensed veterinarian advising such veterinarian that his license will expire on December thirty-one and shall provide him with a form for renewal thereof. The secretary-treasurer shall issue a certificate of renewal to all persons renewing their licenses under the provisions of this section.

Any person may renew an expired license within five years of the date of its expiration by making written application for renewal and paying the current renewal fee plus all delinquent renewal fees. After five years have elapsed from and after the date of expiration, a license may not be renewed, but the former licensee must make application for a new license and take and pass the license examination.

The board may by rules and regulations provide for the waiving of the renewal fee of a licensed veterinarian during the period when he is on active duty with any branch of the armed services or the public health service of the United States, not to exceed the longer of three years or the duration of a national emergency.
§30-10-11. Complaints.

Upon the filing with the board by any person of a verified written complaint against a licensed veterinarian, the board shall notify such veterinarian in writing of the filing of such complaint and shall proceed to hold a hearing thereon as specified in section twelve of this article.

§30-10-12. Hearings; administrative procedures act made applicable; grounds for disciplinary action.

Whenever an application for a license is denied, the applicant therefor may file with the board, within thirty days after notification of such denial, a written demand for a hearing before the board, in which case a hearing shall be held not less than ten days nor more than twenty days after receipt by the board of such demand. Whenever a licensed veterinarian is notified by the board, in accordance with the provisions of section eleven of this article, that a complaint has been filed against him, a hearing with respect thereto shall be held by the board not less than twenty days nor more than thirty days after such notification to such licensee.

All of the pertinent provisions of article five, chapter
twenty-nine-a of this code shall apply to and govern any such hearing and the administrative procedures in connection with and following such hearing, with like effect as if the provisions of said article five were set forth in extenso in this section.

Any such hearing shall be conducted by a quorum of the board. For the purpose of conducting any such hearing, any member of the board shall have the power and authority to issue subpoenas and subpoenas duces tecum in the name of the board, in accordance with the provisions of section one, article five, chapter twenty-nine-a of this code. All subpoenas and subpoenas duces tecum shall be issued and served within the time and for the fees and shall be enforced, as specified in section one, article five of said chapter twenty-nine-a, and all of the said section one provisions dealing with subpoenas and subpoenas duces tecum shall apply to subpoenas and subpoenas duces tecum issued for the purpose of a hearing hereunder.

The board may postpone or continue any hearing on its own motion, or for good cause shown upon the application
of the applicant or licensee, as the case may be. At any
such hearing the applicant or licensee, as the case may be,
shall have the right to be heard in person and by any at-
torney at law admitted to practice before any circuit court
of this state.

After any such hearing and consideration of all of the
testimony, evidence and record in the case, the board
shall render its decision in writing. By a concurrence of
four members, the board may suspend for a certain time
or revoke the license of, or otherwise discipline, any
licensed veterinarian for any of the following reasons:

(a) The employment of fraud, misrepresentation or
deception in obtaining his license;

(b) An adjudication of insanity;

(c) Chronic inebriety or the habitual use of drugs;

(d) The use of advertising or solicitation which is false,
    misleading, or is otherwise deemed unprofessional under
    reasonable rules and regulations promulgated by the
    board as aforesaid;

(e) Conviction of a felony or other crime involving
    moral turpitude;
(f) Incompetence, gross negligence or other malpractice in the practice of veterinary medicine;

(g) Having professional association with or employing any person practicing veterinary medicine unlawfully;

(h) Fraud or dishonesty in the application or reporting of any test for disease in any animal or animals;

(i) Failure to keep veterinary premises and equipment in a clean and sanitary condition;

(j) Failure to report, as required by law, or making false report of, any contagious or infectious disease;

(k) Dishonesty or gross negligence in the inspection of foodstuffs or the issuance of health or inspection certificates;

(l) Cruelty to animals;

(m) Revocation of a license to practice veterinary medicine by another state, territory or district of the United States on grounds other than nonpayment of any registration or license fee or fees; or

(n) Unprofessional conduct as defined in reasonable rules and regulations promulgated by the board as aforesaid.
The written decision of the board shall be accompanied by findings of fact and conclusions of law as specified in section three, article five, chapter twenty-nine-a of this code, and a copy of such decision and accompanying findings and conclusions shall be served upon the applicant or licensee, as the case may be, and his attorney of record, if any.

The decision of the board shall be final unless vacated or modified upon judicial review thereof in accordance with the provisions of section thirteen of this article.


Any applicant or licensee, as the case may be, adversely affected by a decision of the board rendered after a hearing held in accordance with the provisions of section twelve of this article is entitled to judicial review thereof. All of the pertinent provisions of section four, article five, chapter twenty-nine-a of this code shall apply to and govern such review with like effect as if the provisions of said section four were set forth in extenso in this section.

The judgment of the circuit court shall be final unless
reversed, vacated or modified on appeal to the supreme
court of appeals in accordance with the provisions of
section one, article six, chapter twenty-nine-a of this
code.

Legal counsel and services for the board in all appeal
proceedings in any circuit court and the supreme court
of appeals shall be provided by the attorney general or
his assistants, and in appeal proceedings in any circuit
court by the prosecuting attorney of the county as well,
all without additional compensation.

§30-10-14. Reinstatement or relicensing.

Any person whose license is suspended or revoked
may in the discretion of the board be reinstated or re-
licensed at any time without examination by majority
vote of the board on written application made to the
board showing cause justifying such reinstatement or
relicensing.

§30-10-15. Actions to enjoin violations.

Whenever it appears to the board that any person has
been or is violating or is about to violate any provision
of this article or any final decision of the board, the board
may apply in the name of the state, to the circuit court of the county in which the violation or violations or any part thereof has occurred, is occurring or is about to occur, or the judge thereof in vacation, for an injunction against such person and any other person who have been, are or are about to be, involved in any practices, acts or omissions, so in violation, enjoining such person or persons from any such violation or violations. Such application may be made and prosecuted to conclusion whether or not any such violation or violations have resulted or shall result in prosecution or conviction under the provisions of section sixteen of this article.

Upon application by the board, the circuit courts of this state may by mandatory or prohibitory injunction compel compliance with the provisions of this article and all final decisions of the board. The court may issue a temporary injunction in any case pending a decision on the merits of any application filed.

The judgment of the circuit court upon any application permitted by the provisions of this section shall be final unless reversed, vacated or modified on appeal to the
25 supreme court of appeals. Any such appeal shall be
26 sought in the manner and within the time provided by
27 law for appeals from circuit courts in other civil cases.
28 The board shall be represented in all such proceedings
29 by the attorney general or his assistants and in such
30 proceedings in the circuit courts by the prosecuting at-
31 torneys of the several counties as well, all without addi-
32 tional compensation.

§30-10-16. Penalties.

Any person who shall in this state practice veterinary
2 medicine without a currently valid license or temporary
3 permit shall be guilty of a misdemeanor, and, upon con-
4 viction thereof, shall be punished by a fine of not less than
5 fifty dollars nor more than five hundred dollars, or by
6 imprisonment for not more than ninety days, or both by
7 such fine and imprisonment. Each act of such unlawful
8 practice shall constitute a distinct and separate offense.

§30-10-17. Severability.

If any provision of this article or the application thereof
2 to any person or circumstance is held unconstitutional or
3 invalid, such unconstitutionality or invalidity shall not
affect other provisions or applications of the article, and
to this end the provisions of this article are declared to be
severable.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tempey
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1967.

John E.IMPey
Clerk of the Senate

G.A. Blankenship
Clerk of the House of Delegates

Howard B. Carson
President of the Senate

H. Saban White
Speaker House of Delegates

The within approved this the 17

day of March, 1967.

Hullie C. Smith
Governor