

HOUSE BILL NO. 1184

Introduced by

Representatives Lefor, Silbernagel, Trottier

Senators Heckaman, Miller, Wardner

1 A BILL ~~for an Act to amend and reenact sections 43-15.4-01, 43-29-01.1, and 43-29-15 of the~~
2 ~~North Dakota Century Code, relating to the veterinarian-client-patient relationship; and to~~
3 ~~provide for a legislative management study.~~ for an Act to provide for a legislative management
4 study regarding the practice of veterinary medicine in this state.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 ~~— **SECTION 1. AMENDMENT.** Section 43-15.4-01 of the North Dakota Century Code is~~
7 ~~amended and reenacted as follows:~~

8 ~~— **43-15.4-01. Definitions.**~~

9 ~~— As used in this chapter:~~

10 ~~— 1. "Board" means the state board of pharmacy.~~

11 ~~— 2. "Compound" means the preparation, mixing, assembling, packaging, or labeling of a~~
12 ~~drug or device.~~

13 ~~— 3. "Controlled substance" means a drug, substance, or immediate precursor in~~
14 ~~schedules I through V as set out in chapter 19-03.~~

15 ~~— 4. "Dispensing" means the delivery of a veterinary prescription drug pursuant to the~~
16 ~~lawful order of a licensed veterinarian and the associated recordkeeping that is~~
17 ~~relevant to that practice.~~

18 ~~— 5. "Extra-label use" means the use of an approved drug in a manner that is not in~~
19 ~~accordance with the approved label directions.~~

20 ~~— 6. "Nontraditional livestock" means any wildlife held in a cage, fence, enclosure, or other~~
21 ~~manmade means of confinement that limits its movement within definite boundaries or~~
22 ~~an animal that is physically altered to limit movement and facilitate capture.~~

23 ~~— 7. "Veterinary prescription drugs" means drugs that are to be used or prescribed only~~
24 ~~within the context of a valid veterinarian-client-patient relationship. Veterinary~~

1 prescription drugs are those drugs restricted by federal law to use by or on the order of
2 a licensed veterinarian.

3 ~~8. "Veterinarian-client patient relationship" means:~~

4 ~~a. A veterinarian has assumed the responsibility for making medical judgments~~
5 ~~regarding the health of an animal and the need for medical treatment, and the~~
6 ~~client, who is the owner or other caretaker, has agreed to follow the instructions~~
7 ~~of the veterinarian.;~~

8 ~~b. There is~~~~The veterinarian, using professional judgment, determines that the~~
9 ~~veterinarian has sufficient knowledge of the animal by the veterinarian to initiate~~
10 ~~at least a general or preliminary diagnosis of the medical condition of the animal.;~~
11 ~~and~~

12 ~~c. The practicing veterinarian is readily available, physically or electronically, for~~
13 ~~followup in the case of adverse reactions or failure of the regimen of therapy. This~~
14 ~~relationship exists only when the veterinarian has recently seen and is personally~~
15 ~~acquainted with the keeping and care of the animal by virtue of an examination of~~
16 ~~the animal and by medically appropriate and timely visits to the premises where~~
17 ~~the animal is kept.~~

18 ~~9. "Veterinary dispensing technician" means a nonpharmacist registered by the board to~~
19 ~~dispense veterinary prescription drugs in a veterinary retail facility.~~

20 ~~10. "Veterinary retail facility" means an establishment registered by the board employing a~~
21 ~~registered veterinary dispensing technician authorized to dispense veterinary~~
22 ~~prescription drugs pursuant to bona fide orders of veterinarians.~~

23 ~~**SECTION 2. AMENDMENT.** Section 43-29-01.1 of the North Dakota Century Code is~~
24 ~~amended and reenacted as follows:~~

25 ~~**43-29-01.1. Definitions.**~~

26 ~~As used in this chapter, unless the context otherwise requires:~~

27 ~~1. "Accredited college of veterinary medicine" means any veterinary college or division of~~
28 ~~a university or college which offers the degree of doctor of veterinary medicine or its~~
29 ~~equivalent and which conforms to the standards required for accreditation by the~~
30 ~~council on education of the American veterinary medical association.~~

- 1 ~~2. "Accredited program in veterinary technology" means any postsecondary educational~~
2 ~~program of two or more academic years that is accredited by the committee on~~
3 ~~veterinary technician education and activities of the American veterinary medical~~
4 ~~association.~~
- 5 ~~3. "Animal" means any animal other than a human being. The term includes any~~
6 ~~mammal, bird, fish, reptile, or fowl, whether wild or domestic, living or dead.~~
- 7 ~~4. "Board" means the board of veterinary medical examiners.~~
- 8 ~~5. "Certificate" means a certificate issued by the educational commission for foreign~~
9 ~~veterinary graduates or the educational equivalence program of the American~~
10 ~~association of veterinary state boards, indicating the holder has demonstrated~~
11 ~~knowledge and skill equivalent to that possessed by a graduate of an accredited~~
12 ~~college of veterinary medicine.~~
- 13 ~~6. "Licensed veterinarian" means a person who is licensed by the board to practice~~
14 ~~veterinary medicine.~~
- 15 ~~7. "Licensed veterinary technician" means a person who has graduated from an~~
16 ~~accredited program in veterinary technology or an equivalent program as determined~~
17 ~~by the board, and who has passed an examination prescribed by the board.~~
- 18 ~~8. "Practice of veterinary medicine" means to:~~
- 19 ~~a. Diagnose, treat, correct, change, relieve, or prevent animal disease, deformity,~~
20 ~~defect, injury, or other physical or mental conditions. The term includes the~~
21 ~~prescription or administration of any drug, medicine, biologic, apparatus,~~
22 ~~application, anesthetic, or other therapeutic or diagnostic substance or technique,~~
23 ~~the use of any manual or mechanical procedure for testing for pregnancy, or for~~
24 ~~correcting sterility or infertility, or to render advice or recommendation with regard~~
25 ~~to any of the above.~~
- 26 ~~b. Represent, directly or indirectly, publicly or privately, an ability and willingness to~~
27 ~~do an act described in subdivision a.~~
- 28 ~~c. Use any title, word, abbreviation, or letter in a manner or under circumstances~~
29 ~~that induce the belief the person using the title, word, abbreviation, or letter is~~
30 ~~qualified to do any act described in subdivision a.~~

1 ~~_____ d. Apply principles of environmental sanitation, food inspection, environmental~~
2 ~~pollution control, animal nutrition, zoonotic disease control, and disaster medicine~~
3 ~~in the promotion and protection of public health.~~

4 ~~_____ 9. "Veterinarian-client patient relationship" means:~~

5 ~~_____ a. A veterinarian has assumed the responsibility for making medical judgments~~
6 ~~regarding the health of an animal and the need for medical treatment, and the~~
7 ~~client, who is the owner or other caretaker, has agreed to follow the instructions~~
8 ~~of the veterinarian.;~~

9 ~~_____ b. There is The veterinarian, using professional judgment, determines that the~~
10 ~~veterinarian has sufficient knowledge of the animal by the veterinarian to initiate~~
11 ~~at least a general or preliminary diagnosis of the medical condition of the animal.;~~
12 ~~and~~

13 ~~_____ c. The practicing veterinarian is readily available, physically or electronically, for~~
14 ~~followup in the case of adverse reactions or failure of the regimen of therapy. This~~
15 ~~relationship exists only when the veterinarian has recently seen and is personally~~
16 ~~acquainted with the keeping and care of the animal by virtue of an examination of~~
17 ~~the animal and by medically appropriate and timely visits to the premises where~~
18 ~~the animal is kept.~~

19 ~~_____ 10. "Veterinary medicine" includes veterinary surgery, obstetrics, dentistry, chiropractic,~~
20 ~~acupuncture, and all other branches or specialties of veterinary medicine.~~

21 ~~_____ **SECTION 3. AMENDMENT.** Section 43-29-15 of the North Dakota Century Code is~~
22 ~~amended and reenacted as follows:~~

23 ~~_____ **43-29-15. Complaints – Investigations.**~~

24 ~~_____ 1. Any person may file a written complaint with the board setting forth the specific~~
25 ~~charges upon which the complaint is made. Upon receiving a complaint, the board~~
26 ~~shall notify the veterinarian of the complaint and request a written response from the~~
27 ~~veterinarian. The board may adopt rules establishing a peer review committee for the~~
28 ~~purpose of investigating complaints and providing recommendations to the board. A~~
29 ~~veterinarian who is the subject of an investigation by the board shall cooperate fully~~
30 ~~with the investigation. Cooperation includes responding fully and promptly to any~~
31 ~~reasonable question raised by or on behalf of the board relating to the subject of the~~

1 investigation and providing copies of records when reasonably requested by the
2 board.

3 ~~2. a.~~ To pursue the investigation, the board may subpoena and examine witnesses
4 and records, including medical records, copy, photograph, or take samples. The
5 board may require the veterinarian to give statements under oath, to submit to a
6 physical or psychological examination, or both, by a physician or other qualified
7 evaluation professional selected by the board if it appears to be in the best
8 interest of the public that this evaluation be secured.

9 ~~b.~~ After review of the complaint, the veterinarian's response, and information
10 obtained in the investigation, the board shall determine if there is a reasonable
11 basis to believe the allegations are true and that the allegations constitute a
12 violation of this chapter or the rules of the board.

13 ~~(1)~~ If the board determines there is a reasonable basis to believe the
14 allegations are true and the allegations constitute a violation of this chapter
15 or the rules of the board, the board shall take appropriate action.

16 ~~(2)~~ If a reasonable basis is not found by the board, the board shall notify the
17 complaining party and the veterinarian in writing.

18 ~~(3)~~ If the board determines that the complaint was frivolous, the
19 board shall award costs and attorney's fees to the veterinarian against
20 whom the complaint was filed. For purposes of this paragraph, "frivolous"
21 means that the complaint was based on a complete absence of facts or law
22 and that a reasonable person could not have believed that a judgment
23 would be entered against the veterinarian.

24 ~~**SECTION 4. STATE BOARD OF VETERINARY MEDICAL EXAMINERS -- LEGISLATIVE**~~
25 ~~**MANAGEMENT STUDY.**~~ The legislative management shall consider studying those provisions
26 of the North Dakota Century Code that relate to the state board of veterinary medical
27 examiners, including the board's powers and duties, for the purpose of recommending changes
28 to laws that are irrelevant, inconsistent, illogically arranged, or unclear in their intent and
29 direction. The legislative management shall report its findings and recommendations, together
30 with any legislation required to implement the recommendations, to the sixty fifth legislative
31 assembly.

1 | **SECTION 1. LEGISLATIVE MANAGEMENT STUDY - PRACTICE OF VETERINARY**

2 **MEDICINE.** During the 2015-16 interim, the legislative management shall consider studying the
3 practice of veterinary medicine in this state, including any statutory and regulatory requirements
4 and limitations, and the appropriateness of such requirements and limitations with respect to
5 small animal, large animal, and research-focused practices. The study, if conducted, may
6 include a review of the state board of veterinary medical examiners, including the board's
7 membership, powers, duties, and governance of the practice. The study may also include
8 recommended changes to applicable laws that are irrelevant, inconsistent, illogically arranged,
9 or unclear in their intent and direction. The legislative management shall report its findings and
10 recommendations, together with any legislation required to implement the recommendations, to
11 the sixty-fifth legislative assembly.