

SENATE BILL 189

M4

0lr0024
CF HB 545

By: **Senators Gallion and Bailey**

Introduced and read first time: January 15, 2020

Assigned to: Education, Health, and Environmental Affairs and Judicial Proceedings

Reassigned: Education, Health, and Environmental Affairs, January 16, 2020

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 11, 2020

CHAPTER _____

1 AN ACT concerning

2 **State Board of Veterinary Medical Examiners – ~~Practicing Veterinary Medicine~~**
3 **~~Without a License~~ – Cease and Desist ~~Order~~ Orders and Civil ~~Penalty~~ Penalties**

4 FOR the purpose of authorizing, under certain circumstances, the State Board of
5 Veterinary Medical Examiners to issue a cease and desist order ~~and impose a certain~~
6 ~~civil penalty~~ against a person who practices, attempts to practice, or offers to practice
7 veterinary medicine ~~without a license issued by the Board~~ in violation of certain
8 provisions of law or takes certain actions; authorizing the Board to impose a certain
9 civil penalty under certain circumstances; requiring the Board to provide to a certain
10 person a certain notice and an opportunity for a hearing before a certain penalty is
11 imposed; providing that a certain person may seek certain review of a certain order
12 or penalty; providing that a certain action is in addition to, and not instead of, certain
13 disciplinary actions or a certain action for injunctive relief; requiring the Board to
14 adopt certain regulations; authorizing certain sanctions established by certain
15 regulations to include a certain civil penalty; requiring the Board to pay certain
16 penalties into the General Fund of the State; and generally relating to the State
17 Board of Veterinary Medical Examiners.

18 BY adding to

19 Article – Agriculture

20 Section 2–313.2

21 Annotated Code of Maryland

22 (2016 Replacement Volume and 2019 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Agriculture

2-313.2.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION AND ON REVIEW AND APPROVAL OF THE SECRETARY OR THE SECRETARY'S DESIGNEE, THE BOARD MAY ISSUE A CEASE AND DESIST ORDER ~~AND IMPOSE A CIVIL PENALTY~~ AGAINST A PERSON WHO ~~PRACTICES~~:

(1) PRACTICES, ATTEMPTS TO PRACTICE, OR OFFERS TO PRACTICE VETERINARY MEDICINE WITHOUT A LICENSE IN VIOLATION OF § 2-313(A) OF THIS SUBTITLE; OR

(2) TAKES AN ACTION:

(i) FOR WHICH THE BOARD DETERMINES THERE IS A PREPONDERANCE OF EVIDENCE OF GROUNDS FOR DISCIPLINE UNDER § 2-310 OR § 2-313 OF THIS SUBTITLE; OR

(ii) THAT POSES A SERIOUS RISK TO THE HEALTH, SAFETY, AND WELFARE OF AN ANIMAL PATIENT.

(B) (1) IN LIEU OF A CEASE AND DESIST ORDER UNDER SUBSECTION (A) OF THIS SECTION, THE BOARD MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING:

(i) \$5,000 FOR A FIRST OFFENSE; AND

(ii) \$10,000 FOR A SECOND OR SUBSEQUENT OFFENSE.

~~(B) (1) A CIVIL PENALTY IMPOSED UNDER THIS SECTION MAY NOT EXCEED \$5,000 FOR EACH VIOLATION.~~

(2) IN SETTING THE AMOUNT OF A CIVIL PENALTY, THE BOARD SHALL CONSIDER:

(i) THE SERIOUSNESS OF THE VIOLATION;

(ii) THE HARM CAUSED BY THE VIOLATION;

(iii) THE GOOD FAITH OF THE VIOLATOR;

1 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;
 2 AND

3 (V) ANY OTHER RELEVANT FACTORS.

4 (3) BEFORE A CIVIL PENALTY IS IMPOSED UNDER THIS SUBSECTION,
 5 THE BOARD SHALL PROVIDE TO THE PERSON ON WHOM THE CIVIL PENALTY WILL
 6 BE IMPOSED NOTICE OF THE ALLEGED VIOLATION AND AN OPPORTUNITY FOR A
 7 HEARING.

8 (C) A PERSON AGAINST WHOM A CEASE AND DESIST ORDER IS ISSUED OR A
 9 CIVIL PENALTY IS IMPOSED UNDER THIS SECTION MAY SEEK REVIEW OF THE ORDER
 10 OR PENALTY UNDER THE ADMINISTRATIVE PROCEDURE ACT.

11 (D) AN ACTION FOR A CEASE AND DESIST ORDER OR A CIVIL PENALTY
 12 IMPOSED UNDER THIS SECTION IS IN ADDITION TO, AND NOT INSTEAD OF,
 13 DISCIPLINARY ACTIONS AUTHORIZED UNDER § 2-310 OF THIS SUBTITLE OR AN
 14 ACTION FOR INJUNCTIVE RELIEF UNDER § 2-315 OF THIS SUBTITLE.

15 (E) (1) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THE
 16 PROVISIONS OF THIS SECTION, INCLUDING HEARING PROCEDURES AND SANCTIONS
 17 FOR VIOLATIONS OF A CEASE AND DESIST ORDER.

18 (2) THE SANCTIONS ESTABLISHED BY REGULATIONS ADOPTED
 19 UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY INCLUDE A CIVIL PENALTY
 20 CONSISTENT WITH SUBSECTION (B) OF THIS SECTION.

21 ~~(E)~~ (F) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
 22 SECTION INTO THE GENERAL FUND OF THE STATE.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 24 October 1, 2020.

Approved:

 Governor.

 President of the Senate.

 Speaker of the House of Delegates.