

SENATE BILL 146

M4

11r0024

By: **Chair, Education, Health, and Environmental Affairs Committee (By Request – Departmental – Agriculture)**

Introduced and read first time: January 24, 2011

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable

Senate action: Adopted

Read second time: February 15, 2011

CHAPTER _____

1 AN ACT concerning

2 **State Board of Veterinary Medical Examiners – Licensing**

3 FOR the purpose of authorizing the State Board of Veterinary Medical Examiners to
4 require an applicant for a license to practice veterinary medicine, a
5 veterinarian, or a veterinary practitioner to submit to a mental or physical
6 examination under certain circumstances; providing that an applicant, a
7 veterinarian, or a veterinary practitioner has consented to submit to an
8 examination if directed by the Board; providing that an applicant, a
9 veterinarian, or a veterinary practitioner waives any claim of privilege
10 regarding a report of an exam under this Act; providing that the report or
11 testimony of an examining physician or other person is confidential, except
12 under certain circumstances; providing that the failure to submit to an
13 examination under this Act is prima facie evidence of the inability to practice
14 veterinary medicine, subject to certain findings by the Board; requiring the
15 Board to pay the reasonable cost of any examination made under this Act;
16 clarifying that the Board's authority to refuse, suspend, or revoke an application
17 or license applies to veterinary practitioners; repealing and replacing obsolete
18 terminology; clarifying that the Board may refuse, suspend, or revoke a license
19 if an individual is determined to be professionally incompetent; defining a
20 certain term; and generally relating to the authority of the State Board of
21 Veterinary Medical Examiners.

22 BY adding to

23 Article – Agriculture

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.



1 Section 2–301(b–1) and 2–307.1
 2 Annotated Code of Maryland
 3 (2007 Replacement Volume and 2010 Supplement)

4 BY repealing and reenacting, without amendments,
 5 Article – Agriculture
 6 Section 2–301(h) and (i)
 7 Annotated Code of Maryland
 8 (2007 Replacement Volume and 2010 Supplement)

9 BY repealing and reenacting, with amendments,
 10 Article – Agriculture
 11 Section 2–310
 12 Annotated Code of Maryland
 13 (2007 Replacement Volume and 2010 Supplement)

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

16 **Article – Agriculture**

17 2–301.

18 **(B–1) “CONVICTED” INCLUDES:**

19 **(1) A FINDING OF GUILT BY A COURT OR A JURY; AND**

20 **(2) THE ACCEPTANCE BY A COURT OF A DEFENDANT’S PLEA OF**
 21 **GUILTY, NOLO CONTENDERE, OR ALFORD PLEA.**

22 (h) “Veterinarian” means any person who is a graduate of a college of
 23 veterinary medicine.

24 (i) “Veterinary practitioner” means a licensed and registered veterinarian
 25 engaged in the practice of veterinary medicine.

26 **2–307.1.**

27 **(A) IN REVIEWING AN APPLICATION FOR LICENSURE OF A**
 28 **VETERINARIAN OR IN INVESTIGATING ANY MATTER BROUGHT AGAINST A**
 29 **VETERINARY PRACTITIONER, THE BOARD MAY DIRECT THE APPLICANT,**
 30 **VETERINARIAN, OR VETERINARY PRACTITIONER TO SUBMIT TO A MENTAL OR**
 31 **PHYSICAL EXAMINATION WHEN THE BOARD HAS REASONABLE EVIDENCE**
 32 **INDICATING THE INABILITY OF THAT INDIVIDUAL TO PRACTICE VETERINARY**
 33 **MEDICINE COMPETENTLY.**

1 **(B) IN RETURN FOR THE PRIVILEGE GIVEN BY THE STATE IN ISSUING A**
2 **LICENSE OR REGISTRATION, THE APPLICANT, VETERINARIAN, OR VETERINARY**
3 **PRACTITIONER IS DEEMED TO HAVE:**

4 **(1) CONSENTED TO SUBMIT TO AN EXAMINATION UNDER THIS**
5 **SECTION IF DIRECTED BY THE BOARD IN WRITING; AND**

6 **(2) WAIVED ANY CLAIM OF PRIVILEGE AS TO THE EXAMINATION**
7 **REPORT OR TESTIMONY REGARDING THE REPORT.**

8 **(C) THE REPORT OR TESTIMONY OF AN EXAMINING PHYSICIAN OR**
9 **OTHER PERSON DESIGNATED BY THE BOARD IS CONFIDENTIAL EXCEPT AS TO**
10 **CONTESTED CASE PROCEEDINGS AS DEFINED BY THE ADMINISTRATIVE**
11 **PROCEDURE ACT.**

12 **(D) THE UNREASONABLE FAILURE OR REFUSAL OF AN APPLICANT, A**
13 **VETERINARIAN, OR A VETERINARY PRACTITIONER TO SUBMIT TO AN**
14 **EXAMINATION IS PRIMA FACIE EVIDENCE OF THE APPLICANT'S,**
15 **VETERINARIAN'S, OR VETERINARY PRACTITIONER'S INABILITY TO PRACTICE**
16 **VETERINARY MEDICINE COMPETENTLY UNLESS THE BOARD FINDS THAT THE**
17 **FAILURE OR REFUSAL WAS BEYOND THE CONTROL OF THE APPLICANT,**
18 **VETERINARIAN, OR VETERINARY PRACTITIONER.**

19 **(E) THE BOARD SHALL PAY THE REASONABLE COST OF ANY**
20 **EXAMINATION MADE UNDER THIS SECTION.**

21 2-310.

22 The Board may refuse, suspend, or revoke any application or license, and
23 censure or place on probation any licensee after a hearing, if the veterinarian **OR**
24 **VETERINARY PRACTITIONER:**

25 (1) Is [adjudicated insane] **UNABLE TO PRACTICE VETERINARY**
26 **MEDICINE COMPETENTLY DUE TO A PHYSICAL OR MENTAL DISABILITY;**

27 (2) Is convicted of a violation of any federal or State law relating to
28 prescription drugs, a controlled dangerous substance under Title 5, Subtitle 4 of the
29 Criminal Law Article, or a controlled substance as defined by 21 U.S.C. § 812;

30 (3) Is convicted of a felony, or of a crime involving moral turpitude;

31 (4) Is convicted of violating any provision of this subtitle, any unlawful
32 or fraudulent practice, or any fraudulent, misleading, or deceptive representation or
33 advertising concerning his professional qualifications or the quality of materials or
34 drugs used by him in his professional work or in the treatment of animals;

1 (5) Has a final judgment entered against him in a civil malpractice
2 case involving gross personal negligence;

3 (6) Obtains the license by fraud or misrepresentation, either in the
4 application, or in passing the examination;

5 (7) Is guilty of employing or permitting to practice veterinary medicine
6 any person who does not hold a license to practice veterinary medicine in the State;

7 (8) Fails to comply with Board rules or regulations after receiving a
8 license;

9 (9) Is grossly negligent or deliberately cruel to an animal;

10 (10) [After a hearing is] **IS** determined by four members to be
11 **PROFESSIONALLY** incompetent as a veterinary practitioner; or

12 (11) Is disciplined by a licensing authority of another state, including
13 the suspension or revocation of a license to practice veterinary medicine, for an act
14 that would be grounds for disciplinary action under this section.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2011.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.