

Chapter 243

(House Bill 545)

AN ACT concerning

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

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

BY adding to

Article – Agriculture

Section 2–313.2

Annotated Code of Maryland

(2016 Replacement Volume and 2019 Supplement)

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;

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

AND

(V) ANY OTHER RELEVANT FACTORS.

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

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

(D) AN ACTION FOR A CEASE AND DESIST ORDER OR A CIVIL PENALTY IMPOSED UNDER THIS SECTION IS IN ADDITION TO, AND NOT INSTEAD OF,

DISCIPLINARY ACTIONS AUTHORIZED UNDER § 2-310 OF THIS SUBTITLE OR AN ACTION FOR INJUNCTIVE RELIEF UNDER § 2-315 OF THIS SUBTITLE.

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

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

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

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

Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2020.