

1 SB25
2 145662-2
3 By Senators Bussman, Brewbaker, Whatley, Pittman, Allen,
4 Bedford and Marsh
5 RFD: Health
6 First Read: 05-FEB-13
7 PFD: 11/20/2012

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8 SYNOPSIS: Under existing law, each partner of a
9 partnership to practice veterinary medicine is
10 required to be a licensed Alabama veterinarian, a
11 licensed Alabama veterinarian is prohibited from
12 practicing veterinary medicine as an employee of a
13 person not licensed as an Alabama veterinarian, and
14 only a licensed Alabama veterinarian may be the
15 owner of a veterinary practice.

16 This bill would include any veterinarian
17 employed by a 501(c)(3) entity as being exempt from
18 the employment and ownership restrictions, and
19 would specify the procedure for application to the
20 Alabama Board of Veterinary Medical Examiners for a
21 premises permit.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 To amend Sections 34-29-61, 34-29-87, and 34-29-88,
2 Code of Alabama 1975, relating to the practice of veterinary
3 medicine; to exempt veterinarians employed by certain
4 501(c)(3) entities from certain employment and ownership
5 restrictions; and to specify the procedure for application to
6 the Alabama Board of Veterinary Medical Examiners for a
7 premises permit.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Sections 34-29-61, 34-29-87, and 34-29-88
10 of the Code of Alabama 1975, are amended to read as follows:

11 "§34-29-61.

12 "For the purposes of this article, the following
13 terms shall have the following meanings ascribed by this
14 section:

15 "(1) ACCREDITED SCHOOL OF VETERINARY MEDICINE. Any
16 veterinary college or division of a university or college that
17 offers the degree of doctor of veterinary medicine or its
18 equivalent and is accredited by the American Veterinary
19 Medical Association (AVMA).

20 "(2) ANIMAL. Any animal or mammal other than man,
21 including birds, fish, reptiles, wild or domestic, living or
22 dead.

23 "(3) APPLICANT. A person who files an application to
24 be licensed to practice veterinary medicine or licensed as a
25 veterinary technician.

26 "(4) BOARD. Alabama State Board of Veterinary
27 Medical Examiners.

1 "(5) CONSULTING VETERINARIAN. A veterinarian
2 licensed in another state who gives advice or demonstrates
3 techniques to a licensed Alabama veterinarian or group of
4 licensed Alabama veterinarians. A consulting veterinarian
5 shall not utilize this privilege to circumvent the law.

6 "(6) DIRECT SUPERVISION. The supervising
7 veterinarian has initially examined the animal and will
8 examine at other times as acceptable veterinary medical
9 practice requires, consistent with the particular delegated
10 animal health care task. The supervising veterinarian is on
11 the premises and is quickly and easily available.

12 "(7) EMERGENCY. The animal has been placed in a life
13 threatening condition and immediate treatment is necessary to
14 sustain life.

15 "(8) FOREIGN VETERINARY GRADUATE, EXCLUDING CANADA.
16 Any person, including a foreign national or an American
17 citizen, who has received a professional veterinarian medical
18 degree from an American Veterinary Medical Association listed
19 veterinary college that is not accredited by the American
20 Veterinary Medical Association.

21 "(9) IMMEDIATE SUPERVISION. The supervising
22 veterinarian is on the premises and in audible or visual range
23 of the animal patient and the person treating the patient.

24 "(10) INDIRECT SUPERVISION. The supervising
25 veterinarian has examined the animal and has given written or
26 oral instructions for the treatment of the animal while the
27 supervising veterinarian is away from the premises.

1 "(11) LICENSE. Any permit, approval, registration,
2 or certificate of qualification issued by the board.

3 "(12) LICENSED VETERINARIAN. A person who is validly
4 and currently licensed to practice veterinary medicine in
5 Alabama.

6 "(13) LICENSED VETERINARY TECHNICIAN. A person who
7 is validly and currently licensed to practice as a veterinary
8 technician in Alabama.

9 "(14) PERSON. Any individual, firm, partnership,
10 association, joint venture, cooperative, or corporation or any
11 other group or combination acting in concert; and whether or
12 not acting as a principal, trustee, fiduciary, receiver, or as
13 any kind of legal or personal representative, or as the
14 successor in interest, assigning agent, factor, servant,
15 employee, director, officer, or any other representative of
16 such person.

17 "(15) PRACTICE OF VETERINARY MEDICINE:

18 "a. To diagnose, treat, correct, change, relieve, or
19 prevent animal disease, deformity, defect, injury, or other
20 physical or mental condition; including the prescription or
21 administration of any drug, medicine, biologic, apparatus,
22 application, anesthesia, or other therapeutic or diagnostic
23 substance or technique on any animal including but not limited
24 to acupuncture, dentistry, animal psychology, animal
25 chiropractic, theriogenology, surgery, including cosmetic
26 surgery, any manual, mechanical, biological, or chemical
27 procedure for testing for pregnancy or for correcting

1 sterility or infertility, or to render service or
2 recommendations with regard to any of the above.

3 "b. To represent directly or indirectly, publicly or
4 privately, an ability and willingness to do any act described
5 in paragraph a.

6 "c. To use any title, words, abbreviations, or
7 letters in a manner or under circumstances which induce the
8 belief that the person using them is qualified to do any act
9 described in paragraph a. Such use shall be prima facie
10 evidence of the intention to represent oneself as engaged in
11 the practice of veterinary medicine.

12 "d. Collects blood or other samples for the purpose
13 of diagnosing disease or other conditions. This paragraph
14 shall not apply to unlicensed personnel employed by the United
15 States Department of Agriculture or the Alabama Department of
16 Agriculture who are engaged in the Brucellosis eradication
17 program or external parasite control program pursuant to
18 Section 2-15-192.

19 "e. To remove any embryo from a food animal or
20 companion animal for the purpose of transplanting the embryo
21 into another female animal or for the purpose of
22 cryopreserving the embryo, or to implant the embryo into a
23 food or companion animal. It shall not be considered the
24 practice of veterinary medicine for a person or his or her
25 full-time employees to remove an embryo from the food or
26 companion animal of the person for the purpose of
27 transplanting or cryopreserving the embryo, or to implant an

1 embryo into the food or companion animal of the person,
2 provided ownership of the food or companion animal shall not
3 be transferred or employment of the person shall not be
4 changed for the purpose of circumventing this article.

5 "f. To provide veterinary medical services to a
6 client or patient in this state, through telephonic,
7 electronic, or other means, regardless of the location of the
8 veterinarian, shall constitute the practice of veterinary
9 medicine in this state and shall require licensure within this
10 state and a veterinarian-client-patient relationship must be
11 established.

12 "(16) SUPERVISING VETERINARIAN. A veterinarian who
13 assumes responsibility for the professional care given to an
14 animal by a person working under his or her direction.

15 "(17) TEMPORARY LICENSE. Temporary permission to
16 practice veterinary medicine issued by the board pursuant to
17 this article.

18 "(18) UNLICENSED ASSISTANT. Any individual who is
19 not a licensed veterinary technician or veterinarian and is
20 employed by a licensed veterinarian.

21 "(19) VETERINARIAN-CLIENT-PATIENT RELATIONSHIP
22 (VCPR). A relationship when the veterinarian has assumed
23 responsibility for making medical judgments regarding the
24 health of the animal or animals and the need for medical
25 treatment and is created by actual examination by the
26 veterinarian of the animal or a representative segment of a
27 consignment or herd.

1 "(20) VETERINARIAN, DOCTOR OF VETERINARY MEDICINE,
2 DVM, VMD, or EQUIVALENT TITLE. A person who has received a
3 doctor's degree in veterinary medicine from an accredited
4 school of veterinary medicine or holds an Educational
5 Commission for Foreign Veterinary Graduates (ECFVG)
6 certificate issued by the American Veterinary Medical
7 Association (AVMA).

8 "(21) VETERINARY FACILITIES. Any place or unit from
9 which the practice of veterinary medicine is conducted. The
10 following are types of veterinary facilities:

11 "a. Veterinary or Animal Hospital or Clinic. Meets
12 or exceeds all mandatory requirements as listed in the
13 administrative code of the board for veterinary facilities. In
14 doing so, it provides quality examination, diagnostic, and
15 health maintenance services for medical and surgical treatment
16 of animals and is equipped to provide housing and nursing care
17 for the animals during illness or convalescence.

18 "b. Specialty Practice or Clinic. Provides complete
19 specialty service by a veterinarian who has advanced training
20 in that specialty and is a diplomat of an approved specialty
21 college. It meets all minimum standards that are applicable to
22 that specialty.

23 "c. Central Hospital. Shall meet all requirements of
24 paragraph a., as well as provide specialized care including
25 24-hour nursing care and specialty consultation on a permanent
26 or on-call basis. It is mainly utilized on referral from area
27 veterinary hospitals or clinics.

1 "d. Satellite, Outpatient, or Mobile Small Animal
2 Clinics. A supportive facility owned by or associated with, or
3 both, and has ready access to, within a reasonable distance, a
4 full-service veterinary hospital or clinic or a central
5 hospital providing all mandatory services and meeting all
6 minimum standards. The public shall be informed of the
7 limitation of services by way of a posted notice in plain view
8 and easily readable or by notice provided to the client by
9 flyer or card which clearly specifies those mandatory
10 veterinary medical services which are not provided. In
11 addition, the main location and telephone number of the
12 veterinary hospital or clinic providing the required service,
13 as well as the signed agreement with the veterinary hospital
14 or clinic shall also be posted in plain view and be easily
15 readable. A veterinarian associated with this veterinary
16 hospital or clinic shall be on call during and after operation
17 of the satellite, outpatient, or mobile clinic to render aid
18 if necessary. The personnel of satellite, outpatient, or
19 mobile clinics shall consist of one or more veterinarians and
20 auxiliary personnel necessary to provide adequate outpatient
21 service. Operation of any satellite, outpatient, or mobile
22 clinic shall be under the direct supervision of a licensed
23 veterinarian who remains on the premises during the entire
24 time of operation.

25 "e. Large Animal Mobile Clinic. Must provide
26 examination, diagnostic, and preventive medicine, and minor
27 surgical services for large animals not requiring confinement

1 or hospitalization. Emergency service and radiology service
2 shall be provided by that veterinarian or by written agreement
3 with another veterinarian or group of veterinarians in
4 practice in that locale. These clinics shall provide a degree
5 of veterinary care compatible with the level of standards
6 considered adequate to the practice of veterinary medicine
7 currently available in the area. Complete hospital facilities
8 may be provided by the nearest large animal hospital or
9 veterinary school.

10 "f. Emergency Clinic. A facility established to
11 receive patients and to treat illnesses and injuries of an
12 emergency nature requiring treatment. The clinic shall provide
13 professional diagnostic and emergency treatment during hours
14 when local veterinary hospitals are normally closed. Emergency
15 clinics shall meet all mandatory requirements of a veterinary
16 hospital or clinic.

17 "g. Spay-Neuter Clinic. A limited service outpatient
18 clinic providing donor-subsidized spays and neuters for dogs
19 and cats. Services provided by these facilities shall be
20 limited to spay-neuters of dogs and cats. The facility shall
21 meet or exceed all physical requirements and minimum standards
22 as established by this article and the administrative code for
23 veterinary facilities providing limited services on an
24 outpatient basis. Service contracts with a full-service
25 veterinary facility that provides emergency and after-hour
26 care shall be required for after-hour emergencies.

1 "(22) VETERINARY INTERN. A person who is working
2 towards completion of an ECFVG certificate and who is working
3 under the direct or indirect supervision of a board approved
4 licensed veterinarian in any state to complete the practical
5 experience internship required for licensing in Alabama.

6 "(23) VETERINARY MEDICINE. Includes veterinary
7 surgery, theriogenology, dentistry, acupuncture, animal
8 psychology, chiropractic, and all other branches or
9 specialties of veterinary practice.

10 "(24) VETERINARY STUDENT PRECEPTEE. A person who is
11 pursuing a veterinary degree in an accredited school of
12 veterinary medicine which has a preceptor or extern program
13 and who has completed the academic requirements of the
14 program.

15 "(25) VETERINARY TECHNICIAN STUDENT. Any person
16 enrolled in an AVMA accredited veterinary technology program;
17 gaining clinical experience under the supervision of a
18 licensed veterinarian or licensed veterinary technician in a
19 clinical setting.

20 "(26) VETERINARY TECHNOLOGY. The skills and
21 knowledge accrued in a post-high school course of study,
22 accredited by the AVMA Committee on Education (COE) or the
23 board, in the area of care and treatment of animals. It
24 embodies limited skills, responsibility, and minimal exercise
25 of independent judgment in the treatment of patients of
26 veterinarians while under direct, indirect, or immediate
27 supervision of a veterinarian.

1 "(27) WHOLESALE VETERINARY DRUG DISTRIBUTOR. A
2 person engaged in the business of distributing veterinary
3 drugs and medicines for resale to veterinary practitioners and
4 other veterinary wholesalers and possesses a current permit
5 issued by the Alabama Board of Pharmacy to engage in the
6 selling of veterinary drugs or medicines in the State of
7 Alabama.

8 "§34-29-87.

9 "(a) Whenever the practice of veterinary medicine is
10 carried on by a partnership, all partners shall be either
11 licensed or holders of temporary licenses to practice
12 veterinary medicine in the State of Alabama.

13 "(b) It shall be unlawful for any licensed
14 veterinarian to practice veterinary medicine as an employee of
15 any person or other entity not engaged primarily in the
16 practice of veterinary medicine or for any person that is the
17 owner or owners of an active veterinary practice to be other
18 than a veterinarian or veterinarians duly licensed in the
19 State of Alabama.

20 "(c) The following shall be exempt from this
21 section:

22 "(1) A veterinarian employed by a person treating
23 his or her employer's animals.

24 "(2) A veterinarian employed by an official agency
25 of the federal or state government or any subdivision thereof.

26 "(3) A veterinarian employed by any licensed
27 research facility.

1 "(4) An heir or heirs inheriting under the terms of
2 a will or by intestate succession for a period of two years
3 following the death of the licensee.

4 "(5) A licensed veterinarian employed by a
5 spay-neuter clinic owned and operated by a nonprofit, tax
6 exempt entity, as defined under Section 501(c)(3) of the
7 Internal Revenue Code. It shall be unlawful for anyone other
8 than the licensed veterinarian designated and documented to
9 the board to undertake the direct supervision of the
10 veterinary medical services or to make any policy or decision
11 relating to the medical or surgical treatment of animals
12 including, but not limited, to the number of surgical
13 procedures to be performed per day per veterinarian or the
14 number of auxiliary veterinary medical personnel including,
15 licensed veterinary technicians and unlicensed veterinary
16 assistants necessary to provide adequate outpatient surgery
17 services. Each licensed veterinarian employed by a 501(c)(3)
18 spay-neuter clinic shall be subject to the standards of care
19 for veterinary medicine as established in this article and
20 rules promulgated by the board pursuant to this article and
21 shall be subject to the standards of care for veterinary
22 medicine and surgery as established in the Alabama Veterinary
23 Practice Act and the rules of the board.

24 "§34-29-88.

25 "(a) Any facility, including mobile clinics,
26 spay-neuter clinics, or any other premises where a licensed
27 veterinarian practices shall have a premise permit issued by

1 the board. Upon application and payment of a premise permit
2 fee and an inspection fee, if necessary to cover the cost of
3 inspection, the board shall cause a facility to be inspected.
4 A premise permit shall be issued if the facility meets minimum
5 standards to be adopted by the administrative code of the
6 board as to sanitary conditions and physical plant. In lieu
7 of the above procedure, the board may issue a premise permit
8 to any premise which is accredited by a recognized
9 organization whose standards meet or exceed minimum board
10 standards as established by the administrative code of the
11 board.

12 "(b) Each application for premise permit shall set
13 forth the names of all licensed veterinarians who shall be
14 responsible for the management of the premises.

15 "(c) The premise permit may be revoked, suspended,
16 or denied when inspection reveals that the premises do not
17 meet the standards set by the administrative code of the board
18 or when the license of the responsible veterinarian or
19 veterinarians has been suspended or revoked.

20 "(d) The board may cause the closure of a facility
21 and impose a penalty against any owner, operator, or
22 responsible veterinarian of any premises operating without a
23 premise permit in violation of this section or in violation of
24 the administrative code of the board. No penalties so imposed
25 shall exceed one thousand dollars (\$1,000) for each count or
26 separate offense. In order that the board and the executive
27 director may determine whether or not a danger to the public

1 or to animals exists, the executive director or investigators
2 employed by the board may conduct inspections or
3 investigations of premises suspected of being in violation of
4 any rule of the board. If a violation is found in conducting
5 an inspection which is determined to be a hazard and a danger
6 to the public or to animals, the executive director may
7 suspend that premise permit until further notice.

8 "(e) All premise permits shall be renewed yearly by
9 payment of a fee to the board.

10 "(f) Veterinary facilities, including spay-neuter
11 clinics, shall be reinspected periodically as determined by
12 the board. Spay-neuter clinics shall be subject to onsite
13 semiannual inspections, unannounced inspections as determined
14 by the board, and an inspection whenever the designated
15 supervisory veterinarian of the spay-neuter facility changes.

16 "(g) Premise permits issued to satellite,
17 outpatient, spay-neuter, or mobile small animal clinics shall
18 state the name of the full service veterinary facility in that
19 locale providing emergency and after hours service. Premise
20 permits issued to mobile large animal clinics shall state the
21 name of the full service veterinary facility in that locale
22 providing radiology, emergency, and after hours service.
23 Mobile clinics operating in more than one locale, i.e. city,
24 shall have a premise permit for each locale. If the agreement
25 between the outpatient, satellite, mobile large animal clinic,
26 mobile small animal clinic, spay-neuter clinic, and the full
27 service veterinary clinic providing back-up service ceases,

1 the board shall be notified immediately and a new agreement
2 for back-up service shall be provided before the issuance of a
3 new premise permit.

4 "(h) Operation of a spay-neuter clinic by a
5 501(c)(3) entity, as defined by Section 501(c)(3) of the
6 Internal Revenue Code, requires a special premise permit. In
7 addition to the requirements specified in subsection (a) to
8 subsection (g), inclusive, a 501(c)(3) entity applying for a
9 spay-neuter clinic premise permit shall satisfy all of the
10 following requirements:

11 "(1) The applicant shall apply to the board for a
12 spay-neuter premise permit. The board shall issue a
13 spay-neuter premise permit only after a determination by the
14 board that the applicant is in compliance with all applicable
15 statutory law and rules of the board and a mandatory premise
16 inspection is completed to the satisfaction and standards of
17 the board.

18 "(2) No permit may be issued by the board until a
19 licensed veterinarian is designated to undertake the direct
20 professional supervision of the veterinary medical services of
21 the spay-neuter clinic. The name of the supervisory
22 veterinarian shall be noted on the permit and shall be
23 displayed in a conspicuous public area of the facility. A
24 permittee shall notify the board immediately upon the
25 resignation or termination of a designated supervisory
26 veterinarian of record. A permit shall be suspended upon the
27 resignation or termination of a designated supervisory

1 veterinarian until such time as a new veterinarian is
2 designated as the supervisory veterinarian of record and a
3 reinspection of the premises is completed that is satisfactory
4 to the board.

5 "(3) A licensed veterinarian shall perform all
6 spay-neuter procedures at a spay-neuter clinic. All employed
7 licensed veterinarians shall abide by the standards of care
8 established by this article and rules promulgated by the board
9 pursuant to this article.

10 "(4) It is unlawful and prohibited for a spay-neuter
11 clinic to possess any products, including, but not limited to,
12 over the counter or prescription products, instruments, or
13 equipment not related to the spay-neuter process. If these
14 products, instruments, or equipment are found on the premises
15 of a spay-neuter clinic during an inspection, the board, after
16 a hearing, may revoke the permit for the operation of the
17 clinic.

18 "(5) A 501(c)(3) spay-neuter clinic is subject to
19 the same legal requirements as a conventionally licensed and
20 permitted veterinarian-owned facility that is under the
21 jurisdiction of the board.

22 "(6) Up-to-date individual veterinary medical
23 records on all veterinary patients pertaining to any and all
24 treatments and procedures rendered shall be properly
25 maintained and remain at the spay-neuter clinic for inspection
26 and audit by the board. Upon the discharge of an animal

1 patient, a spay-neuter clinic shall provide all of the
2 following to the owner:

3 "a. Contact information for the full service
4 veterinary facility nearest to that location that provides
5 emergency and after hours services.

6 "b. A copy of the patient medical records.

7 "c. Discharge instructions.

8 "(7) Only a licensed veterinarian may possess a
9 controlled substance certificate issued by the Drug
10 Enforcement Agency.

11 "(8) A spay-neuter clinic shall be under the direct
12 supervision of a licensed veterinarian during normal hours of
13 operation. The personnel of a spay-neuter clinic shall consist
14 of one or more licensed veterinarians and auxiliary personnel
15 as necessary to provide adequate outpatient services.

16 "(9) The board may promulgate any necessary rules to
17 implement this subsection and to ensure that limited service
18 facilities and holders of premise permits provide a standard
19 of care equivalent to the standard of care provided by
20 veterinarian-owned facilities under the jurisdiction of the
21 board.

22 "(10) Spay-neuter clinics shall generate and submit
23 a semiannual report to the Chair of the Senate Health
24 Committee, the Chair of the House Health Committee, and the
25 board. The first report shall include requested data for the
26 first six months of the year and shall be submitted on or
27 before July 31. The second report shall include requested data

1 for the last six months of the year and shall be submitted on
2 or before January 31 of the following year. The data to be
3 provided shall include, but not be limited to, numbers of dog
4 spays, numbers of cat spays, numbers of dog neuters, numbers
5 of cat neuters, age and weight of patient at time of surgery,
6 location by county of the owner of each animal admitted for
7 surgery, numbers of surgical complications, mortality rate,
8 ownership status of patient (owned, homeless, abandoned,
9 feral, etc.), description and proof of marketing and awareness
10 campaigns primarily targeting lower income areas, and sources
11 of funding. Other data as requested by the Senate Health
12 Committee or the House Health Committee may be included in
13 this report.

14 "(11) Surgical procedures performed in spay-neuter
15 clinics shall be limited to spays and neuters of dogs and cats
16 and complications related to a spay or neuter procedure.
17 Pre-surgical or pre-anesthetic bloodwork, intravenous fluids,
18 pain medications, and injectable antibiotics are allowed at
19 time of surgery.

20 "(12) A veterinarian doing follow-up treatment for a
21 spay and neuter clinic who becomes aware of any surgical
22 complication or mortality related to a spay and neuter clinic
23 shall report these facts to the board.

24 Section 2. The Alabama State Board of Veterinary
25 Medical Examiners shall report to the Chair of the Senate
26 Health Committee 12 months after the effective date of this

1 act regarding the implementation of this act in the state and
2 any concerns the board may have regarding implementation.

3 Section 3. The provisions of this act are severable.
4 If any part of this act is declared invalid or
5 unconstitutional, that declaration shall not affect the part
6 which remains.

7 Section 4. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.