

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 761

Short Title: Veterinarian Peer Review.

(Public)

Sponsors: Representative Dickson.

Referred to: Judiciary II.

April 6, 1993

A BILL TO BE ENTITLED

AN ACT TO CREATE A PEER REVIEW SYSTEM FOR VETERINARIANS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-187.15. Impaired veterinarians.

(a) The term 'impairment' is defined in this Article as the inability of a person who applies for a license or who has been issued a license by the Board to practice veterinary medicine with reasonable skill and safety not harmful to the public or animals under the person's care, by reason of:

(1) Mental disability or illness; or

(2) Physical illness, injury or disability, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills; or

(3) Habitual or excessive use or abuse of drugs or controlled substances, or abuse of alcohol or other substances that impair ability.

With respect to this section regarding impairment, the term 'license' shall be construed where applicable to include the faculty certificates, zoo veterinary certificates and registrations of veterinary technicians, veterinary student interns, and veterinary student preceptees as defined in this Article or Board rule.

(b) The Board may, upon complaint or other information appearing to be reasonably reliable, at its discretion, require an applicant or licensee to submit to a physical or mental examination, or a chemical dependency evaluation by physicians designated by the Board. The cost of an examination or evaluation shall be paid by the

1 applicant or licensee. The results of the examination or evaluation are admissible in any
2 hearing before the Board. Each person who applies for or has been issued a license to
3 practice veterinary medicine shall be deemed to have given consent to the Board to
4 submit to a physical or mental examination or a chemical dependency evaluation, and to
5 have waived all objections to the admissibility of the results in any hearing before the
6 Board. The failure of an applicant or licensee to comply with this section shall be an
7 offense for which such person may be disciplined or denied a license under this Article
8 and the administrative rules of the Board.

9 (c) If the Board receives information that, if accurate, could constitute probable
10 cause that a licensee suffers from impairment, the Board shall investigate the
11 information under the administrative rules of the Board to determine whether there is
12 probable cause to conduct a disciplinary hearing. If the Board determines to conduct an
13 administrative hearing on the allegations of impairment, it may require a physical or
14 mental or dependency examination of the licensee, the results of which shall be
15 available to the Board, its hearing panel, and the licensee at the hearing. If upon hearing
16 the Board determines the licensee suffers from an impairment, the Board is authorized
17 to impose any discipline otherwise authorized by this Article as well as, in its discretion,
18 to direct the licensee to submit to care, counseling, or treatment reasonably planned to
19 deal with the degree of impairment found, or any combination of such discipline.

20 (d) An applicant or licensee who is prohibited from practicing veterinary
21 medicine by the Board may apply to the Board for an opportunity for rehearing. This
22 rehearing shall be confined to the issue of whether the applicant or former licensee can
23 resume or begin the practice under the license from the Board with reasonable skill and
24 safety. If the Board so determines that the condition of impairment has ceased, the
25 license may be issued, provided that the applicant or former licensee shall have
26 complied with all other aspects of this Article or Board rule, including payment of fees.

27 (e) The Board may adopt rules and regulations for the review and approval of
28 medically directed, nonprofit voluntary treatment programs for impaired veterinarians
29 that meet the standards set by the Board.

30 (f) The Board may enter into agreements with the North Carolina Veterinary
31 Medical Association and any of that association's local components, or with any other
32 association, society, or organization for the purpose of conducting peer review activities
33 relating to investigation, review, evaluation of records, reports, complaints, litigation,
34 and other information about the practices or practice patterns of persons licensed by the
35 Board who may suffer from impairment.

36 The Board may require that a licensee whose participation in an approved treatment
37 program is unsatisfactory shall be reported to the Board by the association or society as
38 soon as that determination is made. The Board shall determine the acceptability of the
39 treatment program and the Board shall review its approved programs on a regular basis
40 and may withdraw or deny its approval. An organization or association conducting a
41 Board-approved treatment program shall be exempt from the mandatory reporting
42 requirement relating to an impaired veterinarian who is participating satisfactorily in the
43 program, provided that the Board may hold any report from that organization in

1 confidence and it shall not be of public record, and shall only be acted upon by the
2 Board when the impaired veterinarian ceases to participate satisfactorily in the program.

3 (g) Upon an investigation and review of a licensee of the Board, or upon receipt
4 of a complaint or other information, an association or society which enters into a peer
5 review agreement with the Board shall report immediately to the Board detailed
6 information about any applicant or veterinarian if:

7 (1) The person constitutes an immediate danger to the public or to himself
8 or herself;

9 (2) The person refuses to cooperate with the program, refuses to submit to
10 treatment, or is still impaired after treatment and exhibits professional
11 incompetence; or

12 (3) It reasonably appears that there are other grounds for disciplinary
13 action.

14 (h) Peer review activities conducted in good faith pursuant to any agreement
15 under this section shall not be grounds for civil action under the laws of this State and
16 are deemed to be State-directed and sanctioned and shall constitute State action for
17 purposes of application of antitrust laws.

18 (i) Any confidential patient information and other nonpublic information
19 acquired, created, or used in good faith by an association, society, or component
20 pursuant to this Article shall remain confidential and shall not be subject to discovery or
21 subpoena in a civil case. No person participating in good faith in the peer review of an
22 impaired veterinarian program of this Article shall be required, in any civil case, to
23 disclose any information acquired or opinions, recommendations, or evaluations
24 acquired or developed solely in the course of participating in any agreements pursuant
25 to this section.

26 (j) The Board may enter into an impaired veterinarian agreement with an
27 association, society, or component providing that if allegations of impairment of a
28 licensee of the Board are made to that association, society, or component, the
29 allegations shall be referred to an impaired veterinarian committee duly constituted
30 pursuant to the bylaws of the association or society; provided, that if no such committee
31 exists, the allegations shall be reported to the Board.

32 (k) If the association or society maintains an impaired veterinarian committee, it
33 shall submit to the Board at least quarterly a report summarizing the number of reports
34 concerning impaired veterinarians, whether an investigation was conducted, and any
35 action taken.

36 (l) The Board shall require in its agreement with the association or society that
37 the impaired veterinarian committee develop procedures acceptable to the Board for
38 periodic reporting of statistical information regarding impaired veterinarian program
39 activity; periodic disclosure and joint review of such information as the Board considers
40 appropriate regarding reports received; contacts or investigations made in the
41 disposition of the report; guidelines for program elements; procedures for receipt and
42 use of information of suspected impairment; procedures for intervention and referral;
43 monitoring treatment, rehabilitation, posttreatment, support, and performance; and
44 assurance of confidentiality of nonpublic information of the review process.

1 (m) The Board may, upon notice and an opportunity to be heard, cancel any
2 agreement with an impaired veterinarian committee or association or society if the
3 Board determines the committee is not fulfilling its duties under the agreement or this
4 Article.

5 (n) Notwithstanding any other provision of law, a State professional association
6 or society organization and its members shall not be liable to any person for any acts,
7 omissions, or recommendations made in good faith while acting within the scope of the
8 responsibilities imposed pursuant to this Article.

9 (o) No person or entity which reports or provides information in good faith or
10 investigates any veterinarian as authorized by this Article shall be liable in a civil action
11 for damages or other relief arising from the reporting or providing of information or
12 investigation thereon, except upon clear and convincing evidence that the report or
13 information was completely false, or that the investigation was based on false
14 information and that the falsity was actually known to the person making the report,
15 providing the information, or conducting the investigation.

16 (p) Nothing in this Article shall limit the authority, which may otherwise be
17 provided by law, of the Board to require an association, society, or impaired
18 veterinarian committee to report to the Board any action or recommendation for transfer
19 of records of the committee.

20 (q) No employer shall discharge or otherwise discriminate against any employee
21 for making any report pursuant to this Article regarding allegations of impairment."

22 Sec. 2. This act becomes effective October 1, 1993.