

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

2
3
4
5
6
7
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.

1 "(4) BOARD. Alabama State Board of Veterinary
2 Medical Examiners.

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

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

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

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

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

1 "(10) INDIRECT SUPERVISION. The supervising
2 veterinarian has examined the animal and has given written or
3 oral instructions for the treatment of the animal while the
4 supervising veterinarian is away from the premises.

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

7 "(12) LICENSED VETERINARIAN. A person who is validly
8 and currently licensed to practice veterinary medicine in
9 Alabama.

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

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

21 "(15) PRACTICE OF VETERINARY MEDICINE:

22 "a. To diagnose, treat, correct, change, relieve, or
23 prevent animal disease, deformity, defect, injury, or other
24 physical or mental condition; including the prescription or
25 administration of any drug, medicine, biologic, apparatus,
26 application, anesthesia, or other therapeutic or diagnostic

1 substance or technique on any animal including but not limited
2 to acupuncture, dentistry, animal psychology, animal
3 chiropractic, theriogenology, surgery, including cosmetic
4 surgery, any manual, mechanical, biological, or chemical
5 procedure for testing for pregnancy or for correcting
6 sterility or infertility, or to render service or
7 recommendations with regard to any of the above.

8 "b. To represent directly or indirectly, publicly or
9 privately, an ability and willingness to do any act described
10 in paragraph a.

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

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

24 "e. To remove any embryo from a food animal or
25 companion animal for the purpose of transplanting the embryo
26 into another female animal or for the purpose of

1 cryopreserving the embryo, or to implant the embryo into a
2 food or companion animal. It shall not be considered the
3 practice of veterinary medicine for a person or his or her
4 full-time employees to remove an embryo from the food or
5 companion animal of the person for the purpose of
6 transplanting or cryopreserving the embryo, or to implant an
7 embryo into the food or companion animal of the person,
8 provided ownership of the food or companion animal shall not
9 be transferred or employment of the person shall not be
10 changed for the purpose of circumventing this article.

11 "f. To provide veterinary medical services to a
12 client or patient in this state, through telephonic,
13 electronic, or other means, regardless of the location of the
14 veterinarian, shall constitute the practice of veterinary
15 medicine in this state and shall require licensure within this
16 state and a veterinarian-client-patient relationship must be
17 established.

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

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

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

1 "(19) VETERINARIAN-CLIENT-PATIENT RELATIONSHIP
2 (V CPR). A relationship when the veterinarian has assumed
3 responsibility for making medical judgments regarding the
4 health of the animal or animals and the need for medical
5 treatment and is created by actual examination by the
6 veterinarian of the animal or a representative segment of a
7 consignment or herd.

8 "(20) VETERINARIAN, DOCTOR OF VETERINARY MEDICINE,
9 DVM, VMD, or EQUIVALENT TITLE. A person who has received a
10 doctor's degree in veterinary medicine from an accredited
11 school of veterinary medicine or holds an Educational
12 Commission for Foreign Veterinary Graduates (ECFVG)
13 certificate issued by the American Veterinary Medical
14 Association (AVMA).

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

18 "a. Veterinary or Animal Hospital or Clinic. Meets
19 or exceeds all mandatory requirements as listed in the
20 administrative code of the board for veterinary facilities. In
21 doing so, it provides quality examination, diagnostic, and
22 health maintenance services for medical and surgical treatment
23 of animals and is equipped to provide housing and nursing care
24 for the animals during illness or convalescence.

25 "b. Specialty Practice or Clinic. Provides complete
26 specialty service by a veterinarian who has advanced training

1 in that specialty and is a diplomat of an approved specialty
2 college. It meets all minimum standards that are applicable to
3 that specialty.

4 "c. Central Hospital. Shall meet all requirements of
5 paragraph a., as well as provide specialized care including
6 24-hour nursing care and specialty consultation on a permanent
7 or on-call basis. It is mainly utilized on referral from area
8 veterinary hospitals or clinics.

9 "d. Satellite, Outpatient, or Mobile Small Animal
10 Clinics. A supportive facility owned by or associated with, or
11 both, and has ready access to, within a reasonable distance, a
12 full-service veterinary hospital or clinic or a central
13 hospital providing all mandatory services and meeting all
14 minimum standards. The public shall be informed of the
15 limitation of services by way of a posted notice in plain view
16 and easily readable or by notice provided to the client by
17 flyer or card which clearly specifies those mandatory
18 veterinary medical services which are not provided. In
19 addition, the main location and telephone number of the
20 veterinary hospital or clinic providing the required service,
21 as well as the signed agreement with the veterinary hospital
22 or clinic shall also be posted in plain view and be easily
23 readable. A veterinarian associated with this veterinary
24 hospital or clinic shall be on call during and after operation
25 of the satellite, outpatient, or mobile clinic to render aid
26 if necessary. The personnel of satellite, outpatient, or

1 mobile clinics shall consist of one or more veterinarians and
2 auxiliary personnel necessary to provide adequate outpatient
3 service. Operation of any satellite, outpatient, or mobile
4 clinic shall be under the direct supervision of a licensed
5 veterinarian who remains on the premises during the entire
6 time of operation.

7 "e. Large Animal Mobile Clinic. Must provide
8 examination, diagnostic, and preventive medicine, and minor
9 surgical services for large animals not requiring confinement
10 or hospitalization. Emergency service and radiology service
11 shall be provided by that veterinarian or by written agreement
12 with another veterinarian or group of veterinarians in
13 practice in that locale. These clinics shall provide a degree
14 of veterinary care compatible with the level of standards
15 considered adequate to the practice of veterinary medicine
16 currently available in the area. Complete hospital facilities
17 may be provided by the nearest large animal hospital or
18 veterinary school.

19 "f. Emergency Clinic. A facility established to
20 receive patients and to treat illnesses and injuries of an
21 emergency nature requiring treatment. The clinic shall provide
22 professional diagnostic and emergency treatment during hours
23 when local veterinary hospitals are normally closed. Emergency
24 clinics shall meet all mandatory requirements of a veterinary
25 hospital or clinic.

1 "g. Spay-Neuter Clinic. A limited service outpatient
2 clinic providing donor-subsidized spays and neuters for dogs
3 and cats. Services provided by these facilities shall be
4 limited to spay-neuters of dogs and cats. The facility shall
5 meet or exceed all physical requirements and minimum standards
6 as established by this article and the administrative code for
7 veterinary facilities providing limited services on an
8 outpatient basis. Service contracts with a full-service
9 veterinary facility that provides emergency and after-hour
10 care shall be required for after-hour emergencies.

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

16 "(23) VETERINARY MEDICINE. Includes veterinary
17 surgery, theriogenology, dentistry, acupuncture, animal
18 psychology, chiropractic, and all other branches or
19 specialties of veterinary practice.

20 "(24) VETERINARY STUDENT PRECEPTEE. A person who is
21 pursuing a veterinary degree in an accredited school of
22 veterinary medicine which has a preceptor or extern program
23 and who has completed the academic requirements of the
24 program.

25 "(25) VETERINARY TECHNICIAN STUDENT. Any person
26 enrolled in an AVMA accredited veterinary technology program;

1 gaining clinical experience under the supervision of a
2 licensed veterinarian or licensed veterinary technician in a
3 clinical setting.

4 "(26) VETERINARY TECHNOLOGY. The skills and
5 knowledge accrued in a post-high school course of study,
6 accredited by the AVMA Committee on Education (COE) or the
7 board, in the area of care and treatment of animals. It
8 embodies limited skills, responsibility, and minimal exercise
9 of independent judgment in the treatment of patients of
10 veterinarians while under direct, indirect, or immediate
11 supervision of a veterinarian.

12 "(27) WHOLESALE VETERINARY DRUG DISTRIBUTOR. A
13 person engaged in the business of distributing veterinary
14 drugs and medicines for resale to veterinary practitioners and
15 other veterinary wholesalers and possesses a current permit
16 issued by the Alabama Board of Pharmacy to engage in the
17 selling of veterinary drugs or medicines in the State of
18 Alabama.

19 "§34-29-87.

20 "(a) Whenever the practice of veterinary medicine is
21 carried on by a partnership, all partners shall be either
22 licensed or holders of temporary licenses to practice
23 veterinary medicine in the State of Alabama.

24 "(b) It shall be unlawful for any licensed
25 veterinarian to practice veterinary medicine as an employee of
26 any person or other entity not engaged primarily in the

1 practice of veterinary medicine or for any person that is the
2 owner or owners of an active veterinary practice to be other
3 than a veterinarian or veterinarians duly licensed in the
4 State of Alabama.

5 "(c) The following shall be exempt from this
6 section:

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

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

11 "(3) A veterinarian employed by any licensed
12 research facility.

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

16 "(5) A licensed veterinarian employed by a
17 spay-neuter clinic owned and operated by a nonprofit, tax
18 exempt entity, as defined under Section 501(c)(3) of the
19 Internal Revenue Code. It shall be unlawful for anyone other
20 than the licensed veterinarian designated and documented to
21 the board to undertake the direct supervision of the
22 veterinary medical services or to make any policy or decision
23 relating to the medical or surgical treatment of animals
24 including, but not limited, to the number of surgical
25 procedures to be performed per day per veterinarian or the
26 number of auxiliary veterinary medical personnel including,

1 licensed veterinary technicians and unlicensed veterinary
2 assistants necessary to provide adequate outpatient surgery
3 services. Each licensed veterinarian employed by a 501(c)(3)
4 spay-neuter clinic shall be subject to the standards of care
5 for veterinary medicine as established in this article and
6 rules promulgated by the board pursuant to this article and
7 shall be subject to the standards of care for veterinary
8 medicine and surgery as established in the Alabama Veterinary
9 Practice Act and the rules of the board.

10 "§34-29-88.

11 "(a) Any facility, including mobile clinics,
12 spay-neuter clinics, or any other premises where a licensed
13 veterinarian practices shall have a premise permit issued by
14 the board. Upon application and payment of a premise permit
15 fee and an inspection fee, if necessary to cover the cost of
16 inspection, the board shall cause a facility to be inspected.
17 A premise permit shall be issued if the facility meets minimum
18 standards to be adopted by the administrative code of the
19 board as to sanitary conditions and physical plant. In lieu
20 of the above procedure, the board may issue a premise permit
21 to any premise which is accredited by a recognized
22 organization whose standards meet or exceed minimum board
23 standards as established by the administrative code of the
24 board.

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

4 "(c) The premise permit may be revoked, suspended,
5 or denied when inspection reveals that the premises do not
6 meet the standards set by the administrative code of the board
7 or when the license of the responsible veterinarian or
8 veterinarians has been suspended or revoked.

9 "(d) The board may cause the closure of a facility
10 and impose a penalty against any owner, operator, or
11 responsible veterinarian of any premises operating without a
12 premise permit in violation of this section or in violation of
13 the administrative code of the board. No penalties so imposed
14 shall exceed one thousand dollars (\$1,000) for each count or
15 separate offense. In order that the board and the executive
16 director may determine whether or not a danger to the public
17 or to animals exists, the executive director or investigators
18 employed by the board may conduct inspections or
19 investigations of premises suspected of being in violation of
20 any rule of the board. If a violation is found in conducting
21 an inspection which is determined to be a hazard and a danger
22 to the public or to animals, the executive director may
23 suspend that premise permit until further notice.

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

1 "(f) Veterinary facilities, including spay-neuter
2 clinics, shall be reinspected periodically as determined by
3 the board. Spay-neuter clinics shall be subject to onsite
4 semiannual inspections, unannounced inspections as determined
5 by the board, and an inspection whenever the designated
6 supervisory veterinarian of the spay-neuter facility changes.

7 "(g) Premise permits issued to satellite,
8 outpatient, spay-neuter, or mobile small animal clinics shall
9 state the name of the full service veterinary facility in that
10 locale providing emergency and after hours service. Premise
11 permits issued to mobile large animal clinics shall state the
12 name of the full service veterinary facility in that locale
13 providing radiology, emergency, and after hours service.
14 Mobile clinics operating in more than one locale, i.e. city,
15 shall have a premise permit for each locale. If the agreement
16 between the outpatient, satellite, mobile large animal clinic,
17 mobile small animal clinic, spay-neuter clinic, and the full
18 service veterinary clinic providing back-up service ceases,
19 the board shall be notified immediately and a new agreement
20 for back-up service shall be provided before the issuance of a
21 new premise permit.

22 "(h) Operation of a spay-neuter clinic by a
23 501(c)(3) entity, as defined by Section 501(c)(3) of the
24 Internal Revenue Code, requires a special premise permit. In
25 addition to the requirements specified in subsection (a) to
26 subsection (g), inclusive, a 501(c)(3) entity applying for a

1 spay-neuter clinic premise permit shall satisfy all of the
2 following requirements:

3 "(1) The applicant shall apply to the board for a
4 spay-neuter premise permit. The board shall issue a
5 spay-neuter premise permit only after a determination by the
6 board that the applicant is in compliance with all applicable
7 statutory law and rules of the board and a mandatory premise
8 inspection is completed to the satisfaction and standards of
9 the board.

10 "(2) No permit may be issued by the board until a
11 licensed veterinarian is designated to undertake the direct
12 professional supervision of the veterinary medical services of
13 the spay-neuter clinic. The name of the supervisory
14 veterinarian shall be noted on the permit and shall be
15 displayed in a conspicuous public area of the facility. A
16 permittee shall notify the board immediately upon the
17 resignation or termination of a designated supervisory
18 veterinarian of record. A permit shall be suspended upon the
19 resignation or termination of a designated supervisory
20 veterinarian until such time as a new veterinarian is
21 designated as the supervisory veterinarian of record and a
22 reinspection of the premises is completed that is satisfactory
23 to the board.

24 "(3) A licensed veterinarian shall perform all
25 spay-neuter procedures at a spay-neuter clinic. All employed
26 licensed veterinarians shall abide by the standards of care

1 established by this article and rules promulgated by the board
2 pursuant to this article.

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

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

15 "(6) Up-to-date individual veterinary medical
16 records on all veterinary patients pertaining to any and all
17 treatments and procedures rendered shall be properly
18 maintained and remain at the spay-neuter clinic for inspection
19 and audit by the board. Upon the discharge of an animal
20 patient, a spay-neuter clinic shall provide all of the
21 following to the owner:

22 "a. Contact information for the full service
23 veterinary facility nearest to that location that provides
24 emergency and after hours services.

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

26 "c. Discharge instructions.

1 "(7) Only a licensed veterinarian may possess a
2 controlled substance certificate issued by the Drug
3 Enforcement Agency.

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

9 "(9) The board may promulgate any necessary rules to
10 implement this subsection and to ensure that limited service
11 facilities and holders of premise permits provide a standard
12 of care equivalent to the standard of care provided by
13 veterinarian-owned facilities under the jurisdiction of the
14 board.

15 "(10) Spay-neuter clinics shall generate and submit
16 a semiannual report to the Chair of the Senate Health
17 Committee, the Chair of the House Health Committee, and the
18 board. The first report shall include requested data for the
19 first six months of the year and shall be submitted on or
20 before July 31. The second report shall include requested data
21 for the last six months of the year and shall be submitted on
22 or before January 31 of the following year. The data to be
23 provided shall include, but not be limited to, numbers of dog
24 spays, numbers of cat spays, numbers of dog neuters, numbers
25 of cat neuters, age and weight of patient at time of surgery,
26 location by county of the owner of each animal admitted for

1 surgery, numbers of surgical complications, mortality rate,
2 ownership status of patient (owned, homeless, abandoned,
3 feral, etc.), description and proof of marketing and awareness
4 campaigns primarily targeting lower income areas, and sources
5 of funding. Other data as requested by the Senate Health
6 Committee or the House Health Committee may be included in
7 this report.

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

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

18 Section 2. The Alabama State Board of Veterinary
19 Medical Examiners shall report to the Chair of the Senate
20 Health Committee 12 months after the effective date of this
21 act regarding the implementation of this act in the state and
22 any concerns the board may have regarding implementation.

23 Section 3. The provisions of this act are severable.
24 If any part of this act is declared invalid or
25 unconstitutional, that declaration shall not affect the part
26 which remains.

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