



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1053/P3
MPG:eev&jld:jf

DOA:.....Byrnes, BB0362 - Transfer Veterinary Examining Board from
DSPA to DATCP.

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

SAFETY AND PROFESSIONAL SERVICES

PROFESSIONAL LICENSURE

Under current law, the Veterinary Examining Board (board) regulates the practice of veterinarians and veterinary technicians in Wisconsin. Currently, the board is under the umbrella of the Department of Safety and Professional Services. This bill transfers the board to the Department of Agriculture, Trade and Consumer Protection.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 15.135 (5) (title) of the statutes is created to read:

15.135 (5) (title) VETERINARY EXAMINING BOARD.

SECTION 2. 15.405 (12) of the statutes is renumbered 15.135 (5) (a) (intro.) and amended to read:

15.135 (5) (a) ~~VETERINARY EXAMINING BOARD.~~ (intro.) There is created a veterinary examining board in the department of ~~safety and professional services~~ agriculture, trade and consumer protection. The veterinary examining board shall consist of the following 8 members appointed for staggered 4-year terms.:

1. Five of the ~~members shall be licensed veterinarians~~ licensed in this state.
2. One ~~member shall be a~~ veterinary technician certified in this state.
3. Two ~~members shall be~~ public members.

(b) No member of the examining board may in any way be financially interested in any school having a veterinary department or a course of study in veterinary or animal technology.

SECTION 3. 20.115 (2) (jm) of the statutes is created to read:

20.115 (2) (jm) *Veterinary examining board.* All moneys received from issuing and renewing credentials under ch. 89 for the licensing, rule-making, and regulatory functions of the veterinary examining board.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 4. 29.736 (1) (b) of the statutes is amended to read:

29.736 (1) (b) “Qualified inspector” means a veterinarian licensed under ch. 453 89 or a person who is qualified to provide evidence of fish health under s. 95.60 (4s) (c).

SECTION 5. 45.44 (1) (a) 5. of the statutes is amended to read:

45.44 (1) (a) 5. A license, certification, registration, or permit issued under s. 89.06, 89.072, 94.10 (2), (3), or (3g), 94.50 (2), 94.704, 95.60, 97.17 (2), 97.175 (2), 97.22 (2), 98.145, 98.146, 98.18 (1) (a), or 168.23 (3).

SECTION 6. 54.15 (8) (a) 3. of the statutes is amended to read:

54.15 (8) (a) 3. Any license, certificate, permit, or registration of the proposed guardian that is required under chs. 89, 202, or 440 to 480 or by the laws of another state for the practice of a profession or occupation has been suspended or revoked.

SECTION 7. 89.02 (3d) of the statutes is created to read:

89.02 (3d) "Department" means the department of agriculture, trade and consumer protection.

SECTION 8. 89.063 of the statutes is created to read:

89.063 Fees. The department shall determine by rule the fees for each initial license, certification, and permit issued under ss. 89.06 and 89.072, and, if applicable, for renewal of the license, certification, or permit, including late fees, based on the department's administrative and enforcement costs under this chapter.

SECTION 9. 89.085 of the statutes is created to read:

89.085 Unauthorized practice. (1) The department may conduct investigations, hold hearings, and make findings as to whether a person has engaged in a practice or used a title without a credential required under this chapter.

(2) If, after holding a public hearing, the department determines that a person has engaged in a practice or used a title without a required credential, the department may issue a special order enjoining the person from continuing the practice or use of the title.

(3) In lieu of holding a public hearing, if the department has reason to believe that a person has engaged in a practice or used a title without a required credential, the department may petition the circuit court for a temporary restraining order or an injunction as provided in ch. 813.

(4) (a) Any person who violates a special order issued under sub. (2) may be required to forfeit not more than \$10,000 for each offense. Each day of continued

violation constitutes a separate offense. The attorney general or any district attorney may commence an action in the name of the state to recover a forfeiture under this paragraph.

(b) Any person who violates a temporary restraining order or an injunction issued by a court upon a petition under sub. (3) may be fined not less than \$25 nor more than \$5,000 or imprisoned for not more than one year in the county jail or both.

SECTION 10. 93.135 (1) (a) of the statutes is renumbered 93.135 (1) (ag).

SECTION 11. 93.135 (1) (ab) of the statutes is created to read:

93.135 (1) (ab) A license, certification, or permit under ch. 89.

SECTION 12. 93.20 (1) of the statutes is amended to read:

93.20 (1) DEFINITION. In this section, “action” means an action that is commenced in court by, or on behalf of, the department of agriculture, trade and consumer protection to enforce chs. 88, 89, 91 to 100, or 126.

SECTION 13. 93.22 (1) of the statutes is amended to read:

93.22 (1) In cases arising under chs. 88, 89, and 93 to 100, the department may be represented by its attorney.

SECTION 14. 93.22 (2) of the statutes is amended to read:

93.22 (2) The department may, with the approval of the governor, appoint special counsel to prosecute or assist in the prosecution of any case arising under chs. 88, 89, and 93 to 100. The cost of such special counsel shall be charged to the appropriation for the department.

SECTION 15. 93.22 (3) of the statutes is amended to read:

93.22 (3) In any criminal or civil action under chs. 88, 89, and 93 to 100, any exception, exemption, proviso, excuse, or qualification contained in any of said chapters, or in any order, standard, or regulation thereunder, may be proved by the

defendant, but need not be specified or negated in the information or complaint, and, if so specified or negated, no proof in relation to the matters so specified or negated, shall be required of the plaintiff.

SECTION 16. 94.67 (33m) of the statutes is amended to read:

94.67 **(33m)** “Veterinarian” means an individual who is licensed as a veterinarian under ch. ~~453~~ 89.

SECTION 17. 94.67 (33t) of the statutes is amended to read:

94.67 **(33t)** “Veterinary technician” means an individual who is certified as a veterinary technician under ch. ~~453~~ 89.

SECTION 18. 95.21 (1) (e) of the statutes is amended to read:

95.21 **(1)** (e) “Veterinarian” has the meaning designated under s. ~~453.02~~ 89.02 (7).

SECTION 19. 95.21 (1) (em) of the statutes is amended to read:

95.21 **(1)** (em) “Veterinary technician” has the meaning designated under s. ~~453.02~~ 89.02 (12).

SECTION 20. 95.21 (2) (a) of the statutes is amended to read:

95.21 **(2)** (a) *Requirement for vaccination.* Except as provided in s. 174.054 or sub. (9) (d), the owner of a dog shall have the dog vaccinated against rabies by a veterinarian or, if a veterinarian is physically present at the location the vaccine is administered, by a veterinary technician, pursuant to s. ~~453.05~~ 89.05 (2) (d), at no later than 5 months of age and revaccinated within one year after the initial vaccination. If the owner obtains the dog or brings the dog into this state after the dog has reached 5 months of age, the owner shall have the dog vaccinated against rabies within 30 days after the dog is obtained or brought into the state unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination

from this state or another state. The owner of a dog shall have the dog revaccinated against rabies by a veterinarian or, if a veterinarian is physically present at the location the vaccine is administered, by a veterinary technician, pursuant to s. ~~453.05~~ 89.05 (2) (d), before the date that the immunization expires as stated on the certificate of vaccination or, if no date is specified, within 3 years after the previous vaccination.

SECTION 21. 169.01 (35) (a) of the statutes is amended to read:

169.01 (35) (a) A veterinarian who is licensed in this state to practice veterinary medicine under ch. ~~453~~ 89 and who is certified under rules promulgated by the department of agriculture, trade and consumer protection.

SECTION 22. 173.05 (1) (b) of the statutes is amended to read:

173.05 (1) (b) A person to whom par. (a) applies who is a veterinarian licensed under ch. ~~453~~ 89 is not required to complete a course of training approved by the department if he or she takes an examination given by the department and passes the examination on the first attempt.

SECTION 23. 173.41 (2) (e) of the statutes is amended to read:

173.41 (2) (e) A veterinarian licensed under ch. ~~453~~ 89 practicing in the normal course of veterinary business within the scope of the license is not required to obtain a license under this subsection.

SECTION 24. 173.41 (12) (a) 4. of the statutes is amended to read:

173.41 (12) (a) 4. If persons sell or offer to sell dogs at the temporary dog market for 2 or more consecutive days, employ or contract with a veterinarian licensed under ch. ~~453~~ 89 to conduct an examination of the dogs offered for sale at the temporary dog market on each day on which dogs are offered for sale and to review the information provided under par. (b).

SECTION 25. 257.01 (5) (a) of the statutes is amended to read:

257.01 (5) (a) An individual who is licensed as a physician, a physician assistant, or a podiatrist under ch. 448, licensed as a registered nurse, licensed practical nurse, or nurse-midwife under ch. 441, licensed as a dentist under ch. 447, licensed as a pharmacist under ch. 450, licensed as a veterinarian or certified as a veterinary technician under ch. 453 89, or certified as a respiratory care practitioner under ch. 448.

SECTION 26. 257.01 (5) (b) of the statutes is amended to read:

257.01 (5) (b) An individual who was at any time within the previous 10 years, but is not currently, licensed as a physician, a physician assistant, or a podiatrist under ch. 448, licensed as a registered nurse, licensed practical nurse, or nurse-midwife, under ch. 441, licensed as a dentist under ch. 447, licensed as a pharmacist under ch. 450, licensed as a veterinarian or certified as a veterinary technician under ch. 453 89, or certified as a respiratory care practitioner under ch. 448, if the individual's license or certification was never revoked, limited, suspended, or denied renewal.

SECTION 27. 321.60 (1) (a) 6m. of the statutes is created to read:

321.60 (1) (a) 6m. A license, certification, or permit issued under s. 89.06 or 89.072.

SECTION 28. 440.03 (13) (b) 73. of the statutes is repealed.

SECTION 29. 440.03 (13) (b) 74. of the statutes is repealed.

SECTION 30. 440.08 (2) (a) 70. of the statutes is repealed.

SECTION 31. 440.08 (2) (a) 71. of the statutes is repealed.

SECTION 32. 450.03 (1) (e) of the statutes is amended to read:

450.03 (1) (e) Any person lawfully practicing within the scope of a license, permit, registration, certificate or certification granted to practice professional or practical nursing or nurse–midwifery under ch. 441, to practice dentistry or dental hygiene under ch. 447, to practice medicine and surgery under ch. 448, to practice optometry under ch. 449 or to practice veterinary medicine under ch. ~~453~~ 89, or as otherwise provided by statute.

SECTION 33. 450.10 (3) (a) 8. of the statutes is amended to read:

450.10 (3) (a) 8. A veterinarian licensed under ch. ~~453~~ 89.

SECTION 34. 450.11 (1m) of the statutes is amended to read:

450.11 (1m) ELECTRONIC TRANSMISSION. Except as provided in s. ~~453.068~~ 89.068 (1) (c) 4., a practitioner may transmit a prescription order electronically only if the patient approves the transmission and the prescription order is transmitted to a pharmacy designated by the patient.

SECTION 35. 450.125 of the statutes is amended to read:

450.125 Drugs for animal use. In addition to complying with the other requirements in this chapter for distributing and dispensing, a pharmacist who distributes or dispenses a drug for animal use shall comply with s. ~~453.068~~ 89.068.

SECTION 36. Chapter 453 (title) of the statutes is renumbered chapter 89 (title).

SECTION 37. 453.02 of the statutes is renumbered 89.02.

SECTION 38. 453.03 of the statutes is renumbered 89.03, and 89.03 (1), as renumbered, is amended to read:

89.03 (1) The examining board shall promulgate rules, within the limits of the definition under s. ~~453.02~~ 89.02 (6), establishing the scope of practice permitted for veterinarians and veterinary technicians and shall review the rules at least once every 5 years to determine whether they are consistent with current practice. The

examining board may promulgate rules relating to licensure qualifications, denial of a license, ~~certificate~~ certification, or temporary permit, unprofessional conduct, and disciplinary proceedings.

SECTION 39. 453.04 of the statutes is renumbered 89.04.

SECTION 40. 453.05 of the statutes is renumbered 89.05, and 89.05 (2) (g), as renumbered, is amended to read:

89.05 (2) (g) Employees of a school of veterinary medicine in this state who practice veterinary medicine on privately owned animals only as a part of their employment and who are licensed under s. ~~453.06~~ 89.06 (2m).

SECTION 41. 453.06 of the statutes is renumbered 89.06, and 89.06 (1), as renumbered, is amended to read:

89.06 (1) Except as provided under s. ~~453.072~~ 89.072, veterinary licenses shall be issued only to persons who successfully pass an examination conducted by the examining board and pay the fee ~~specified in~~ established under s. 440.05 (1) 89.063. An applicant for an initial license shall be a graduate of a veterinary college that has been approved by the examining board or have successfully completed either the educational commission for foreign veterinary graduates certification program of the American Veterinary Medical Association or the program for the assessment of veterinary education equivalence offered by the American Association of Veterinary State Boards. Persons who qualify for examination may be granted temporary permits to engage in the practice of veterinary medicine in the employment and under the supervision of a veterinarian until the results of the next examination conducted by the examining board are available. In case of failure at any examination, the applicant shall have the privilege of taking subsequent examinations, upon the payment of another fee for each examination.

SECTION 42. 453.062 of the statutes is renumbered 89.062, and 89.062 (1), as renumbered, is amended to read:

89.062 (1) RENEWAL. The renewal ~~dates~~ date for veterinary licenses and veterinary technician certifications ~~are specified under s. 440.08 (2) (a) is December 15 of each odd-numbered year,~~ and the renewal fees for such licenses and certifications are determined by the department under s. 440.03 ~~(9) (a)~~ 89.063.

SECTION 43. 453.065 of the statutes is renumbered 89.065.

SECTION 44. 453.068 of the statutes is renumbered 89.068.

SECTION 45. 453.07 of the statutes is renumbered 89.07, and 89.07 (1) (b), (2) (intro.) and (3), as renumbered, are amended to read:

89.07 (1) (b) Violating this chapter ~~or ch. 440~~ or any federal or state statute or rule ~~which~~ that substantially relates to the practice of veterinary medicine.

(2) (intro.) Subject to subch. II of ch. 111 ~~and the rules adopted under s. 440.03 (1),~~ the examining board may, by order, reprimand any person holding a license, certificate, or permit under this chapter or deny, revoke, suspend, limit, or any combination thereof, the person's license, ~~certificate~~ certification, or permit if the person has:

(3) In addition to or in lieu of a reprimand or denial, limitation, suspension, or revocation of a license, ~~certificate~~ certification, or permit under sub. (2), the examining board may assess against the applicant for or the holder of the license, ~~certificate~~ certification, or permit a forfeiture of not more than \$5,000 for each violation of s. ~~453.068~~ 89.068.

SECTION 46. 453.072 of the statutes is renumbered 89.072 and amended to read:

89.072 Licensees of other jurisdictions. (1) Upon application and payment of the fee specified in established under s. 440.05 ~~(2)~~ 89.063, the examining board may issue a license to practice veterinary medicine to any person licensed to practice veterinary medicine in another state or territory of the United States or in another country if the applicant is not currently under investigation and has never been disciplined by the licensing authority in the other state, territory or country, has not been found guilty of a crime the circumstances of which are substantially related to the practice of veterinary medicine, is not currently a party in pending litigation in which it is alleged that the applicant is liable for damages for acts committed in the course of practice and has never been found liable for damages for acts committed in the course of practice which evidenced a lack of ability or fitness to practice.

(2) Upon application and payment of the fee specified in established under s. 440.05 ~~(6)~~ 89.063, the examining board may issue a temporary consulting permit to practice veterinary medicine in this state for up to 60 days per year to any nonresident licensed to practice veterinary medicine in another state or territory of the United States or in another country.

SECTION 47. 453.075 of the statutes is renumbered 89.075.

SECTION 48. 453.08 of the statutes is renumbered 89.08.

SECTION 49. 978.05 (6) (a) of the statutes is amended to read:

978.05 (6) (a) Institute, commence or appear in all civil actions or special proceedings under and perform the duties set forth for the district attorney under ch. 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, 89.08, 103.50 (8), 103.92 (4), 109.09, 343.305 (9) (a), ~~453.08~~, 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a), 946.86, 946.87, 961.55 (5), 971.14 and 973.075 to 973.077, perform any duties in connection with court proceedings in a court assigned to exercise jurisdiction

under chs. 48 and 938 as the judge may request and perform all appropriate duties and appear if the district attorney is designated in specific statutes, including matters within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits the authority of the county board to designate, under s. 48.09 (5), that the corporation counsel provide representation as specified in s. 48.09 (5) or to designate, under s. 48.09 (6) or 938.09 (6), the district attorney as an appropriate person to represent the interests of the public under s. 48.14 or 938.14.

SECTION 9138. Nonstatutory provisions; Safety and Professional Services.

(1) TRANSFER OF VETERINARY EXAMINING BOARD.

(a) *Assets and liabilities.* On the effective date of this paragraph, the assets and liabilities of the department of safety and professional services primarily related to the functions of the veterinary examining board, as determined by the secretary of administration, shall become the assets and liabilities of the department of agriculture, trade and consumer protection.

(b) *Tangible personal property.* On the effective date of this paragraph, all tangible personal property, including records, of the department of safety and professional services that is primarily related to the functions of the veterinary examining board, as determined by the secretary of administration, is transferred to the department of agriculture, trade, and consumer protection.

(c) *Contracts.* All contracts entered into by the department of safety and professional services in effect on the effective date of this paragraph that are primarily related to the functions of the veterinary examining board, as determined by the secretary of administration, remain in effect and are transferred to the department of agriculture, trade and consumer protection. The department of

agriculture, trade and consumer protection shall carry out any obligations under such a contract until the contract is modified or rescinded by the department of agriculture, trade and consumer protection to the extent allowed under the contract.

(d) *Pending matters.* Any matter pending with the department of safety and professional services on the effective date of this paragraph that is primarily related to the functions of the veterinary examining board, as determined by the secretary of administration, is transferred to the department of agriculture, trade and consumer protection and all materials submitted to or actions taken by the department of safety and professional services with respect to the pending matters are considered as having been submitted to or taken by the department of agriculture, trade and consumer protection.

(e) *Fees.* All fees for initial licenses, certifications, and other credentials, and for renewals of those licenses, certifications, and other credentials, under chapter 453 of the statutes that are in effect on the day before the effective date of this paragraph shall remain in effect until modified by the department of agriculture, trade and consumer protection under section 89.063 of the statutes, as created by this act.

SECTION 9238. Fiscal changes; Safety and Professional Services.

(1) TRANSFER OF CREDENTIALING FEES. The unencumbered balance in the appropriation account under section 20.165 (1) (g) of the statutes that is primarily related to the functions of the veterinary examining board, as determined by the secretary of administration, is transferred to the appropriation account under section 20.115 (2) (jm) of the statutes, as created by this act.

(END)