

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 463**

FINAL READING

(SECOND)

Introduced by Dierks, 40; Langemeier, 23.

Read first time January 20, 2009

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to veterinary medicine and surgery; to  
2 amend sections 38-1,140, 38-3301, 38-3302, 38-3314, and  
3 38-3321, Reissue Revised Statutes of Nebraska, and  
4 sections 71-8909, 71-8910, and 71-8922, Revised Statutes  
5 Cumulative Supplement, 2008; to provide for licensure  
6 of animal therapists; to change provisions relating to  
7 the practice of veterinary medicine and surgery and the  
8 performance of collaborative animal health care tasks;  
9 to provide for a civil penalty and disciplinary grounds;  
10 to redefine terms under the Veterinary Drug Distribution  
11 Licensing Act; to change provisions relating to the

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1                   distribution of veterinary legend drugs; to harmonize  
2                   provisions; and to repeal the original sections.  
3 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 38-1,140, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           38-1,140 Any person who holds a valid credential in  
4 the State of Nebraska in a health care profession or occupation  
5 regulated under the Uniform Credentialing Act may consult with a  
6 licensed veterinarian ~~who has contracted with or is employed by an~~  
7 ~~accredited zoological park or garden regarding an animal on behalf~~  
8 ~~of such zoological park or garden~~ or perform collaborative animal  
9 health care tasks on an animal under the care of such veterinarian  
10 ~~for such zoological park or garden~~ if all such tasks are performed  
11 under the immediate supervision of such veterinarian. Engaging in  
12 such conduct is hereby authorized and shall not be considered a  
13 part of the credential holder's scope of practice or a violation of  
14 the credential holder's scope of practice.

15           Sec. 2. Section 38-3301, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           38-3301 Sections 38-3301 to 38-3330 and sections 4, 5,  
18 and 8 to 11 of this act shall be known and may be cited as the  
19 Veterinary Medicine and Surgery Practice Act.

20           Sec. 3. Section 38-3302, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           38-3302 For purposes of the Veterinary Medicine and  
23 Surgery Practice Act and elsewhere in the Uniform Credentialing  
24 Act, unless the context otherwise requires, the definitions found  
25 in sections 38-3303 to 38-3318 and sections 4 and 5 of this act

1 apply.

2           Sec. 4. Health care therapy means health care activities  
3 that require the exercise of judgment for which licensure is  
4 required under the Uniform Credentialing Act.

5           Sec. 5. Licensed animal therapist means an individual  
6 who (1) has and maintains an undisciplined license under the  
7 Uniform Credentialing Act for a health care profession other  
8 than veterinary medicine and surgery, (2) has met the standards  
9 for additional training regarding the performance of that health  
10 care profession on animals as required by rules and regulations  
11 adopted and promulgated by the department upon the recommendation  
12 of the board, and (3) is licensed as an animal therapist by the  
13 department.

14           Sec. 6. Section 38-3314, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           38-3314 Unlicensed assistant means an individual who is  
17 not a licensed veterinarian, ~~or~~ a licensed veterinary technician,  
18 or a licensed animal therapist and who is working in veterinary  
19 medicine.

20           Sec. 7. Section 38-3321, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           38-3321 No person may practice veterinary medicine and  
23 surgery in the state who is not a licensed veterinarian, no  
24 person may perform delegated animal health care tasks in the  
25 state who is not a licensed veterinary technician or an unlicensed

1 assistant performing such tasks within the limits established under  
2 subdivision (2) of section 38-3326, and no person may perform  
3 health care therapy on animals in the state who is not a licensed  
4 animal therapist. The Veterinary Medicine and Surgery Practice Act  
5 shall not be construed to prohibit:

6 (1) An employee of the federal, state, or local  
7 government from performing his or her official duties;

8 (2) A person who is a student in a veterinary school from  
9 performing duties or actions assigned by his or her instructors  
10 or from working under the direct supervision of a licensed  
11 veterinarian;

12 (3) A person who is a student in an approved veterinary  
13 technician program from performing duties or actions assigned by  
14 his or her instructors or from working under the direct supervision  
15 of a licensed veterinarian or a licensed veterinary technician;

16 (4) Any merchant or manufacturer from selling feed or  
17 feeds whether medicated or nonmedicated;

18 (5) A veterinarian regularly licensed in another state  
19 from consulting with a licensed veterinarian in this state;

20 (6) Any merchant or manufacturer from selling from his or  
21 her established place of business medicines, appliances, or other  
22 products used in the prevention or treatment of animal diseases  
23 or any merchant or manufacturer's representative from conducting  
24 educational meetings to explain the use of his or her products or  
25 from investigating and advising on problems developing from the use

1 of his or her products;

2 (7) An owner of livestock or a bona fide farm or ranch  
3 employee from performing any act of vaccination, surgery, pregnancy  
4 testing, or the administration of drugs in the treatment of  
5 domestic animals under his or her custody or ownership nor the  
6 exchange of services between persons or bona fide employees who are  
7 principally farm or ranch operators or employees in the performance  
8 of these acts;

9 (8) A member of the faculty of a veterinary school  
10 or veterinary science department from performing his or her  
11 regular functions, or a person lecturing or giving instructions  
12 or demonstrations at a veterinary school or veterinary science  
13 department or in connection with a continuing competency activity;

14 (9) Any person from selling or applying any pesticide,  
15 insecticide, or herbicide;

16 (10) Any person from engaging in bona fide scientific  
17 research which reasonably requires experimentation involving  
18 animals;

19 (11) Any person from treating or in any manner caring for  
20 domestic chickens, turkeys, or waterfowl, which are specifically  
21 exempted from the Veterinary Medicine and Surgery Practice Act;

22 (12) Any person from performing dehorning or castrating  
23 livestock, not to include equidae.

24 For purposes of the Veterinary Medicine and Surgery  
25 Practice Act, castration shall be limited to the removal or

1 destruction of male testes; or

2 (13) Any person who holds a valid credential in the  
3 State of Nebraska in a health care profession or occupation  
4 regulated under the Uniform Credentialing Act from consulting  
5 with a licensed veterinarian ~~who has contracted with or is~~  
6 ~~employed by an accredited zoological park or garden regarding~~  
7 ~~an animal on behalf of such zoological park or garden~~ or performing  
8 collaborative animal health care tasks on an animal under the care  
9 of such veterinarian ~~for such zoological park or garden~~ if all  
10 such tasks are performed under the immediate supervision of such  
11 veterinarian.

12 Sec. 8. (1) In addition to the remedies authorized in  
13 section 38-140 or 38-1,124, a person who engages in the practice of  
14 veterinary medicine and surgery without being licensed or otherwise  
15 authorized to do so under the Veterinary Medicine and Surgery  
16 Practice Act shall be subject to a civil penalty of not less than  
17 one thousand dollars nor more than five thousand dollars for the  
18 first offense and not less than five thousand dollars nor more than  
19 ten thousand dollars for the second or subsequent offense. If a  
20 violation continues after notification, this constitutes a separate  
21 offense.

22 (2) The civil penalties shall be assessed in a civil  
23 action brought for such purpose by the Attorney General in the  
24 district court of the county in which the violation occurred.

25 (3) Any civil penalty assessed and unpaid under this

1 section shall constitute a debt to the State of Nebraska which  
2 may be collected in the manner of a lien foreclosure or sued for  
3 and recovered in any proper form of action in the name of the  
4 State of Nebraska in the district court of the county in which the  
5 violator resides or owns property. The department may also collect  
6 in such action attorney's fees and costs incurred in the collection  
7 of the civil penalty. The department shall, within thirty days  
8 after receipt, transmit any collected civil penalty to the State  
9 Treasurer to be disposed of in accordance with Article VII, section  
10 5, of the Constitution of Nebraska.

11           Sec. 9. Each applicant for a license as an animal  
12 therapist in this state shall present to the department:

13           (1) Proof that the applicant holds and maintains an  
14 undisciplined license under the Uniform Credentialing Act for a  
15 health care profession other than veterinary medicine and surgery;

16           (2) Proof that the applicant has met the standards for  
17 additional training regarding the performance of that health care  
18 profession on animals as required by rules and regulations adopted  
19 and promulgated by the department upon the recommendation of the  
20 board; and

21           (3) Such other information and proof as the department,  
22 with the recommendation of the board, may require by rule and  
23 regulation.

24           Sec. 10. (1) A licensed animal therapist may perform  
25 health care therapy on an animal only if:



1           (a) The health care therapy is consistent with the  
2 licensed animal therapist's training required for the license  
3 referred to under subdivision (1) of section 9 of this act;

4           (b) The owner of the animal presents to the licensed  
5 animal therapist a prior letter of referral for health care  
6 therapy that includes a veterinary medical diagnosis and  
7 evaluation completed by a licensed veterinarian who has a  
8 veterinarian-client-patient relationship with the owner and the  
9 animal and has made the diagnosis and evaluation within ninety days  
10 immediately preceding the date of the initiation of the health care  
11 therapy; and

12           (c) The licensed animal therapist provides health care  
13 therapy reports at least monthly to the referring veterinarian,  
14 except that a report is not required for any month in which health  
15 care therapy was not provided.

16           (2) A licensed veterinarian who prepares a letter of  
17 referral for health care therapy by a licensed animal therapist  
18 shall not be liable for damages caused to the animal as a result of  
19 the health care therapy performed by the licensed animal therapist.

20           Sec. 11. In addition to the grounds for disciplinary  
21 action found in sections 38-178 and 38-179, a license to practice  
22 as a licensed animal therapist may be denied, refused renewal,  
23 limited, revoked, or suspended or have other disciplinary measures  
24 taken against it in accordance with section 38-196 when the  
25 applicant or licensee is subjected to disciplinary measures with

1 regard to his or her license referred to under subdivision (1) of  
2 section 9 of this act.

3           Sec. 12. Section 71-8909, Revised Statutes Cumulative  
4 Supplement, 2008, is amended to read:

5           71-8909 Veterinary drug distributor means any person or  
6 entity ~~other than a pharmacy~~, that engages in the distribution  
7 of veterinary legend drugs in the State of Nebraska other than a  
8 pharmacy or a veterinarian licensed under the Uniform Credentialing  
9 Act acting within the scope of practice of veterinary medicine and  
10 surgery as defined in section 38-3312.

11           Sec. 13. Section 71-8910, Revised Statutes Cumulative  
12 Supplement, 2008, is amended to read:

13           71-8910 Veterinary drug order means a lawful order or  
14 prescription of a veterinarian licensed to practice in this  
15 state ~~which order or prescription is issued pursuant to a bona~~  
16 fide veterinarian-client-patient relationship. For purposes of the  
17 Veterinary Drug Distribution Licensing Act, a veterinary drug order  
18 expires and becomes void one hundred eighty days after the date of  
19 issue.

20           Sec. 14. Section 71-8922, Revised Statutes Cumulative  
21 Supplement, 2008, is amended to read:

22           71-8922 A veterinary drug distributor may distribute  
23 veterinary legend drugs to:

24           (1) A licensed veterinarian or to another veterinary drug  
25 distributor subject to the requirements of section 71-8921; and

1 (2) A layperson responsible for the control of an animal  
2 if:

3 (a) A licensed veterinarian has issued, prior  
4 to such distribution, a veterinary drug order for the  
5 veterinary legend drug in the course of an existing, valid  
6 veterinarian-client-patient relationship and the veterinary drug  
7 order is in compliance with all federal laws and regulations;

8 (b) At the time the veterinary legend drug leaves the  
9 licensed location of the veterinary drug distributor, those in  
10 the employ of the veterinary drug distributor possess a copy of  
11 the veterinary drug order for the veterinary legend drug issued  
12 according to subdivision (a) of this subdivision and deliver a copy  
13 to the layperson responsible for the control of the animal at the  
14 time of the distribution;

15 (c) The original veterinary drug order issued according  
16 to subdivision (a) of this subdivision is retained on the premises  
17 of the veterinary drug distributor or an authorized central  
18 location for three years after the date of the last transaction  
19 affecting the veterinary drug order; and includes the following  
20 information:

- 21 ~~(i) Client name;~~
- 22 ~~(ii) Veterinarian name;~~
- 23 ~~(iii) Veterinary legend drug sold or delivered;~~
- 24 ~~(iv) Quantity of the veterinary legend drug;~~
- 25 ~~(v) Date of issue of veterinary drug order; and~~

1           ~~(vi) Expiration date of veterinary drug order,~~

2           (d) All veterinary legend drugs distributed on the  
3 veterinary drug order ~~of a licensed veterinarian~~ issued according  
4 to subdivision (a) of this subdivision are sold in the original,  
5 unbroken manufacturer's containers; and

6           (e) The veterinary legend drugs, once distributed, are  
7 not returned to the veterinary drug distributor for resale or  
8 redistribution.

9           Nothing contained in Nebraska statutes governing the  
10 practice of pharmacy shall be construed to prohibit a veterinary  
11 drug distributor from selling or otherwise distributing a  
12 veterinary legend drug pursuant to a veterinary drug order  
13 by a veterinarian licensed in this state and, when a valid  
14 veterinarian-client-patient relationship exists, to the layperson  
15 responsible for the control of the animal.

16           (3) If all federal labeling requirements are met,  
17 labeling provisions of Nebraska laws governing the practice of  
18 pharmacy shall not apply to veterinary legend drugs distributed  
19 pursuant to the Veterinary Drug Distribution Licensing Act.

20           Sec. 15. Original sections 38-1,140, 38-3301, 38-3302,  
21 38-3314, and 38-3321, Reissue Revised Statutes of Nebraska, and  
22 sections 71-8909, 71-8910, and 71-8922, Revised Statutes Cumulative  
23 Supplement, 2008, are repealed.