An Act

ENROLLED HOUSE
BILL NO. 3202

By: Armes, Richardson and Shoemake of the House

and

Schulz of the Senate

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 698.2, as amended by Section 1, Chapter 172, O.S.L. 2002, 698.4, as amended by Section 8, Chapter 375, O.S.L. 2002 and 698.12, as last amended by Section 1, Chapter 172, O.S.L. 2005 (59 O.S. Supp. 2009, Sections 698.2, 698.4 and 698.12), which relate to the Oklahoma Veterinary Practice Act; adding definition for teeth floating; adding certain requirements for board appointment; adding procedure not to be prohibited by the act; requiring certification for teeth floaters; outlining certification procedures; requiring continuing education; setting forth procedures for delivery of veterinary drugs; outlining procedure for handling complaints; and providing for codification.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2001, Section 698.2, as amended by Section 1, Chapter 172, O.S.L. 2002 (59 O.S. Supp. 2009, Section 698.2), is amended to read as follows:

Section 698.2 As used in the Oklahoma Veterinary Practice Act:

1. "Board" means the State Board of Veterinary Medical Examiners;

2. "Animal" means any animal other than humans and includes, but is not limited to, fowl, fish, birds and reptiles, wild or domestic, living or dead;

3. "Veterinarian" means a person who has received a degree in veterinary medicine or its equivalent from a school of veterinary medicine;

4. "Licensed veterinarian" means any veterinarian who holds an active license to practice veterinary medicine in this state;

5. "School of veterinary medicine" means any veterinary college or division of a university or college that offers the degree of doctor of veterinary medicine or its equivalent, which conforms to the standards required for accreditation by the American Veterinary Medical Association (AVMA) and which is recognized and approved by the Board;

6. "Veterinary technician" means a person who has graduated from a program accredited by the American Veterinary Medical Association, or its equivalent which is recognized and approved by the Board, and who has passed the examination requirements set forth by the Board, is certified to practice under the direct supervision of a licensed veterinarian. For the purpose of the Oklahoma Veterinary Practice Act, "registered veterinary technician (RVT)" will be used interchangeably with veterinary technician who is certified pursuant to Sections 698.21 through 698.26 of this title;

7. "Veterinary technologist" means a person who has successfully graduated from an AVMA-accredited bachelor degree program of veterinary technology, or its AVMA equivalent;

8. "Veterinary assistant" means an individual who may perform the duties of a veterinary technician or veterinary technologist, however, has not graduated from an AVMA-accredited technology program or its equivalent, and has not been certified by the Board;

9. "Veterinary technology" means the science and art of providing all aspects of professional medical care, services, and treatment for animals with the exception of diagnosis, prognosis, surgery, and prescription of any treatments, drugs, medications, or appliances, where a valid veterinarian-client-patient relationship exists;

10. "Direct supervision" means:

a. directions have been given to a veterinary technician, nurse, laboratory technician, intern, veterinary assistant or other employee for medical care following the examination of an animal by the licensed veterinarian responsible for the professional care of the animal, or

b. that, under certain circumstances following the examination of an animal by a licensed veterinarian responsible for the professional care of the animal, the presence of the licensed veterinarian on the premises in an animal hospital setting or in the same general area in a range setting is required after directions have been given to a veterinarian who has a certificate issued pursuant to Section 698.8 of this title;

11. "License" means authorization to practice veterinary medicine granted by the Board to an individual found by the Board to meet certain requirements pursuant to the Oklahoma Veterinary Practice Act or any other applicable statutes;

12. "Supervised Doctor of Veterinary Medicine Certificate" means authorization to practice veterinary medicine with certain limitations or restrictions on that practice, set by the Board or authorization to perform certain enumerated functions peripheral to the practice of veterinary medicine as set by the Board and has a certificate issued pursuant to Section 698.8 of this title;

13. "Veterinarian-client-patient relationship" means when:

a. the licensed veterinarian has assumed the responsibility for making medical judgments regarding the health of an animal or animals and the need for medical treatment, and the client, owner or other caretaker has agreed to follow the instructions of the licensed veterinarian~~;~~, and

b. there is sufficient knowledge of the animal or animals by the licensed veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal or animals in that:

(1) the licensed veterinarian has recently seen or is personally acquainted with the keeping and care of the animal or animals, or

(2) by medically necessary and timely visits to the premises where the animal or animals are kept or both, and

c. the licensed veterinarian is readily available for follow-up in case of adverse reactions or failure of the regimen of therapy, or has arranged for emergency medical coverage, and

d. would conform to applicable federal law and regulations;

14. "Veterinary premises" means any facility where the practice of veterinary medicine occurs, including, but not limited to, a mobile unit, mobile clinic, outpatient clinic, satellite clinic, public service outreach of a veterinary facility, or veterinary hospital or clinic. The term "veterinary premises" shall not include the premises of a client of a licensed veterinarian or research facility;

15. "Veterinary prescription drugs" means such prescription items as are in the possession of a person regularly and lawfully engaged in the manufacture, transportation, storage, or wholesale or retail distribution of veterinary drugs and the federal Food and Drug Administration-approved human drugs for animals which because of their toxicity or other potential for harmful effects, or method of use, or the collateral measures necessary for use, are labeled by the manufacturer or distributor in compliance with federal law and regulations to be sold only to or on the prescription order or under the supervision of a licensed veterinarian for use in the course of professional practice. Veterinary prescription drugs shall not include over-the-counter products for which adequate directions for lay use can be written~~.~~;

16. "ECFVG certificate" means a certificate issued by the American Veterinary Medical Association Education Commission for Foreign Veterinary Graduates, indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited or approved college of veterinary medicine;

17. "Executive Director" means the Executive Director of the State Board of Veterinary Medical Examiners or the authorized representative of such official;

18. "Telemedicine" shall mean the transmission of diagnostic images such as, but not limited to, radiographs, ultrasound, cytology, endoscopy, photographs and case information over ordinary or cellular phone lines to a licensed veterinarian or board-certified medical specialist for the purpose of consulting regarding case management with the primary care licensed veterinarian who transmits the cases;

19. "Person" means any individual, firm, partnership, association, joint venture, cooperative, corporation, or any other group or combination acting in concert, and whether or not acting as a principal, trustee, fiduciary, receiver, or as any other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, fictitious name certificate, or any other representative of such person;

20. "Food animal" means any mammalian, poultry, fowl, fish, or other animal that is raised primarily for human food consumption;

21. "Surgery" means the branch of veterinary science conducted under elective or emergency circumstances, which treats diseases, injuries and deformities by manual or operative methods including, but not limited to, cosmetic, reconstructive, ophthalmic, orthopedic, vascular, thoracic, and obstetric procedures. The provisions in Section 698.12 of this title shall not be construed as surgery;

22. "Abandonment" means to forsake entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner, or the owner's agent. Abandonment shall constitute the relinquishment of all rights and claims by the owner to an animal;

23. "Animal chiropractic diagnosis and treatment" means treatment that includes vertebral subluxation complex (vcs) and spinal manipulation of nonhuman vertebrates. The term "animal chiropractic diagnosis and treatment" shall not be construed to allow the:

a. use of x-rays,

b. performing of surgery,

c. dispensing or administering of medications, or

d. performance of traditional veterinary care; ~~and~~

24. "Animal euthanasia technician" means an employee of a law enforcement agency, an animal control agency, or animal shelter that is recognized and approved by the Board, who is certified by the Board and trained to administer sodium pentobarbital to euthanize injured, sick, homeless or unwanted domestic pets and other animals; and

25. "Teeth floating", as provided by a nonveterinary equine dental care provider, means the removal of enamel points and the smoothing, contouring and leveling of dental arcades and incisors of equine and other farm animals. It shall not include dental procedures on canines and felines.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 698.4, as amended by Section 8, Chapter 375, O.S.L. 2002 (59 O.S. Supp. 2009, Section 698.4), is amended to read as follows:

Section 698.4 A. 1. The State Board of Veterinary Medical Examiners shall consist of six (6) members, appointed by the Governor with the advice and consent of the Senate. The Board shall consist of five licensed veterinarian members, and one lay person representing the general public.

2. Each veterinary member shall be a graduate of an approved school of veterinary medicine, shall be a currently licensed veterinarian and shall have held an active license for the three (3) years preceding appointment to the Board. One member shall be appointed from each congressional district and any remaining members shall be appointed from the state at large. However, when congressional districts are redrawn each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments made after July 1 of the year in which such modification becomes effective shall be from any redrawn districts which are not represented by a board member until such time as each of the modified congressional districts are represented by a board member.

No appointments may be made after July 1 of the year in which such modification becomes effective if such appointment would result in more than two members serving from the same modified district.

3. Of the five licensed veterinarian members, one must be an equine practitioner and one must be a large animal practitioner.

4. The lay member shall have no financial interest in the profession other than as a consumer or potential consumer of its services.

~~4.~~ 5. Members must be residents of the State of Oklahoma and be persons of integrity and good reputation. No member shall be a registered lobbyist. No member shall be an officer, board member or employee of a statewide or national organization established for the purpose of advocating the interests of or conducting peer review of veterinarians licensed pursuant to the Oklahoma Veterinary Practice Act.

B. Members of the Board shall be appointed for a term of five (5) years. No member shall serve consecutively for more than two (2) terms. Not more than two (2) terms shall expire in each year, and vacancies for the remainder of an unexpired term shall be filled by appointment by the Governor. Members shall serve beyond the expiration of their term until a successor is appointed by the Governor. The initial appointee for the Board position created on November 1, 1999, shall be appointed for less than five (5) years to abide by staggered term requirements. The Governor shall appoint to a vacancy within ninety (90) days of the beginning of the vacancy. Nominees considered by the Governor for appointment to the Board must be free of pending disciplinary action or active investigation by the Board.

C. A member may be removed from the Board by the Governor for cause which shall include, but not be limited to, if a member:

1. Ceases to be qualified;

2. Is found guilty by a court of competent jurisdiction of a felony or unlawful act which involves moral turpitude;

3. Is found guilty of malfeasance, misfeasance or nonfeasance in relation to Board duties;

4. Is found mentally incompetent by a court of competent jurisdiction;

5. Is found in violation of the Oklahoma Veterinary Practice Act; or

6. Fails to attend three successive Board meetings without just cause as determined by the Board.

SECTION 3. AMENDATORY 59 O.S. 2001, Section 698.12, as last amended by Section 1, Chapter 172, O.S.L. 2005 (59 O.S. Supp. 2009, Section 698.12), is amended to read as follows:

Section 698.12 The Oklahoma Veterinary Practice Act shall not be construed to prohibit:

1. Acts of animal husbandry, dehorning, branding, tagging or notching ears, teeth floating, farriery, pregnancy checking, collecting semen, preparing semen, freezing semen, castrating, worming, vaccinating, injecting or artificial insemination of farm animals; or the acts or conduct of a person advising with respect to nutrition, feeds or feeding;

2. The owner of an animal or the owner's employees or helpers from caring for or treating animals belonging to the owner; provided that, the acts of the owner's employees or helpers otherwise prohibited by the Oklahoma Veterinary Practice Act are only an incidental part of the employment duties and for which no special compensation is made;

3. Acts of a person in lawful possession of an animal for some other purpose than practicing veterinary medicine; provided that, no charge may be made or included in any other charge or fee or adjustment otherwise made of any charge or fee for acts performed pursuant to this subsection unless the acts are performed by a licensed veterinarian as provided by the Oklahoma Veterinary Practice Act;

4. Acts of auction markets and other shippers of food animals in preparing such animals for shipment;

5. Acts of a person who is a student in good standing in a veterinary school, in performing duties or functions assigned by the student's instructors, or working under the direct supervision of a licensed veterinarian for each individual case and acts

performed by an instructor or student in a school of veterinary medicine recognized by the Board and performed as a part of the educational and training curriculum of the school under the direct supervision of faculty. The unsupervised or unauthorized practice of veterinary medicine even though on the premises of a school of veterinary medicine is prohibited;

6. Acts of any employee in the course of employment by the federal government or acts of a veterinarian practicing on property and persons outside the jurisdiction of the State of Oklahoma;

7. A veterinarian currently licensed in another state from consulting with a licensed veterinarian of this state;

8. Acts of vocational-agriculture instructors or students while engaged in regular vocational-agriculture instruction in programs approved by the Oklahoma Department of Career and Technology Education; provided that said acts are under the supervision of instructors and are carried out in the usual course of instruction and not as independent practice by an unlicensed veterinarian without supervision;

9. Any person employed by a licensed veterinarian who is assisting with the professional duties of the licensed veterinarian and who is under the direct supervision of the licensed veterinarian from administering medication or rendering auxiliary or supporting assistance under the direct supervision of such licensed veterinarian, provided that the practice is conducted in compliance with all laws of this state and rules of this Board;

10. Any chiropractic physician licensed in this state who is certified by the Board of Chiropractic Examiners to engage in animal chiropractic diagnosis and treatment from practicing animal chiropractic diagnosis and treatment;

11. Any chiropractic physician licensed in this state who is not certified to practice animal chiropractic diagnosis and treatment by the Board of Chiropractic Examiners from providing chiropractic treatment to an animal referred to such chiropractic physician by a licensed veterinarian; ~~or~~

12. Any individual that is certified in animal massage therapy and acquires liability insurance from engaging in animal massage therapy after referral from a licensed veterinarian; or

13. Any individual that is certified by the State Board of Veterinary Medical Examiners and pays a certification fee of Two Hundred Dollars ($200.00) under subsection A of Section 4 of this act from engaging in nonveterinary equine dental care.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 698.30 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Veterinary Medical Examiners shall annually certify any practitioner of teeth floating, known as a nonveterinary equine dental care provider and as defined by paragraph 25 of Section 698.2 of Title 59 of the Oklahoma Statutes. Certification shall be issued within ninety (90) days of application, and to be eligible for this certification, nonveterinary equine dental care providers shall provide proof of qualification to be a nonveterinary equine dental care provider using one of the following methods:

1. Completion of at least eighty (80) hours of training in equine dentistry at the Texas Institute of Equine Dentistry, the Academy of Equine Dentistry or a similar program approved by the State Board of Veterinary Medical Examiners; or

2. Certification as an equine dental technician by the International Association of Equine Dentistry or its equivalent by a similar certifying organization approved by the State Board of Veterinary Medical Examiners.

B. Prior to July 1, 2011, teeth floaters shall be granted certification upon submission of a signed and notarized affidavit from three persons who are residents of this state, stating that they know this individual and the individual is known by the community to be a nonveterinary equine dental care provider. Of the three residents, one shall be from a veterinarian that is licensed to practice in the state; and one shall be from the current president of any official statewide association representing horses, horse breeds or horsemen, or a horse owner currently residing in the state.

C. Proof of four (4) hours of continuing education shall be required for annual certification renewal for teeth floaters. This continuing education shall be a course approved by the Texas Institute of Equine Dentistry, the Academy of Equine Dentistry, the State Board of Veterinary Medical Examiners, the International

Association of Equine Dentistry or a similar organization approved by the State Board of Veterinary Medical Examiners and shall be obtained in the twelve-month period immediately preceding the year for which the certification is to be issued.

D. If prescription drugs, not to include any controlled dangerous substances as defined in the Uniform Controlled Dangerous Substances Act, are to be used in nonveterinary equine dental care procedures, the equine owner shall contact a veterinarian licensed by the state. If the veterinarian deems that prescription drugs, not to include any controlled dangerous substances as defined in the Uniform Controlled Dangerous Substances Act, are necessary, the veterinarian may assemble those drugs and may allow the owner or the owner's agent, who can be a nonveterinary equine dental care provider, to pick up those drugs and deliver them to the equine owner. No prescription drugs shall be prescribed, dispensed, or administered without the establishment of a valid client-patient relationship between the equine owner and the veterinarian. Prescription drugs must be used in accordance with United States Food and Drug Administration regulations.

E. Complaints related to any teeth floater shall be filed with the State Veterinarian through the Oklahoma Department of Agriculture, Food, and Forestry. The State Veterinarian may investigate complaints, and may forward findings as it deems appropriate to the appropriate law enforcement entity.

Passed the House of Representatives the 8th day of April, 2010.

Presiding Officer of the House of Representatives

Passed the Senate the 31st day of March, 2010.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 15th **day of** April, **20** 10, **at** 3:28 **o'clock** P **M.**

By:

Approved by the Governor of the State of Oklahoma the 16th **day of** April, **20** 10, **at** 5:13 **o'clock** P. **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 17th **day of** April, **20** 10, **at** 9:45 **o'clock** A **M.**

By: