
HOUSE BILL 1176

State of Washington

61st Legislature

2009 Regular Session

By Representatives Upthegrove and Orwall

Read first time 01/14/09. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to the Washington state veterinary board of
2 governors; amending RCW 18.92.021, 18.92.046, 18.130.050, and
3 18.130.060; and adding a new section to chapter 18.92 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 18.92.021 and 2007 c 235 s 3 are each amended to read
6 as follows:

7 (1) There is created a Washington state veterinary board of
8 governors consisting of seven members, (~~five~~) three of whom shall be
9 licensed veterinarians, one of whom shall be a licensed veterinary
10 technician trained in both large and small animal medicine, and (~~one~~)
11 three of whom shall be (~~a lay~~) members of the general public.

12 (2)(a) The licensed members shall be appointed by the governor. At
13 the time of their appointment the licensed members of the board must be
14 actual residents of the state (~~in active practice as licensed~~) with
15 an active or retired active license as a practitioner(~~s~~) of
16 veterinary medicine, surgery, and dentistry, or employed as a licensed
17 veterinary technician, as applicable, and must be citizens of the
18 United States. Not more than one licensed veterinary member shall be
19 from the same congressional district. The board shall not be deemed to

1 be unlawfully constituted and a member of the board shall not be deemed
2 ineligible to serve the remainder of the member's unexpired term on the
3 board solely by reason of the establishment of new or revised
4 boundaries for congressional districts.

5 (b) The terms of the (~~first~~) licensed members of the board shall
6 be (~~as follows: One member for five, four, three, two, and one years~~
7 ~~respectively. Thereafter the terms shall be~~) for (~~five~~) three years
8 (~~and until their successors are appointed and qualified~~).

9 (c) The (~~lay~~) members of the general public shall be appointed by
10 the governor for a (~~five~~) three-year term (~~and until the lay~~
11 ~~member's successor is appointed~~). The members of the general public
12 may not have a material or financial interest in the rendering of
13 veterinary services or have a family member who provides veterinary
14 services. The governor may stagger the initial terms of the members of
15 the general public as required to prevent their terms from expiring
16 simultaneously.

17 (d) A member may be appointed to serve a second term, if that term
18 does not run consecutively.

19 (e) Vacancies in the board shall be filled by the governor, the
20 appointee to hold office for the remainder of the unexpired term.

21 (3) The licensed veterinary technician member is a nonvoting member
22 with respect to board decisions related to the discipline of a
23 veterinarian involving standard of care.

24 (4) Officers of the board shall be a chair and a secretary-
25 treasurer to be chosen by the members of the board from among its
26 members.

27 (5) At least four voting members of the board, including at least
28 two members of the general public, shall constitute a quorum at
29 meetings of the board.

30 (6) The board must maintain a written record of any closed session
31 proceedings.

32 (7) The following are public records for purposes of chapter 42.56
33 RCW and must be disclosed to the public upon request:

34 (a) Any worksheet used by a reviewing board member in any part of
35 the disciplinary process; and

36 (b) The written record required by subsection (6) of this section.

37 (8) The board may not use panels in disciplinary actions as
38 provided in chapter 18.130 RCW.

1 **Sec. 2.** RCW 18.92.046 and 1987 c 150 s 58 are each amended to read
2 as follows:

3 (1) The uniform disciplinary act, chapter 18.130 RCW, governs
4 unlicensed practice, the issuance and denial of licenses, and the
5 discipline of licensees under this chapter.

6 (2) In all cases of unprofessional conduct relating to licensees
7 under this chapter that do not involve clinical expertise or standards
8 of practice, as those terms are defined in RCW 18.130.020, the
9 secretary is the disciplining authority responsible for all
10 disciplinary activities identified in chapter 18.130 RCW that relate to
11 the evaluation of complaints, performance of investigations, and review
12 of the results of investigations to determine the appropriate
13 disposition of a case. The secretary may seek the advice of the board
14 as necessary when conducting these activities. The board shall conduct
15 an initial review of each complaint to determine if the case involves
16 issues of clinical expertise or standards of practice. Within seventy-
17 two hours of receipt of a complaint from the secretary, the board must
18 identify whether the complaint should be transferred to the secretary.
19 If the board determines that the case involves issues of clinical
20 expertise or standards of practice, then the case, upon notice to the
21 secretary, must become the responsibility of the board under its
22 authority as a disciplining authority under RCW 18.130.050.

23 (3)(a) In addition to requirements under RCW 18.130.095, the
24 secretary or the board, as applicable, must provide to the complainant
25 a written explanation of any determination pertaining to the complaint.
26 Such actions must include a determination to initiate an investigation,
27 a determination to close a complaint without investigation, a
28 determination to close a complaint after investigation, a finding of
29 unprofessional conduct following a hearing, or a finding that
30 unprofessional conduct did not occur following a hearing.

31 (b) Within twenty days of receiving a written explanation from the
32 secretary or the board relating to a determination identified in (a) of
33 this subsection, the complainant may appeal the determination to an
34 administrative law judge for review in accordance with chapter 34.05
35 RCW.

36 (c) Within twenty days of receiving a decision from an
37 administrative law judge denying an appeal under (b) of this

1 subsection, the complainant may request judicial review of the decision
2 in accordance with chapter 34.05 RCW.

3 (4) Following a successful appeal of a case under subsection (3)(b)
4 or (c) of this section, the secretary or the board, as appropriate,
5 shall continue to pursue the case against the license holder.

6 NEW SECTION. Sec. 3. A new section is added to chapter 18.92 RCW
7 to read as follows:

8 (1) In any disciplinary proceeding administered under chapter
9 18.130 RCW in which the secretary or the board issues an order for a
10 sanction under RCW 18.130.160, other than the revocation of a license,
11 the sanction must be based on a finding supported by a preponderance of
12 the evidence that the veterinarian has committed unprofessional conduct
13 or is unable to practice with reasonable skill and safety due to a
14 physical or mental condition.

15 (2) In any proceeding in which the secretary or the board issues an
16 order to revoke a license under RCW 18.130.160, the sanction must be
17 based on a finding supported by clear, cogent, and convincing evidence
18 that the veterinarian has committed unprofessional conduct or is unable
19 to practice with reasonable skill and safety due to a physical or
20 mental condition.

21 **Sec. 4.** RCW 18.130.050 and 2008 c 134 s 3 are each amended to read
22 as follows:

23 Except as provided in RCW 18.130.062 and chapter 18.92 RCW, the
24 disciplining authority has the following authority:

25 (1) To adopt, amend, and rescind such rules as are deemed necessary
26 to carry out this chapter;

27 (2) To investigate all complaints or reports of unprofessional
28 conduct as defined in this chapter;

29 (3) To hold hearings as provided in this chapter;

30 (4) To issue subpoenas and administer oaths in connection with any
31 investigation, consideration of an application for license, hearing, or
32 proceeding held under this chapter;

33 (5) To take or cause depositions to be taken and use other
34 discovery procedures as needed in any investigation, hearing, or
35 proceeding held under this chapter;

36 (6) To compel attendance of witnesses at hearings;

1 (7) In the course of investigating a complaint or report of
2 unprofessional conduct, to conduct practice reviews and to issue
3 citations and assess fines for failure to produce documents, records,
4 or other items in accordance with RCW 18.130.230;

5 (8) To take emergency action ordering summary suspension of a
6 license, or restriction or limitation of the license holder's practice
7 pending proceedings by the disciplining authority. Within fourteen
8 days of a request by the affected license holder, the disciplining
9 authority must provide a show cause hearing in accordance with the
10 requirements of RCW 18.130.135. Consistent with RCW 18.130.370, a
11 disciplining authority shall issue a summary suspension of the license
12 or temporary practice permit of a license holder prohibited from
13 practicing a health care profession in another state, federal, or
14 foreign jurisdiction because of an act of unprofessional conduct that
15 is substantially equivalent to an act of unprofessional conduct
16 prohibited by this chapter or any of the chapters specified in RCW
17 18.130.040. The summary suspension remains in effect until proceedings
18 by the Washington disciplining authority have been completed;

19 (9) To conduct show cause hearings in accordance with RCW
20 18.130.062 or 18.130.135 to review an action taken by the disciplining
21 authority to suspend a license or restrict or limit a license holder's
22 practice pending proceedings by the disciplining authority;

23 (10) To use a presiding officer as authorized in RCW 18.130.095(3)
24 or the office of administrative hearings as authorized in chapter 34.12
25 RCW to conduct hearings. The disciplining authority shall make the
26 final decision regarding disposition of the license unless the
27 disciplining authority elects to delegate in writing the final decision
28 to the presiding officer. Disciplining authorities identified in RCW
29 18.130.040(2)(b) may not delegate the final decision regarding
30 disposition of the license or imposition of sanctions to a presiding
31 officer in any case pertaining to standards of practice or where
32 clinical expertise is necessary;

33 (11) To use individual members of the boards to direct
34 investigations and to authorize the issuance of a citation under
35 subsection (7) of this section. However, the member of the board shall
36 not subsequently participate in the hearing of the case;

37 (12) To enter into contracts for professional services determined
38 to be necessary for adequate enforcement of this chapter;

1 (13) To contract with license holders or other persons or
2 organizations to provide services necessary for the monitoring and
3 supervision of license holders who are placed on probation, whose
4 professional activities are restricted, or who are for any authorized
5 purpose subject to monitoring by the disciplining authority;

6 (14) To adopt standards of professional conduct or practice;

7 (15) To grant or deny license applications, and in the event of a
8 finding of unprofessional conduct by an applicant or license holder, to
9 impose any sanction against a license applicant or license holder
10 provided by this chapter. After January 1, 2009, all sanctions must be
11 issued in accordance with RCW 18.130.390;

12 (16) To restrict or place conditions on the practice of new
13 licensees in order to protect the public and promote the safety of and
14 confidence in the health care system;

15 (17) To designate individuals authorized to sign subpoenas and
16 statements of charges;

17 (18) To establish panels consisting of three or more members of the
18 board to perform any duty or authority within the board's jurisdiction
19 under this chapter;

20 (19) To review and audit the records of licensed health facilities'
21 or services' quality assurance committee decisions in which a license
22 holder's practice privilege or employment is terminated or restricted.
23 Each health facility or service shall produce and make accessible to
24 the disciplining authority the appropriate records and otherwise
25 facilitate the review and audit. Information so gained shall not be
26 subject to discovery or introduction into evidence in any civil action
27 pursuant to RCW 70.41.200(3).

28 **Sec. 5.** RCW 18.130.060 and 2008 c 134 s 4 are each amended to read
29 as follows:

30 In addition to the authority specified in RCW 18.130.050 and
31 18.130.062 and chapter 18.92 RCW, the secretary has the following
32 additional authority:

33 (1) To employ such investigative, administrative, and clerical
34 staff as necessary for the enforcement of this chapter. The secretary
35 must, whenever practical, make primary assignments on a long-term basis
36 to foster the development and maintenance of staff expertise. To

1 ensure continuity and best practices, the secretary will regularly
2 evaluate staff assignments and workload distribution;

3 (2) Upon the request of a board or commission, to appoint pro tem
4 members to participate as members of a panel of the board or commission
5 in connection with proceedings specifically identified in the request.
6 Individuals so appointed must meet the same minimum qualifications as
7 regular members of the board or commission. Pro tem members appointed
8 for matters under this chapter are appointed for a term of no more than
9 one year. No pro tem member may serve more than four one-year terms.
10 While serving as board or commission members pro tem, persons so
11 appointed have all the powers, duties, and immunities, and are entitled
12 to the emoluments, including travel expenses in accordance with RCW
13 43.03.050 and 43.03.060, of regular members of the board or commission.
14 The chairperson of a panel shall be a regular member of the board or
15 commission appointed by the board or commission chairperson. Panels
16 have authority to act as directed by the board or commission with
17 respect to all matters subject to the jurisdiction of the board or
18 commission and within the authority of the board or commission. The
19 authority to act through panels does not restrict the authority of the
20 board or commission to act as a single body at any phase of proceedings
21 within the board's or commission's jurisdiction. Board or commission
22 panels may issue final orders and decisions with respect to matters and
23 cases delegated to the panel by the board or commission. Final
24 decisions may be appealed as provided in chapter 34.05 RCW, the
25 administrative procedure act;

26 (3) To establish fees to be paid for witnesses, expert witnesses,
27 and consultants used in any investigation and to establish fees to
28 witnesses in any agency adjudicative proceeding as authorized by RCW
29 34.05.446;

30 (4) To conduct investigations and practice reviews at the direction
31 of the disciplining authority and to issue subpoenas, administer oaths,
32 and take depositions in the course of conducting those investigations
33 and practice reviews at the direction of the disciplining authority;

34 (5) To have the health professions regulatory program establish a
35 system to recruit potential public members, to review the
36 qualifications of such potential members, and to provide orientation to
37 those public members appointed pursuant to law by the governor or the

1 secretary to the boards and commissions specified in RCW
2 18.130.040(2)(b), and to the advisory committees and councils for
3 professions specified in RCW 18.130.040(2)(a); and

4 (6) To adopt rules, in consultation with the disciplining
5 authorities, requiring every license holder to report information
6 identified in RCW 18.130.070.

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