

1 SENATE BILL 174

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Carlos R. Cisneros

5  
6  
7  
8 FOR THE LEGISLATIVE FINANCE COMMITTEE

9  
10 AN ACT

11 RELATING TO LICENSURE; REPEALING THE ANIMAL SHELTERING BOARD;  
12 ASSIGNING THE POWERS AND DUTIES UNDER THE ANIMAL SHELTERING ACT  
13 TO THE BOARD OF VETERINARY MEDICINE; RECONCILING MULTIPLE  
14 AMENDMENTS TO THE SAME SECTIONS OF LAWS IN 2009; AMENDING,  
15 REPEALING AND RECOMPILING SECTIONS OF THE NMSA 1978; PROVIDING  
16 FOR THE TRANSFER OF APPROPRIATIONS, MONEY, PROPERTY,  
17 CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES.

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. Section 61-14-1 NMSA 1978 (being Laws 1967,  
21 Chapter 62, Section 1, as amended) is amended to read:

22 "61-14-1. SHORT TITLE.--~~[Chapter 61, Article 14]~~ Sections  
23 61-14-1 through 61-14-20 NMSA 1978 may be cited as the  
24 "Veterinary Practice Act"."

25 SECTION 2. Section 61-14-4 NMSA 1978 (being Laws 1967,

.190786.1

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 Chapter 62, Section 3, as amended) is amended to read:

2 "61-14-4. BOARD CREATED--TERMS--COMPENSATION--FINANCE.--

3 A. The "board of veterinary medicine" is created.  
4 The board shall consist of [~~seven~~] eight members who are  
5 citizens of the United States and residents of New Mexico.  
6 Veterinary members shall have been licensed to practice  
7 veterinary medicine in the state for five years preceding their  
8 appointment to the board.

9 B. Members of the board and their successors shall  
10 be appointed by the governor. Five of the members shall be  
11 licensed veterinarians, and these appointments may be made from  
12 a list of five names for each professional vacancy, submitted  
13 to the governor by the New Mexico veterinary medical  
14 association. Two members shall represent the public and shall  
15 not have been licensed as veterinarians or have any significant  
16 financial interest, whether direct or indirect, in the  
17 occupation regulated. One member shall be a euthanasia  
18 technician, a euthanasia instructor or a manager or director of  
19 a euthanasia agency.

20 C. Members shall be appointed to staggered terms of  
21 four years each. Appointments shall be made in such manner  
22 that the terms of no more than two board members expire on July  
23 1 of each year. All board members shall hold office until  
24 their successors are appointed and qualified. Appointments to  
25 vacancies shall be for the unexpired terms. Board members

.190786.1

underscored material = new  
[bracketed material] = delete

1 shall not serve more than two consecutive four-year terms.

2 D. A majority of the members of the board  
3 constitutes a quorum for the transaction of business, except  
4 that the vote of four members is required for suspension or  
5 revocation of a license. The board shall elect a [~~chairman~~  
6 chair and other necessary officers prescribed by [~~regulation~~]  
7 rule of the board.

8 E. Members of the board [~~shall~~] are entitled to  
9 receive per diem and mileage as provided in the Per Diem and  
10 Mileage Act and shall receive no other compensation, perquisite  
11 or allowance. This reimbursement and all other expenses  
12 involved in carrying out the Veterinary Practice Act shall be  
13 paid exclusively from fees received pursuant to provisions of  
14 the Veterinary Practice Act. The board shall deposit all fees  
15 received pursuant to provisions of the Veterinary Practice Act  
16 with the state treasurer for the exclusive use of the board,  
17 and money shall be expended only upon vouchers certified by a  
18 majority of the board.

19 F. Any board member failing to attend, after proper  
20 notice, three consecutive meetings, either regular or special,  
21 shall automatically be removed as a member of the board."

22 SECTION 3. Section 61-14-5 NMSA 1978 (being Laws 1967,  
23 Chapter 62, Section 4, as amended) is amended to read:

24 "61-14-5. BOARD--DUTIES.--The board shall:

25 A. examine and determine the qualifications and

.190786.1

underscored material = new  
[bracketed material] = delete

1 fitness of applicants for a license to practice veterinary  
2 medicine in New Mexico and issue, renew, deny, suspend or  
3 revoke licenses;

4 B. regulate artificial insemination and pregnancy  
5 diagnosis by establishing standards of practice and issuing  
6 permits to persons found qualified;

7 C. establish a schedule of license and permit fees  
8 based on the board's financial requirements for the ensuing  
9 year;

10 D. conduct investigations necessary to determine  
11 violations of the Veterinary Practice Act and discipline  
12 persons found in violation;

13 E. employ personnel necessary to carry out its  
14 duties;

15 F. promulgate and enforce [~~regulations~~] rules  
16 necessary to establish recognized standards for the practice of  
17 veterinary medicine and to carry out the provisions of the  
18 Veterinary Practice Act. The board shall make available to  
19 interested members of the public copies of the Veterinary  
20 Practice Act and all [~~regulations~~] rules promulgated by the  
21 board;

22 G. examine applicants for veterinary technician  
23 certification purposes. Such examination shall be held at  
24 least once a year at the times and places designated by the  
25 board;

.190786.1

underscored material = new  
[bracketed material] = delete

1 H. establish a five-member veterinary technician  
2 examining committee;

3 I. adopt [~~regulations~~] rules establishing  
4 continuing education requirements as a condition for license  
5 renewal; [~~and~~]

6 J. regulate the operation of veterinary facilities,  
7 including:

8 (1) establishing requirements for operation of  
9 a veterinary facility in accordance with recognized standards  
10 for the practice of veterinary medicine;

11 (2) issuing permits to qualified veterinary  
12 facilities; and

13 (3) adopting standards for inspection of  
14 veterinary facilities.

15 For purposes of this subsection, "veterinary facility"  
16 means [~~any~~] a building, mobile unit, vehicle or other location  
17 where services included within the practice of veterinary  
18 medicine are provided; and

19 K. perform its powers and duties under the Animal  
20 Sheltering Act."

21 SECTION 4. Section 77-1B-1 NMSA 1978 (being Laws 2007,  
22 Chapter 60, Section 1, as amended) is recompiled as Section  
23 61-14-21 NMSA 1978 and amended to read:

24 "61-14-21. SHORT TITLE.--~~[Chapter 77, Article 1B]~~  
25 Sections 61-14-21 through 61-14-31 NMSA 1978 may be cited as

.190786.1

underscored material = new  
[bracketed material] = delete

1 the "Animal Sheltering Act"."

2 SECTION 5. Section 77-1B-2 NMSA 1978 (being Laws 2007,  
3 Chapter 60, Section 2, as amended) is recompiled as Section  
4 61-14-22 NMSA 1978 and is amended to read:

5 "61-14-22. DEFINITIONS.--As used in the Animal Sheltering  
6 Act:

7 A. "animal" means any animal, except humans, not  
8 defined as "livestock" in Subsection L of this section;

9 B. "animal shelter":

10 (1) means:

11 (a) a county or municipal facility that  
12 provides shelter to animals on a regular basis, including a dog  
13 pound; and

14 (b) a private humane society or a  
15 private animal shelter that temporarily houses stray, unwanted  
16 or injured animals through administrative or contractual  
17 arrangements with a local government agency; and

18 (2) does not include a municipal zoological  
19 park;

20 C. "board" means the [~~animal sheltering~~] board of  
21 veterinary medicine;

22 [~~D. "department" means the regulation and licensing~~  
23 ~~department;~~

24 ~~E.]~~ D. "disposition" means adoption of an animal;  
25 return of an animal to the owner; release of an animal to a

.190786.1

underscoring material = new  
~~[bracketed material] = delete~~

1 rescue organization; release of an animal to another animal  
2 shelter or to a rehabilitator licensed by the department of  
3 game and fish or the United States fish and wildlife service;  
4 or euthanasia of an animal;

5 ~~[F.]~~ E. "emergency field euthanasia" means the  
6 process defined by rule of the board to cause the death of an  
7 animal in an emergency situation when safe and humane transport  
8 of the animal is not possible;

9 ~~[G.]~~ F. "euthanasia" means to produce a humane  
10 death of an animal by standards deemed acceptable by the board  
11 as set forth in its rules;

12 ~~[H.]~~ G. "euthanasia agency" means a facility that  
13 provides shelter to animals on a regular basis, including a dog  
14 pound, a humane society or a public or private shelter facility  
15 that temporarily houses stray, unwanted or injured animals, and  
16 that performs euthanasia;

17 ~~[I.]~~ H. "euthanasia drugs" means non-narcotic  
18 schedule II or schedule III substances and chemicals as set  
19 forth in the Controlled Substances Act that are used for the  
20 purposes of euthanasia and pre-euthanasia of animals;

21 ~~[J.]~~ I. "euthanasia instructor" means a  
22 veterinarian or a euthanasia technician certified by the board  
23 to instruct other individuals in euthanasia techniques;

24 ~~[K.]~~ J. "euthanasia technician" means a person  
25 licensed by the board to euthanize animals for a euthanasia

.190786.1

underscored material = new  
[bracketed material] = delete

1 agency;

2 [H.] K. "livestock" means all domestic or  
3 domesticated animals that are used or raised on a farm or ranch  
4 and exotic animals in captivity and includes horses, asses,  
5 mules, cattle, sheep, goats, swine, bison, poultry, ostriches,  
6 emus, rheas, camelids and farmed cervidae but does not include  
7 canine or feline animals;

8 [M.] L. "rescue organization" means an organization  
9 that rescues animals and is not involved in the breeding of  
10 animals;

11 [N.] M. "supervising veterinarian" means a person  
12 who is a veterinarian, who holds both a valid New Mexico  
13 controlled substance license and a valid federal drug  
14 enforcement agency license and who approves the drug protocols  
15 and the procurement and administration of all pharmaceuticals;  
16 and

17 [O.] N. "veterinarian" means a person who is  
18 licensed as a doctor of veterinary medicine by the board [~~of~~  
19 ~~veterinary medicine~~] pursuant to the Veterinary Practice Act."

20 SECTION 6. Section 77-1B-4 NMSA 1978 (being Laws 2007,  
21 Chapter 60, Section 4, as amended by Laws 2009, Chapter 102,  
22 Section 6 and by Laws 2009, Chapter 192, Section 2) is  
23 recompiled as Section 61-14-23 NMSA 1978 and is amended to  
24 read:

25 "61-14-23. ANIMAL CARE AND FACILITY FUND CREATED--  
.190786.1

underscored material = new  
[bracketed material] = delete

1 ADMINISTRATION.--

2 A. The "animal care and facility fund" is created  
3 in the state treasury. All fees collected pursuant to the  
4 Animal Sheltering Act shall be deposited in the fund.

5 B. The animal care and facility fund shall consist  
6 of money collected by the board pursuant to the Animal  
7 Sheltering Act; income from investment of the fund; and money  
8 appropriated to the fund or accruing to it through fees [~~or~~  
9 ~~administrative penalties~~], cooperative research agreements,  
10 income, gifts, grants, donations, bequests, sales of  
11 promotional items, handbooks or educational materials or any  
12 other source. Money in the fund shall not be transferred to  
13 another fund or encumbered or expended except for expenditures  
14 authorized pursuant to the Animal Sheltering Act.

15 C. Money in the fund is subject to appropriation by  
16 the legislature to the [~~department~~] board to be used to help  
17 animal shelters and communities defray the cost of implementing  
18 the board's initiatives conducted pursuant to the Animal  
19 Sheltering Act. The fund shall be administered by the  
20 [~~department~~] board to carry out the purposes of the Animal  
21 Sheltering Act.

22 D. Each fiscal year, an amount of money in the fund  
23 appropriated pursuant to this section that is equal to the  
24 total amount of money credited to the fund for that fiscal year  
25 from special registration plates issued pursuant to Section

.190786.1

underscored material = new  
[bracketed material] = delete

1 66-3-424.3 NMSA 1978 shall be administered so that spay and  
2 neuter programs in a county receive money attributable to the  
3 number of those special registration plates issued in that  
4 county.

5 E. A disbursement from the fund shall be made only  
6 upon a warrant drawn by the secretary of finance and  
7 administration pursuant to a voucher signed by the  
8 [~~superintendent of regulation and licensing~~] chair of the board  
9 or the [~~superintendent's~~] chair's designee.

10 F. Unexpended and unencumbered balances in the fund  
11 at the end of a fiscal year shall not revert to the general  
12 fund."

13 SECTION 7. Section 77-1B-5 NMSA 1978 (being Laws 2007,  
14 Chapter 60, Section 5, as amended) is recompiled as Section  
15 61-14-24 NMSA 1978 and is amended to read:

16 "61-21-24. BOARD POWERS AND DUTIES.--The board shall:

17 A. provide [~~board recommended~~] standards regarding  
18 the infrastructure for all animal shelters;

19 B. provide [~~board recommended~~] operating standards  
20 for all animal shelters;

21 C. adopt methods and procedures acceptable for  
22 conducting emergency field euthanasia;

23 D. adopt, promulgate and revise rules necessary to  
24 carry out the provisions of the Animal Sheltering Act;

25 E. have authority to issue licenses and

.190786.1

underscoring material = new  
[bracketed material] = delete

1 certificates pursuant to the Animal Sheltering Act;

2 F. establish the types of licenses and certificates  
3 that may be issued pursuant to the Animal Sheltering Act and  
4 establish criteria for issuing the licenses and certificates;

5 G. prescribe standards and approve curricula for  
6 educational programs [~~that will be used~~] to train and prepare  
7 persons for licensure or certification pursuant to the Animal  
8 Sheltering Act;

9 H. implement continuing education requirements for  
10 licensees and certificate holders pursuant to the Animal  
11 Sheltering Act;

12 I. conduct administrative hearings upon charges  
13 relating to violations of provisions of the Animal Sheltering  
14 Act or rules adopted pursuant to that act in accordance with  
15 the Uniform Licensing Act;

16 J. provide for all examinations and for issuance  
17 and renewal of licenses and certificates;

18 K. establish fees not to exceed one hundred fifty  
19 dollars (\$150) for licenses and certificates pursuant to the  
20 Animal Sheltering Act;

21 L. establish committees as the board deems  
22 necessary to effect the provisions of the Animal Sheltering  
23 Act;

24 M. apply for injunctive relief to enforce the  
25 provisions of the Animal Sheltering Act;

.190786.1

underscored material = new  
[bracketed material] = delete

1 N. conduct national criminal background checks on  
2 applicants seeking licensure or certification under the Animal  
3 Sheltering Act;

4 O. keep a record of all proceedings;

5 P. make an annual report to the legislature and to  
6 the governor;

7 Q. provide for the inspection of animal shelters  
8 and euthanasia agencies;

9 R. develop mechanisms to address complaints of  
10 misconduct at animal shelters and euthanasia agencies and  
11 noncompliance with the provisions of the Animal Sheltering Act  
12 or rules adopted pursuant to that act;

13 S. develop mechanisms to address complaints of  
14 licensee and certificate-holder misconduct and noncompliance;

15 T. develop and recommend dog and cat spay and  
16 neuter plans and community outreach plans in support of and in  
17 conjunction with animal shelters and euthanasia agencies;

18 ~~[U. disburse money from the animal care and  
19 facility fund;~~

20 ~~V.] U.~~ provide ~~[board-recommended]~~ standards for  
21 maintaining records concerning health care and disposition of  
22 animals; and

23 ~~[W.] V.~~ refer to national animal control  
24 association standards in determining its ~~[regulations]~~ animal  
25 sheltering rules."

.190786.1

underscored material = new  
~~[bracketed material] = delete~~

1           **SECTION 8.** Section 77-1B-8 NMSA 1978 (being Laws 2007,  
2 Chapter 60, Section 8, as amended by Laws 2009, Chapter 102,  
3 Section 11 and by Laws 2009, Chapter 103, Section 2) is  
4 recompiled as Section 61-14-28 NMSA 1978 and is amended to  
5 read:

6           "61-14-28. EUTHANASIA AGENCIES--INSPECTIONS--  
7 EXEMPTIONS.--

8           A. The board shall have authority over the  
9 licensing of euthanasia agencies. All euthanasia agencies  
10 shall be licensed by the board prior to euthanasia being  
11 performed by that agency.

12           B. The board shall adopt rules governing the  
13 procedures for administering euthanasia; provided that the use  
14 of carbon monoxide gas chambers shall be prohibited for the  
15 euthanasia of cats and dogs.

16           C. The board shall establish rules for inspecting a  
17 facility holding or claiming to hold a license as a euthanasia  
18 agency in this state.

19           D. The board shall establish policies and  
20 procedures for recordkeeping and for securing, using and  
21 disposing of euthanasia drugs in accordance with requirements  
22 of the Controlled Substances Act, the United States drug  
23 enforcement administration's Controlled Substances Act and the  
24 rules of the board of pharmacy.

25           E. Euthanasia agencies using controlled substances

.190786.1

underscored material = new  
[bracketed material] = delete

1 shall have on staff or under contract a consulting pharmacist  
2 as that position is defined in the Pharmacy Act.

3 F. Nothing in [~~Chapter 77, Article 1B NMSA 1978~~]  
4 the Animal Sheltering Act shall be construed as allowing a  
5 euthanasia technician or a euthanasia instructor to engage in  
6 the practice of veterinary medicine when performing the duties  
7 set forth in that act.

8 G. Nothing in [~~Chapter 77, Article 1B NMSA 1978~~]  
9 the Animal Sheltering Act shall be construed as preventing a  
10 euthanasia instructor from euthanizing animals during a board-  
11 approved course on euthanasia instruction.

12 H. Nothing in [~~Chapter 77, Article 1B NMSA 1978~~]  
13 the Animal Sheltering Act affects wildlife rehabilitators  
14 working under the auspices of the department of game and fish.

15 I. A veterinary clinic serving as a euthanasia  
16 agency pursuant to a contract with a local government is exempt  
17 from the provisions of [~~Chapter 77, Article 1B NMSA 1978~~] the  
18 Animal Sheltering Act; provided that the veterinary clinic is  
19 subject to licensure and rules adopted pursuant to the  
20 Veterinary Practice Act.

21 J. A municipal facility that is a zoological park  
22 is exempt from the provisions of [~~Chapter 77, Article 1B NMSA~~  
23 ~~1978~~] the Animal Sheltering Act."

24 SECTION 9. Section 77-1B-9 NMSA 1978 (being Laws 2007,  
25 Chapter 60, Section 9, as amended) is recompiled as Section  
.190786.1

underscored material = new  
[bracketed material] = delete

1 61-14-29 NMSA 1978 and is amended to read:

2 "61-14-29. VIOLATIONS.--

3 A. Unless otherwise provided in the Animal  
4 Sheltering Act, it is a violation of that act for a person to:

5 (1) perform euthanasia for a euthanasia agency  
6 or an animal shelter in this state without possessing a valid  
7 license pursuant to the Animal Sheltering Act;

8 (2) solicit, advertise or offer to perform an  
9 act for which licensure or certification is required pursuant  
10 to the Animal Sheltering Act, unless the person holds a license  
11 or certification;

12 (3) refuse to comply with a cease and desist  
13 order issued by the board;

14 (4) refuse or fail to comply with the  
15 provisions of the Animal Sheltering Act;

16 (5) make a material misstatement in an  
17 application for licensure or certification;

18 (6) intentionally make a material misstatement  
19 to the [~~department~~] board during an official investigation;

20 (7) impersonate an official or inspector;

21 (8) refuse or fail to comply with rules  
22 adopted by the board or with a lawful order issued by the  
23 board;

24 (9) aid or abet another in violating  
25 provisions of the Animal Sheltering Act, or a rule adopted by

.190786.1

underscored material = new  
[bracketed material] = delete

1 the board;

2 (10) alter or falsify a certificate of  
3 inspection, license or certification issued by the board;

4 (11) fail to carry out the duties of a  
5 euthanasia technician in a professional manner;

6 (12) abuse the use of a chemical substance or  
7 be guilty of habitual or excessive use of intoxicants or drugs;

8 (13) sell or give chemical substances used in  
9 euthanasia procedures to an unlicensed person; ~~and~~ or

10 (14) assist an unlicensed or unauthorized  
11 person in euthanizing animals, except during a board-approved  
12 course in euthanasia.

13 B. It is a violation of the Animal Sheltering Act  
14 for a euthanasia agency or an animal shelter to:

15 (1) refuse to permit entry or inspection of  
16 its facilities by the board or its designees;

17 (2) sell, offer for sale, barter, exchange or  
18 otherwise transfer animals that are prohibited by the  
19 department of game and fish, the United States department of  
20 agriculture or any other regulatory agency to be kept unless  
21 the sale, offer for sale, bartering, exchanging or transferring  
22 of the animal is to a facility employing permitted  
23 rehabilitators or an individual that is a permitted  
24 rehabilitator pursuant to the rules adopted by the department  
25 of game and fish or another agency that has authority over

.190786.1

underscored material = new  
[bracketed material] = delete

1 people who are permitted to receive and provide care for such  
2 animals;

3 (3) allow a license or certificate issued  
4 pursuant to the Animal Sheltering Act to be used by an  
5 unlicensed or uncertified person; or

6 (4) make a misrepresentation or false promise  
7 through advertisements, employees, agents or other mechanisms  
8 in connection with the euthanasia of an animal.

9 C. It is a violation of the Animal Sheltering Act  
10 for an employee or official of the board [~~or a person in the~~  
11 ~~department~~] to disclose or use for that person's own advantage  
12 information derived from reports or records submitted to the  
13 [~~department or the~~] board pursuant to that act."

14 SECTION 10. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,  
15 APPROPRIATIONS, MONEY, PROPERTY, CONTRACTS AND REFERENCES IN  
16 LAW.--

17 A. On July 1, 2013:

18 (1) all functions, appropriations, money,  
19 records, equipment, supplies and other property of the animal  
20 sheltering board shall be transferred to the board of  
21 veterinary medicine;

22 (2) all contractual obligations of the animal  
23 sheltering board shall be transferred to the board of  
24 veterinary medicine; and

25 (3) all references in law to the animal

.190786.1

underscoring material = new  
[bracketed material] = delete

1 sheltering board shall be deemed to be references to the board  
2 of veterinary medicine.

3 B. The rules of the animal sheltering board shall  
4 be deemed the rules of the board of veterinary medicine until  
5 amended or repealed by the board of veterinary medicine.

6 SECTION 11. TEMPORARY PROVISION--RECOMPILATION.--

7 A. Sections 77-1B-6 through 77-1B-7 NMSA 1978  
8 (being Laws 2007, Chapter 60, Section 6, Laws 2009, Chapter  
9 102, Section 9 and Laws 2007, Chapter 60, Section 7, as  
10 amended) are recompiled as Sections 61-14-25 through 61-14-27  
11 NMSA 1978.

12 B. Sections 77-1B-10 and 77-1B-11 NMSA 1978 (being  
13 Laws 2007, Chapter 60, Sections 10 and 11, as amended) are  
14 recompiled as Sections 61-14-30 and 61-14-31 NMSA 1978.

15 SECTION 12. REPEAL.--Sections 77-1B-3 and 77-1B-12 NMSA  
16 1978 (being Laws 2007, Chapter 60, Sections 3 and 12, as  
17 amended) are repealed.

18 SECTION 13. EFFECTIVE DATE.--The effective date of the  
19 provisions of this act is July 1, 2013.