The House Committee on Agricultural and Consumer Affairs offered the following substitute to HB 719:

A BILL TO BE ENTITLED
AN ACT

To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to substantially revise and restate the law governing the practice of veterinary medicine and veterinary technology and the licensure, registration, and regulation of veterinarians and veterinary technicians; to provide a short title; to define terms; to provide for the scope of veterinary practice and veterinary technology; to provide for the State Board of Veterinary Medicine and its powers and duties, membership, selection, compensation, and service; to provide for standards and requirements for licensing of veterinarians; to provide for regulation of veterinary practice; to provide for expiration and renewal of licenses; to provide for sanctions and penalties and practice and procedure in connection therewith; to prescribe criminal offenses and punishment therefor; to provide for civil actions; to provide for the registration and regulation of veterinary technicians; to provide for immunity from civil liability under certain circumstances; to provide for other matters related to the foregoing; to provide for an effective date and for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended by striking Chapter 50 and inserting in its place a new chapter to read as follows:

"CHAPTER 50
ARTICLE 1

43-50-1.

This chapter shall be known and may be cited as the 'Georgia Veterinary Practice Act.'

43-50-2.

This chapter is enacted as an exercise of the powers of the state to promote the public health, safety, and welfare by safeguarding the people of this state against incompetent, dishonest, or unprincipled practitioners of veterinary medicine.

43-50-3.

As used in this chapter, the term:

(1) 'Accredited or approved college or school of veterinary medicine' means any veterinary college or school or division of a university or college that offers the degree of Doctor of Veterinary Medicine or its equivalent and that conforms to the standards required for accreditation or approval by the American Veterinary Medical Association Council on Education or its successor organization or is recognized by the board as conforming to the standards of accreditation required of schools or colleges of veterinary medicine in the United States or Canada.

~~(1)~~(2) 'Animal' means any animal other than man and includes fowl, birds, fish, and reptiles, wild or domestic, living or dead.

(3) 'AVMA accredited program in veterinary technology' means any postsecondary educational program of two or more academic years that has fulfilled the essential criteria established by the Committee on Veterinary Technician Education and Activities and approved by the American Veterinary Medical Association.

~~(2)~~(4) 'Board' means the State Board of Veterinary Medicine.

(5) 'Direct supervision' means that the licensed veterinarian is on the premises and is quickly and easily available and that the animal patient has been examined by a licensed veterinarian at such time as acceptable veterinary medical practice requires, consistent with the particular delegated animal health care task.

(6) 'ECFVG certificate' means a certificate issued by the American Veterinary Medical Association Educational Commission for Foreign Veterinary Graduates or its successor organization indicating the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited or approved college or school of veterinary medicine.

(7) 'Immediate supervision' means the licensed veterinarian is in audible and visual range of the animal patient and the person treating the animal.

(8) 'Indirect supervision' means the licensed veterinarian is not on the premises but has given either written or oral instructions for the treatment of the animal patient and the animal has been examined by a licensed veterinarian at such times as acceptable veterinary medical practice requires, consistent with the particular delegated health care task.

~~(3)~~(9) 'Licensed veterinarian' means a person who is validly and currently licensed to practice veterinary medicine in this state.

~~(4)~~(10) 'Person' means any individual, firm, partnership, limited liability company, association, joint venture, cooperative, and 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, member, director, officer, or any other representative of such person.

~~(5)~~(11) To 'practice veterinary medicine' means:

(A) To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury, or other physical or ~~mental conditions~~ behavioral disease, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique for testing for pregnancy, or for correcting sterility or infertility, or to render advice or recommendations with regard to any of the above. The practice of veterinary medicine does not include therapeutic massage;

(B)(i) To apply or use any instrument or device on any portion of an animal´s tooth, gum, or any related tissue for the prevention, cure, or relief of any wound, fracture, injury, disease, or other condition of an animal´s tooth, gum, or related tissue.

(ii) To engage in preventive dental procedures on animals including, but not limited to, the removal of calculus, soft deposits, plaque, or stains or the smoothing, filing, or polishing of tooth surfaces.

(iii) Nothing in this subparagraph shall prohibit any person from utilizing cotton swabs, gauze, dental floss, dentifrice, toothbrushes, or similar items to clean an animal´s teeth;

(C) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in subparagraphs (A) and (B) of this paragraph; and

(D) To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is legally authorized and qualified to ~~do any~~ perform an act described in subparagraphs (A) and (B) of this paragraph, except where such person is a licensed veterinarian.

(12) 'Prescription drug' includes any medicine, medication, or pharmaceutical or biological product whose manufacturer´s label must, pursuant to federal or state law, have the following statement printed on its packaging: 'Federal law restricts this drug to use by or on the order of a licensed veterinarian'; or any over-the-counter product that is used in a manner different from the label directions and that by definition requires a valid veterinarian-client-patient relationship for prescription or dispensing.

~~(6) '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 and that conforms to the standards required for accreditation by the American Veterinary Medical Association.~~

~~(7)~~(13) 'Veterinarian' means a person who has received a doctor´s degree in veterinary medicine from a school of veterinary medicine.

(14) 'Veterinarian-client-patient relationship' means that:

(A) The licensed veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal and the need for medical treatment, and the client (owner or caretaker) has agreed to follow the instruction of the licensed veterinarian;

(B) There is sufficient knowledge of the animal by the licensed veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the licensed veterinarian is personally acquainted with the keeping and care of the animal by the virtue of this examination of the animal or by medically appropriate and timely visits to the premises where the animal is kept; and

(C) The licensed veterinarian is readily available for follow-up in the case of adverse reactions or failure of the regimen of therapy.

(15) 'Veterinary facility' means any premises where the practice of veterinary medicine occurs.

~~(8)~~(16) 'Veterinary medicine' includes veterinary surgery, ~~obstetrics~~, dentistry, and all other branches or specialties of veterinary medicine.

(17) 'Veterinary technician' means a person who meets the requirements imposed by this chapter for registration in this state as a veterinary technician.

(18) 'Veterinary technology' means the science and art of providing all aspects of professional medical care and treatment for animals with the exception of diagnosis, prognosis, surgery, and prescription of medications.

ARTICLE 2

43-50-20.

(a) The State Board of Veterinary Medicine is created, the members of which shall be appointed by the Governor with the approval of the Secretary of State and confirmed by the Senate. The board shall consist of ~~six~~ seven members, each appointed for a term of five years or until his or her successor is appointed. Five members of the board shall be duly licensed veterinarians actually engaged in active practice for at least five years prior to appointment. The sixth member shall be appointed from the public at large and shall in no

way be connected with the practice of veterinary medicine. The initial appointment for the sixth member shall expire June 30, 1985; thereafter, successors shall be appointed for a term of five years. The seventh member shall be a duly registered veterinary technician who has been registered and actively engaged in the practice of veterinary technology for at least five years prior to appointment. The initial appointment of the veterinary technician shall expire on June 30, 2006; thereafter, successors shall be appointed for a term of five years. Those members of the Georgia State Board of Veterinary Examiners serving on July 1, ~~1965~~ 2002, shall continue to serve as members of the board until the expiration of the term for which they were appointed. Thereafter, successors to such board members shall be appointed in accordance with this Code section.

(b) Vacancies due to death, resignation, removal, or otherwise shall be filled for the remainder of the unexpired term in the same manner as regular appointments. No person shall serve two consecutive five-year terms, but a person appointed for a term of less than five years may succeed himself or herself.

(c) No person may serve on the board who is, or was during the two years preceding his or her appointment, a member of the faculty, trustees, or advisory board of a veterinary school.

(d) Each member of the board shall be reimbursed as provided for in subsection (f) of Code Section 43-1-2.

(e) Any member of the board may be removed by the Governor after a hearing by the board determines cause for removal.

(f) The board shall meet at least once each year at the time fixed by the board. Other necessary meetings may be called by the president of the board by giving such notice as shall be established by the board. Meetings shall be open and public except that the board may meet in closed session to prepare, approve, administer, or grade examinations or to deliberate the qualifications of an applicant for license or the disposition of a proceeding to discipline a licensed veterinarian.

(g) At its annual meeting, the board shall organize by electing a president and such other officers as may be required by the board. Officers of the board serve for terms of one year and until a successor is elected, without limitation on the number of terms an officer may serve. The president shall serve as ~~chairman~~ chairperson of board meetings.

43-50-21.

(a) The board shall have the power to:

(1) Examine and determine the qualifications and fitness of applicants for a license to practice veterinary medicine and applicants for registration to practice veterinary technology in this state;

(2) Issue, renew, refuse to renew, deny, suspend, or revoke licenses to practice veterinary medicine and registrations to practice veterinary technology in this state or otherwise discipline licensed veterinarians and registered veterinary technicians; and to issue, renew, deny, suspend, or revoke veterinary faculty licenses, consistent with this article and the rules and regulations adopted under this article;

(3) Conduct investigations for the purpose of discovering violations of this article or grounds for disciplining licensed veterinarians and registered veterinary technicians;

(4) Hold hearings on all matters properly brought before the board; and, in connection therewith, to administer oaths, receive evidence, make the necessary determinations, and enter orders consistent with the findings. The board may designate one or more of its members to serve as its hearing officer;

(5) Appoint from its own membership one member to act as a representative of the board at any meeting within or outside the state where such representative is deemed desirable;

(6) Bring proceedings in the courts for the enforcement of this article or any regulations made pursuant to this article; and

(7) Adopt, amend, or repeal all rules necessary for its government and all regulations necessary to carry this article into effect, including the establishment and publication of standards of professional conduct for the practice of veterinary medicine.

(b) The powers enumerated in subsection (a) of this Code section are granted for the purpose of enabling the board to supervise effectively the practice of veterinary medicine and are to be construed liberally to accomplish this objective.

43-50-22.

No person may practice veterinary medicine in this state who is not a licensed veterinarian or the holder of a valid temporary license issued by the division director pursuant to this article.

43-50-23.

(a) Any person desiring a license to practice veterinary medicine in this state shall make written application to the board. The application shall include evidence, satisfactory to the board, that:

(1) The applicant has attained the age of 18;

(2) The applicant is of good moral character;

(3) The applicant is a graduate of ~~a veterinary school~~ an accredited or approved college or school of veterinary medicine or possesses a foreign equivalency, as determined by board rule; provided, however, that a senior veterinary student may, in the discretion of the board, be allowed to sit for the examination during his or her senior year if he or she

meets the other qualifications but shall not be issued a license unless and until he or she graduates; ~~and~~

(4) Has never had his or her United States Drug Enforcement Administration privileges restricted or revoked; and

~~(4)~~(5) The applicant meets such other qualifications or provides such other information as the board may require by rule.

(b) The application shall be accompanied by a fee in the amount established by the board.

(c) If the board determines that an applicant possesses the proper qualifications, it shall admit the applicant to the next examination.

43-50-24.

(a) The board shall hold at least one examination during each year and may hold such additional examinations as are necessary.

(b) After each examination, the division director shall notify each examinee of the result of ~~his~~ the examination, and the board shall issue licenses to the persons successfully completing the examination. The division director shall record the new licenses and issue a certificate of registration to the new licensees. ~~Any person failing an examination shall be admitted to any subsequent examination on payment of the application fee.~~ If an applicant fails an examination, the applicant may take a subsequent examination upon payment of the registration and examination fees. No person may take the examination more than three times without review and approval by the board. Such approval may be provided under such circumstances as the board deems appropriate.

43-50-25.

Any person holding a valid license to practice veterinary medicine in this state on July 1, 1965, shall be recognized as a licensed veterinarian and shall be entitled to retain this status so long as he or she complies with this article, including biennial renewal of the license.

43-50-26.

(a) All licenses shall be renewable biennially.

(b) Any person who shall practice veterinary medicine after the expiration of his or her license and willfully or by neglect fail to renew such license shall be practicing in violation of this article, provided that any person may renew an expired license within one year of the date of its expiration by making written application for renewal and paying the current renewal fee plus all delinquent renewal fees. After one year has elapsed from the date of the expiration, such license may be reinstated in accordance with the rules of the board.

(c) The board may by rule waive the payment of the registration renewal fee of a licensed veterinarian during the period when he or she is on active duty with any branch of the armed forces of the United States, not to exceed the longer of three years or the duration of a national emergency.

(d)(1) The board shall establish a program of continuing professional veterinary medical education for the renewal of veterinarian licenses. Notwithstanding any other provision of this article, beginning with the licenses which are to be renewed in 1990, no license to practice veterinary medicine shall be renewed by the board or the division director until the veterinarian submits to the board satisfactory proof of his or her participation, during the biennium preceding his or her application for renewal, in approved programs of continuing professional veterinary medical education, as defined in this Code section. Veterinarians who have been licensed in this state for 40 years or more on December 31, 1988, shall not be required to participate in continuing education as a condition of license renewal. The amount of continuing education required by the board under this paragraph shall not exceed 30 hours.

(2) Continuing professional veterinary medical education shall consist of educational programs providing training pertinent to the practice of veterinary medicine and approved by the board under this Code section. The board ~~shall~~ may approve educational programs for persons practicing veterinary medicine in this state on a reasonable nondiscriminatory fee basis and may contract with institutions of higher learning, professional organizations, or qualified individuals for the provision of approved programs. In addition to such programs, the board ~~shall~~ may allow the continuing professional veterinary medical education requirement to be fulfilled by the completion of approved ~~correspondence~~ distance learning courses ~~which provide the required hours of approved programs of continuing professional veterinary medical education or to be fulfilled by a combination of approved correspondence courses and other educational programs~~.

(3) The board may, consistent with the requirements of this Code section, promulgate rules and regulations to implement and administer this Code section, including the establishment of a committee to prescribe standards, approve and contract for educational programs, and set the required minimum number of hours per year.

(e) The board shall provide by regulation for an inactive status license for those individuals who elect to apply for such status. Persons who are granted inactive status shall not engage in the practice of veterinary medicine and shall be exempt from the requirements of continuing veterinary medical education.

43-50-27.

(a) The board is authorized to refuse to grant a license to an applicant, or to revoke the license of a veterinarian licensed by the board, or to discipline a veterinarian licensed under this chapter or any antecedent law, or to discipline a veterinary technician licensed under this chapter or any antecedent law, upon a finding by a majority of the entire board that the licensee, registrant, or applicant has:

(1) Failed to demonstrate the qualifications or standards for a license contained in this chapter or in the rules and regulations issued by the board, pursuant to specific statutory authority. It shall be incumbent upon the applicant to demonstrate to the satisfaction of the board that he or she meets all the requirements for the issuance of a license, and, if the board is not satisfied as to the applicant´s qualifications, it may deny a license without a prior hearing; provided, however, that the applicant shall be allowed to appear before the board if he or she so desires;

(2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of veterinary medicine or veterinary technology or on any document connected therewith; or practiced fraud or deceit or intentionally made any false statement in obtaining a license or registration to practice veterinary medicine or veterinary technology; or made a false statement or deceptive biennial registration with the board;

(3) Been convicted of any felony or of any crime involving moral turpitude in the courts of this state or any other state, territory, or country or in the courts of the United States. As used in this paragraph, the term 'felony' shall include any offense which, if committed in this state, would be deemed a felony without regard to its designation elsewhere. As used in this paragraph, the term 'conviction' shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been sought;

(4) Been arrested, charged, and sentenced for the commission of any felony, or any crime involving moral turpitude, where:

(A) A plea of nolo contendere was entered to the charge;

(B) First offender treatment without adjudication of guilt pursuant to the charge was granted; or

(C) An adjudication or sentence was otherwise withheld or not entered on the charge.

The plea of nolo contendere or the order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42 or other first offender treatment shall be conclusive evidence of arrest and sentencing for such crime;

(5) Had his or her license or registration to practice veterinary medicine or veterinary technology revoked, suspended, or annulled by any lawful licensing veterinary medical authority other than the board; or had other disciplinary action taken against him or her by any lawful licensing veterinary medical authority other than the board; or was denied

a license or registration by any lawful licensing veterinary medical authority other than the board, pursuant to disciplinary proceedings; or was refused the renewal of a license by any lawful licensing veterinary medical authority other than the board, pursuant to disciplinary proceedings;

(6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice materially affects the fitness of the licensee, registrant, or applicant to practice veterinary medicine or veterinary technology, or of a nature likely to jeopardize the interest of the public, which conduct or practice need not have resulted in actual injury or be directly related to the practice of veterinary medicine or veterinary technology but shows that the licensee, registrant, or applicant has committed any act or omission which is indicative of bad moral character or untrustworthiness. Unprofessional conduct shall also include any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing veterinary medical practice. Unprofessional conduct shall also include, but not be limited to, the following: failure to keep veterinary premises and equipment in a clean and sanitary condition; dishonesty or gross negligence in the inspection of foodstuffs or the issuance of health or inspection certificates; or cruelty to animals;

(7) Knowingly performed any act which in any way aids, assists, procures, advises, or encourages any unlicensed person or any licensee or registrant whose license has been suspended or revoked by the board to practice veterinary medicine or to practice outside the scope of any disciplinary limitation placed upon the licensee or registrant by the board;

(8) Violated a statute, law, or any rule or regulation of this state, any other state, the board, the United States, or any other lawful authority (without regard to whether the violation is criminally punishable), which statute, law, rule, or regulation relates to or in part regulates the practice of veterinary medicine or veterinary technology, when the licensee, registrant, or applicant knows or should know that such action violates such statute, law, rule, or regulation; or violated the lawful order of the board previously entered by the board in a disciplinary hearing, consent decree, or license reinstatement;

(9) Been adjudged mentally incompetent by a court of competent jurisdiction within or without this state. Any such adjudication shall automatically suspend the license of any such person and shall prevent the reissuance or renewal of any license so suspended for as long as the adjudication of incompetence is in effect;

(10) Displayed an inability to practice veterinary medicine or veterinary technology with reasonable skill and safety to patients or has become unable to practice veterinary medicine or veterinary technology with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as

a result of any mental or physical condition, or by reason of displaying habitual intoxication, addiction to, or recurrent personal misuse of alcohol, drugs, narcotics, chemicals, or any other type of similar substances. In enforcing this paragraph, the board may, upon reasonable grounds, require a licensee, registrant, or applicant to submit to a mental or physical examination by physicians designated by the board. The results of such examination shall be admissible in any hearing before the board, notwithstanding any claim of privilege under a contrary rule of law or statute. Every person who shall accept the privilege of practicing veterinary medicine or veterinary technology in this state or who shall file an application for a license to practice veterinary medicine or register as a veterinary technician in this state shall be deemed to have given that person´s consent to submit to such mental or physical examination and to have waived all objections to the admissibility of the results in any hearing before the board upon the grounds that the same constitutes a privileged communication. If a licensee, registrant, or applicant fails to submit to such an examination when properly directed to do so by the board, unless such failure is due to circumstances beyond his or her control, the board may enter a final order upon proper notice, hearing, and proof of such refusal. Any licensee, registrant, or applicant who is prohibited from practicing veterinary medicine or veterinary technology under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate to the board that such person can resume or begin the practice of veterinary medicine or veterinary technology with reasonable skill and safety to patients;

(11) Failed to register with the division director as required by law. It shall be the duty of every licensee or registrant to notify the board of any change in his or her address of record with the board; provided, however, that, for a period established by the division director after failure to register, a license or registration may be reinstated by payment of a registration fee to be determined by the board by rule and by filing of a special application therefor. After this period has elapsed, a license or registration may be revoked for failure to register and for failure to pay the fee as provided by law. Any license revoked under the terms of this Code section may be reinstated ~~only upon an applicant´s taking the examination required by Code Section 43-50-23 and paying the fees prescribed by law therefor~~ at the discretion of the board;

(12) Engaged in the excessive prescribing or administering of drugs or treatment or the use of diagnostic procedures which are detrimental to the patient as determined by the customary practice and standards of the local community of licensees; or knowingly prescribed controlled drug substances or any other medication without a legitimate veterinary medical purpose; or knowingly overprescribed controlled drug substances or other medication, in light of the condition of the patient at the time of prescription; or

(13) Knowingly made any fraudulent, misleading, or deceptive statement in any form of advertising or made any statement in any advertisement concerning the quality of the veterinary services rendered by that veterinarian or any veterinarian associated with him or her. For purposes of this paragraph, 'advertising' shall include any information communicated in a manner designated to attract public attention to the practice of the licensee.

(b) The provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' with respect to emergency action by the board and summary suspension of a license or registration are adopted and incorporated by reference into this chapter.

(c) For purposes of this Code section, the board may obtain, and is authorized to subpoena, upon reasonable grounds, any and all records relating to the mental or physical condition of a licensee, registrant, or applicant, and such records shall be admissible in any hearing before the board.

(d) When the board finds that any person is unqualified to be granted a license or registration or finds that any person should be disciplined pursuant to subsection (a) of this Code section, the board may take any one or more of the following actions:

(1) Refuse to grant or renew a license or registration to an applicant;

(2) Administer a public or private reprimand, but a private reprimand shall not be disclosed to any person except the licensee or registrant;

(3) Suspend any license or registration for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of said license or registration;

(4) Limit or restrict any license or registration as the board deems necessary for the protection of the public;

(5) Revoke any license or registration; or

(6) Condition the penalty upon, or withhold formal disposition pending, the applicant´s, registrant´s, or licensee´s submission to such care, counseling, or treatment as the board may direct.

(e) In addition to and in conjunction with the actions described in subsection (d) of this Code section, the board may make a finding adverse to the licensee, registrant, or applicant but withhold imposition of judgment and penalty; or it may impose the judgment and penalty but suspend enforcement thereof and place the licensee or registrant on probation, which probation may be vacated upon noncompliance with such reasonable terms as the board may impose.

(f) Initial judicial review of a final decision of the board shall be had solely in the superior court of the county of domicile of the board.

(g) In its discretion, the board may reinstate a license or registration which has been revoked or issue a license or registration which has been denied or refused, following such procedures as the board may prescribe by rule; and, as a condition thereof, it may impose any disciplinary or corrective method provided in this chapter.

(h)(1) The division director is authorized to make, or cause to be made through employees or agents of the board, such investigations as he or she or the board may deem necessary or proper for the enforcement of the provisions of this chapter. Any person properly conducting an investigation on behalf of the board shall have access to and may examine any writing, document, or other material relating to the fitness of any licensee, registrant, or applicant. The division director or his or her appointed representative may issue subpoenas to compel such access upon a determination that reasonable grounds exist for the belief that a violation of this chapter or any other law relating to the practice of veterinary medicine or veterinary technology may have taken place.

(2) The results of all investigations initiated by the board shall be reported solely to the board, and the records of such investigations shall be kept for the board by the division director, with the board retaining the right to have access at any time to such records. No part of any such records shall be released, except to the board, for any purpose other than a hearing before the board, nor shall such records be subject to subpoena; provided, however, that the board shall be authorized to release such records to another enforcement agency or lawful licensing authority.

(3) The board shall have the authority to exclude all persons during its deliberations on disciplinary proceedings and to discuss any disciplinary matter in private with a licensee, registrant, or applicant and the legal counsel of that licensee, registrant, or applicant.

(i) A person, firm, corporation, association, authority, or other entity shall be immune from civil and criminal liability for reporting or investigating the acts or omissions of a licensee, registrant, or applicant which violate the provisions of subsection (a) of this Code section or any other provision of law relating to a licensee´s, registrants´s, or applicant´s fitness to practice as a veterinarian or veterinary technician or for initiating or conducting proceedings against such licensee, registrant, or applicant, if such report is made or action is taken in good faith, without fraud or malice. Any person who testifies or who makes a recommendation to the board in the nature of peer review, in good faith, without fraud or malice, before the board in any proceeding involving the provisions of subsection (a) of this Code section or any other law relating to a licensee´s or applicant´s fitness to practice as a veterinarian or veterinary technician shall be immune from civil and criminal liability for so testifying.

(j) Neither a denial of a license or registration on grounds other than those enumerated in subsection (a) of this Code section nor the issuance of a private reprimand nor the denial

of a license or registration by ~~reciprocity~~ endorsement nor the denial of a request for reinstatement of a revoked license or registration nor the refusal to issue a previously denied license or registration shall be considered to be a contested case within the meaning of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Notice and hearing within the meaning of Chapter 13 of Title 50 shall not be required, but the applicant, registrant, or licensee shall be allowed to appear before the board if he or she so requests.

(k) If any licensee, registrant, or applicant fails to appear at any hearing after reasonable notice, the board may proceed to hear the evidence against such licensee, registrant, or applicant and take action as if such licensee, registrant, or applicant had been present. A notice of hearing, initial or recommended decision, or final decision of the board in a disciplinary proceeding shall be served upon the licensee, registrant, or applicant by certified mail or statutory overnight delivery, return receipt requested, to the last known address of record with the board. If such material is returned marked 'unclaimed' or 'refused' or is otherwise undeliverable and if the licensee, registrant, or applicant cannot, after diligent effort, be located, the division director shall be deemed to be the agent for service for such licensee, registrant, or applicant for purposes of this Code section, and service upon the division director shall be deemed to be service upon the licensee, registrant, or applicant.

(l) The voluntary surrender of a license or registration shall have the same effect as a revocation of the license or registration, subject to reinstatement in the discretion of the board.

(m) This Code section shall apply equally to all licensees, registrants, or applicants whether individuals, partners, or members of any other incorporated or unincorporated associations, corporations, or other associations of any kind whatsoever.

(n) All subpoenas issued pursuant to the authority granted in this chapter shall be subject to the general rules of law with respect to distance, tender of fees and expenses, and protective orders; and any motion made with respect thereto shall be made to and passed on by a judge of the superior court of the county of residence of the person to whom the subpoena is directed.

(o) Any proceeding or administrative action instituted under this Code section shall be governed by the provisions of this Code section as they existed in full force and effect on the date of the commission of the act or acts constituting a violation of this Code section, except as otherwise specifically declared by the General Assembly.

43-50-28.

Reserved.

43-50-29.

(a) The board may issue a temporary license to the following applicants who are qualified to take the veterinary license examination:

(1) An applicant licensed in another state. Such license shall have the same force and effect as a permanent license until the time of its expiration; and

(2) An applicant who is not the holder of any veterinary license. Such license shall authorize the applicant to work under the supervision of a licensed veterinarian as provided by the board.

(b) The temporary license shall expire on the date that permanent licenses are issued to persons who have passed the examination provided for in Code Section 43-50-24, which examination occurred immediately following the issuance of the temporary license.

(c) A temporary license issued pursuant to this Code section may, in the discretion of the board, be renewed for one six-month period only; provided, however, that no temporary license shall be renewed or reissued to a person who fails to pass the examination established by the board.

(d) A temporary license may be summarily revoked by a majority vote of the board without a hearing.

43-50-30.

The board may, in its discretion, issue a veterinary faculty license or veterinary technology faculty license to any qualified applicant associated with one of this state´s institutions of higher learning and involved in the instructional program of either undergraduate or graduate veterinary medical or veterinary technology students, subject to the following conditions:

(1) That the holder of the veterinary faculty license or veterinary technology faculty license shall be remunerated for the practice aspects of his or her services solely from state, federal, or institutional funds and not from the patient-owner beneficiary of his or her practice efforts;

(2) That the applicant will furnish the board with such proof as the board may deem necessary to demonstrate that the applicant is a graduate of a reputable school or college of veterinary medicine or veterinary technology; that the applicant has or will have a faculty position at an institution which meets the requirements of paragraph (1) of this Code section, as certified by an authorized administrative official at such institution; and that the applicant understands and agrees that the faculty license or veterinary technology faculty license is valid only for the practice of veterinary medicine or veterinary technology as a faculty member of the institution;

(3) That the license issued under this Code section may be revoked or suspended or the licensee may be otherwise disciplined in accordance with Code Section 43-50-27; and

(4) That the license issued under this Code section may be canceled by the board upon receipt of information that the holder of the veterinary faculty license or veterinary technology faculty license has left or has otherwise been discontinued from faculty employment at an institution of higher learning of this state.

43-50-31.

Reserved.

43-50-32.

This article shall not be construed to prohibit:

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

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

(3) A person advising with respect to, or performing acts which the board by rule has prescribed as, accepted livestock management practices;

(4) ~~A veterinarian regularly licensed in another state consulting with a licensed veterinarian in this state~~ The actions of a veterinarian currently licensed in another state, province of Canada, or a United States territory in consulting with a licensee of this state but who:

(A) Does not open an office or appoint a place to do business within this state;

(B) Does not print or use letterhead or business cards reflecting in-state addresses;

(C) Does not establish answering services or advertise the existence of a practice address within this state;

(D) Does not practice veterinary medicine as a consultant rendering services directly to the public without the direction of a licensed veterinarian of this state more than two days per calendar year; and

(E) Is providing services for an organization conducting a public event lasting less than ten days that utilizes animals in need of veterinary examinations, treatments, or oversight to promote the safety and health of the public, the event, and the animal participants;

provided, however, that a veterinarian licensed in another state who practices veterinary medicine on animals belonging to residents of this state by communicating directly with

such owners, i.e., independent of the attending veterinary licensee, is not exempt from this state´s licensing requirements;

(5) Any merchant or manufacturer selling, at his or her regular place of business, medicines, feed, appliances, or other products used in the prevention or treatment of animal diseases. This shall not be construed to authorize the sale of medicines which must be obtained by a prescription from a pharmacist but shall only include the right to sell those medicines which are classified as proprietary and which are commonly known as over-the-counter medicines;

(6) The owner of an animal, ~~and~~ the owner´s full-time regular employee, or the owner´s noncompensated friend or relative caring for and treating the animal belonging to such owner, except where the ownership of the animal was transferred for purposes of circumventing this article;

(7) ~~The holder of a veterinary faculty license issued by the board performing regular teaching duties or a person lecturing or giving instructions or demonstrations at a veterinary school or in connection with a continuing education course or seminar~~ A member of the faculty, a resident, an intern, or a graduate student of an accredited or approved college or school of veterinary medicine performing his or her regular nonclinical functions or a person lecturing or giving instructions or demonstrations at an accredited or approved college or school of veterinary medicine or school of veterinary technology in connection with a continuing education course or seminar;

(8) Any person selling or applying any pesticide, insecticide, or herbicide;

(9) Any person engaging in bona fide scientific research which reasonably requires experimentation involving animals;

(10) Any person performing artificial insemination or nonsurgical transfer of embryos; ~~or~~

(11) An employee of a licensed veterinarian administering prescribed care to an animal under the ~~direct~~ appropriate supervision of the veterinarian~~.~~ as determined by the board;

(12) A graduate of a foreign college of veterinary medicine who is in the process of obtaining the ECFVG certificate or its equivalent as determined by rule of the board performing duties or actions under the direct supervision of a licensed veterinarian;

(13) A person or his or her full-time employee, or a member of a nationally recognized organization approved by the board that certifies individuals in embryo transfer, to remove an embryo from an animal for the purpose of transplanting such embryo into another female animal for the purpose of cryopreserving such embryo, or to implant such embryo in an animal so long as the use of prescription drugs in these animals is maintained under the direction of a licensed veterinarian with a valid veterinarian-client-patient relationship; or

(14) Any other licensed health care provider utilizing his or her special skills so long as the treatment of the animal is under the direction of a licensed veterinarian with a valid veterinary-client-patient relationship.

43-50-33.

(a) Any person who practices veterinary medicine without a valid license or any person who practices veterinary technology without a valid registration shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ~~$50.00~~ $100.00 nor more than ~~$500.00~~ $1,000.00 or imprisoned for no more than 90 days, or both, provided that each act of such unlawful practice shall constitute a distinct and separate offense.

(b) No person who shall practice veterinary medicine without a valid license may receive any compensation for services so rendered.

(c) The board or any citizen of this state may bring an action to enjoin any person from practicing veterinary medicine without a valid license. If the court finds that the person is violating, or is threatening to violate, this article, it shall enter an injunction restraining him or her from such unlawful acts.

(d) The successful maintenance of an action based on any one of the remedies set forth in this Code section shall in no way prejudice the prosecution of an action based on any other of the remedies.

ARTICLE 3

43-50-50.

It is the purpose of this article to encourage more effective utilization of the skills of veterinarians by enabling them to delegate certain veterinary health care tasks to registered veterinary technicians where such delegation is consistent with the animal patient´s health and welfare.

43-50-51.

~~As used in this article, the term:~~

~~(1) 'Direct supervision' means instruction and directions requiring the physical presence of a licensed veterinarian on the premises.~~

~~(2) 'Registered animal technician' means any person approved to work as a registered animal technician by the State Board of Veterinary Medicine under the former laws regulating animal health technicians in the State of Georgia.~~

~~(3) 'Veterinary technician' means an individual who has received a degree in animal technology or a comparable subject from an approved school of veterinary medicine or~~

~~veterinary technology and who is employed by and under the direct supervision of a licensed veterinarian to perform the following duties:~~

~~(A) Obtain and record information about animal patients;~~

~~(B) Prepare animal patients, instruments, equipment, and medication for surgery;~~

~~(C) Collect specimens and perform laboratory procedures;~~

~~(D) Apply wound dressings; or~~

~~(E) Assist a licensed veterinarian in diagnostic, medical, and surgical procedures.~~

Reserved.

43-50-52.

~~(a)(1) Any person desiring to work as a veterinary technician in this state shall apply to the board for a certificate of registration as a veterinary technician and shall pass such examinations as the board requires. All such applications shall be made on forms provided by the board and shall be accompanied by a fee to be provided for by the board.~~

~~(2) The application shall include evidence, satisfactory to the board, that:~~

~~(A) The applicant has attained the age of 18;~~

~~(B) The applicant is of good moral character;~~

~~(C) The applicant is a graduate of an animal technology program approved by the board; and~~

~~(D) The applicant meets such other qualifications or provides such other information as the board may require by rule.~~

~~(3) If the board finds that the applicant possesses the proper qualifications, it shall admit the applicant to the examination.~~

~~(4) If the applicant is found not qualified to take the examination, the board shall notify the applicant in writing of such finding and return his examination fee.~~

~~(b) Until January 1, 1984, any person who has been at any time certified as a registered animal technician and has had three years´ experience of employment as a registered animal technician shall upon application be registered as a veterinary technician without examination and without meeting the requirements of paragraphs (1) and (2) of subsection (a) of this Code section.~~

~~(c) Any person who immediately prior to July 1, 1983, was currently certified as a registered animal technician shall be entitled to be registered as a veterinary technician and to have such certification renewed without examination and without meeting any requirements of paragraphs (1) and (2) of subsection (a) of this Code section.~~

(a) The Georgia Board of Veterinary Medicine shall be responsible for registering any person who wishes to practice as a registered veterinary technician in this state and shall limit, restrict, supervise, and define such practice by board rule as the board deems

appropriate and necessary for the protection of the public health, safety, and general welfare.

(b) An applicant to be registered as a veterinary technician under this article shall be at least 18 years of age, of good moral character, and:

(1) Have completed a college or technical school level course of study in veterinary technology in a school having a curriculum approved by the board; or

(2) Have successfully completed an AVMA accredited program in veterinary technology; and

(3) Have successfully passed an examination required by the board.

The board may require additional information and proof of a person´s fitness and qualifications by board rule.

(c) The board may issue a certificate of registration to an applicant if the applicant is currently registered in another state having standards for admission substantially the same as this state´s and the standards were in effect at the time the applicant was first admitted to practice in the other state.

(d) Any person who prior to July 1, 2002, was at any time certified as a registered veterinary technician by this state shall for a period of one year be entitled to be registered as a veterinary technician and to have such certification renewed without examination.

(e) Any person who prior to July 1, 2002, had five years´ experience assisting a veterinarian may, with a signed affidavit from his or her supervising veterinarian attesting to his or her level of in-house training, be allowed to take the examination approved by the board. Upon receiving a passing grade on the examination, the board may issue a certificate of registration. It shall be the duty of the board to provide study materials to assist such persons in preparing for such examination.

43-50-53.

(a) ~~The board shall hold at least one examination during each year and may hold such additional examinations as are necessary~~ The board shall hold at least one examination for veterinary technicians annually or allow applicants to take automated tests at such locations and at such times as determined by board rule. The board need not be present during the examination.

(b) ~~After each examination, the division director shall notify each examinee of the results of his examination, and the board shall issue certificates of registration to the successful applicants. Any person failing an examination shall be admitted to any subsequent examination on payment of the examination fee~~ The board shall establish rules governing the preparation, administration, and grading of the examination. The board may adopt the

National Veterinary Technicians Examination prepared by the Professional Examination Service or any other such examination prepared to the board´s standards and satisfaction.

(c) The board shall establish by rule the score needed to pass all examinations.

(d) If an applicant fails an examination, the applicant may take a subsequent examination upon payment of the registration and examination fees. No person may take the examination more than three times without review and approval by the board under such circumstances as the board deems appropriate.

(e) Any registered veterinary technician in the State of Georgia whose certificate of registration has been on inactive status for at least five consecutive years will be required to take continuing education as required by the board, pay all fees, and meet all other requirements and board rules for registration as a veterinary technician.

(f) The certificates issued to registered veterinary technicians pursuant to this chapter shall expire biannually on December 31 of even-numbered years and may by board rule be renewed upon application to the board for renewal and payment of renewal fees.

(g) The board shall not renew any certificate unless the holder provides satisfactory evidence that he or she has complied with the board´s minimum requirements for continuing education.

43-50-54.

(a) ~~A registered veterinary technician shall be allowed to perform his duties only under the direct supervision of a licensed veterinarian~~ Any person registered as a veterinary technician and while practicing as a registered veterinary technician in this state must at all times be under the supervision of a licensed veterinarian. The level of supervision shall be consistent with the delegated animal health care task. The board may establish by rule, in general or specific terms as it deems necessary, the animal health care tasks that registered veterinary technicians may provide and the level of supervision, whether direct supervision, immediate supervision, or indirect supervision, that is required by the licensed veterinarian for any delegated animal health care task.

(b) ~~Veterinary technicians registered under this article shall at all times notify the division director of the name and location of the veterinarian under whose supervision such veterinary technician is working~~ The provisions and causes of action as set forth under this chapter pertaining to licensed veterinarians are applicable to registered veterinary technicians in all respects. The board may also take disciplinary action against a registered veterinary technician if the technician:

(1) Solicits patients from a licensed veterinarian;

(2) Solicits or receives any form of compensation from any person for veterinary services rendered other than from the veterinarian or corporation under whom the technician is employed;

(3) Willfully or negligently divulges a professional confidence or discusses a veterinarian´s diagnosis or treatment without the express permission of the veterinarian; or

(4) Demonstrates a manifest incapability or incompetence to perform as a veterinary technician.

(c) A registered veterinary technician may not be utilized in any manner which would be in violation of Article 2 of this chapter.

(d) A registered veterinary technician shall not be utilized to perform the duties of a pharmacist licensed under Chapter 4 of Title 26.

43-50-55.

(a) Any licensed veterinarian, animal clinic, or animal hospital using registered veterinary technicians shall post a notice to that effect in a prominent place.

(b) A registered veterinary technician must clearly identify himself or herself as such in order to ensure that he or she is not mistaken by the public as a licensed veterinarian. This may be accomplished, for example, by the wearing of an appropriate name tag. Any time the registered veterinary technician´s name appears in a professional setting, his or her status must be shown as 'registered veterinary technician.'

(c) ~~No veterinarian shall have more than two veterinary technicians in his employment at any one time~~ No veterinary facility shall be allowed to operate with more than two registered veterinary technicians per full-time veterinarian or combination of part-time veterinarians equaling a full-time position actively practicing at that location.

43-50-56.

A licensed veterinarian who applies for or utilizes a registered veterinary technician shall be responsible for any violation of any limitations which are placed on the duties of a registered veterinary technician.

43-50-57.

The approval of a licensed veterinarian´s utilization of a registered veterinary technician may be terminated or suspended, and the registration certificate revoked, suspended, or otherwise sanctioned in accordance with the provisions of Code Section 43-50-27.

ARTICLE 4

43-50-70.

Any person, including any licensed veterinarian or registered veterinary technician duly licensed or registered with the state, who gratuitously and in good faith gives emergency treatment to a sick or injured animal at the scene of an accident or emergency which places the animal in a life-threatening condition requiring immediate treatment to sustain the life of the animal shall not be in violation of this chapter and shall not be liable to the owner of such animal in any civil action for damages. This Code section is not intended to provide immunity for acts of gross negligence."

SECTION 2.

This Act shall become effective on July 1, 2002. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.