

**Sixty-second Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 4, 2011**

SENATE BILL NO. 2080  
(Agriculture Committee)  
(At the request of the State Board of Pharmacy)

AN ACT to create and enact a new subsection to section 43-15-02, a new subsection to section 43-15-10, and chapter 43-15.4 of the North Dakota Century Code, relating to the practice of pharmacy and dispensing veterinary prescription drugs; and to provide a penalty.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new subsection to section 43-15-02 of the North Dakota Century Code is created and enacted as follows:

A veterinary dispensing technician operating within a veterinary retail facility.

**SECTION 2.** A new subsection to section 43-15-10 of the North Dakota Century Code is created and enacted as follows:

To adopt, amend, and repeal rules as may be deemed necessary by the board to register veterinary dispensing technicians pursuant to qualifications established by the board, to charge a veterinary dispensing technician an annual registration fee not to exceed fifty dollars, to provide for suspension or revocation of a veterinary dispensing technician's registration, to provide for suspension or revocation of a veterinary retail facility's license, to regulate and control veterinary retail facilities, and to regulate and control veterinary dispensing technicians.

**SECTION 3.** Chapter 43-15.4 of the North Dakota Century Code is created and enacted as follows:

**43-15.4-01. Definitions.**

As used in this chapter:

1. "Board" means the state board of pharmacy.
2. "Compound" means the preparation, mixing, assembling, packaging, or labeling of a drug or device.
3. "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V as set out in chapter 19-03.
4. "Dispensing" means the delivery of a veterinary prescription drug pursuant to the lawful order of a licensed veterinarian and the associated recordkeeping that is relevant to that practice.
5. "Extra-label use" means the use of an approved drug in a manner that is not in accordance with the approved label directions.
6. "Nontraditional livestock" means any wildlife held in a cage, fence, enclosure, or other manmade means of confinement that limits its movement within definite boundaries or an animal that is physically altered to limit movement and facilitate capture.
7. "Veterinary prescription drugs" means drugs that are to be used or prescribed only within the context of a valid veterinarian-client-patient relationship. Veterinary prescription drugs are those drugs restricted by federal law to use by or on the order of a licensed veterinarian.
8. "Veterinarian-client-patient relationship" means:

- a. A veterinarian has assumed the responsibility for making medical judgments regarding the health of an animal and the need for medical treatment, and the client, who is the owner or other caretaker, has agreed to follow the instructions of the veterinarian.
  - b. There is sufficient knowledge of the animal by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal.
  - c. The practicing veterinarian is readily available for followup in the case of adverse reactions or failure of the regimen of therapy. This relationship exists only when the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by virtue of an examination of the animal and by medically appropriate and timely visits to the premises where the animal is kept.
9. "Veterinary dispensing technician" means a nonpharmacist registered by the board to dispense veterinary prescription drugs in a veterinary retail facility.
10. "Veterinary retail facility" means an establishment registered by the board employing a registered veterinary dispensing technician authorized to dispense veterinary prescription drugs pursuant to bona fide orders of veterinarians.

#### **43-15.4-02. Exemptions.**

The provisions of this chapter do not apply to the following:

1. A pharmacist or a pharmacy participating in the practice of pharmacy.
2. A licensed veterinarian or a veterinarian's practice.

#### **43-15.4-03. Veterinary retail facility - Permit required.**

A person, copartnership, association, corporation, or limited liability company may not open, establish, operate, maintain, or do business in the state of North Dakota, a veterinary retail facility without first obtaining a permit to do so from the board. Application for a permit must be made upon a form prescribed and furnished by the board and must be accompanied by a fee set by the board not to exceed three hundred dollars. A like fee must be paid upon each annual renewal thereof. Separate applications must be made and separate permits required for each veterinary retail facility opened, established, operated, or maintained by the same owner and for the change of location, name, or ownership of an existing veterinary retail facility.

#### **43-15.4-04. Minimum standards for veterinary retail facilities.**

The following standards apply to veterinary retail facilities:

1. Veterinary prescription drugs dispensed by a veterinary retail facility pursuant to a licensed veterinarian's prescription are for use on equidae, food-animals, and nontraditional livestock only.
2. Veterinary dispensing technicians may not:
  - a. Dispense controlled substances.
  - b. Compound veterinary prescription drugs for the dispensing of a prescription.
  - c. Repackage veterinary prescription drugs for the dispensing of a prescription, except that a veterinary dispensing technician may break down case lots of veterinary prescription drugs, provided the seals on the individual containers are not broken. Veterinary dispensing technicians may not open a container and count out or measure out any quantity of a veterinary prescription drug.

- d. Dispense medication for extra-label use.
3. Veterinary prescription drugs returned to a veterinary retail facility from a client must be treated as damaged or outdated drugs. Returned drugs may not be returned to stock or dispensed, distributed, or resold.
  4. A veterinary dispensing technician may dispense veterinary prescription drugs for use on equidae, food-animals, and nontraditional livestock on the basis of a written, electronically transmitted, or oral order received from a licensed veterinarian or the authorized agent of a licensed veterinarian. Only a veterinary dispensing technician may receive an orally transmitted new or refill prescription.
  5. A veterinary dispensing technician may refill a prescription only if the initial prescription is issued indicating that a specific number of refills are authorized. A prescription may not be refilled twelve or more months after the issuance date of the initial order.
  6. A veterinary dispensing technician must file, or cause to be filed, any prescription, or a copy thereof, which has been dispensed in the veterinary retail facility. The prescription or a copy of the prescription must be preserved for at least three years after it has been filled. The veterinary dispensing technician must furnish a copy of any prescription to the party presenting it on the request of such party only.
  7. Records of receipt and dispensing of legend drugs must be kept for three years and may be audited by the state board of pharmacy.
  8. All veterinary prescription drugs must be properly labeled when dispensed. A complete label must include the following information:
    - a. Name, address, and telephone number of veterinarian.
    - b. Name of client.
    - c. Identification of animals or herds treated.
    - d. Date of treatment, prescribing, or dispensing of drug.
    - e. Name and quantity of the drug to be prescribed or dispensed.
    - f. Dosage and duration directions for use.
    - g. Cautionary statements, as needed.
    - h. Expiration date.

If that information is included in a manufacturer's label, it is unnecessary to repeat it on the prescription label. If there is inadequate space on the label for complete instructions, the veterinary dispensing technician shall provide additional information to accompany the drug dispensed or prescribed.

9. Veterinary prescription drugs must be stored separately from over-the-counter drugs. Drugs must be stored under conditions recommended by the manufacturer.

#### **43-15.4-05. Veterinary dispensing technicians - Educational requirements.**

To be eligible to be registered by the board as a veterinary dispensing technician, an individual must meet one of the following requirements:

1. Successful completion of an academic program approved by the state board of pharmacy;
2. Successful completion of a certification program approved by the state board of pharmacy; or

3. Be licensed as a veterinary technician by the state board of veterinary medical examiners.

**43-15.4-06. Veterinary dispensing technicians - Registration requirements.**

1. A veterinary dispensing technician must register with the state board of pharmacy on an annual basis.
2. A veterinary dispensing technician must be assigned a registration number.
3. The state board of pharmacy shall provide the veterinary dispensing technician with an annual registration card and pocket identification card.
4. The veterinary dispensing technician certificate and annual registration card must be displayed and visible to the public in the veterinary retail facility where the veterinary dispensing technician is employed.
5. The veterinary dispensing technician must wear a name badge while in the veterinary retail facility which clearly identifies the person as a "veterinary dispensing technician."
6. Every registered veterinary dispensing technician, within fifteen days after changing address or place of employment, shall notify the board of the change. The board shall make the necessary changes in the board's records.
7. A veterinary dispensing technician holding a certificate of registration as a veterinary dispensing technician in this state may go on inactive status and continue to hold a certificate of registration in this state provided the technician on inactive status may not practice within this state. A veterinary dispensing technician on inactive status may not be required to meet the continuing education requirements of the board under section 43-15.4-08. In order for a veterinary dispensing technician to change an inactive status of registration to an active status of registration, the veterinary dispensing technician must complete eight hours of approved continuing education and thereafter comply with the continuing education requirements of the board.

**43-15.4-07. Veterinary dispensing technician continuing education.**

1. Each registered veterinary dispensing technician shall complete at least eight hours of approved continuing education every year as a condition of renewal of a registration as a veterinary dispensing technician in this state. Of the required eight hours of continuing education, at least four hours must be of pharmacy technician continuing education approved by the state board of pharmacy and at least four hours must be of veterinary technician continuing education approved by the state board of veterinary medical examiners.
2. There may be no carryover or extension of continuing education units with the exception that continuing education units obtained twelve months prior to the beginning of each annual reporting period may be used in the current annual reporting period which begins March first of each year and ends the last day of February, or the previous reporting period. However, the units may not be counted as credit in both reporting periods. Failure to obtain the required eight hours of continuing education by the renewal date may result in suspension for a minimum of thirty days or a maximum of the period ending the date the continuing education is completed.
3. Veterinary dispensing technicians shall maintain their own records on forms supplied by the board. The records must be maintained for a two-year period.
4. The requirements of this section do not apply to a veterinary dispensing technician applying for a first renewal of a registration.

5. A veterinary dispensing technician registered with the board may make application to the board for a waiver of compliance with the continuing education requirements and may be granted an exemption by the board.
6. Upon request of the board, proof of compliance must be furnished to the board.

**43-15.4-08. Penalties for violation of rule regulating veterinary dispensing technicians.**

1. The registration of a veterinary dispensing technician violating drug laws or rules may be revoked by the state board of pharmacy, and the veterinary dispensing technician may be subject to the penalties of section 43-15-42.1.
2. The license of a veterinary retail facility violating drug laws or rules may be revoked by the state board of pharmacy and the veterinary retail facility may be subject to the penalties of section 43-15-42.1.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2080.

Senate Vote:    Yeas 47            Nays 0            Absent 0

House Vote:    Yeas 83            Nays 10           Absent 1

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2011.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2011.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2011,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State