

ARTICLE 1B Animal Sheltering

Section

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77-1B-1. Short title. (Repealed effective July 1, 2024.)

Chapter 77, Article 1B NMSA 1978 may be cited as the "Animal Sheltering Act".
History: Laws 2007, ch. 60, § 1; 2009, ch. 102, § 3.

77-1B-2. Definitions. (Repealed effective July 1, 2024.)

As used in the Animal Sheltering Act:

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

B. "animal shelter":

(1) means:

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

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

(2) does not include a municipal zoological park;

C. "board" means the animal sheltering board;

D. "department" means the regulation and licensing department;

E. "disposition" means adoption of an animal; return of an animal to the owner; release of an animal to a rescue organization; release of an animal to another animal shelter or to a rehabilitator licensed by the department of game and fish or the United States fish and wildlife service; or euthanasia of an animal;

F. "emergency field euthanasia" means the process defined by rule of the board to cause the death of an animal in an emergency situation when safe and humane transport of the animal is not possible;

G. "euthanasia" means to produce a humane death of an animal by standards deemed acceptable by the board as set forth in its rules;

H. "euthanasia agency" means a facility that provides shelter to animals on a regular basis, including a dog pound, a humane society or a public or private shelter facility that temporarily houses stray, unwanted or injured animals, and that performs euthanasia;

I. "euthanasia drugs" means non-narcotic schedule II or schedule III substances and chemicals as set forth in the Controlled Substances Act [Chapter 30, Article 31 NMSA 1978] that are used for the purposes of euthanasia and pre-euthanasia of animals;

J. "euthanasia instructor" means a veterinarian or a euthanasia technician certified by the board to instruct other individuals in euthanasia techniques;

K. "euthanasia technician" means a person licensed by the board to euthanize animals for a euthanasia agency;

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

M. "rescue organization" means an organization that rescues animals and is not involved in the breeding of animals;

N. "supervising veterinarian" means a person who is a veterinarian, who holds both a valid New Mexico controlled substance license and a valid federal drug enforcement agency license and who approves the drug protocols and the procurement and administration of all pharmaceuticals; and

O. "veterinarian" means a person who is licensed as a doctor of veterinary medicine by the board of veterinary medicine pursuant to the Veterinary Practice Act [Chapter 61, Article 14 NMSA 1978].

History: Laws 2007, ch. 60, § 2; 2009, ch. 102, § 4.

77-1B-2. Definitions. (Effective July 1, 2018.)(Repealed effective July 1, 2024.)

As used in the Animal Sheltering Act:

A. *"animal" means any animal, except humans, not defined as "livestock" in Subsection K of this section;*

B. *"animal shelter":*

(1) means:

(a) a county or municipal facility that provides shelter to animals on a regular basis, including a small animal impound facility; and

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

(2) does not include a municipal zoological park;

C. *"board" means the board of veterinary medicine;*

D. *"disposition" means adoption of an animal; return of an animal to the owner; release of an animal to a rescue organization; release of an animal to another animal shelter or to a rehabilitator licensed by the department of game and fish or the United States fish and wildlife service; or euthanasia of an animal;*

E. *"emergency field euthanasia" means the process defined by rule of the board to cause the death of an animal in an emergency situation when safe and humane transport of the animal is not possible;*

F. *"euthanasia" means to produce a humane death of an animal by standards deemed acceptable by the board as set forth in its rules;*

G. *"euthanasia agency" means a facility that provides shelter to animals on a regular basis, including a small animal impound facility, a humane society or a public or private shelter facility that temporarily houses stray, unwanted or injured animals, and that performs euthanasia;*

H. *"euthanasia drugs" means non-narcotic Schedule II or Schedule III substances and chemicals as set forth in the Controlled Substances Act [Chapter 30, Article 31 NMSA 1978] that are used for the purposes of euthanasia and pre-euthanasia of animals;*

I. *"euthanasia instructor" means a veterinarian or a euthanasia technician certified by the board to instruct other individuals in euthanasia techniques;*

J. *"euthanasia technician" means a person licensed by the board to euthanize animals for a euthanasia agency;*

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

L. *"rescue organization" means an organization that rescues animals and is not involved in the breeding of animals;*

M. *"supervising veterinarian" means a person who is a veterinarian, who holds both a valid New Mexico controlled substance license and a valid federal drug enforcement agency license and who approves the drug protocols and the procurement and administration of all pharmaceuticals; and*

N. *"veterinarian" means a person who is licensed as a doctor of veterinary medicine by the board pursuant to the Veterinary Practice Act [Chapter 61, Article 14 NMSA 1978].*

History: Laws 2007, ch. 60, § 2; 2009, ch. 102, § 4; 2017, ch. 44, § 8.

77-1B-3. Animal sheltering committee created; members; qualifications; terms; vacancies; duties; removal; application of Uniform Licensing Act. (Effective July 1, 2018.) (Repealed effective July 1, 2024.)

A. The "animal sheltering committee" is created. The animal sheltering committee shall consist of five members as follows:

- (1) one euthanasia agency employee with training and education in euthanasia;
- (2) one veterinarian who has provided paid or unpaid services to an animal shelter;
- (3) one representative from a nonprofit animal advocacy group;
- (4) one member of the public; and
- (5) a manager or director of a New Mexico facility that provides shelter to animals on a regular basis; provided that the manager or director selected is trained in animal shelter standards.

B. No more than two animal sheltering committee members shall be appointed from any one county within the state.

C. With respect to licenses issued pursuant to the Animal Sheltering Act, the board and its operations are governed by the Uniform Licensing Act [61-1-1 through 61-1-31 NMSA 1978]. If the provisions of the Uniform Licensing Act conflict with the provisions of the Animal Sheltering Act, the provisions of the Animal Sheltering Act shall prevail.

D. The board shall appoint members to the animal sheltering committee for terms of four years, except in the first year of the animal sheltering committee, when members shall be appointed for staggered terms. Of the first appointments, two members shall be appointed for four-year terms, one member shall be appointed for a three-year term, one member shall be appointed for a two-year term and one member shall be appointed for a one-year term. Subsequent appointments shall be made to fill vacancies created in unexpired terms, but only until the term ends or for a full four-year term when the term of an animal sheltering committee member expires. Animal sheltering committee members shall hold office until their successors are duly qualified and appointed. Vacancies shall be filled by appointment by the board for the unexpired term within sixty days of the vacancy to maintain the required composition of the animal sheltering committee.

E. Members of the animal sheltering committee shall be reimbursed for per diem and mileage as provided in the Per Diem and Mileage Act [10-8-1 through 10-8-8 NMSA 1978] and shall receive no other compensation, perquisite or allowance.

F. A simple majority of the appointed board members constitutes a quorum.

History: Laws 2007, ch. 60, § 3; 2009, ch. 102, § 5; 2017, ch. 44, § 9.

77-1B-4. Animal care and facility fund created; administration. (Repealed effective July 1, 2024.)

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

B. The animal care and facility fund shall consist of money collected by the board pursuant to the Animal Sheltering Act; income from investment of the fund; and money appropriated to the fund or accruing to it through fees or administrative penalties, cooperative research agreements, income, gifts, grants, donations, bequests, sales of promotional items, handbooks or educational materials or any other source. Money in the fund shall not be transferred to another fund or encumbered or expended except for expenditures authorized pursuant to the Animal Sheltering Act [Chapter 77, Article 1B NMSA 1978].

C. Money in the fund is appropriated by the legislature to the department to be used to help animal shelters and communities defray the cost of implementing the board's initiatives conducted pursuant to the Animal Sheltering Act. The fund shall be administered by the department to carry out the purposes of the Animal Sheltering Act.

D. The "statewide spay and neuter subaccount" is established in the animal care and facility fund. Money in the subaccount shall only be used to carry out the board's dog and cat sterilization assistance program. Money collected pursuant to Section 1 of this 2015 act and Section 66-3-424.3 NMSA 1978 shall be deposited in the subaccount.

E. A disbursement from the fund shall be made only upon a warrant drawn by the secretary of finance and administration pursuant to a voucher signed by the superintendent of regulation and licensing or the superintendent's designee.

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

History: Laws 2007, ch. 60, § 4; 2009, ch. 102, § 6; 2009, ch. 192, § 2; 2015, ch. 82, § 3.

77-1B-4. Animal care and facility fund created; administration. (Effective July 1, 2018.)(Repealed effective July 1, 2024.)

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

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

C. Money in the fund is appropriated by the legislature to the board to be used to help animal shelters and communities defray the cost of implementing the board's initiatives conducted pursuant to the Animal Sheltering Act. The fund shall be administered by the board to carry out the purposes of the Animal Sheltering Act.

D. The "statewide spay and neuter subaccount" is established in the animal care and facility fund. Money in the subaccount shall only be used to carry out the board's dog and cat sterilization assistance program. Money collected pursuant to Section 7-2-30.9 NMSA 1978 and Section 66-3-424.3 NMSA 1978 shall be deposited in the subaccount.

E. A disbursement from the fund shall be made only upon a warrant drawn by the secretary of finance and administration pursuant to a voucher signed by the executive director of the board or the director's designee with the approval of the majority of the board with consideration of the recommendation of a majority of the animal sheltering committee.

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

History: Laws 2007, ch. 60, § 4; 2009, ch. 102, § 6; 2009, ch. 192, § 2; 2015, ch. 82, § 3; 2017, ch. 44, § 10.

77-1B-5. Board powers and duties. (Repealed effective July 1, 2024.)

The board shall:

- A. provide board-recommended standards regarding the infrastructure for all animal shelters;
 - B. provide board-recommended operating standards for all animal shelters;
 - C. adopt methods and procedures acceptable for conducting emergency field euthanasia;
 - D. adopt, promulgate and revise rules necessary to carry out the provisions of the Animal Sheltering Act;
 - E. have authority to issue licenses and certificates pursuant to the Animal Sheltering Act;
 - F. establish the types of licenses and certificates that may be issued pursuant to the Animal Sheltering Act and establish criteria for issuing the licenses and certificates;
 - G. prescribe standards and approve curricula for educational programs that will be used to train and prepare persons for licensure or certification pursuant to the Animal Sheltering Act [Chapter 77, Article 1B NMSA 1978];
 - H. implement continuing education requirements for licensees and certificate holders pursuant to the Animal Sheltering Act;
 - I. conduct administrative hearings upon charges relating to violations of provisions of the Animal Sheltering Act or rules adopted pursuant to that act in accordance with the Uniform Licensing Act;
 - J. provide for all examinations and for issuance and renewal of licenses and certificates;
 - K. establish fees not to exceed one hundred fifty dollars (\$150) for licenses and certificates pursuant to the Animal Sheltering Act;
 - L. establish committees as the board deems necessary to effect the provisions of the Animal Sheltering Act;
 - M. apply for injunctive relief to enforce the provisions of the Animal Sheltering Act;
 - N. conduct national criminal background checks on applicants seeking licensure or certification under the Animal Sheltering Act;
 - O. keep a record of all proceedings;
 - P. make an annual report to the legislature and to the governor;
 - Q. provide for the inspection of animal shelters and euthanasia agencies;
 - R. develop mechanisms to address complaints of misconduct at animal shelters and euthanasia agencies and noncompliance with the provisions of the Animal Sheltering Act or rules adopted pursuant to that act;
 - S. develop mechanisms to address complaints of licensee and certificate holder misconduct and noncompliance;
 - T. develop a voluntary statewide dog and cat spay and neuter program in conjunction with animal shelters and euthanasia agencies;
 - U. develop criteria for individuals, groups, animal shelters and euthanasia agencies to receive assistance for dog and cat sterilization from the animal care and facility fund;
 - V. disburse money from the animal care and facility fund to qualifying individuals, groups, animal shelters and euthanasia agencies;
 - W. provide board-recommended standards for maintaining records concerning health care and disposition of animals; and
 - X. refer to national animal control association standards in determining its regulations.
- History: Laws 2007, ch. 60, § 5; 2009, ch. 102, § 7; 2015, ch. 82, § 4.

77-1B-5. Board powers and duties. (Effective July 1, 2018.)(Repealed effective July 1, 2024.)

The board shall:

- A. adopt infrastructure and operating standards and may enforce those standards with consideration of the recommendations by the animal sheltering committee;
- B. provide for inspections of animal shelters and euthanasia agencies;
- C. provide for oversight, including oversight of licensing requirements, regulations and discipline, of veterinarians employed by local government animal shelters;
- D. adopt methods and procedures acceptable for conducting emergency field euthanasia;
- E. adopt, promulgate and revise rules necessary to carry out the provisions of the Animal Sheltering Act;
- F. have authority to issue licenses and certificates pursuant to the Animal Sheltering Act;
- G. establish the types of licenses and certificates that may be issued pursuant to the Animal Sheltering Act and establish criteria for issuing the licenses and certificates;
- H. prescribe standards and approve curricula for educational programs that will be used to train and prepare persons for licensure or certification pursuant to the Animal Sheltering Act;
- I. implement continuing education requirements for licensees and certificate holders pursuant to the Animal Sheltering Act;
- J. conduct administrative hearings upon charges relating to violations of provisions of the Animal Sheltering Act or rules adopted pursuant to that act in accordance with the Uniform Licensing Act [~~61-1-1 through 61-1-31~~ NMSA 1978];
- K. provide for all examinations and for issuance and renewal of licenses and certificates;
- L. establish fees not to exceed one hundred fifty dollars (\$150) for licenses and certificates pursuant to the Animal Sheltering Act;
- M. establish committees as the board deems necessary to effect the provisions of the Animal Sheltering Act;
- N. apply for injunctive relief to enforce the provisions of the Animal Sheltering Act;
- O. conduct national criminal background checks on applicants seeking licensure or certification under the Animal Sheltering Act;
- P. keep a record of all proceedings;
- Q. make an annual report to the legislature;
- R. provide for the inspection of animal shelters and euthanasia agencies;
- S. develop mechanisms to address complaints of misconduct at animal shelters and euthanasia agencies and noncompliance with the provisions of the Animal Sheltering Act or rules adopted pursuant to that act;
- T. develop mechanisms to address complaints of licensee and certificate holder misconduct and noncompliance;
- U. adopt standards for maintaining records concerning health care and disposition of animals; and
- V. refer to the published national association of shelter veterinarians standards in determining its regulations for animal shelters and euthanasia agencies.

History: Laws 2007, ch. 60, § 5; 2009, ch. 102, § 7; 2015, ch. 82, § 4; 2017, ch. 44, § 11.

77-1B-6. Euthanasia technician; license. (Repealed effective July 1, 2024.)

- A. The board shall have authority to license euthanasia technicians.
- B. A person, other than a veterinarian licensed to practice in New Mexico, who engages in euthanasia for a euthanasia agency in this state shall be licensed by the board.
- C. Applicants for licensure by examination as a euthanasia technician shall be required to pass a euthanasia technician examination approved by the board and shall be required to complete a training course approved by the board in euthanasia practices.
- D. A person licensed to practice as a euthanasia technician shall:
- (1) have passed the examination to qualify as a euthanasia technician;
 - (2) hold a certificate of completion in a training course in euthanasia issued within three years of the date that the euthanasia technician examination is successfully completed;
 - (3) have attained an age of at least eighteen years;
 - (4) not be guilty of fraud or deceit in procuring or attempting to procure a license;
 - (5) pay the required fee to be determined by the board, but not to exceed fifty dollars (\$50.00); and
 - (6) comply with all other requirements established by the board.
- E. The board may issue a license to practice as a euthanasia technician without examination to an applicant who meets the qualifications required for euthanasia technicians in this state as set forth in Paragraphs (3) through (6) of Subsection D of this section. The application for a license as a euthanasia technician shall be accompanied by proof of completion of training in euthanasia practices, as approved by the board.
- F. A person whose euthanasia technician license expires while the person is on active duty with a branch of the armed forces of the United States, called into service or training with the state militia or in training or education under the supervision of the United States government prior to induction into military service may have the license restored without paying renewal fees, if within two years after the termination of that service, training or education, except under conditions other than honorable, the board is furnished with satisfactory evidence that the person had been engaged in the service, training or education.

History: Laws 2007, ch. 60, § 6; 2009, ch. 102, § 8.

77-1B-6.1. Euthanasia technician authority defined. (Repealed effective July 1, 2024.)

A euthanasia technician may purchase, possess and administer euthanasia drugs for the purpose of performing euthanasia and pre-euthanasia on animals for a euthanasia agency. A formulary shall be developed by the board and be approved by the board of pharmacy.

History: Laws 2009, ch. 102, § 9.

77-1B-7. Euthanasia instructors; certification. (Repealed effective July 1, 2024.)

- A. The board shall have authority over the certification of euthanasia instructors.
- B. A person certified to practice as a euthanasia instructor shall:
- (1) have passed the examination approved by the board to qualify as a euthanasia instructor;
 - (2) have completed training in euthanasia practices, as defined by the board, within one year preceding the date the application for certification is submitted;
 - (3) have participated in the euthanasia of animals for a minimum of three years preceding the date of application;
 - (4) not have been found guilty of fraud or deceit in procuring or attempting to procure any type of certification; and
 - (5) pay the required fee.
- C. The board may certify an applicant as a euthanasia instructor without an examination if the applicant has been certified or licensed under the laws of another state and the applicant meets the qualifications set forth in Paragraphs (3) through (5) of Subsection B of this section.
- D. A person whose euthanasia instructor certification expires while on active duty with the armed forces of the United States, called into service or training with the state militia or in training or education under the supervision of the United States government prior to induction into military service may have the certification restored without paying renewal fees, if within two years after the termination of that service, training or education, except under conditions other than honorable, the board is furnished with satisfactory evidence that the person has been engaged in such service, training or education.

History: Laws 2007, ch. 60, § 7; 2009, ch. 102, § 10.

77-1B-8. Euthanasia agencies; inspections; exemptions. (Repealed effective July 1, 2024.)

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

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

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

D. The board shall establish policies and procedures for record keeping and for securing, using and disposing of euthanasia drugs in accordance with requirements of the Controlled Substances Act [Chapter 30, Article 31 NMSA 1978], the United States drug enforcement administration's Controlled Substances Act and the rules of the board of pharmacy.

E. Euthanasia agencies using controlled substances shall have on staff or under contract a consulting pharmacist as that position is defined in the Pharmacy Act [Chapter 61, Article 11 NMSA 1978].

F. A supervising veterinarian is not required to be on the premises of a euthanasia agency when euthanasia is performed.

G. Nothing in Chapter 77, Article 1B NMSA 1978 shall be construed as allowing a euthanasia technician or a euthanasia instructor to engage in the practice of veterinary medicine when performing the duties set forth in that act.

H. Nothing in Chapter 77, Article 1B NMSA 1978 shall be construed as preventing a euthanasia instructor from euthanizing animals during a board-approved course on euthanasia instruction.

I. Nothing in Chapter 77, Article 1B NMSA 1978 affects wildlife rehabilitators working under the auspices of the department of game and fish.

J. A veterinary clinic serving as a euthanasia agency pursuant to a contract with a local government is exempt from the provisions of Chapter 77, Article 1B NMSA 1978; provided that the veterinary clinic is subject to licensure and rules adopted pursuant to the Veterinary Practice Act [Chapter 61, Article 14 NMSA 1978].

K. A municipal facility that is a zoological park is exempt from the provisions of Chapter 77, Article 1B NMSA 1978.

History: Laws 2007, ch. 60, § 8; 2009, ch. 102, § 11; 2009, ch. 103, § 2.

77-1B-9. Violations. (Repealed effective July 1, 2024.)

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

- (1) perform euthanasia for a euthanasia agency or an animal shelter in this state without possessing a valid license pursuant to the Animal Sheltering Act;
- (2) solicit, advertise or offer to perform an act for which licensure or certification is required pursuant to the Animal Sheltering Act, unless the person holds a license or certification;
- (3) refuse to comply with a cease and desist order issued by the board;
- (4) refuse or fail to comply with the provisions of the Animal Sheltering Act;
- (5) make a material misstatement in an application for licensure or certification;
- (6) intentionally make a material misstatement to the department during an official investigation;
- (7) impersonate an official or inspector;
- (8) refuse or fail to comply with rules adopted by the board or with a lawful order issued by the board;
- (9) aid or abet another in violating provisions of the Animal Sheltering Act, or a rule adopted by the board;
- (10) alter or falsify a certificate of inspection, license or certification issued by the board;
- (11) fail to carry out the duties of a euthanasia technician in a professional manner;
- (12) abuse the use of a chemical substance or be guilty of habitual or excessive use of intoxicants or drugs;
- (13) sell or give chemical substances used in euthanasia procedures to an unlicensed person; and
- (14) assist an unlicensed or unauthorized person in euthanizing animals, except during a board-approved course in euthanasia.

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

- (1) refuse to permit entry or inspection of its facilities by the board or its designees;
- (2) sell, offer for sale, barter, exchange or otherwise transfer animals that are prohibited by the department of game and fish, the United States department of agriculture or any other regulatory agency to be kept unless the sale, offer for sale, bartering, exchanging or transferring of the animal is to a facility employing permitted rehabilitators or an individual that is a permitted rehabilitator pursuant to the rules adopted by the department of game and fish or another agency that has authority over people who are permitted to receive and provide care for such animals;
- (3) allow a license or certificate issued pursuant to the Animal Sheltering Act to be used by an unlicensed or uncertified person; or
- (4) make a misrepresentation or false promise through advertisements, employees, agents or other mechanisms in connection with the euthanasia of an animal.

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

History: Laws 2007, ch. 60, § 9; 2009, ch. 102, § 12.

77-1B-9. Violations. (Effective July 1, 2018.)(Repealed effective July 1, 2024.)

- A. *Unless otherwise provided in the Animal Sheltering Act, it is a violation of that act for a person to:*
- (1) *perform euthanasia for a euthanasia agency or an animal shelter in this state without possessing a valid license pursuant to the Animal Sheltering Act;*
 - (2) *solicit, advertise or offer to perform an act for which licensure or certification is required pursuant to the Animal Sheltering Act, unless the person holds a license or certification;*
 - (3) *refuse to comply with a cease and desist order issued by the board;*
 - (4) *refuse or fail to comply with the provisions of the Animal Sheltering Act;*
 - (5) *make a material misstatement in an application for licensure or certification;*
 - (6) *intentionally make a material misstatement to the board during an official investigation;*
 - (7) *impersonate an official or inspector;*
 - (8) *refuse or fail to comply with rules adopted by the board or with a lawful order issued by the board;*
 - (9) *aid or abet another in violating provisions of the Animal Sheltering Act, or a rule adopted by the board;*
 - (10) *alter or falsify a certificate of inspection, license or certification issued by the board;*
 - (11) *fail to carry out the duties of a euthanasia technician in a professional manner;*
 - (12) *abuse the use of a chemical substance or be guilty of habitual or excessive use of intoxicants or drugs;*
 - (13) *sell or give chemical substances used in euthanasia procedures to an unlicensed person; or*
 - (14) *assist an unlicensed or unauthorized person in euthanizing animals, except during a board-approved course in euthanasia.*
- B. *It is a violation of the Animal Sheltering Act for a euthanasia agency or an animal shelter to:*
- (1) *refuse to permit entry or inspection of its facilities by the board or its designees;*
 - (2) *sell, offer for sale, barter, exchange or otherwise transfer animals that are prohibited by the department of game and fish, the United States department of agriculture or any other regulatory agency to be kept unless the sale, offer for sale, bartering, exchanging or transferring of the animal is to a facility employing permitted rehabilitators or an individual that is a permitted rehabilitator pursuant to the rules adopted by the department of game and fish or another agency that has authority over people who are permitted to receive and provide care for such animals;*
 - (3) *allow a license or certificate issued pursuant to the Animal Sheltering Act to be used by an unlicensed or uncertified person; or*
 - (4) *make a misrepresentation or false promise through advertisements, employees, agents or other mechanisms in connection with the euthanasia of an animal.*
- C. *It is a violation of the Animal Sheltering Act for an employee or official of the board or the animal sheltering committee to disclose or use for that person's own advantage information derived from reports or records submitted to the board pursuant to that act.*

History: Laws 2007, ch. 60, § 9; 2009, ch. 102, § 12; 2017, ch. 44, § 12.

77-1B-10. Enforcement and injunctions. (Repealed effective July 1, 2024.)

A. The board or the board's designees shall enforce the provisions of the Animal Sheltering Act.

B. Whenever the board has reasonable cause to believe a violation of a provision of the Animal Sheltering Act or a rule adopted pursuant to that act has occurred that creates a health risk for the animals or the community and immediate enforcement is deemed necessary, the board may issue a cease and desist order to require a person to cease violations. At any time after service of the order to cease and desist, the person may request a prompt hearing to determine whether a violation occurred. If a person fails to comply with a cease and desist order within twenty-four hours, the board may bring a suit for a temporary restraining order and for injunctive relief to prevent further violations.

C. Whenever the board possesses evidence that indicates a person has engaged in or intends to engage in an act or practice constituting a violation of the Animal Sheltering Act or a rule adopted pursuant to that act, the board may seek temporarily or permanently to restrain or enjoin the act or practice. The board shall not be required to post a bond when seeking a temporary or permanent injunction.

History: Laws 2007, ch. 60, § 10; 2009, ch. 102, § 13.

77-1B-11. Disciplinary actions; euthanasia technicians, euthanasia agencies and euthanasia instructors; hearings; penalties. (Repealed effective July 1, 2024.)

A. The provisions of the Uniform Licensing Act [~~61-1-1~~ through ~~61-1-31~~ NMSA 1978] apply to all disciplinary procedures and hearings of the board.

B. The board may:

(1) deny, suspend, revoke, reprimand, place on probation or take other action against a license or certificate held or applied for pursuant to the Animal Sheltering Act, including imposing an administrative penalty, upon a finding by the board that the licensee, certificate holder or applicant has performed acts in violation of the Animal Sheltering Act or a rule adopted pursuant to that act; and

(2) impose an administrative penalty on a person who makes a false representation as being a licensed euthanasia technician, a certified euthanasia instructor or a licensed euthanasia agency.

C. The board may issue letters of admonition or deny, suspend, refuse to renew, restrict or revoke a license or certification authorized pursuant to the Animal Sheltering Act if the applicant or licensee:

(1) has refused or failed to comply with a provision of the Animal Sheltering Act, a rule adopted pursuant to that act or an order of the board;

(2) is guilty of cruelty to animals pursuant to a statute of this state or another state;

(3) has had an equivalent license or certificate denied, revoked or suspended by an authority;

(4) has refused to provide the board with reasonable, complete and accurate information regarding the care or euthanasia of animals when requested by the board; or

(5) has falsified information requested by the board or the board's designee.

D. In a proceeding held pursuant to this section, the board may accept as prima facie evidence of grounds for disciplinary action any disciplinary action taken against a licensee from another jurisdiction, if the violation that prompted the disciplinary action in that jurisdiction would be grounds for disciplinary action pursuant to this section.

E. Disciplinary proceedings may be instituted by the board or by a complaint to the board.

F. The board shall not initiate a disciplinary action more than two years after the date that it receives a complaint or that it begins an investigation without a filed complaint.

G. The board may administer oaths, take statements and compel disclosure by the witnesses of all facts known to them relative to matters under investigation.

H. The board may impose an administrative penalty in an amount not to exceed five hundred dollars (\$500) on a holder of a license or certificate for violations of the Animal Sheltering Act.

I. A person or euthanasia agency whose license or certificate is suspended or revoked by the board pursuant to the provisions of this section may, at the discretion of the board, obtain a license or certificate at any time without examination upon written application to the board showing cause to justify reinstatement or renewal of the license or certificate.

J. The board shall adopt other rules pertaining to hearings, appeals and rehearings as it deems necessary.

K. The board shall not be required to certify a record to the court of appeals of a decision of the board until the proper fee has been paid to the board for a copy and certification of the record.

L. A person engaging in acts without a license or certificate issued by the board is guilty of a misdemeanor.

M. A person who practices, offers to practice, attempts to practice or makes any representation as being a euthanasia technician, a euthanasia instructor or a licensed euthanasia agency without holding a license or certificate issued by the board shall, in addition to any other penalty provided in this section or any other law, pay an administrative penalty to the board in an amount not to exceed five hundred dollars (\$500) for each offense.

History: Laws 2007, ch. 60, § 11; 2009, ch. 102, § 14.

History: Laws 2007, ch. 60, § 11; 2009, ch. 102, § 14; 2017, ch. 44, § 13.

77-1B-11. Disciplinary actions; euthanasia technicians, euthanasia agencies and euthanasia instructors; hearings; penalties. (Effective July 1, 2018.) (Repealed effective July 1, 2024.)

A. *With the respect to licenses pursuant to the Animal Sheltering Act, the provisions of the Uniform Licensing Act [61-1-1 through 61-1-31 NMSA 1978] apply to all disciplinary procedures and hearings of the board.*

B. *The board may:*

(1) *deny, suspend, revoke, reprimand, place on probation or take other action against a license or certificate held or applied for pursuant to the Animal Sheltering Act, including imposing an administrative penalty, upon a finding by the board that the licensee, certificate holder or applicant has performed acts in violation of the Animal Sheltering Act or a rule adopted pursuant to that act; and*

(2) *impose an administrative penalty on a person who makes a false representation as being a licensed euthanasia technician, a certified euthanasia instructor or a licensed euthanasia agency.*

C. *The board may issue letters of admonition or deny, suspend, refuse to renew, restrict or revoke a license or certification authorized pursuant to the Animal Sheltering Act if the applicant or licensee:*

(1) *has refused or failed to comply with a provision of the Animal Sheltering Act, a rule adopted pursuant to that act or an order of the board;*

(2) *is guilty of cruelty to animals pursuant to a statute of this state or another state;*

(3) *has had an equivalent license or certificate denied, revoked or suspended by an authority;*

(4) *has refused to provide the board with reasonable, complete and accurate information regarding the care or euthanasia of animals when requested by the board; or*

(5) *has falsified information requested by the board or the board's designee.*

D. *In a proceeding held pursuant to this section, the board may accept as prima facie evidence of grounds for disciplinary action any disciplinary action taken against a licensee from another jurisdiction, if the violation that prompted the disciplinary action in that jurisdiction would be grounds for disciplinary action pursuant to this section.*

E. *Disciplinary proceedings may be instituted by the board or by a complaint to the board.*

F. *The board shall not initiate a disciplinary action more than two years after the date that it receives a complaint or that it begins an investigation without a filed complaint.*

G. *The board may administer oaths, take statements and compel disclosure by the witnesses of all facts known to them relative to matters under investigation.*

H. *The board may impose an administrative penalty in an amount not to exceed five hundred dollars (\$500) on a holder of a license or certificate for violations of the Animal Sheltering Act.*

I. *A person or euthanasia agency whose license or certificate is suspended or revoked by the board pursuant to the provisions of this section may, at the discretion of the board, obtain a license or certificate at any time without examination upon written application to the board showing cause to justify reinstatement or renewal of the license or certificate.*

J. *The board shall adopt other rules pertaining to hearings, appeals and rehearings as it deems necessary.*

K. *The board shall not be required to certify a record to the court of appeals of a decision of the board until the proper fee has been paid to the board for a copy and certification of the record.*

L. *A person engaging in acts without a license or certificate issued by the board is guilty of a misdemeanor.*

M. *A person who practices, offers to practice, attempts to practice as, or makes any representation as being, a euthanasia technician, a euthanasia instructor or a licensed euthanasia agency without holding a license or certificate issued by the board shall, in addition to any other penalty provided in this section or any other law, pay an administrative penalty to the board in an amount not to exceed five hundred dollars (\$500) for each offense.*

77-1B-12. Termination of agency life; delayed repeal. (Repealed effective July 1, 2018.)

The animal sheltering board is terminated on July 1, 2019 pursuant to the Sunset Act [[12-9-11](#) through [12-9-21](#) NMSA 1978]. The board shall continue to operate according to the provisions of the Animal Sheltering Act until July 1, 2020. Effective July 1, 2020, the Animal Sheltering Act is repealed.

History: Laws 2007, ch. 60, § 12; 2009, ch. 102, § 15; 2011, ch. 172, § 1; 2013, ch. 166, § 9.