

*As Amended by Senate Committee*

*Session of 2012*

**SENATE BILL No. 289**

By Committee on Agriculture

1-17

1 AN ACT concerning the veterinary practice act; relating to records  
2 inspection fee; powers of the board of veterinary examiners; grounds to  
3 suspend or revoke a license; amending K.S.A. 47-821 and K.S.A. 2011  
4 Supp. 47-822, 47-830 and 47-842 and repealing the existing sections.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 ~~See—1.~~ **Section 1.** K.S.A. 47-821 is hereby amended to read as  
8 follows: 47-821. (a) In general, but not by way of limitation, the board  
9 shall have power to:

10 (1) Examine and determine the qualifications and fitness of applicants  
11 for a license to practice veterinary medicine in this state in accordance  
12 with K.S.A. 47-824 and 47-826, and amendments thereto.

13 (2) Inspect and register any veterinary premises pursuant to K.S.A.  
14 47-840, and amendments thereto, and take any disciplinary action against  
15 the holder of a registration of a premises issued pursuant to K.S.A. 47-840,  
16 and amendments thereto.

17 (3) *Inspect and audit the records and **compliance with the standards***  
18 *of practice of any veterinarian and take any disciplinary action against*  
19 *the licensed veterinarian consistent with the provisions of this act and the*  
20 *rules and regulations adopted thereunder.*

21 ~~(3)~~ (4) Issue, renew, deny, limit, condition, fine, reprimand, restrict,  
22 suspend or revoke licenses to practice veterinary medicine in this state or  
23 otherwise discipline licensed veterinarians consistent with the provisions  
24 of this act and the rules and regulations adopted thereunder.

25 ~~(4)~~ (5) Conduct an investigation upon an allegation by any person  
26 that any licensee or other veterinarian has violated any provision of the  
27 Kansas veterinary practice act or any rules and regulations adopted  
28 pursuant to such act. The board may appoint individuals and committees to  
29 assist in any investigation.

30 ~~(5)~~ (6) Establish and publish annually a schedule of fees authorized  
31 pursuant to and in accordance with the provisions of K.S.A. 47-822, and  
32 amendments thereto.

33 ~~(6)~~ (7) Employ full-time or part-time an executive director and such  
34 professional, clerical and special personnel as shall be necessary to carry  
35 out the provisions of this act. The board shall fix the compensation of  
36 such personnel who shall be in the unclassified service under the Kansas

1 civil service act. Under the supervision of the board, the executive  
2 director shall perform such duties as may be required by law or authorized  
3 by the board.

4 ~~(7)~~ (8) Purchase or rent necessary office space, equipment and  
5 supplies.

6 ~~(8)~~ (9) Appoint from its own membership one or more members to  
7 act as representatives of the board at any meeting within or without the  
8 state where such representation is deemed desirable.

9 ~~(9)~~ (10) Initiate the bringing of proceedings in the courts for the  
10 enforcement of this act.

11 ~~(10)~~ (11) Adopt, amend or repeal rules and regulations for licensed  
12 veterinarians regarding the limits of activity for assistants and registered  
13 veterinary technicians who perform prescribed veterinary procedures  
14 under the direct or indirect supervision and responsibility of a licensed  
15 veterinarian.

16 ~~(11)~~ (12) Adopt, amend or repeal such rules and regulations, not  
17 inconsistent with law, as may be necessary to carry out the purposes of this  
18 act and enforce the provisions thereof.

19 ~~(12)~~ (13) Have a common seal.

20 ~~(13)~~ (14) Adopt, amend or repeal rules and regulations to fix  
21 minimum standards for continuing veterinary medical education, which  
22 standards shall be a condition precedent to the renewal of a license under  
23 this act.

24 ~~(14)~~ ~~Register~~(15) *Examine and determine the qualifications and*  
25 *fitness of applicants for registration and register veterinary technicians.*

26 (16) *Issue, renew, deny, limit, condition, fine, reprimand, restrict,*  
27 *suspend or revoke veterinary technician registrations in this state*  
28 **consistent** *with the provisions of this act and the rules and regulations*  
29 *adopted thereunder.*

30 ~~(15)~~ (17) Establish any committee necessary to implement any  
31 provision of this act including, but not limited to, a continuing education  
32 committee and a peer review committee. Such committees may be formed  
33 in conjunction with professional veterinary associations in the state.  
34 Members of such committees appointed by the board shall receive the  
35 same privileges and immunities and be charged with the same  
36 responsibilities of activity and confidentiality as board members.

37 ~~(16)~~ (18) Refer complaints to a duly formed peer review committee  
38 of a duly appointed professional association.

39 ~~(17)~~ (19) Establish, by rules and regulations, minimum standards for  
40 the practice of veterinary medicine.

41 ~~(18)~~ (20) Contract with a person or entity to perform the inspections  
42 or reinspections as required by K.S.A. 47-840, *and amendments thereto.*

43 ~~(19)~~ (21)(A) For the purpose of investigations and proceedings

1 conducted by the board, the board may issue subpoenas compelling:

2 (i) The attendance and testimony of veterinarians *or veterinary*  
3 *technicians*; or

4 (ii) the production for examination or copying of documents or any  
5 other physical evidence if such evidence relates to veterinary competence,  
6 unprofessional conduct, the mental or physical ability of a licensee *or*  
7 *registrant* to safely practice veterinary medicine or the condition of a  
8 veterinary premises. Within five days after the service of the subpoena on  
9 any veterinarian requiring the production of any evidence in the  
10 veterinarian's possession or under the veterinarian's control, such  
11 veterinarian may petition the board to revoke, limit or modify the  
12 subpoena. The board shall revoke, limit or modify such subpoena if in its  
13 opinion the evidence required does not relate to practices which may be  
14 grounds for disciplinary action, is not relevant to the charge which is the  
15 subject matter of the proceeding or investigation, or does not describe with  
16 sufficient particularity the physical evidence which is required to be  
17 produced.

18 (B) The district court, upon application by the board or by the  
19 veterinarian *or veterinary technician* subpoenaed, shall have jurisdiction to  
20 issue an order:

21 ~~(A)~~(i) Requiring such veterinarian *or veterinary technician* to appear  
22 before the board or the board's duly authorized agent to produce evidence  
23 relating to the matter under investigation; or

24 ~~(B)~~(ii) revoking, limiting or modifying the subpoena if in the court's  
25 opinion the evidence demanded does not relate to practices which may be  
26 grounds for disciplinary action, is not relevant to the charge which is the  
27 subject matter of the hearing or investigation or does not describe with  
28 sufficient particularity the evidence which is required to be produced.

29 (b) The powers of the board are granted to enable the board to  
30 effectively supervise the practice of veterinary medicine and are to be  
31 construed liberally in order to accomplish such objective.

32 Sec. 2. K.S.A. 2011 Supp. 47-822 is hereby amended to read as  
33 follows: 47-822. (a) The fee for an application for a license to practice  
34 veterinary medicine in this state, as required by K.S.A. 47-824, and  
35 amendments thereto, shall be not less than \$50 nor more than \$250.

36 (b) The annual fee for renewal of license required under K.S.A. 47-  
37 829, and amendments thereto, shall be not less than \$20 nor more than  
38 \$100.

39 (c) The fee for each examination for licensure as required by K.S.A.  
40 47-825, and amendments thereto, shall not be less than \$50 nor more than  
41 \$500.

42 (d) The fee for an application for registration of a registered  
43 veterinary technician as provided in K.S.A. 47-821, and amendments

1 thereto, shall be not less than \$20 nor more than \$50.

2 (e) The annual fee for renewal of registration of a registered  
3 veterinary technician as provided in K.S.A. 47-821, and amendments  
4 thereto, shall be not less than \$5 nor more than \$25.

5 (f) The fee for an application for registration of a premises required  
6 under K.S.A. 47-840, and amendments thereto, shall be not less than \$50  
7 nor more than \$150.

8 (g) The fee for renewal of registration of a premises required under  
9 K.S.A. 47-840, and amendments thereto, shall be not less than \$10 nor  
10 more than \$50.

11 (h) A late fee of no more than \$50 may be assessed to a person  
12 requesting registration of a premises.

13 (i) The fee for inspection or reinspection of a premises required to be  
14 registered under K.S.A. 47-840, and amendments thereto, shall be not less  
15 than \$50 nor more than \$150.

16 (j) *The fee for inspection and audit of the records and **compliance***  
17 ***with the standards of practice of any veterinarian shall be not less than***  
18 ***\$50 nor more than \$150.***

19 (k) The board shall determine annually the amount necessary to carry  
20 out and enforce the provisions of this act and shall fix by rules and  
21 regulations the fees established in this section within the limitations  
22 provided in this section.

23 Sec. 3. K.S.A. 2011 Supp. 47-830 is hereby amended to read as  
24 follows: 47-830. The board, in accordance with the provisions of the  
25 Kansas administrative procedure act, may refuse to issue a license, revoke,  
26 suspend, limit, condition, reprimand or restrict a license to practice  
27 veterinary medicine for any of the following reasons:

28 (a) The employment of fraud, misrepresentation or deception in  
29 obtaining a license;

30 (b) an adjudication of incapacity by a court of competent jurisdiction;

31 (c) for having professional connection with or lending one's name to  
32 any illegal practitioner of veterinary medicine and the various branches  
33 thereof;

34 (d) false or misleading advertising;

35 (e) conviction of a felony *or entering into a **plea agreement or a***  
36 ***diversion agreement in lieu of ~~conviction~~ further criminal proceedings on***  
37 ***a complaint alleging a violation of a felony;***

38 (f) failure to provide a written response within the time prescribed by  
39 the board to a written request made by the board pursuant to an  
40 investigation by or on behalf of the board;

41 (g) employing, contracting with or utilizing in any manner any person  
42 in the unlawful practice of veterinary medicine;

43 (h) fraud or dishonest conduct in applying, treating or reporting

1 diagnostic biological tests of public health significance or in issuing health  
2 certificates;

3 (i) failure of the veterinarian who is responsible for the operation and  
4 management of a veterinary premises to keep the veterinary premises in  
5 compliance with minimum standards established by rules and regulations  
6 as to sanitary conditions and physical plant;

7 (j) failure to report as required by law, or making false report of any  
8 contagious or infectious disease;

9 (k) dishonesty or negligence in the inspection of foodstuffs;

10 (l) cruelty or inhumane treatment to animals;

11 (m) disciplinary or administrative action taken by any federal, state or  
12 local regulatory agency or any foreign country on grounds other than  
13 nonpayment of registration fees;

14 (n) disclosure of any information in violation of K.S.A. 47-839, and  
15 amendments thereto;

16 (o) unprofessional conduct as defined in rules and regulations  
17 adopted by the board includes, but is not limited to, the following:

18 (1) Conviction of a charge of violating any federal ~~statutes~~ *statute* or  
19 any statute of this state, regarding *controlled* substances as defined in  
20 K.S.A. 65-4101, and amendments thereto;

21 (2) using unless lawfully prescribed, prescribing or administering to  
22 oneself or another person any of the controlled substances as defined in  
23 K.S.A. 65-4101, and amendments thereto, or using, prescribing or  
24 administering any of the controlled substances as defined in K.S.A. 65-  
25 4101 and amendments thereto or alcoholic beverages or any other drugs,  
26 chemicals or substances to the extent, or in such a manner as to be  
27 dangerous or injurious to a person licensed under the Kansas veterinary  
28 practice act, to oneself or to any other person or to the public, or to the  
29 extent that such use impairs the ability of such person so licensed to  
30 conduct with safety the practice authorized by the license;

31 (3) the conviction of more than one misdemeanor or any felony  
32 involving the use, consumption or self-administration of any of the  
33 substances referred to in this section or any combination thereof;

34 (4) violation of or attempting to violate, directly or indirectly, any  
35 provision of the Kansas veterinary practice act or any rules and regulations  
36 adopted pursuant to such act; and

37 (5) violation of an order of the board;

38 (p) conviction of a crime substantially related to qualifications,  
39 functions or duties of veterinary medicine, surgery or dentistry;

40 (q) fraud, deception, negligence or incompetence in the practice of  
41 veterinary medicine;

42 (r) the use, prescription, administration, dispensation or sale of any  
43 veterinary prescription drug or the prescription of an extra-label use of any

1 over-the-counter drug in the absence of a valid veterinary-client-patient  
2 relationship;

3 (s) failing to furnish details or copies of a patient's medical records or  
4 failing to provide reasonable access to or a copy of a patient's radiographs  
5 to another treating veterinarian, hospital or clinic, upon the written request  
6 of and authorization from an owner or owner's agent, or failing to provide  
7 the owner or owner's agent with a summary of the medical record within a  
8 reasonable period of time and upon proper request by the owner or owner's  
9 agent, or failing to comply with any other law relating to medical records;  
10 or

11 (t) determination that the veterinarian is impaired, as defined in  
12 K.S.A. 47-846, and amendments thereto, by a representative of the  
13 impaired veterinarian committee, or as determined by the board after a  
14 hearing.

15 Sec. 4. K.S.A. 2011 Supp. 47-842 is hereby amended to read as  
16 follows: 47-842. In addition to the board's authority to refuse licensure or  
17 impose discipline pursuant to K.S.A. 47-830, and amendments thereto, the  
18 board shall have the authority to assess a fine not in excess of \$5,000  
19 against a licensee for ~~any~~ *each* of the causes specified in K.S.A. 47-830,  
20 and amendments thereto. Such fine may be assessed in lieu of or in  
21 addition to such discipline. The proceedings under this act shall be  
22 conducted in accordance with the Kansas administrative procedure act,  
23 and the board shall have all the powers granted therein. All fines collected  
24 pursuant to this section shall be remitted to the state treasurer in  
25 accordance with the provisions of K.S.A. 75-4215, and amendments  
26 thereto. Upon receipt of each such remittance, the state treasurer shall  
27 deposit the entire amount in the state treasury to the credit of the state  
28 general fund. Actual costs related to investigation, adjudication and  
29 enforcement shall be deducted and credited to the veterinary examiners fee  
30 fund.

31 Sec. 5. K.S.A. 47-821 and K.S.A. 2011 Supp. 47-822, 47-830 and 47-  
32 842 are hereby repealed.

33 Sec. 6. This act shall take effect and be in force from and after its  
34 publication in the statute book.

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