

2012 Kansas Statutes

47-844. Civil citation; notice to contest; procedures; disciplinary actions and civil penalties. (a) If a veterinarian desires to contest administratively a civil citation or the proposed assessment of a civil penalty such as a veterinarian, within 30 days after service of the citation, shall notify the executive director in writing of such veterinarian's request for an informal conference with the executive director or the executive director's designee. The executive director or the executive director's designee, within 60 days from the receipt of the request, shall hold an informal conference. At the conclusion of the informal conference, the executive director may affirm, modify or dismiss the citation or proposed assessment of a civil penalty, and the executive director shall state with particularity in writing the reasons for the action, and shall immediately transmit a copy thereof to the board, the veterinarian, and the person who submitted the complaint. If the veterinarian desires to contest administratively a decision made after the informal conference, such veterinarian shall inform the executive director in writing within 30 days after such person receives the decision resulting from the informal conference. If the veterinarian fails to notify the executive director in writing that such veterinarian intends to contest the citation or the proposed assessment of a civil penalty or the decision made after an informal conference within the time specified in this section, the citation or the proposed assessment of a civil penalty or the decision made after an informal conference shall be deemed a final order of the board and shall not be subject to further administrative review. Notwithstanding any other provision of law, where a fine is paid to satisfy an assessment based on the findings of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(b) A veterinarian, in lieu of contesting a citation pursuant to this section, may transmit to the board the amount assessed in the citation as a civil penalty, within 30 days after service of the citation. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged.

(c) If a veterinarian has notified the executive director within 30 days of the issuance of the assessment or citation that such veterinarian intends to contest the decision made after the informal conference, the board shall hold a hearing to be held in accordance with the Kansas administrative procedure act. After the hearing, the board shall issue a decision, based on findings of fact, affirming, modifying, or vacating the citation, or directing other appropriate relief which shall include, but need not be limited to, a notice that the failure of a veterinarian to comply with any provision of the board's decision constitutes grounds for suspension, or denial of licensure, or both. The proceedings under this section shall be conducted in accordance with the Kansas administrative procedure act and the board shall have all the powers granted therein.

(d) After the exhaustion of the review procedures provided for in this section, the board may bring an action pursuant to the act for judicial review and civil enforcement of agency action to enforce any order issued pursuant to this section.

(e) Failure of the licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board. When a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(f) All civil penalties received under this act shall be deposited in the state general fund following payment of all costs related to investigation, adjudication and enforcement which shall be credited to the veterinary examiners fee fund.

History: L. 1993, ch. 129, § 23; L. 1999, ch. 25, § 16; July 1.