

HOUSE BILL No. 2532

By Representative Highland

1-24

Proposed Amendment for HB2532
For Committee on Agriculture
February 11, 2022
Office of Revisor of Statutes

1 AN ACT concerning the state board of veterinary examiners; relating to
2 licensed veterinarians and registered veterinary technicians; authorizing
3 the board to assess civil fines to registered veterinary technicians; fees
4 for actual costs related to the investigation or adjudication of, or
5 enforcement against, any person for a violation of the Kansas
6 veterinary practice act; relating to determinations of impairment; the
7 procedure for investigative and disciplinary proceedings; amending
8 K.S.A. 47-816, 47-817, 47-820, 47-821, 47-829, 47-830, 47-834, 47-
9 835, 47-840, 47-842, 47-847 and 47-852 and repealing the existing
10 sections; also repealing K.S.A. 47-837, 47-843, 47-844, 47-846, 47-
11 848, 47-849, 47-850, 47-851, 47-853 and 47-854.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 47-816 is hereby amended to read as follows: 47-
15 816. As used in the Kansas veterinary practice act:

16 (a) "Animal" means any mammalian animal other than human and
17 any fowl, bird, amphibian, fish or reptile, wild or domestic, living or dead.

18 (b) "Board" means the state board of veterinary examiners.

19 (c) *"Clock hour of continuing education" means 60 minutes of*
20 *participation in a continuing education program or activity that meets the*
21 *minimum standards for continuing education according to rules and*
22 *regulations adopted by the board.*

23 (d) "Companion animal" means any dog, cat or other domesticated
24 animal possessed by a person for purposes of companionship, security,
25 hunting, herding or providing assistance in relation to a physical disability
26 but ~~shall exclude~~ *does not include* any animal raised on a farm or ranch
27 and used or intended for use as food.

28 ~~(d) "Clock hour of continuing education" means 60 minutes of~~
29 ~~participation in a continuing education program or activity which meets~~
30 ~~the minimum standards for continuing education according to rules and~~
31 ~~regulations adopted by the board.~~

32 (e) "Direct supervision" means the supervising licensed veterinarian:

33 (1) ~~Is on the veterinary premises in the immediate area and within~~
34 ~~audible or visual range of the animal patient and the person treating the~~
35 ~~patient~~ or in the same general area in a field setting;

36 (2) is quickly and easily available;

1 (3) examines the animal prior to delegating any veterinary practice
2 activity to the supervisee and performs any additional examination of the
3 animal required ~~by good as acceptable~~ *as acceptable* veterinary practice; and

4 (4) delegates only those veterinary practice activities ~~which that~~ *that* are
5 consistent with rules and regulations of the board regarding employee
6 supervision.

7 (f) ~~"Licensed veterinarian" means a veterinarian who is validly and~~
8 ~~currently licensed to practice veterinary medicine in this state~~ *"Graduate*
9 *veterinary technician" means a person who has graduated from an*
10 *American veterinary medical association accredited school approved by*
11 *the board.*

12 (g) *"Impaired" or "impairment" means the quality, state or condition*
13 *of being damaged, weakened or diminished to the extent that the licensee*
14 *or registrant cannot safely practice. "Impaired" or "impairment" includes,*
15 *but is not limited to, deterioration through the aging process, loss of motor*
16 *skills or abuse of alcohol, drugs or controlled substances.*

17 (h) ~~"Indirect supervision" means that~~ the supervising licensed
18 veterinarian:

19 (1) Is not on the veterinary premises or in the same general area in a
20 field setting, but has examined the animal and provided either written or
21 documented oral instructions or a written protocol for treatment of the
22 animal patient, except that in an emergency, the supervising licensed
23 veterinarian may provide oral instructions prior to examining the animal
24 and subsequently examine the animal and document the instruction in
25 writing;

26 (2) delegates only those veterinary practice tasks ~~which that~~ *that* are
27 consistent with the rules and regulations of the board regarding employee
28 supervision; and

29 (3) the animal being treated is not anesthetized as defined in rules and
30 regulations.

31 ~~(h)(i)~~ *"Licensed veterinarian" means a veterinarian who is validly*
32 *and currently licensed to practice veterinary medicine in this state.*

33 (j) *"Person" means any individual, corporation, partnership,*
34 *association or other entity.*

35 (k) *"Practice of veterinary medicine" means any of the following:*

36 (1) To diagnose, treat, correct, change, relieve, or prevent animal
37 disease, deformity, defect, injury or other physical or mental condition;
38 ~~including. "Practice of veterinary medicine" includes the prescription or~~
39 ~~administration dispensing of any prescription drug or the administering of~~
40 any drug, medicine, biologic, apparatus, application, anesthesia or other
41 therapeutic or diagnostic substance or technique on any animal, including,
42 but not limited to, acupuncture, surgical or dental operations, animal
43 psychology, animal chiropractic, theriogenology, surgery, including

prescribing

administration of

1 cosmetic surgery, any manual, mechanical, biological or chemical
2 procedure for testing for pregnancy or for correcting sterility or infertility
3 or to render service or recommendations with regard to any of the above
4 and all other branches of veterinary medicine.

5 (2) To represent, directly or indirectly, publicly or privately, an ability
6 and willingness to do any act described in paragraph (1).

7 (3) To use any title, words, abbreviation or letters in a manner or
8 under circumstances ~~which~~ *that* induce the belief that the person using
9 them is qualified to do any act described in paragraph (1). Such use shall
10 be prima facie evidence of the intention to represent oneself as engaged in
11 the practice of veterinary medicine.

12 (4) To collect blood or other samples for the purpose of diagnosing
13 disease or conditions. This shall not apply to unlicensed personnel
14 employed by the United States department of agriculture or the Kansas
15 department of agriculture who are engaged in such personnel's official
16 duties.

17 (5) To apply principles of environmental sanitation, food inspection,
18 environmental pollution control, animal nutrition, zoonotic disease control
19 and disaster medicine in the promotion and protection of public health in
20 the performance of any veterinary service or procedure.

21 ~~(i)(l) "Probable cause committee" means a committee consisting of
22 up to three board members that:~~

renumber subsections accordingly

23 ~~(1) Reviews information of any type, including, but not limited to,
24 potential impairment;~~

25 ~~(2) determines whether a licensed veterinarian, registered veterinary
26 technician or person may have violated the Kansas veterinary practice act
27 or the board regulations; and~~

28 ~~(3) attempts to resolve the matter without engaging in the
29 adjudicative hearing process.~~

30 (m) "Registered veterinary technician" means an individual who is a
31 graduate veterinary technician, has passed the examinations required by
32 the board for registration and is registered by the board.

33 (n) "School of veterinary medicine" means any veterinary college or
34 division of a university or college that offers the degree of doctor of
35 veterinary medicine or its equivalent, ~~which~~ *that* conforms to the standards
36 required for accreditation by the American veterinary medical association
37 and ~~which~~ *that* is recognized and approved by the board.

38 (j)(o) "Veterinarian" means a person who has received a doctor of
39 veterinary medicine degree or the equivalent from a school of veterinary
40 medicine.

41 ~~(k) "Veterinary premises" means any premises or facility where the
42 practice of veterinary medicine occurs, including, but not limited to, a
43 mobile clinic, outpatient clinic, satellite clinic or veterinary hospital or~~

1 and regulations for approval by the board. The secretary shall formally
2 propose and adopt all rules and regulations of the board pursuant to the
3 rules and regulations filing act, K.S.A. 77-415 et seq., and amendments
4 thereto. The secretary shall not adopt any rule and regulation unless such
5 rule and regulation has been approved by the board. The provisions of this
6 subsection shall expire on June 30, 2016.

7 Sec. 5. K.S.A. 47-829 is hereby amended to read as follows: 47-829.

8 (a) (1) All licenses, including institutional licenses; *and veterinary*
9 *technician registrations*, shall expire annually on June 30, except as
10 provided in K.S.A. 47-855, and amendments thereto, of each year but may
11 be renewed by registration with the board and payment of the license *or*
12 *registration* renewal fee established and published by the board, pursuant
13 to the provisions of K.S.A. 47-822, and amendments thereto. On June 1 of
14 each year, the executive director shall mail a notice to each licensed
15 veterinarian *or registered veterinary technician* that the ~~veterinarian's~~
16 *license or registration* will expire on June 30 and provide the veterinarian
17 *or veterinary technician* with a form for license renewal. For institutional
18 licenses as provided in K.S.A. 47-855, and amendments thereto, a notice
19 of the expiration of such license shall be mailed to the applicant and the
20 school of veterinary medicine at which the institutional licensee is
21 employed not later than 30 days prior to the expiration of such license. The
22 application for renewal of institutional licenses may be made in compiled
23 format by the school of veterinary medicine for all of its employees
24 desiring renewal, along with a single payment for all corresponding
25 renewal fees.

26 (1)(2) The application shall contain a statement to the effect that the
27 applicant has not been convicted of a felony, has not been the subject of
28 professional disciplinary action taken by any public agency in Kansas or
29 any other state, territory or the District of Columbia, and has not violated
30 any of the provisions of the Kansas veterinary practice act. If the applicant
31 is unable to make that statement, the application shall contain a statement
32 of the conviction, professional discipline or violation.

33 (2)(3) The board, as part of the renewal process, may make necessary
34 inquiries of the applicant and conduct an investigation in order to
35 determine if cause for disciplinary action exists.

36 (b) A license may be renewed upon payment of the renewal fee as
37 required by this section and the provision of satisfactory evidence that the
38 licensee has participated in a minimum of 20 clock hours of continuing
39 education. *A veterinary technician registration may be renewed upon*
40 *payment of the renewal fee as required by this section and the provision of*
41 *satisfactory evidence that the individual has participated in a minimum of*
42 ~~eight~~ *clock hours of continuing education.* The burden of proof for
43 showing such participation in continuing education hours shall be the

1 ~~dangerous or injurious to a person licensed under the Kansas veterinary~~
2 ~~practice act, to oneself or to any other person or to the public, or to the~~
3 ~~extent~~ that such use impairs the ability of ~~such a person~~ licensed *or*
4 *registered under this act* to conduct with safety the practice authorized by
5 the license *or registration*;

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

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

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

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

of the practice

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

17 (r) the use, prescription, administration, dispensation or sale of any
18 veterinary prescription drug or the prescription of an extra-label use of any
19 over-the-counter drug in the absence of a valid veterinary-client-patient
20 relationship;

21 (s) failing to furnish details or copies of a patient's medical records or
22 failing to provide reasonable access to or a copy of a patient's radiographs
23 to another treating veterinarian, hospital or clinic, upon the written request
24 of and authorization from an owner or owner's agent, or failing to provide
25 the owner or owner's agent with a summary of the medical record within a
26 reasonable period of time and upon proper request by the owner or owner's
27 agent, or failing to comply with any other law relating to medical records;
28 ~~or~~

29 (t) determination that the veterinarian *or veterinary technician* is
30 impaired, as defined in K.S.A. ~~47-846~~ 47-847, and amendments thereto,
31 ~~by a representative of the impaired veterinarian committee, or as~~
32 ~~determined by the board after a hearing~~ *board member designee; or*

33 (u) *cheating on or attempting to subvert the validity of an*
34 *examination for licensure as a veterinarian or for registration as a*
35 *veterinary technician.*

36 Sec. 7. K.S.A. 47-834 is hereby amended to read as follows: 47-834.

37 (a) Unlawful practice of veterinary medicine is the practice of veterinary
38 medicine by a person without a license unless that person is exempt from
39 such requirement pursuant to the provisions of K.S.A. 47-817, and
40 amendments thereto.

41 (b) Unlawful operation or management of veterinary premises is the
42 operation or management by a person of a veterinary premises that is not
43 registered pursuant to the provisions of K.S.A. 47-840, and amendments

1 thereto.

2 (c) (1) Unlawful practice of veterinary medicine is a class-B A
3 nonperson misdemeanor.

4 (2) Unlawful operation or management of veterinary premises is a
5 class-B A nonperson misdemeanor.

6 (3) Each act that violates the provisions of subsection (a) or (b)
7 constitutes a distinct and separate offense.

8 (d) The board may order the remedying of any violations of any
9 provision of this act or any rules and regulations of the board. The board
10 may issue a cease and desist order upon board determination that a
11 licensee, registrant or any veterinarian has violated any provision of this
12 act, an order of the board or any rules and regulations of the board.

13 (e) If the board determines that a person is practicing veterinary
14 medicine without a license ~~on a companion animal~~ or is operating or
15 managing a veterinary premises that is not registered pursuant to K.S.A.
16 47-480, and amendments thereto, in addition to any other penalties
17 imposed by law, the board may take any or all of the following actions:

18 (1) Issue a cease and desist order;

19 ~~(2) issue a citation and fine in accordance with the procedures in~~
20 ~~K.S.A. 47-843 and 47-844, and amendments thereto; and~~

21 ~~(3)~~(2) bring an injunction action in its own name in a court of
22 competent jurisdiction.

23 (f) For purposes of investigations and proceedings conducted by the
24 board, the board may issue subpoenas compelling the attendance and
25 testimony of any person or the production for examination or copying of
26 documents or any other physical evidence according to the procedures in
27 ~~subsection (a)(19) of K.S.A. 47-821(a), and amendments thereto, if such~~
28 ~~evidence relates to practicing veterinary medicine without a license~~
29 ~~on a companion animal~~ or operating or managing a veterinary premises that is
30 not registered pursuant to K.S.A. 47-840, and amendments thereto.

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

34 Sec. 8. K.S.A. 47-835 is hereby amended to read as follows: 47-835.

35 (a) Any animal placed in the custody of a licensed veterinarian for
36 treatment, boarding or other care, ~~which shall be that remains~~ unclaimed
37 by its owner or its owner's agent for a period of more than ~~ten~~ (10) days
38 after written notice ~~is given to the owner or the owner's agent by registered~~
39 ~~or certified mail, return receipt requested, is given the owner or the~~
40 ~~owner's agent~~ at such person's last known address; shall be deemed to be
41 abandoned and may be turned over to the nearest humane society; or dog
42 pound or disposed of as the custodian may deem proper.

43 (b) The giving of notice to the owner, or the agent of the owner, of

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14, 29, 38 and 39

reasonably attempted to be

1 such animal by the licensed veterinarian, as provided in subsection (a) of
2 ~~this section~~, shall relieve the licensed veterinarian and any custodian to
3 whom such animal may be given of any further liability for disposal. Such
4 procedure by a licensed veterinarian shall not constitute grounds for
5 disciplining procedure under this act.

6 (c) For the purpose of this act, the term "abandoned" ~~shall mean~~
7 *means* to forsake entirely, or to neglect or refuse to provide or perform the
8 legal obligations for care and support of an animal by its owner, or its
9 owner's agent. Such abandonment shall constitute the relinquishment of all
10 rights and claims by the owner to such animal.

11 Sec. 9. K.S.A. 47-840 is hereby amended to read as follows: 47-840.

12 (a) Each veterinary premises as defined by K.S.A. 47-816, and
13 amendments thereto, shall be registered by the board.

14 (b) Each premises shall be inspected and registered by the board prior
15 to the opening of such premises. Any existing premises shall be inspected
16 and registered by the board within 60 days of any change of the ~~licensed~~
17 ~~veterinarian who is responsible for the operation and management of the~~
18 ~~veterinary premises~~ *operating and managing veterinarian*. Upon receipt of
19 the application for registration and payment of the application fee and
20 inspection fee, as established in K.S.A. 47-822, and amendments thereto,
21 the board shall cause such premises to be inspected by an authorized agent
22 of the board. In lieu of an inspection, the board may register a premises
23 ~~which~~ *that* is accredited by a recognized organization whose standards are
24 found by the board to meet or to exceed the minimum standards as
25 established by board rules and regulations.

licensed veterinarian who is responsible for the
operation and management of the veterinary
premises

26 (c) The ~~licensed~~ *operating and managing* veterinarian ~~who will be~~
27 ~~responsible for the operation and management of the premises~~ shall apply
28 for registration and submit the fee established pursuant to K.S.A. 47-822,
29 and amendments thereto. The registrant shall notify the board within 30
30 days of any change in the licensed veterinarian who is responsible for the
31 operation and management of the veterinary premises.

licensed
who will be responsible for the operation and
management of the premises

32 (d) The board shall deny any application for a registration of the
33 premises when the inspection reveals that the premises does not meet the
34 minimum standards established by board rules and regulations or other
35 provisions of this act; ~~in which event~~. *Upon such denial*, the applicant
36 shall pay the inspection fee for each additional reinspection required to
37 determine whether or not the premises has been brought into compliance
38 with the minimum standards and other provisions of this act.

39 (e) The board, in accordance with the Kansas administrative
40 procedure act, may refuse to register a veterinary premises, or revoke,
41 suspend, limit or condition a registration, if an inspection reveals that the
42 premises does not meet the minimum standards established by board rules
43 and regulations or that the premises is being operated or managed by any

1 ~~state professional society or organization to transfer to the board all reports~~
 2 ~~made pursuant to this section to such state professional society or~~
 3 ~~organization.~~ (a) Upon reasonable suspicion that the ability of an
 4 applicant for licensure or registration, a licensed veterinarian or a
 5 registered veterinary technician to practice with reasonable skill and
 6 safety towards patients is impaired by reason of physical or mental illness
 7 or condition, or use of alcohol, drugs or controlled substances, the board
 8 shall have the authority to compel the person to submit to a mental or
 9 physical examination, substance abuse evaluation or drug screen, or any
 10 combination thereof, by such persons as the board may designate either in
 11 the course of an investigation or a disciplinary proceeding. The reports of
 12 any such examination or evaluation shall be provided by the examiner or
 13 evaluator to the board.

14 (b) To determine whether reasonable suspicion of impaired ability
 15 exists, the investigative information shall be presented to ~~a probable cause~~
 16 ~~committee.~~ Information submitted, including reports, findings and other
 17 records, shall be confidential and shall not be subject to discovery,
 18 subpoena or other means of legal compulsion for their release to any
 19 person or entity and shall not be admissible in any civil or administrative
 20 action other than a disciplinary proceeding by the board.

the board

21 (c) Any person affected by this section shall be offered, at reasonable
 22 intervals, an opportunity to demonstrate that such person can resume the
 23 competent practice of veterinary medicine with reasonable skill and safety.
 24 For purposes of this section, any person who applies for or accepts the
 25 privilege to practice as a licensed veterinarian or a registered veterinary
 26 technician in this state by practicing, or by the making and filing an
 27 original or renewal application in this state shall be deemed to have
 28 consented to submit to a mental or physical examination, substance abuse
 29 evaluation or drug screen, or any combination thereof, when directed in
 30 writing by the board.

31 (d) In any proceeding by the board pursuant to the provisions of this
 32 section, or any board proceeding involving the mental and physical
 33 examination, substance abuse evaluation or drug screen, or a combination
 34 thereof, the testimony and records shall be considered confidential and
 35 shall not be subject to discovery, subpoena or other means of legal
 36 compulsion for their release to any person or entity and shall not be
 37 admissible in any civil or administrative action other than a disciplinary
 38 proceeding by the board.

39 (e) No person or entity that, in good faith, reports, provides
 40 information or conducts an investigation regarding the potential
 41 impairment of any veterinarian or veterinary technician shall be liable in
 42 a civil action for damages or other relief arising from the reporting,
 43 providing of information or investigation except upon clear and