

SESSION OF 2022

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2532

As Amended by House Committee on
Agriculture

Brief*

HB 2532, as amended, would make several changes to the Kansas Veterinary Practice Act (Act) regarding licensed veterinarians and veterinary technicians, civil fines assessment, fees for costs related to investigations, adjudications, or enforcements against any person for violation of the Act, impairments, the procedure for investigative and disciplinary proceedings, and reorganizing and repealing various statutes.

Definitions (Section 1)

The bill would alphabetize the definitions section of the Act, add new language to the definitions of “direct supervision” and “practice of veterinary medicine,” and add a new definition for “impaired.”

Practice of Veterinary Medicine (Section 2)

The bill would remove exceptions to the Act regarding the practice of veterinary medicine by certain faculty of a school of veterinary medicine.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

***Statutory Clean-up; Registered Veterinarian Technicians
(Sections 3-5)***

The bill would remove obsolete sections of the Act, add clarifying language, and include “registered veterinary technicians” and language regarding the registration of veterinary technicians to the Act with regard to licenses. The bill would also add language to allow veterinary technicians to renew a registration upon payment of a renewal fee and satisfactory evidence that the individual has participated in a minimum of ten clock hours of continuing education.

Disciplinary Actions (Section 6)

The bill would add veterinary technician registration to the list of issuances the State Board of Veterinary Examiners (Board) could deny for reasons stated in the continuing law and the bill.

The bill would add the following to the list of reasons for denial:

- The licensee or registrant has been found to be mentally ill, not guilty by reason of insanity, not guilty because the licensee or registrant suffers from a mental disease or defect, or incompetent to stand trial by a court;
- Failure to furnish the Board, its investigators, or its representatives any information legally requested by the Board;
- Neglecting to inform the Board within 30 calendar days of any such action, including the suspension, revocation, or surrender of any controlled substance license or registration issued by any federal, state, or local regulatory agency or any foreign country; and

- Cheating on or attempting to subvert the validity of an examination for licensure as a veterinarian or for registration as a veterinary technician.

The bill would also make clarifying amendments.

Criminal Penalties (Section 7)

The bill would change the criminal penalty for unlawful practice of veterinary medicine and unlawful operation or management of veterinary premises from a class B nonperson misdemeanor to a class A nonperson misdemeanor.

Technical Changes (Sections 8-9 & 12)

The bill would make technical and clarifying changes to continuing law.

Fines and Fees (Section 10)

The bill would authorize the Board to assess, in addition to any fine assessed pursuant to the Act, a fee for actual costs, including attorney fees, administrative law judge fees, and court report fees, related to the investigation or adjudication of, or enforcement against, any person for a violation of the Act, rules and regulations, or enforceable orders by the Board. Any fines would be deposited in the Veterinary Examiners Fee Fund.

Investigations of Impaired Veterinarians (Section 11)

The bill would replace law regarding the Board's determination on impairment of a veterinarian.

Examination

Upon reasonable suspicion that the ability of an applicant, licensed veterinarian, or registered veterinary technician to practice with reasonable skill and safety toward patients is impaired by physical or mental illness or condition, or use of alcohol, drugs, or controlled substances, the Board would have the authority to compel the person to submit to a mental or physical examination, substance abuse evaluation or drug screen, or any combination thereof (examinations), by a person the Board may designate either in the course of an investigation or a disciplinary proceeding. The reports of the examination or evaluation would be provided by the examiner or evaluator to the Board.

Investigation

The bill would require the investigative information to be presented to the Board in order to determine whether reasonable suspicion of impaired ability exists. The submitted information would be confidential and would not be subject to discovery, subpoena, or other means of legal compulsion for their release to anyone (discovery). The submitted information would also not be admissible in any civil or administrative action other than a disciplinary proceeding by the Board.

Demonstration; Implied Consent

A person affected by the bill would be offered, at reasonable intervals, an opportunity to demonstrate that the person could resume the competent practice of veterinary medicine with reasonable skill and safety. Any person who applies for or accepts the privilege to practice as a licensed veterinarian or registered veterinary technician in Kansas by practicing or registering would be deemed to have consented to submitting to a examination, when directed in writing by the Board.

Proceedings

The bill would, in any proceeding by the Board or any Board proceeding involving the examination, require the testimony and records to be considered confidential and would not be subject to discovery or be admissible in any civil or administrative action other than a disciplinary proceeding by the Board.

Liability

No person or entity that in good faith reports, provides information, or conducts an investigation regarding the potential impairment would be liable in a civil action for damages or other relief arising from the reporting, providing, or investigation except upon clear and convincing evidence the report or information was completely false, or the investigation was based on false information, and the falsity was actually known to the person making the report, providing the information, or conducting the investigation at the time.

Sunset; Legislative Review

The bill would sunset the provisions regarding confidentiality on July 1, 2027, unless the Legislature acts to extend the sunset. The Legislature would be required to review the provisions of this portion of the bill prior to July 1, 2027.

Background

The bill was introduced by Representative Highland.

House Committee on Agriculture

In the House Committee hearing, **proponent** testimony was provided by the Executive Director of the Board, who detailed the changes proposed by the Board to update and modernize the Act. The Executive Director also provided a proposed amendment.

Opponent testimony was provided by two licensed veterinarians, one which provided testimony also on behalf of the Kansas Veterinarian Medical Association. The opponents stated that while the Board has presented this bill as a clean-up bill, but it goes beyond a clean-up and alters existing law to the detriment of licensed veterinarians in the state, including shifting the costs of investigations of wrong-doing to veterinarians defending themselves against accusations.

Written-only opponent testimony was provided by a veterinarian.

The House Committee amended the bill to:

- Clarify the definition of “practice of veterinary medicine”;
- Remove the definition of “probable cause committee” and remove all references to the probable cause committee; and
- Clarify and update language in continuing law.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, the Board states the new fees allowed under the provisions of the bill would be limited to additional costs resulting from performing investigatory and disciplinary hearings; therefore, any increase in fee revenue would be directly offset by an increase in expenditures. Because the

number and complexity of these proceedings cannot be estimated, the agency cannot estimate a fiscal effect. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2023 Governor's Budget Report*.

Board of Veterinary Examiners; licensed veterinarians; registered veterinary technicians; Kansas Veterinary Practice Act; violations; investigations; impairment