

SENATE BILL No. 289

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

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

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

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

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

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

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

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

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

~~(6)~~(7) Employ full-time or part-time an executive director and such professional, clerical and special personnel as shall be necessary to carry out the provisions of this act. The board shall fix the compensation of such personnel who shall be in the unclassified service under the Kansas civil service act. Under the supervision of the board, the executive director shall perform such duties as may be required by law or authorized by the board.

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

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

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

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

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

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

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

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

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

~~(15)~~(17) Establish any committee necessary to implement any provision of this act including, but not limited to, a continuing education committee and a peer review committee. Such committees may be formed in conjunction with professional veterinary associations in the

state. Members of such committees appointed by the board shall receive the same privileges and immunities and be charged with the same responsibilities of activity and confidentiality as board members.

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

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

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

~~(19)~~(21) (A) For the purpose of investigations and proceedings conducted by the board, the board may issue subpoenas compelling:

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

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

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

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

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

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

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

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

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

(d) The fee for an application for registration of a registered veterinary technician as provided in K.S.A. 47-821, and amendments thereto, shall be not less than \$20 nor more than \$50.

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

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

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

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

(i) The fee for inspection or reinspection of a premises required to

be registered under K.S.A. 47-840, and amendments thereto, shall be not less than \$50 nor more than \$150.

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

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

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

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

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

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

(d) false or misleading advertising;

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

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

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

(h) fraud or dishonest conduct in applying, treating or reporting diagnostic biological tests of public health significance or in issuing health certificates;

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

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

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

(l) cruelty or inhumane treatment to animals;

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

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

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

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

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

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

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

(5) violation of an order of the board;

- (p) conviction of a crime substantially related to qualifications, functions or duties of veterinary medicine, surgery or dentistry;
- (q) fraud, deception, negligence or incompetence in the practice of veterinary medicine;
- (r) the use, prescription, administration, dispensation or sale of any veterinary prescription drug or the prescription of an extra-label use of any over-the-counter drug in the absence of a valid veterinary-client-patient relationship;
- (s) failing to furnish details or copies of a patient’s medical records or failing to provide reasonable access to or a copy of a patient’s radiographs to another treating veterinarian, hospital or clinic, upon the written request of and authorization from an owner or owner’s agent, or failing to provide the owner or owner’s agent with a summary of the medical record within a reasonable period of time and upon proper request by the owner or owner’s agent, or failing to comply with any other law relating to medical records; or
- (t) determination that the veterinarian is impaired, as defined in K.S.A. 47-846, and amendments thereto, by a representative of the impaired veterinarian committee, or as determined by the board after a hearing.

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

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

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

I hereby certify that the above BILL originated in the SENATE, and passed that body

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.