

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 Sec. 1. K.S.A. 47-821 is hereby amended to read as follows: 47-821.

8 (a) In general, but not by way of limitation, the board shall have power to:

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

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

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

20 ~~(3)~~ (4) Issue, renew, deny, limit, condition, fine, reprimand, restrict,
21 suspend or revoke licenses to practice veterinary medicine in this state or
22 otherwise discipline licensed veterinarians consistent with the provisions
23 of this act and the rules and regulations adopted thereunder.

24 ~~(4)~~ (5) Conduct an investigation upon an allegation by any person
25 that any licensee or other veterinarian has violated any provision of the
26 Kansas veterinary practice act or any rules and regulations adopted
27 pursuant to such act. The board may appoint individuals and committees to
28 assist in any investigation.

29 ~~(5)~~ (6) Establish and publish annually a schedule of fees authorized
30 pursuant to and in accordance with the provisions of K.S.A. 47-822, and
31 amendments thereto.

32 ~~(6)~~ (7) Employ full-time or part-time an executive director and such
33 professional, clerical and special personnel as shall be necessary to carry
34 out the provisions of this act. The board shall fix the compensation of
35 such personnel who shall be in the unclassified service under the Kansas
36 civil service act. Under the supervision of the board, the executive

1 director shall perform such duties as may be required by law or authorized
2 by the board.

3 ~~(7)~~ (8) Purchase or rent necessary office space, equipment and
4 supplies.

5 ~~(8)~~ (9) Appoint from its own membership one or more members to
6 act as representatives of the board at any meeting within or without the
7 state where such representation is deemed desirable.

8 ~~(9)~~ (10) Initiate the bringing of proceedings in the courts for the
9 enforcement of this act.

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

15 ~~(11)~~ (12) Adopt, amend or repeal such rules and regulations, not
16 inconsistent with law, as may be necessary to carry out the purposes of this
17 act and enforce the provisions thereof.

18 ~~(12)~~ (13) Have a common seal.

19 ~~(13)~~ (14) Adopt, amend or repeal rules and regulations to fix
20 minimum standards for continuing veterinary medical education, which
21 standards shall be a condition precedent to the renewal of a license under
22 this act.

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

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

28 ~~(15)~~ (17) Establish any committee necessary to implement any
29 provision of this act including, but not limited to, a continuing education
30 committee and a peer review committee. Such committees may be formed
31 in conjunction with professional veterinary associations in the state.
32 Members of such committees appointed by the board shall receive the
33 same privileges and immunities and be charged with the same
34 responsibilities of activity and confidentiality as board members.

35 ~~(16)~~ (18) Refer complaints to a duly formed peer review committee
36 of a duly appointed professional association.

37 ~~(17)~~ (19) Establish, by rules and regulations, minimum standards for
38 the practice of veterinary medicine.

39 ~~(18)~~ (20) Contract with a person or entity to perform the inspections
40 or reinspections as required by K.S.A. 47-840, *and amendments thereto.*

41 ~~(19)~~ (21)(A) For the purpose of investigations and proceedings
42 conducted by the board, the board may issue subpoenas compelling:

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

1 *technicians*; or

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

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

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

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

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

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

34 (b) The annual fee for renewal of license required under K.S.A. 47-
35 829, and amendments thereto, shall be not less than \$20 nor more than
36 \$100.

37 (c) The fee for each examination for licensure as required by K.S.A.
38 47-825, and amendments thereto, shall not be less than \$50 nor more than
39 \$500.

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

43 (e) The annual fee for renewal of registration of a registered

1 veterinary technician as provided in K.S.A. 47-821, and amendments
2 thereto, shall be not less than \$5 nor more than \$25.

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

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

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

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

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

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

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

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

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

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

32 (d) false or misleading advertising;

33 (e) conviction of a felony *or entering into a diversion agreement in*
34 *lieu of conviction of a felony;*

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

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

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

43 (i) failure of the veterinarian who is responsible for the operation and

- 1 management of a veterinary premises to keep the veterinary premises in
2 compliance with minimum standards established by rules and regulations
3 as to sanitary conditions and physical plant;
- 4 (j) failure to report as required by law, or making false report of any
5 contagious or infectious disease;
- 6 (k) dishonesty or negligence in the inspection of foodstuffs;
- 7 (l) cruelty or inhumane treatment to animals;
- 8 (m) disciplinary or administrative action taken by any federal, state or
9 local regulatory agency or any foreign country on grounds other than
10 nonpayment of registration fees;
- 11 (n) disclosure of any information in violation of K.S.A. 47-839, and
12 amendments thereto;
- 13 (o) unprofessional conduct as defined in rules and regulations
14 adopted by the board includes, but is not limited to, the following:
- 15 (1) Conviction of a charge of violating any federal ~~statutes~~ *statute* or
16 any statute of this state, regarding substances as defined in K.S.A. 65-
17 4101, and amendments thereto;
- 18 (2) using unless lawfully prescribed, prescribing or administering to
19 oneself or another person any of the controlled substances as defined in
20 K.S.A. 65-4101, and amendments thereto, or using, prescribing or
21 administering any of the controlled substances as defined in K.S.A. 65-
22 4101 and amendments thereto or alcoholic beverages or any other drugs,
23 chemicals or substances to the extent, or in such a manner as to be
24 dangerous or injurious to a person licensed under the Kansas veterinary
25 practice act, to oneself or to any other person or to the public, or to the
26 extent that such use impairs the ability of such person so licensed to
27 conduct with safety the practice authorized by the license;
- 28 (3) the conviction of more than one misdemeanor or any felony
29 involving the use, consumption or self-administration of any of the
30 substances referred to in this section or any combination thereof;
- 31 (4) violation of or attempting to violate, directly or indirectly, any
32 provision of the Kansas veterinary practice act or any rules and regulations
33 adopted pursuant to such act; and
- 34 (5) violation of an order of the board;
- 35 (p) conviction of a crime substantially related to qualifications,
36 functions or duties of veterinary medicine, surgery or dentistry;
- 37 (q) fraud, deception, negligence or incompetence in the practice of
38 veterinary medicine;
- 39 (r) the use, prescription, administration, dispensation or sale of any
40 veterinary prescription drug or the prescription of an extra-label use of any
41 over-the-counter drug in the absence of a valid veterinary-client-patient
42 relationship;
- 43 (s) failing to furnish details or copies of a patient's medical records or

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

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

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

28 Sec. 5. K.S.A. 47-821 and K.S.A. 2011 Supp. 47-822, 47-830 and 47-
29 842 are hereby repealed.

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