



TO: House Committee on Agriculture; Representative Rahjes, Chair

FROM: Dr. Brian Hodes, Kansas Veterinary Medical Association

RE: Testimony in Opposition of HB 2532 – Concerning the state board of veterinary examiners

DATE: February 15, 2022

Chairman Rahjes and members of the Committee, on behalf of the Kansas Veterinary Medical Association (KVMA) I want to thank you for the opportunity to provide testimony in opposition of HB 2532 as it is written. I am Dr. Brian Hodes, a practice owner and veterinarian in Rose Hill, Kansas and a member of the KVMA board of directors. KVMA is the only statewide professional membership organization dedicated exclusively to veterinary medicine and the interests of the veterinary team.

The Kansas Board of Veterinary Examiners has requested the introduction of HB 2532 as a cleanup bill. We understand the Kansas Board of Veterinary Examiners should review and update statutes, when appropriate, to provide the best animal care for Kansans. However, the proposed bill does much more than cleaning up language. The bill suggests the addition or removal of three key areas of concern for veterinarians: repeal of 47-843 and 47-844 concerning citation and fine; assessment of fees for litigation onto the licensee; and determination and discipline of impaired individuals.

The proposed change to repeal 47-843 and 47-844 is of significant concern. The KVMA does not support removing citation and fine in respect to non-licensed practice of veterinary medicine. To protect the public from non-licensed practice of veterinary medicine, the KBVE should retain this option of discipline. The board of veterinary examiners claims they are still able to fulfill the mission to protect the public without citation and fine.

Section (E) on page 14 states “if the board determines that a person is practicing veterinary medicine without a license on a companion animal or is operating or managing a veterinary premises that is not registered pursuant to K.S.A. 47-480, and amendments thereto, in addition to any other penalties imposed by law, the board may take the following actions:

- 1) Issue a cease-and-desist order;
- 2) Issue a citation and fine in accordance with the procedures K.S.A 47-843 and 47-844, and amendments thereto: and
- 3) Bring an injunction action in its own name in a court of competent jurisdiction.

The proposed bill strikes item (2) the issuance of citation and fine in accordance with the procedures of K.S.A 47-843 and 47-844. If an individual claim goes beyond cease and desist, it is the understanding of the KVMA that local law enforcement, county attorneys, and local courts must get involved to discipline non-licensed individuals. What is the likelihood local jurisdictions will use their time and resources on this instead of more

severe crimes (murder, battery, stealing, etc.)? Where do you think the priority will lie with non-licensed individuals practicing veterinary medicine?

While it may seem trivial today, there have been numerous situations where animals have been treated by non-licensed individuals and the outcome has been potentially deadly for the animal. Imagine this case that was presented to a licensed veterinarian in Kansas. A horse is presented to the licensed veterinarian with severe cellulitis in the cervical region, both left and right sides. Upon thorough examination of the equine patient, it was determined the patient had been administered multiple doses of sedation by a non-licensed person with a dirty needle.

The health of the animal is of the utmost concern, but we would be lying if we didn't share our even greater concern that a non-licensed individual had access to and used sedation on the horse. Medications used for sedation must be prescribed by a veterinarian. In some cases, these medications are controlled drugs and therefore require a DEA license. Administering these drugs incorrectly may be fatal for the animal. There are also severe human implications as well. Accidental injection can be fatal for humans. The board of veterinary examiners must have the ability, and follow through, to regulate and discipline the practice of veterinary medicine by non-licensed individuals.

Another significant proposed addition to HB 2532 is on page 17, section B, line 13 regarding the assessment of fees to cover KBVE legal expense pertaining to a case. The financial burden on a licensee to protect his/her license and reputation is potentially significant and could be career ending. This is a significant change which deserves more thought. It appears to be a dramatic expansion of the boards "carrot and stick" powers. The expense of seeking judicial hearing or trial is already daunting and certainly factors into how far a veterinarian is willing to go to defend oneself against a complaint. This turns the board's stick into a club. In a civil case in Kansas, each party is responsible for their own legal fees. How is it appropriate for a regulatory board to assess litigation expenses to the licensee?

Finally, with respect to the complete re-write of the impairment section on pages 17-19 – the KVMA appreciates the desire of the KBVE to provide additional disciplinary actions for impaired veterinarians without a licensee automatically losing their license. We understand the importance of a healthy veterinarian to provide sound medical care to their patients. However, the determination of an individual's mental or physical capacities should not be left to the decision of a probable cause committee or the board of veterinary examiners. Neither a veterinary member, public representative, legal counsel, or staff member of the KBVE has likely been trained to diagnose impairment of a licensee.

The new statute reads the board shall have authority to compel the person to submit to a mental or physical examination, substance abuse evaluation or drug screen, or any combination thereof, by such person as the board may designate either in the course of an investigation or a disciplinary proceeding. This gives the board authority to select a medical doctor, substance abuse counselor, or other medical personnel whom a licensee must be evaluated by to protect their license. The KVMA would ask that more thought be put into this section before placing it into law.

In closing, HB 2532 was introduced before the agency and association could come to the table and discuss areas of concern. After having time to sort through the proposed legislation, the KVMA was able to present the KBVE with recommended changes which are contained in the proposed balloon amendment. We truly appreciate the agency for working with the association to bring these amendments forward. However, we do not support the repeal of 47-843 and 47-844 concerning citation and fine; assessment of fees for litigation onto the licensee; and

determination and discipline of impaired individuals. Consequently, the Kansas Veterinary Medical Association urges the committee to oppose the passage of HB 2532. Thank you for the opportunity to provide testimony today. I will stand for questions at the appropriate time.