

Testimony to Oppose HB 2532 – Travis J. Gratton DVM

Members of the Kansas House of Representatives Committee on Agriculture,

I am a graduate of Kansas State University's College of Veterinary Medicine and have been licensed in the state of Kansas for 30 years. I am co-owner of one of the most technologically progressive small animal practice that has served Topeka and Northeast Kansas since 1984. Although I am a member of the Kansas Veterinary Medical Association (KVMA) legislative committee, I am testifying today in my personal professional capacity as a licensed practitioner in the state of Kansas.

The Kansas Veterinary Practice Act (K.S.A. 47-814 through 47-854) creates and defines the authority of the Kansas Board of Veterinary Examiners (KBVE) and its role in consumer protection and oversight of the professionals and facilities within the state of Kansas. By defining, in statute, the authority of the KBVE it inherently places limits on this authority, thereby defining protections for the licensed veterinarians and veterinary technicians practicing under KBVE oversight. This is most explicitly stated in K.S.A. 47-843 and 47-844. These statutes specifically define procedures, time limits and penalties for the disciplinary actions the KBVE chooses to pursue against veterinarians (and now veterinary technicians). The KBVE is proposing the wholesale repeal of these (and other) sections of the practice act.

The inclusion of subsection (b) of Sec. 10 K.S.A. 47-842, beginning on page 17 of the proposal is the most egregious part of the KBVE's proposal. This section would place the **entire** financial responsibility for defending a probable cause ruling solely on the veterinarian or technician. Specifically, this means that during defense of an action **initiated** by the KBVE against a licensee, the licensee would be held liable for **both** their own legal expenses **and** those of the KBVE.

During the meeting with the KBVE, their president **specifically** stated that this proposal was entirely a **budgetary concern**. The current statutory structure of the KBVE has always allowed a certain level of budgetary incentive to utilize filed complaints or inspection violations against a licensee to their financial benefit. The adoption of subsection (b) into Section 10 amplifies the potential of this perverse incentive. Rather than engaging in a realistic discussion of their budgetary constraints with practitioners, and the legislature, the KBVE has chosen to push this burden onto those whom the legislature has granted the KBVE the incredible power and responsibility to supervise.

Following discussions with legal counsel (who has represented veterinarians for many years in defense of their licenses and reputations) it is clear this inclusion will have dramatic impact on the costs to defend a complaint **brought by the KBVE**. Currently in addition to potential fines, the cost to defend against KBVE actions easily exceeds \$10,000. This proposed change would send these costs over \$50,000. For many Kansas veterinarians, this will necessitate increasing their levels of professional liability insurance with the attendant rate increases. Additionally, this type of legislative action will lead to overall rate increases by insurance carriers.

The combined changes proposed by the KBVE are a dramatic shift in the relationship between the KBVE and the licensees over whom the legislature has granted oversight. Following an investigation and probable cause finding, the KBVE has always possessed the **carrot and stick power** of "accept the

consent agreement we propose or spend the money to defend your license and reputation through the courts.” The KBVE is now essentially requesting that the legislature grant them **carrot and club power**.

During my career (and certainly during the last half of it, when I have paid closer attention to legislative and regulatory issues) every major revision of the practice act has been a collaborative effort between the KBVE and the practitioners of the state (as represented by the KVMA). Via HB 2532, the KBVE is proposing changes they have written and introduced **without seeking input** from the professionals they have been granted authority to supervise.

To be clear; the KBVE has discussed, in general terms, revising the practice act at their public meetings, however, there was **no** outreach to doctors or technicians for participation in (or input during) their committee meetings which reviewed the practice act and subsequently developed this bill. I am aware that the KVMA requested a draft of the KBVE proposals be provided for review. It was not until **after the introduction** of this bill, that Kansas’ practicing veterinarians and veterinary technicians were able to see these proposals. Following the introduction of HB 2532, the KVMA reached out to the KBVE with numerous comments, error corrections and valid concerns over HB 2532.

I attended a meeting between the KVMA board and legislative committee, a representative of the KVTA, and the KBVE’s president and executive director to discuss concerns and objections with this bill. During this meeting and a latter KBVE board meeting, many corrections and comments made were accepted by the KBVE for future amendment. However, the more significant objections presented were superficially explained away and dismissed by the KBVE. During these discussions it became apparent that the preference of the KBVE is to amend the practice act to include very general language throughout the statutes and address specifics through the later promulgation of rules and regulations. The KBVE’s intended rules and regulations and have also not been made public.

It is my personal opinion that the KBVE (an administrative agency constituted of appointed bureaucrats) is **solely** requesting of the Kansas legislature increased autonomy and authority when regulating businesses and professionals under their supervision. The promulgation of rules and regulations is a much lower hurdle than revision of statute. Given the historic, absolute lack of communication on the part of the KBVE with the veterinarians under their supervision, this proposal opens the door for a significant shift in the legal constraints between the KBVE and the doctors and technicians under their purview.

In conclusion, HB 2532 is an ill-conceived proposal from an administrative agency seeking an expansion of oversight responsibility in an irresponsible manner. The Kansas Veterinary Practice Act (as well as the associated rules and regulations) is certainly long overdue for modernization and revision. That is not a point, I believe, most Kansas veterinarians, technicians, KVMA and KVTA, would argue. The point of my opposition to this bill is that changes to a statute this important absolutely need to be (and should have been) a well thought out, meticulously designed, and carefully constructed action involving all the interested parties – HB 2532 cannot be described as any of these things. I urge every one of the Committee on Agriculture members to vote NO on this bill.

Thank you for your profound consideration,

Travis J. Gratton DVM