

HOUSE BILL No. 2833

AN ACT concerning the Kansas veterinary practice act; amending K.S.A. 47-824, 47-834 and 47-840 and K.S.A. 2005 Supp. 47-816 and 47-825 and repealing the existing sections.

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

Section 1. K.S.A. 2005 Supp. 47-816 is hereby amended to read as follows: 47-816. As used in the Kansas veterinary practice act:

(a) “Animal” means any mammalian animal other than human and any fowl, bird, amphibian, fish or reptile, wild or domestic, living or dead.

(b) “Board” means the state board of veterinary examiners.

(c) “Companion animal” means any dog, cat or other domesticated animal possessed by a person for purposes of companionship, security, hunting, herding or providing assistance in relation to a physical disability but shall exclude any animal raised on a farm or ranch and used or intended for use as food.

~~(d)~~ (d) “Clock hour of continuing education” means 60 minutes of participation in a continuing education program or activity which meets the minimum standards for continuing education according to rules and regulations adopted by the board.

~~(e)~~ (e) “Direct supervision” means the supervising licensed veterinarian:

(1) Is on the veterinary premises or in the same general area in a field setting;

(2) is quickly and easily available;

(3) examines the animal prior to delegating any veterinary practice activity to the supervisee and performs any additional examination of the animal required by good veterinary practice; and

(4) delegates only those veterinary practice activities which are consistent with rules and regulations of the board regarding employee supervision.

~~(f)~~ (f) “Licensed veterinarian” means a veterinarian who is validly and currently licensed to practice veterinary medicine in this state.

~~(g)~~ (g) “Indirect supervision” means that the supervising licensed veterinarian:

(1) Is not on the veterinary premises or in the same general area in a field setting, but has examined the animal and provided either written or documented oral instructions or a written protocol for treatment of the animal patient, except that in an emergency, the supervising licensed veterinarian may provide oral instructions prior to examining the animal and subsequently examine the animal and document the instruction in writing;

(2) delegates only those veterinary practice tasks which are consistent with the rules and regulations of the board regarding employee supervision; and

(3) the animal being treated is not anesthetized as defined in rules and regulations.

~~(h)~~ (h) “Practice of veterinary medicine” means any of the following:

(1) To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury or other physical or mental condition; including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthesia or other therapeutic or diagnostic substance or technique on any animal including but not limited to acupuncture, surgical or dental operations, animal psychology, animal chiropractic, theriogenology, surgery, including cosmetic surgery, any manual, mechanical, biological or chemical procedure for testing for pregnancy or for correcting sterility or infertility or to render service or recommendations with regard to any of the above and all other branches of veterinary medicine.

(2) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in paragraph (1).

(3) To use any title, words, abbreviation or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in paragraph (1). Such use shall be prima facie evidence of the intention to represent oneself as engaged in the practice of veterinary medicine.

(4) To collect blood or other samples for the purpose of diagnosing disease or conditions. This shall not apply to unlicensed personnel employed by the United States department of agriculture, the Kansas animal health department or the Kansas department of agriculture who are engaged in such personnel’s official duties.

(5) To apply principles of environmental sanitation, food inspection, environmental pollution control, animal nutrition, zoonotic disease control and disaster medicine in the promotion and protection of public health in the performance of any veterinary service or procedure.

~~(h)~~ (i) “School of veterinary medicine” means any veterinary college or division of a university or college that offers the degree of doctor of veterinary medicine or its equivalent, which conforms to the standards required for accreditation by the American veterinary medical association and which is recognized and approved by the board.

~~(i)~~ (j) “Veterinarian” means a person who has received a doctor of veterinary medicine degree or the equivalent from a school of veterinary medicine.

~~(j)~~ “Veterinary medical specialist” means a person who has completed advanced training in such person’s specialty area and is a diplomate of such specialty.

(k) “Veterinary premises” means any premises or facility where the practice of veterinary medicine occurs, including but not limited to, a mobile clinic, outpatient clinic, satellite clinic or veterinary hospital or clinic, but shall not include the premises of a veterinary client, research facility, a federal military base, Kansas state university college of veterinary medicine or any premises wherein the practice of veterinary medicine occurs no more than three times per year as a public service outreach of a registered veterinary premises.

(l) “Graduate veterinary technician” means a person who has graduated from an American veterinary medical association accredited school approved by the board.

(m) “Registered veterinary technician” means a person who is a graduate veterinary technician, has passed the examinations required by the board for registration and is registered by the board.

(n) “Veterinary-client-patient relationship” means:

(1) The veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal or animals and the need for medical treatment, and the client, owner or other caretaker has agreed to follow the instruction of the veterinarian;

(2) there is sufficient knowledge of the animal or animals by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal or animals. This means that the veterinarian has recently seen or is personally acquainted with the keeping and care of the animal or animals by virtue of an examination of the animal or animals, or by medically appropriate and timely visits to the premises where the animal or animals are kept, or both; and

(3) the practicing veterinarian is readily available for followup in case of adverse reactions or failure of the regimen of therapy.

~~(o)~~ “ECFVG certificate” means a certificate issued by the American veterinary medical association education commission for foreign veterinary graduates, indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited or approved college of veterinary medicine.

~~(p)~~ (o) “Veterinary prescription drugs” means such prescription items as defined by ~~subsection (f) of~~ 21 U.S.C. Sec. 353, as in effect on July 1, 2001.

~~(q)~~ (p) “Veterinary corporation” means a professional corporation of licensed veterinarians incorporated under the professional corporation act of Kansas, cited at K.S.A. 17-2706 et seq., and amendments thereto.

~~(r)~~ (q) “Veterinary partnership” means a partnership pursuant to the Kansas uniform partnership act, cited at K.S.A. 56a-101 et seq., and amendments thereto, formed by licensed veterinarians engaged in the practice of veterinary medicine.

~~(s)~~ (r) “Person” means any individual, corporation, partnership, association or other entity.

Sec. 2. K.S.A. 47-824 is hereby amended to read as follows: 47-824. (a) Any person desiring a license to practice veterinary medicine in this state shall make written application to the board on forms provided for that purpose. The board shall issue a license to practice veterinary medicine to an applicant who:

(1) Is a graduate of a school of veterinary medicine as defined in K.S.A. 47-816 and amendments thereto or ~~possesses a certificate issued~~

~~by the educational commission for foreign veterinary graduates (ECFVG) meets all education requirements prescribed by the board pursuant to rules and regulations of the board;~~

(2) has passed the examination or examinations prescribed by the board *within time limits prescribed by the board pursuant to rules and regulations of the board*;

(3) has passed the Kansas veterinary legal practice examination;

(4) is a person of good moral character;

(5) has paid the license application fee and when applicable, the examination fee as established pursuant to this section; and

(6) provides other information and proof as the board may establish by rules and regulations.

(b) If the applicant graduated from a school of veterinary medicine more than five years prior to the year in which the application is submitted, the application shall show proof that:

(1) The applicant has actively practiced veterinary medicine for at least 3,000 hours during the three years immediately preceding such application; or

(2) the applicant has passed the examination or examinations prescribed by the board within the five years preceding such application.

(c) If an applicant is found not qualified for a license pursuant to subsection (a)(1) or (a)(4), the executive director of the board shall notify the applicant in writing of such findings and the grounds therefor. An applicant found unqualified pursuant to subsection (a)(1) or (a)(4) may request a hearing on the question of the applicant's qualification under the procedure set forth in the Kansas administrative procedure act. Any applicant who is found not qualified shall forfeit any application fee which the applicant has paid.

Sec. 3. K.S.A. 2005 Supp. 47-825 is hereby amended to read as follows: 47-825. (a) The board shall provide for at least one examination during each year and may provide for such additional examinations as are necessary. A person desiring to take an examination shall make application at least 60 days before taking the examination.

(b) The preparation, administration, *reexamination* and grading of the examination shall be governed by the rules and regulations prescribed by the board. Examinations shall be designed to test the examinee's knowledge of and proficiency in the subjects and techniques commonly taught in schools of veterinary medicine and the laws and rules and regulations dealing with the practice of veterinary medicine in Kansas. The board may adopt and use the examinations prepared by any national testing service for veterinary medicine. The examination of applicants for license to practice veterinary medicine shall be conducted according to methods deemed by the board to be the most practical and expeditious to test the applicant's abilities and qualifications. The minimum passing scores shall be established by rules and regulations.

(c) After each examination, the executive director shall notify each examinee in writing of the result of the examinee's examination within 60 days, and the board shall issue a license to each applicant for a license who has successfully completed the examination. The executive director shall record each new license and issue a license to each new licensee. ~~Any person failing an examination shall be admitted to any subsequent examination on payment of the examination fees.~~ Any applicant for examination who does not attend the examination shall forfeit the examination fee.

Sec. 4. K.S.A. 47-834 is hereby amended to read as follows: 47-834.

(a) ~~No person who shall practice veterinary medicine without a currently valid license may receive any compensation for services so rendered, except for persons exempted under Unlawful practice of veterinary medicine is the practice of veterinary medicine by a person without a license unless that person is exempt from such requirement pursuant to the provisions of K.S.A. 47-817 and amendments thereto.~~

(b) ~~Any person who shall practice veterinary medicine without a license or operate a veterinary premises without registering with the board shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$250 nor more than \$2,000 or imprisoned for not more than 90 days, or both. Unlawful operation or management of veterinary premises is the operation or management by a person of a veterinary premises that~~

is not registered pursuant to the provisions of K.S.A. 47-840, and amendments thereto.

(c) (1) *Unlawful practice of veterinary medicine is a class B nonperson misdemeanor.*

(2) *Unlawful operation or management of veterinary premises is a class B nonperson misdemeanor.*

(3) ~~Each act of such unlawful practice shall constitute that violates the provisions of subsection (a) or (b) constitutes a distinct and separate offense.~~

~~(d) The board may order the remedying of any violations of any provision of this act or any rules and regulations of the board. The board may issue a cease and desist order upon board determination that a licensee, registrant or any veterinarian has violated any provision of this act, an order of the board or any rules and regulations of the board. The board may bring an action to enjoin any veterinarian from practicing veterinary medicine without a currently valid license or from operating a veterinary premises without registering such premises with the board. If the court finds that the person is violating this act, it shall enter an injunction restraining such person from such unlawful acts.~~

~~(d) The board may order the remedying of any violations of any provision of this act or any rules and regulations adopted thereunder and the board may issue a cease and desist order upon board determination that a licensed veterinarian or the holder of a premises registration has violated any order of the board, any provision of this act and any rules and regulations adopted thereunder.~~

(e) *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 any or all of the following actions:*

(1) *Issue a cease and desist order;*

(2) *issue a citation and fine in accordance with the procedures in 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.*

(f) *For purposes of investigations and proceedings conducted by the board, the board may issue subpoenas compelling the attendance and testimony of any person or the production for examination or copying of documents or any other physical evidence according to the procedures in subsection (a)(19) of K.S.A. 47-821, and amendments thereto, if such evidence relates to practicing veterinary medicine without a license on a companion animal or operating or managing a veterinary premises that is not registered pursuant to K.S.A. 47-840, and amendments thereto.*

(g) The successful maintenance of an action based on any one of the remedies set forth in this section shall in no way prejudice the prosecution of an action based on any other of the remedies.

Sec. 5. K.S.A. 47-840 is hereby amended to read as follows: 47-840.

(a) ~~Any person who owns or operates any~~ *Each* veterinary premises as defined by ~~subsection (k) of K.S.A. 47-816 and amendments thereto, shall be registered by the board.~~

(b) ~~Any~~ *Each* premises shall be inspected and registered by the board prior to the opening of such premises. Any existing premises ~~changing ownership on or after the effective date of this act shall be inspected and registered by the board within 60 days of such change of ownership~~ *any change of the licensed veterinarian who is responsible for the operation and management of the veterinary premises.* Upon receipt of the application for registration and payment of the application fee and inspection fee, as established in K.S.A. 47-822, and amendments thereto, the board shall cause such premises to be inspected by an authorized agent of the board. ~~The registration of the premises shall be issued if the premises meet minimum standards established by board rules and regulations as to sanitary conditions and physical plant.~~ *In lieu of the above procedure an inspection, the board may register a premises which is accredited by a recognized organization whose standards are found by the board to meet or to exceed the minimum standards as established by board rules and regulations.*

(c) ~~Each application for a registration of the veterinary premises shall~~

~~set forth the name of~~ The licensed veterinarian who will be responsible for the operation and management of the premises *shall apply for registration and shall be accompanied by* submit the fee established pursuant to subsection (g) of K.S.A. 47-822 and amendments thereto. ~~The registration shall not be issued unless a licensed veterinarian is so named in the application. The application may be denied if disciplinary action has been taken by the board against the veterinarian's license.~~ The registrant shall notify the board within 30 days of any change in the licensed veterinarian who is responsible for the operation and management of the veterinary premises.

(d) The board shall deny any application for a registration of the premises when the inspection reveals that the premises does not meet the minimum standards established by board rules and regulations or other provisions of this act; in which event the applicant shall pay the inspection fee for each additional reinspection required to determine whether or not the premises has been brought into compliance with the minimum standards and other provisions of this act.

(e) The board, ~~after notice and hearing as provided for and conducted~~ in accordance with the Kansas administrative procedure act, may *refuse to register a veterinary premises, or revoke, suspend, place on probation, or take other disciplinary actions as authorized under this act, against the registrant limit or condition a registration,* if an inspection reveals that the premises does not meet the minimum standards established by board rules and regulations or that the premises is being operated or managed by any person other than a licensed veterinarian whose license is in good standing with the board.

(f) The board may ~~cause inspect or reinspect~~ a premises ~~to be inspected or reinspected~~ upon receipt of a written, signed complaint that *a licensee has violated the provisions of this act or rules and regulations of the board or that such premises is not being operated, managed or maintained in accordance with the provisions of this section and upon a finding by the board that there is reason to believe the premises is not in compliance with the provisions of this act or rules and regulations of the board.* Nothing contained ~~herein~~ *in this section* shall be construed as preventing the board from conducting unannounced inspections of any premises without a finding of reasonable cause for the purpose of ascertaining whether or not such premises is in compliance with the provisions of this act.

(g) Application for and acceptance of a registration of the premises by an applicant shall be deemed as express consent for allowing the board or the board's authorized agent to conduct inspections to ensure compliance with this act or to investigate alleged complaints. All such inspections may be conducted with or without notice to the registrant. Inspections shall occur during normal business hours for the premises. Such consent and authority is to be clearly set forth in the application for registration and subscribed thereto by the applicant.

(h) All registrations shall expire annually and must be renewed by making application to the board and payment of the registration fee. Any renewal application which is submitted ~~more than 30 days beyond~~ *after* the annual renewal date shall be assessed a penalty fee as established by board rules and regulations. In the event that application for renewal of registration has not been submitted within ~~30~~ *60* days of its expiration date, and after notice by certified mail, return receipt requested, has been given to the registrant that the renewal application, *the registration fee and the late renewal penalty fee* ~~is~~ *are* due, such registration of the premises shall automatically expire without a hearing and shall not be renewed unless a new registration application is submitted and the applicant pays the registration *fee, the late renewal penalty fee* and inspection fees. Any such premises which has its registration automatically expired under this subsection must be reinspected prior to the issuance of a new registration.

(i) Each registrant shall have a policy which addresses emergency and after-hour veterinary services and shall inform each client of the policy. If the policy changes, the registrant shall notify clients of the new policy.

(j) Each registrant shall keep such registration conspicuously displayed in the premises for which it is issued.

~~(k) Inspections or reinspections required under this section shall not be conducted by members of the board.~~

Sec. 6. K.S.A. 47-824, 47-834 and 47-840 and K.S.A. 2005 Supp. 47-816 and 47-825 are hereby repealed.

Sec. 7. 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 HOUSE, and passed that body

HOUSE concurred in
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.