

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SB 716

INTRODUCER: Senator Hays

SUBJECT: Veterinary Medical Practice

DATE: March 17, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>HE</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 716 amends s. 474.203, F.S., which currently exempts eight categories of persons from compliance with ch. 474, F.S., respecting veterinary medical practice in the state. The bill provides that those persons are exempt from all requirements of ch. 474, except the requirement in s. 474.2165, F.S., to create and maintain medical records for the animals who are their patients, if they are a veterinarian who generates a medical record after examining, treating or providing drugs to an animal, a veterinarian that receives medical records from a previous veterinarian, or the employer of a veterinarian designated as the records owner. The bill requires that, except in limited circumstances, before medical records may be provided or the medical condition of a patient made be discussed with parties other than the owner of the animal, the owner's legal counsel, or any other veterinarians involved in the care of the animal, authorization must first be granted by the client.

II. Present Situation:

In 1979, the Legislature determined that because the practice of veterinary medicine is potentially dangerous to public health and safety if conducted by incompetent and unlicensed practitioners, it mandated minimum requirements for licensure of veterinarians in the state.¹ A veterinarian is a health care practitioner licensed to engage in the practice of veterinary medicine in Florida pursuant to ch. 474, F.S. The practice of veterinary medicine is the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease, or holding oneself out as performing any of these functions.² Veterinarians who are incompetent or

¹ See s. 474.201, F.S.

² See s. 474.202(9), F.S. Also included is the determination of the health, fitness, or soundness of an animal, and the performance of any manual procedure for the diagnosis or treatment of pregnancy or fertility or infertility of animals.

present a danger to the public are subject to discipline and may be prohibited from practicing in the state.³

Pursuant to s. 474.203, F.S., eight categories of persons are exempt from complying with ch. 474, F.S., respecting veterinary medical practice.

- Faculty veterinarians when they have assigned teaching duties at accredited⁴ institutions;
- Intern/resident veterinarians at accredited institutions who are graduates of an accredited institution, but only until they complete or terminate their training;
- Students in a school or college of veterinary medicine who perform assigned duties by an instructor (no accreditation of the institution is required), or work as preceptors⁵ (if the preceptorship is required for graduation from an accredited institution);
- Doctors of veterinary medicine employed by a state agency or the United States Government while actually engaged in the performance of official duties at the installations for which the services were engaged;
- Persons or their employees caring for the persons' own animals; as well as part-time or temporary employees, or independent contractors, who are hired by an owner to help with herd management and animal husbandry tasks (excluding immunization or treatment of diseases that are communicable to humans and significant to public health) for herd/flock animals, with certain limitations. The exemption is not available to those who are licensed as a veterinarian in another state and are temporarily practicing in Florida, or those convicted of violating ch. 828, F.S., respecting animal cruelty, or of any similar offense in another jurisdiction, and employment may not be provided for the purpose of circumventing ch. 474, F.S.;
- Certain entities or persons⁶ that conduct experiments and scientific research on animals as part of the development of pharmaceuticals, biologicals, serums, or treatment methods of treatment or techniques to diagnose or treat of human ailments, or in the study and development of methods and techniques applicable to the practice of veterinary medicine.

³ See s. 474.213, F.S., respecting prohibited acts, and s. 474.214, F.S., respecting disciplinary proceedings.

⁴ Pursuant to s. 474.203(1) and (2), F.S., accreditation of a school or college must be granted by the American Veterinary Medical Association (AMVA) Council on Education, or the American Veterinary Medical Association Commission for Foreign Veterinary Graduates. The AVMA Council on Education is recognized by the Council for Higher Education Accreditation (CHEA) as the accrediting body for schools and programs that offer the professional Doctor of Veterinary Medicine degree (or its equivalent) in the US and Canada, and may also approve foreign veterinary colleges. See <https://www.avma.org/professionaldevelopment/education/accreditation/colleges/pages/coe-pp-overview-of-the-coe.aspx> (last visited Mar. 16, 2015). The American Veterinary Medical Association Commission for Foreign Veterinary Graduates assists graduates of foreign, non-accredited schools to meet the requirement of most states that such foreign graduates successfully complete an educational equivalency assessment certification program (ECFVG). See <https://www.avma.org/professionaldevelopment/education/foreign/pages/ecfvg-about-us.aspx> (last visited Mar. 16, 2015). In turn, CHEA, a national advocate for regulation of academic quality through accreditation, is an association of 3,000 degree-granting colleges and universities and recognizes 60 institutional and programmatic accrediting organizations. See <http://chea.org/> (last visited Mar. 16, 2015).

⁵ A preceptor is a skilled practitioner or faculty member who supervises students in a clinical setting to allow practical experience with patients.

⁶ See s. 474.203(6), F.S., which states that the exemption applies to “[s]tate agencies, accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine, or persons under the direct supervision thereof.”

- Veterinary aides, nurses, laboratory technicians, preceptors, or other employee of a licensed veterinarian, who administer medication or provide help or support under the responsible supervision⁷ of a licensed veterinarian; and
- Certain non-Florida veterinarians who are licensed and actively practicing veterinary medicine in another state, who are board certified in a specialty recognized by the Florida Board of Veterinary Medicine, who assist upon request of a Florida-licensed veterinarian to consult on the treatment of a specific animal, or on the treatment on a specific case of the animals of a single owner.

III. Effect of Proposed Changes:

SB 716 amends s. 474.203, F.S., which currently exempts eight categories of persons (as set forth in Section II, Present Situation, above) from compliance with ch. 474, F.S., respecting veterinary medical practice in the state.

The bill provides that those persons are exempt from all requirements of ch. 474, except the requirement in s. 474.2165, F.S., regarding the ownership and control of patient⁸ medical records. Even if they are now exempted from complying with ch. 474, the bill mandates that any exempted person must comply with all the requirements of s. 474.2165, F.S., for maintenance of medical records as a “records owner,”⁹ if they are:

- A veterinarian who generates a medical record after physically examining or administering treatment or dispensing certain controlled substances to a patient; or
- A veterinarian to whom records are transferred by a previous veterinarian; or
- The employer of a veterinarian if the employer is the designated records owner.

A records owner must meet numerous requirements for veterinary medical patient records. Payment of a fee for services rendered may not be a prerequisite to the furnishing of medical records when requested by a client¹⁰ or the client’s legal representative, nor may there be a delay in furnishing the records for review by legal counsel.¹¹ A records owner may not charge more than the actual cost of the copying, including reasonable staff time, or the amount specified by administrative rules.¹² Section 474.2165(10), F.S., provides that veterinarians who violate the requirements respecting medical patient records are subject to discipline by the board.

Authorization must be granted for furnishing medical records and discussing the medical condition of a patient with parties other than the client or the client’s legal representative or other veterinarians involved in the care or treatment of the patient, except in three limited circumstances:¹³

- To those who referred the patient for examination or treatment;

⁷ The term “responsible supervision” is defined in s. 474.202(10), F.S. as the “control, direction, and regulation by a licensed veterinarian” of unlicensed personnel to whom the veterinarian has delegated veterinary services duties.

⁸ See s. 474.202(8), F.S., which defines “patient” as any animal for which a veterinarian practices veterinary medicine.

⁹ See s. 474.2165(1), F.S.

¹⁰ Pursuant to s. 474.202(3), F.S., a client is the owner or caretaker of an animal who arranges for its veterinary care.

¹¹ See s. 474.2165(3), F.S.

¹² See s. 474.2165(11), F.S.

¹³ See s. 474.2165(4), F.S.

- In response to a validly issued subpoena in a civil or criminal action unless otherwise prohibited by law, if there has been proper notice to the client or the client's legal representative by the party seeking the records; and
- For statistical and scientific research, provided the identity of the patient and client is protected, or if the client or the client's legal representative has consented.

The Department of Business and Professional Regulation (department) may also obtain patient records by issuing a subpoena if the department and the probable cause panel of the Board of Veterinary Medicine have reasonable cause to believe that a veterinarian has excessively or inappropriately prescribed a controlled substance,¹⁴ or has practiced veterinary medicine below the level of care, skill, and treatment required by ch. 474, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill substantially impacts persons currently exempted from the requirements of ch. 474, F.S., as it imposes specific requirements respecting the maintenance and handling of patient records. According to the Department of Business and Professional Regulation, the fiscal impact to the private sector is unknown, but there are potential increased costs to create and maintain compliant medical records.¹⁵

¹⁴ Numerous controlled substances are listed in ch. 893, F.S.

¹⁵ See 2015 Department of Business and Professional Regulation Legislative Bill Analysis, March 11, 2015 (on file with Senate Committee on Regulated Industries) at page 3.

C. **Government Sector Impact:**

According to the Department of Business and Professional Regulation, the fiscal impact to the private sector is unknown, but there are potential increased costs to create and maintain compliant medical records.¹⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 474.203 of the Florida Statutes.

IX. Additional Information:

A. **Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁶ *Id.*