

SENATE BILL No. 148

By Committee on Agriculture

2-8

1 AN ACT concerning veterinary medicine; amending K.S.A. 2010 Supp.
2 47-839 and repealing the existing section.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 2010 Supp. 47-839 is hereby amended to read as
6 follows: 47-839. (a) ~~Except as otherwise provided under K.S.A. 47-622~~
7 ~~and 47-624, and amendments thereto, a licensed veterinarian shall not~~
8 ~~disclose any information concerning the veterinarian's care of an animal~~
9 ~~except on written authorization or other waiver by the veterinarian's client~~
10 ~~or on appropriate court order or subpoena. Any veterinarian who releases~~
11 ~~information under written authorization or other waiver by the client or~~
12 ~~under court order or subpoena shall not be liable to the client or any other~~
13 ~~person. The privilege provided by this section shall be waived under the~~
14 ~~following circumstances: (1) Reporting cruel or inhumane treatment of~~
15 ~~any animal to federal, state or local governmental agencies; (2) where~~
16 ~~information is necessary to provide care in an emergency where the~~
17 ~~absence of immediate medical attention could reasonably be expected to~~
18 ~~place the animal's health in serious jeopardy or impair bodily function;~~
19 ~~(3) where the failure to disclose vaccination information may endanger~~
20 ~~the public's health, safety or welfare; (4) where the veterinarian's client or~~
21 ~~the owner of the animal places the veterinarian's care and treatment of the~~
22 ~~animal or the nature and extent of injuries to the animal at issue in any~~
23 ~~civil or criminal proceeding; or (5) in relation to any investigation by the~~
24 ~~board and any subsequent administrative disciplinary action brought by~~
25 ~~the board.~~

26 ~~(b)~~ *As used in this section:*

27 (1) *“Client” means as defined in “veterinary-client-patient*
28 *relationship” in K.S.A. 47-816, and amendments thereto.*

29 (2) *“Confidential communication between veterinarian and client”*
30 *means such information transmitted between veterinarian and client,*
31 *including information obtained by an examination of the client's animal,*
32 *as is transmitted in confidence and by a means which, so far as the client*
33 *is aware, discloses the information to no third persons other than those*
34 *reasonably necessary for the transmission of the information or the*
35 *accomplishment of the purpose for which it is transmitted.*

36 (3) *“Holder of the privilege” means the client while alive and not*

1 *under guardianship or conservatorship or the guardian or conservator of*
2 *the client, or the personal representative of a deceased client.*

3 (4) *“Patient” means, whether in the singular or plural, an animal*
4 *as defined by K.S.A. 47-816, and amendments thereto, who a client, or*
5 *the authorized agent of a client, for the sole purpose of securing*
6 *preventive, palliative, or curative treatment, or a diagnosis preliminary to*
7 *such treatment, of such client’s animal’s physical or mental condition,*
8 *consults a veterinarian, or submits an animal for examination by a*
9 *veterinarian.*

10 (5) *“Person” means as defined in K.S.A. 47-816, and amendments*
11 *thereto.*

12 (6) *“Veterinarian” means a person licensed or reasonably believed*
13 *by the client to be licensed to practice veterinary medicine as defined in*
14 *K.S.A. 47-816, and amendments thereto, in the state or jurisdiction in*
15 *which the consultation or examination takes place.*

16 (b) *Except as provided in subsections (c), (d), (e) and (f), a person,*
17 *whether or not a party, has a privilege in a civil action or in a*
18 *prosecution for a misdemeanor, to refuse to disclose, and to prevent a*
19 *witness from disclosing, a communication, if the person claims the*
20 *privilege and the judge finds that: (1) The communication was a*
21 *confidential communication between client and veterinarian; (2) the*
22 *patient or the veterinarian reasonably believed the communication*
23 *necessary or helpful to enable the veterinarian to make a diagnosis of the*
24 *condition of the client’s animal or to prescribe or render treatment for the*
25 *animal; (3) the witness (i) is the holder of the privilege, (ii) at the time of*
26 *the communication was the veterinarian or a person to whom disclosure*
27 *was made because disclosure was reasonably necessary for the*
28 *transmission of the communication or for the accomplishment of the*
29 *purpose for which it was transmitted or (iii) is any other person who*
30 *obtained knowledge or possession of the communication as the result of*
31 *an intentional breach of the veterinarian’s duty of nondisclosure by the*
32 *veterinarian or the veterinarian’s agent or servant; and (4) the claimant*
33 *is the holder of the privilege or a person authorized to claim the privilege*
34 *for the holder of the privilege.*

35 (c) *There is no privilege under this section in an action in which the*
36 *condition of the client’s animal is an element or factor of the claim or*
37 *defense of the client or of any party claiming through or under the client*
38 *or claiming as a beneficiary of the client through a contract to which the*
39 *client is or was a party.*

40 (d) *There is no privilege under this section: (i) As to information*
41 *required to be disclosed by a veterinarian pursuant to K.S.A. 47-622 and*
42 *47-624, and amendments thereto; and (ii) as to any other information*
43 *which the veterinarian or the client is required to report to a public*

1 *official or as to information required to be recorded in a public office,*
2 *unless the statute requiring the report or record specifically provides that*
3 *the information shall not be disclosed.*

4 *(e) No person has a privilege under this section if the judge finds*
5 *that sufficient evidence, aside from the communication has been*
6 *introduced to warrant a finding that: (i) The services of the veterinarian*
7 *were sought or obtained to enable or aid anyone to commit or to plan to*
8 *commit a crime or a tort, or to escape detection or apprehension after the*
9 *commission of a crime or a tort; (ii) reporting cruel or inhumane*
10 *treatment of any animal to federal, state or local governmental agencies;*
11 *(iii) where information is necessary to provide care in an emergency*
12 *where the absence of immediate veterinary medical attention could*
13 *reasonably be expected to place the animal's health in serious jeopardy*
14 *or impair bodily function; (iv) where the failure to disclose vaccination*
15 *information may endanger the public's health, safety or welfare; and (v)*
16 *in relation to any investigation by the board and any subsequent*
17 *administrative disciplinary action brought by the board.*

18 *(f) A privilege under this section as to a communication is*
19 *terminated if the judge finds that any person while a holder of the*
20 *privilege has caused the veterinarian or any agent or servant of the*
21 *veterinarian to testify in any action to any matter of which the*
22 *veterinarian or the veterinarian's agent or servant gained knowledge*
23 *through the communication.*

24 *(g) Providing false information to a veterinarian for the purpose of*
25 *obtaining a prescription-only drug shall not be a confidential*
26 *communication between veterinarian and client and no person shall have*
27 *a privilege in any prosecution for unlawfully obtaining or distributing a*
28 *prescription-only drug under K.S.A. 21-36a08, and amendments thereto.*

29 *(h) This section shall be part of and supplemental to the Kansas*
30 *veterinary practice act.*

31 Sec. 2. K.S.A. 2010 Supp. 47-839 is hereby repealed.

32 Sec. 3. This act shall take effect and be in force from and after its
33 publication in the statute book.