

NOTE: The governor signed this measure on 6/10/2016.

An Act

SENATE BILL 16-062

BY SENATOR(S) Marble, Grantham, Neville T., Lambert, Woods, Holbert, Lundberg, Scheffel, Cooke, Crowder, Hill, Martinez Humenik, Sonnenberg, Tate, Baumgardner, Donovan, Scott;
also REPRESENTATIVE(S) Becker J. and Vigil, Saine, Brown, Everett, Willett, Ransom, Wist, Sias, Nordberg, Joshi, Lundeen, Klingenschmitt, Buck, Navarro, Neville P., Humphrey, Becker K., Duran, Kagan, Landgraf, Lontine, Pettersen, Priola, Ryden, Windholz, Arndt, Fields, Ginal, McCann, Roupe, Williams.

CONCERNING MODIFICATIONS TO THE REGULATION OF VETERINARY PHARMACEUTICALS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 12-42.5-104.5 as follows:

12-42.5-104.5. Veterinary pharmaceutical advisory committee - creation - appointments - rules - repeal. (1) (a) (I) THERE IS CREATED IN THE DEPARTMENT OF REGULATORY AGENCIES THE VETERINARY PHARMACEUTICAL ADVISORY COMMITTEE COMPRISED OF THREE MEMBERS, EACH APPOINTED BY THE STATE VETERINARIAN WHO SERVES UNDER THE COMMISSIONER OF AGRICULTURE PURSUANT TO SECTION 35-50-104, C.R.S.,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

AS FOLLOWS:

(A) ONE MEMBER WHO IS A LICENSED VETERINARIAN WHO PREDOMINANTLY WORKS ON LARGE ANIMALS, HAVING AT LEAST FIVE YEARS' EXPERIENCE IN THIS STATE, IN GOOD STANDING, AND ACTIVELY ENGAGED IN THE PRACTICE OF VETERINARY MEDICINE;

(B) ONE MEMBER WHO IS EITHER A LICENSED PHARMACEUTICAL WHOLESALER ENGAGED IN THE DISTRIBUTION OF ANIMAL DRUGS, HAVING AT LEAST FIVE YEARS' EXPERIENCE IN THIS STATE, IN GOOD STANDING, AND ACTIVELY ENGAGED IN THE PRACTICE OF WHOLESALE PHARMACY OR A LICENSED VETERINARIAN, HAVING AT LEAST FIVE YEARS' EXPERIENCE IN THIS STATE, IN GOOD STANDING, AND ACTIVELY ENGAGED IN THE PRACTICE OF VETERINARY MEDICINE, BUT WHO IS NOT BOTH A PHARMACEUTICAL WHOLESALER AND A VETERINARIAN; AND

(C) ONE MEMBER WHO HAS A BACKGROUND IN AGRICULTURE AND WHO IS NOT A PHARMACIST, PHARMACEUTICAL WHOLESALER, OR VETERINARIAN.

(II) THE STATE VETERINARIAN SHALL CHOOSE A PERSON WHO DOES NOT DO BUSINESS ALONG THE FRONT RANGE FOR AT LEAST ONE OR THE PROFESSIONAL APPOINTMENTS ON THE ADVISORY COMMITTEE.

(b) THE MEMBERS OF THE ADVISORY COMMITTEE SERVE THREE-YEAR TERMS; EXCEPT THAT THE STATE VETERINARIAN SHALL APPOINT ONE OF THE INITIAL MEMBERS OF THE ADVISORY COMMITTEE FOR A TWO-YEAR TERM. IF THERE IS A VACANCY ON THE ADVISORY COMMITTEE, THE STATE VETERINARIAN SHALL APPOINT A SUCCESSOR TO FILL THE UNEXPIRED PORTION OF THE MEMBER'S TERM.

(c) (I) THE ADVISORY COMMITTEE SHALL ELECT A MEMBER TO SERVE AS CHAIR OF THE ADVISORY COMMITTEE. THE ADVISORY COMMITTEE SHALL MEET AS REQUIRED BY THE BOARD IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION.

(II) MEMBERS OF THE ADVISORY COMMITTEE SERVE WITHOUT COMPENSATION OR REIMBURSEMENT OF EXPENSES.

(III) A MEMBER OF THE ADVISORY COMMITTEE SHALL NOT PERFORM

AN OFFICIAL ACT THAT:

(A) MAY PROVIDE A DIRECT ECONOMIC BENEFIT TO A BUSINESS OR OTHER UNDERTAKING IN WHICH THE MEMBER HAS A DIRECT OR SUBSTANTIAL FINANCIAL INTEREST; OR

(B) INVOLVES A PERSON WITH WHOM THE MEMBER HAS ENGAGED IN A SUBSTANTIAL NUMBER OF BUSINESS TRANSACTIONS.

(d) THE DEPARTMENT OF REGULATORY AGENCIES SHALL PROVIDE STAFF ASSISTANCE TO THE ADVISORY COMMITTEE.

(2) (a) UNLESS A MATTER PRESENTED TO THE BOARD CONSTITUTES AN EMERGENCY REQUIRING PROMPT RESOLUTION, THE BOARD SHALL REFER THE FOLLOWING MATTERS THAT CONCERN VETERINARY PHARMACEUTICALS TO THE ADVISORY COMMITTEE FOR A RECOMMENDATION ON HOW THE BOARD SHOULD PROCEED ON THE MATTER:

(I) WHETHER AND TO WHAT EXTENT ACTION, IF ANY, SHOULD BE TAKEN ON AN INVESTIGATION INTO OR COMPLAINT OF AN ALLEGED VIOLATION OF THIS ARTICLE, INCLUDING WHETHER TO:

(A) SUSPEND OR REVOKE A LICENSE OR REGISTRATION;

(B) IMPOSE A FINE AGAINST A LICENSEE OR REGISTRANT, WHETHER THE VIOLATION IS EGREGIOUS, AND THE AMOUNT OF ANY FINE RECOMMENDED;

(C) SEEK A RESTRAINING ORDER OR INJUNCTION IN CIVIL COURT AGAINST A PERSON; OR

(D) PURSUE OTHER DISCIPLINARY ACTION AGAINST A LICENSEE, REGISTRANT, OR OTHER PERSON;

(II) REVIEW OF LICENSE AND REGISTRATION APPLICATIONS AND RENEWAL, REACTIVATION, AND REINSTATEMENT APPLICATIONS; AND

(III) PROMULGATION OF RULES.

(b) UPON BEING REFERRED A MATTER BY THE BOARD, THE ADVISORY

COMMITTEE SHALL MEET, IN PERSON OR BY TELECONFERENCE, AS SOON AS PRACTICABLE TO REVIEW THE MATTER. THE BOARD SHALL SHARE ALL DOCUMENTS, RECORDINGS, AND OTHER MATERIALS THAT ARE RELEVANT TO THE MATTER REFERRED WITH THE ADVISORY COMMITTEE FOR THE ADVISORY COMMITTEE'S REVIEW OF THE MATTER. THE ADVISORY COMMITTEE SHALL TREAT ALL SHARED MATERIALS AS CONFIDENTIAL. THE ADVISORY COMMITTEE SHALL PROVIDE THE BOARD A WRITTEN RECOMMENDATION ON HOW THE BOARD SHOULD PROCEED ON THE MATTER REFERRED, SETTING FORTH ITS FINDINGS AND CONCLUSIONS. AT THE ADVISORY COMMITTEE'S DISCRETION, THE ADVISORY COMMITTEE MAY ALSO PRESENT ITS RECOMMENDATIONS TO THE BOARD IN PERSON OR BY TELECONFERENCE.

(c) THE BOARD SHALL ADOPT THE ADVISORY COMMITTEE'S RECOMMENDATION ON A REFERRED MATTER UNLESS THE BOARD DETERMINES THAT THERE EXISTS MATERIAL AND SUBSTANTIAL EVIDENCE OR INFORMATION RELATED TO THE MATTER THAT WARRANTS A RESOLUTION OF THE MATTER THAT IS DISTINCT FROM THE ADVISORY COMMITTEE'S RECOMMENDATION. IF THE BOARD DEVIATES FROM THE ADVISORY COMMITTEE'S RECOMMENDATION, THE BOARD SHALL MAKE A RECORD OF THE REASONS FOR THE DEVIATION.

(3) THE BOARD, IN CONSULTATION WITH THE STATE VETERINARIAN, MAY PROMULGATE RULES TO IMPLEMENT THIS SECTION.

(4) (a) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2026.

(b) BEFORE THE REPEAL OF THIS SECTION, THE DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW THE ADVISORY COMMITTEE PURSUANT TO SECTION 2-3-1203, C.R.S.

SECTION 2. In Colorado Revised Statutes, 12-42.5-107, **amend** (2) as follows:

12-42.5-107. Drugs, devices, and other materials. (2) The board is responsible for the control and regulation of the sale of devices at retail; EXCEPT THAT THE BOARD SHALL NOT REGULATE THE SALE OF ANY DISPOSABLE VETERINARY DEVICE. THE BOARD MAY ALSO EXEMPT FROM REGULATION VETERINARY DEVICES:

(a) THAT ARE REGULATED BY THE FDA; OR

(b) FOR WHICH THE BOARD DETERMINES REGULATION IS UNNECESSARY.

SECTION 3. In Colorado Revised Statutes, 12-42.5-124, **amend** (5) (a) (I); and **add** (5) (a) (III) as follows:

12-42.5-124. Disciplinary actions. (5) (a) (I) Except as provided in ~~subparagraph~~ SUBPARAGRAPHS (II) AND (III) of this paragraph (a), in addition to any other penalty the board may impose pursuant to this section, the board may fine any registrant violating this article or any rules promulgated pursuant to this article not less than five hundred dollars and not more than five thousand dollars for each violation.

(III) (A) THE BOARD, AFTER PROVIDING NOTICE AND AN OPPORTUNITY TO BE HEARD, MAY FINE A REGISTRANT WHO DISTRIBUTES A VETERINARY DRUG IN VIOLATION OF THIS ARTICLE NOT LESS THAN FIFTY DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS FOR EACH VIOLATION, WITH A MAXIMUM AGGREGATED FINE OF FIVE THOUSAND DOLLARS FOR MULTIPLE VIOLATIONS; EXCEPT THAT, IF, AFTER CONSIDERING THE RECOMMENDATIONS OF THE ADVISORY COMMITTEE CREATED IN SECTION 12-42.5-104.5, THE BOARD DETERMINES THAT THE REGISTRANT HAS COMMITTED ONE OR MORE EGREGIOUS VIOLATIONS, THE BOARD MAY FINE THE REGISTRANT IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

(B) IN SETTING A FINE, THE BOARD SHALL CONSIDER THE REGISTRANT'S ABILITY TO PAY. IF THE BOARD DETERMINES THAT PAYING THE FINE WOULD CAUSE THE REGISTRANT AN UNDUE HARDSHIP, THE BOARD SHALL WAIVE THE FINE.

SECTION 4. In Colorado Revised Statutes, 2-3-1203, **add** (3) (mm) (II) as follows:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates on which the statutory authorization for the designated advisory committee is scheduled for repeal:

(mm) September 1, 2026:

(II) THE VETERINARY PHARMACEUTICAL ADVISORY COMMITTEE,
CREATED IN SECTION 12-42.5-104.5, C.R.S.

SECTION 5. Effective date - applicability. This act takes effect July 1, 2016, and applies to offenses committed on or after said date.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill L. Cadman
PRESIDENT OF
THE SENATE

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO