



Legislative Council Staff

Research Note

Version: Final

Date: 5/10/2016

Bill Number

Senate Bill 16-062

Sponsors

**Senator Marble
Representatives Becker J. &
Humphrey**

Short Title

Veterinary Pharmaceuticals

Research Analyst

David Beaujon (x4781)

Status

This research note reflects the final version of the bill and becomes effective July 1, 2016.

Summary

This bill creates the three-member Veterinary Pharmaceutical Advisory Committee to make recommendations to the State Board of Pharmacy (board) concerning matters related to veterinary pharmaceuticals. The members are to be appointed by the State Veterinarian who serves under the Commissioner of Agriculture. One of these members must be a licensed veterinarian who predominantly works on large animals with at least five years' experience in Colorado, in good standing, and is actively engaged in the practice of veterinary medicine. One appointee must be either a licensed pharmaceutical wholesaler engaged in the distribution of animal drugs with at least five years' experience in this state, in good standing, and actively engaged in the practice of wholesale pharmacy, or a licensed veterinarian with 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. One member must have a background in agriculture and who is not a pharmacist, pharmaceutical wholesaler, or veterinarian.

At least one of the professional appointees on the advisory committee must be a person who does not do business along the Front Range. Terms for the appointees are for three years. The bill also includes provisions to guide chair elections, conflicts of interest, and compensation for advisory committee members. The bill requires the board to refer matters that concern veterinary pharmaceuticals to the advisory committee for a recommendation on whether the board should investigate complaints, suspend or revoke a license or registration, and other specified matters. The board is required to adopt the advisory committee's recommendations unless it identifies materials and substantial evidence or information that warrants a different determination, and it records the reasons for such deviations. The bill sunsets the advisory committee on September

This research note was prepared by Legislative Council Staff, the nonpartisan research staff for the Colorado General Assembly. The research note is provided for informational purposes only and should not be relied upon as an official record of action by the General Assembly. Legislative Council Staff are not attorneys, and the research note is not a legal opinion. If you have legal questions about the bill, including questions about the meaning of the bill language or amendments, please contact the drafter.

1, 2026, and requires a sunset review prior to that date.

The bill prohibits the board from regulating the sale of disposable veterinary devices. It allows the board to exempt veterinary devices that are regulated by the federal Food and Drug Administration and devices that it determines are unnecessary to regulate. It creates a reduced civil penalty of \$50 to \$500 for a single violation, and a maximum of \$5,000 for multiple violations, for persons who unlawfully distribute a veterinary drug. After considering the recommendations of the advisory committee, the board may impose a civil penalty of \$500 for a single violation and a maximum of \$5,000 for one or more egregious violations. The amended bill requires that, before issuing a fine, the board provide notice to the registrant and a hearing opportunity. The board must also consider the registrant's ability to pay the fine and waive the fine if it would cause the registrant undue hardship.

Background

State Board of Pharmacy. The seven-member board currently consists of five members who must be licensed pharmacists with at least five years experience dispensing drugs in Colorado and actively engaged in the practice. Two members must be lay members with no financial interest in the practice of pharmacy. No member may serve more than two consecutive full terms, and no more than four members may be from the same political party. All board members are appointed by the Governor.

Regulatory oversight. The board regulates pharmacists, pharmacy interns, in-state and nonresident pharmacies, in-state and out-of-state prescription drug wholesalers, satellite pharmacies, specialized prescription drug outlets, other outlets, and limited licenses. The State Board of Pharmacy does not currently regulate the sale of veterinary devices by rule or policy.

Powers and duties. The board has a variety of powers and duties, including, but not limited to:

- inspect all outlets regulated by the State of Colorado related to pharmacies;
- administer examinations to determine the qualifications and fitness of applicants for licensure;
- fine registrants for violations of the Pharmacists, Pharmacy Businesses, and Pharmaceuticals Act (act) or rules (a minimum of \$500 and a maximum of \$5,000 per violation); and
- make investigations, hold hearings, and take evidence in all matters relating to the exercise and performance of the powers and duties of the board.

Disciplinary powers. The board is also authorized to formally discipline licensees and registrants. Specifically, the board can suspend, revoke, refuse to renew or otherwise discipline any licensee or registrant for violations of the act, including unprofessional conduct, as highlighted in the act.

Senate Action

Senate Agriculture, Natural Resources, and Energy Committee (February 25, 2016). At the hearing, representatives of the Colorado Veterinary Medical Association, the Colorado Farm Bureau, the Colorado State University System, and an owner of a veterinarian supply company spoke in support of the bill. The State Veterinarian from the Colorado Department of Agriculture provided background information about the current regulation of veterinarians. A person representing chain retail pharmacies spoke in opposition to the bill, and a representative of the University of Colorado expressed concern about the bill and discussed the regulation of

pharmacists.

The committee adopted Amendment L.001, which added two more members to the State Board of Pharmacy and required the Governor to appoint a licensed, large-animal veterinarian and a licensed pharmaceutical wholesaler engaged in the distribution of animal. The amendment allowed the Governor to appoint alternatives from the regulated community if he or she is unable to find suitable large-animal veterinarians or licensed pharmaceutical wholesalers. The amendment prohibited the board from regulating the sale of disposable veterinary devices. It also allowed the board to exempt veterinary devices that are regulated by the federal Food and Drug Administration and devices that it determines are unnecessary to regulate. Prior to issuing fines for illegally distributing veterinary drugs, the amendment required the board to provide notice to the registrant and a hearing opportunity. The board was also required to consider the registrant's ability to pay the fine and waive the fine if it would cause the registrant undue hardship. The committee referred the bill, as amended, to the Committee on Appropriations.

Senate Appropriations Committee (March 4, 2016). The Senate Appropriations Committee approved Amendment J.001 to appropriate \$5,220 to the Department of Regulatory Agencies for use by the Division of Professions and Occupations. This appropriation is from the Division of Professions and Occupations Cash Fund.

Senate second reading (March 9, 2016). The Senate adopted the Senate Agriculture, Natural Resources, and Energy Committee report and the Appropriations Committee report. The Senate passed the bill on second reading, as amended.

Senate third reading (March 10, 2016). The Senate passed the bill on third reading with no amendments.

Conference Committee

First conference committee (April 26, 2016). The Senate did not concur in amendments made by the House, and a conference committee was formed. The committee adopted a report to accede to the House amendments to the bill with amendments.

Senate action (May 5, 2016). The Senate adopted the first report of the first conference committee and repassed the bill.

House action (May 6, 2016). The House adopted the first report of the first conference committee and repassed the bill.

House Action

The House State, Veterans, and Military Affairs Committee (April 18, 2016). At the hearing, a representative of the Colorado Farm Bureau and an owner of a veterinarian supply company spoke in support of the bill. The committee adopted Amendment L.007, which removes provisions of the reengrossed bill that would have added two more members to the State Board of Pharmacy (board) and required that the Governor appoint a licensed, large-animal veterinarian and a licensed pharmaceutical wholesaler engaged in the distribution of animal drugs. Instead, the amendment creates the three-member Veterinary Pharmaceutical Advisory Committee to make recommendations to the State Board of Pharmacy (board) concerning matters related to veterinary pharmaceuticals. The amendment also includes provisions to guide the filling of vacancies, chair elections, conflicts of interest, and compensation for advisory committee members. The

This research note was prepared by Legislative Council Staff, the nonpartisan research staff for the Colorado General Assembly. The research note is provided for informational purposes only and should not be relied upon as an official record of action by the General Assembly. Legislative Council Staff are not attorneys, and the research note is not a legal opinion. If you have legal questions about the bill, including questions about the meaning of the bill language or amendments, please contact the drafter.

amendment sunsets the advisory committee on September 1, 2026 and requires a sunset review prior to that date. The committee also adopted Amendment L.010 and Amendment L.009 that amends Amendment L.010 to allow the board to impose a higher civil penalty of \$500 for a single violation and a maximum of \$5,000 for one or more egregious violations after considering the recommendations of the advisory committee.

House Appropriations Committee (April 22, 2016). The House Appropriations Committee recommended that the bill be referred to the Committee of the Whole, without amendment.

House second reading (April 22, 2016). The House adopted the House State, Veterans, and Military Affairs Committee report and passed the bill on second reading, as amended.

House third reading (April 25, 2016). The House passed the bill on third reading with no amendments.

Relevant Research

Department of Regulatory Affairs, Office of Policy, Research and Regulatory Reform, *Sunset Report for the Colorado State Board of Pharmacy*, October 2011: <http://tinyurl.com/zu8t3zb>