

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: CS/SB 1370

INTRODUCER: Regulated Industries Committee and Senator Rodriguez

SUBJECT: Medical Treatment of Animals

DATE: March 10, 2021

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|---------------|
| 1. | <u>Kraemer</u> | <u>Imhof</u> | <u>RI</u> | <u>CS/Fav</u> |
| 2. | _____ | _____ | <u>AG</u> | _____ |
| 3. | _____ | _____ | <u>RC</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1370 revises the veterinarian practice act to authorize a veterinarian, consistent with the veterinarian's professional judgment, to establish a patient/client relationship with an animal and its owner remotely by telephone, audio-visual technology, or other means, and to treat and prescribe prescription drugs to the animal remotely without the requirement of a physical examination of the animal. The bill prohibits a veterinarian from prescribing controlled substances without a physical examination unless it is for inpatient treatment or hospice care.

The bill allows employees, agents, or contractors of an animal control authority to administer rabies vaccinations to impounded animals that will be transferred, rescued, fostered, adopted, or reclaimed by the owner. Such persons may administer rabies vaccinations under the indirect supervision of a veterinarian, who must be available for consultation, but need not be at the premises where the vaccinations are administered. Under the bill, the supervising veterinarian assumes responsibility for the veterinary care given to the animal by any person working under the veterinarian's direction and supervision.

According to the Department of Business and Professional Regulation, the bill has no fiscal impact on local or state government.¹

¹ See Department of Business and Professional Regulation, *2021 Agency Legislative Bill Analysis for HB 911* (identical to SB 1370, pp. 3-4 (Mar. 1, 2021) (on file with Senate Committee on Regulated Industries).

The bill is effective July 1, 2021.

II. Present Situation:

Veterinary Medicine, the Practice of Veterinary Medicine, and Exempted Persons

In 1979, the Legislature determined the practice of veterinary medicine is potentially dangerous to public health and safety if conducted by incompetent and unlicensed practitioners and that minimum requirements for the safe practice of veterinary medicine are necessary.² The Board of Veterinary Medicine (board) in the Department of Business and Professional Regulation (DBPR) implements the provisions of ch. 474, F.S., on Veterinary Medical Practice.³ A veterinarian is a health care practitioner licensed to engage in the practice of veterinary medicine in Florida under ch. 474, F.S.⁴

Veterinary medicine includes, with respect to animals:⁵

- Surgery;
- Acupuncture;
- Obstetrics;
- Dentistry;
- Physical therapy;
- Radiology;
- Theriogenology (reproductive medicine);⁶ and
- Other branches or specialties of veterinary medicine.

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.⁷ Veterinarians who are incompetent or present a danger to the public are subject to discipline and may be prohibited from practicing in the state.⁸

Nine categories of persons are exempt from complying with ch. 474, F.S.:⁹

- Faculty veterinarians with assigned teaching duties at accredited¹⁰ institutions;

² See s. 474.201, F.S.

³ See ss. 474.204 through 474.2125, F.S., concerning the powers and duties of the board.

⁴ See s. 474.202(11), F.S.

⁵ See s. 474.202(13), F.S. Section 474.202(1), F.S., defines “animal” as “any mammal other than a human being or any bird, amphibian, fish, or reptile, wild or domestic, living or dead.”

⁶ The Society for Theriogenology, established in 1954, is composed of veterinarians dedicated to standards of excellence in animal reproduction. See <https://www.therio.org> (last visited Mar. 10, 2021).

⁷ 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, fertility, or infertility of animals.

⁸ See s. 474.213, F.S., on prohibited acts, and s. 474.214, F.S., on disciplinary proceedings.

⁹ See s. 474.203, F.S.

¹⁰ Sections 474.203(1) and (2), F.S., provide that accreditation of a school or college must be granted by the American Veterinary Medical Association (AVMA) Council on Education, or the AVMA 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 United States 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>

- 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 preceptors¹¹ (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; however, the exemption is not available to a person licensed as a veterinarian in another state and temporarily practicing in Florida, or convicted of violating ch. 828, F.S., on 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 persons¹² 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 treatment of human ailments, or in the study and development of methods and techniques applicable to the practice of veterinary medicine;
- Veterinary aides, nurses, laboratory technicians, preceptors, or other employees of a licensed veterinarian, who administer medication or provide help or support under the responsible supervision¹³ of a licensed veterinarian;
- Certain non-Florida veterinarians who are licensed and actively practicing veterinary medicine in another state, are board certified in a specialty recognized by the Florida Board of Veterinary Medicine, and are assisting 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; and
- Employees, agents, or contractors of public or private animal shelters, humane organizations, or animal control agencies operated by a humane organization, county, municipality, or incorporated political subdivision, whose work is confined solely to implanting radio

(last visited Mar. 10, 2021). The AVMA 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. *See*

<https://www.avma.org/professionaldevelopment/education/foreign/pages/ecfvg-about-us.aspx> (last visited Mar. 10, 2021). In turn, the Council for Higher Education Accreditation, a national advocate for regulation of academic quality through accreditation, is an association of degree-granting colleges and universities. *See* <http://chea.org/about> (last visited Mar. 10, 2021).

¹¹ A preceptor is a skilled practitioner or faculty member, who directs, teaches, supervises, and evaluates student in a clinical setting to allow practical experience with patients. *See*

<https://www.merriam-Webster.com/dictionary/preceptor#medicalDictionary> (last visited Mar. 10, 2021).

¹² *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”

¹³ The term “responsible supervision” is defined in s. 474.202(10), F.S., as the “control, direction, and regulation by a licensed doctor of veterinary medicine of the duties involving veterinary services” delegated to unlicensed personnel.

frequency identification device microchips in dogs and cats in accordance with s. 823.15, F.S.¹⁴

Veterinarian/Client/Patient Relationship

Section 474.202(12), F.S., defines a “veterinarian/client/patient relationship” as one in which a veterinarian has assumed responsibility for making medical judgments about the health of an animal and its need for medical treatment. The term “patient” means any animal “for which a veterinarian practices veterinary medicine.”¹⁵

The term “valid veterinarian-client-patient relationship” used in federal regulations issued by the federal Food and Drug Administration (FDA), a component of the United State Department of Health and Human Services, is similar to the term defined in s. 474.202(12), F.S.¹⁶

The FDA temporarily suspended the enforcement of portions of the federal veterinarian-client-patient relationship (VCPR) requirements under the FDA regulations. The FDA noted that “[t]he VCPR is the professional relationship between the veterinarian, client (e.g., animal owner or caretaker), and the animal patient(s).”¹⁷ The federal VCPR definition requires that veterinarians physically examine animal patients and make medically appropriate and timely visits to the location where the animals are kept.¹⁸ The FDA indicated that it would not be enforcing the animal examination and premises visit VCPR requirements involving the FDA regulations governing Extralabel Drug Use in Animals and Veterinary Feed Directive drugs (VFD).¹⁹ This change would allow veterinarians to prescribe drugs in an Extralabel manner or authorize the use of VFD drugs without direct emanation or visiting the patients.²⁰

The FDA warned that even though the federal requirements were suspended, veterinarians still needed to consider state VCPR requirements.²¹

Requirements for Prescribing Medicinal Drugs and Controlled Substances

Section 474.214(1)(y), F.S., sets forth the acts that may subject a veterinarian to disciplinary proceedings, related to the prescribing of drugs. A veterinarian may not order, prescribe, or make available medicinal drugs or drugs commonly known as “prescription” or “legend” drugs which are required by federal or state law to be dispensed only on a prescription, or controlled substances as defined in ch. 893, F.S.,²² for use other than for the specific treatment of animal patients for which there is a documented veterinarian/client/patient relationship. The veterinarian must:

¹⁴ See s. 823.15(5), F.S., which authorizes such persons to perform microchipping of dogs and cats.

¹⁵ See s. 474.202(8), F.S.

¹⁶ See 21 C.F.R. s. 530.3 <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?fr=530.3>.

¹⁷ See *Coronavirus (COVID-19) Update: FDA Helps Facilitate Veterinary Telemedicine During Pandemic*, FDA News Release, March 24, 2020 available at [Coronavirus \(COVID-19\) Update: FDA Helps Facilitate Veterinary Telemedicine During Pandemic | FDA](#) (last visited Mar. 10, 2021).

¹⁸ *Id.*

¹⁹ *Id.* See 21 C.F.R. s. 530 and 21 C.F.R. part 558.

²⁰ *Id.*

²¹ *Id.*

²² See s. 893.03, F.S., for the listing of controlled substances regulated under Florida law.

- Have sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the animal's medical condition, meaning the veterinarian is personally acquainted with the keeping and caring of the animal and has recently seen the animal or has made medically appropriate and timely visits to the premises where the animal is kept;
- Be available or provide for follow up care and treatment if there are adverse reactions or the regimen of therapy fails; and
- Maintain documentation of patient visits, diagnosis, treatment, and other relevant information required under the veterinary practice act, ch. 474, F.S.²³

Rabies Vaccinations

In Florida, all dogs, cats, and ferrets²⁴ four months of age or older must be vaccinated against rabies at the expense of their owners by a licensed veterinarian.²⁵ Rabies is a fatal but preventable viral disease that can spread to people and pets bitten or scratched by a rabid animal.²⁶ According to the Centers for Disease Control and Prevention (CDC), a component of the United States Department of Health and Human Services, most rabies deaths in people around the world are caused by dog bites.²⁷ Because of laws in the United States requiring dogs to be vaccinated for rabies, dogs make up only about one percent of rabid animals reported nationally each year.²⁸

Rabies vaccines are licensed by the United States Department of Agriculture, and revaccinations are required 12 months after the initial vaccine.²⁹ Thereafter, the interval between vaccinations is set by the vaccine manufacturer.³⁰

A dog, cat, or ferret is exempt from vaccination against rabies if a licensed veterinarian has examined the animal and certified that vaccination at that time would endanger the animal's health because of its age, infirmity, disability, illness, or other medical considerations; however, an exempt animal must be vaccinated against rabies as soon as its health permits.³¹

After administering a rabies vaccination, the licensed veterinarian must provide a certificate to the animal's owner and the animal control authority, using the "Rabies Vaccination Certificate" of the National Association of State Public Health Veterinarians (NASPHV), or an equivalent form approved by the local government that contains the same information as the NASPHV certificate.³² A signature stamp may be used in lieu of the veterinarian's actual signature.

²³ See s. 474.214(1)(y), F.S.

²⁴ Ferrets that are vaccinated as required must be quarantined when necessary, in accordance with administrative rules of the Florida Department of Health. See s. 828.30(4), F.S., and Fla. Admin. Code R. 64D-3.040.

²⁵ See s. 828.30, F.S.

²⁶ See <https://www.cdc.gov/rabies/index.html> (last visited Mar. 10, 2021). In the United States, rabies is mostly found in wild animals like bats, raccoons, skunks, and foxes. *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ See s. 828.30(1), F.S.

³⁰ *Id.* Evidence of rabies antibodies may not be substituted for a current vaccination in managing rabies exposure or determining the need for booster vaccinations.

³¹ See s. 828.30(2), F.S.

³² See s. 828.30(3), F.S.

An animal owner's name, street address, phone number, and animal tag number in a rabies vaccination certificate provided to an animal control authority is a public record exempt from the inspection and copying requirements of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.³³ However, all information in a rabies vaccination certificate for a particular animal biting, scratching, or otherwise causing exposure, may be provided to a:

- Person who has been bitten, scratched, or otherwise exposed to a disease such as rabies that spreads between animals and people (zoonotic disease),³⁴ or that person's physician;
- Veterinarian treating an animal that has been bitten, scratched, or otherwise exposed to a zoonotic disease; or
- The owner of an animal that has been bitten, scratched, or otherwise exposed to a zoonotic disease.³⁵

In addition, any person with an animal tag number may receive vaccination certificate information with regard to that animal. The following entities must be provided the information in rabies vaccination certificates for the purpose of controlling the transmission of rabies, but may not release the exempt information to third parties:

- Law enforcement and prosecutorial agencies;
- Other animal control authorities;
- Emergency and medical response and disease control agencies; or
- Other governmental health agencies.³⁶

Release of exempt information contained in a rabies vaccine certificate is a civil infraction that could subject those cited for a violation to a civil penalty of up to \$500.³⁷

Municipalities and counties are not prohibited from establishing similar or more stringent requirements than those described above for rabies control ordinances; however, local governments may not mandate revaccination of currently vaccinated animals except in instances involving treatment for rabies after an exposure.³⁸

III. Effect of Proposed Changes:

Section 1 amends s. 474.202(12), F.S., to provide that a "veterinarian/client/patient relationship" may be established in person or by veterinary telemedicine, if audio-visual technology is used. Under the bill, a physical examination is not required before a veterinarian may assume responsibility for making medical judgments or providing treatment, provided the relationship is established either in person or by audio-visual technology. Section 474.202(14), F.S., defines the term "veterinary telemedicine" as the practice of veterinary medicine in a remote setting, through

³³ See s. 828.30(5), F.S.

³⁴ See information from the CDC about zoonotic diseases that are caused by germs that spread between animals and people at <https://www.cdc.gov/onehealth/basics/zoonotic-diseases.html#:~:text=Zoonotic%20means%20infectious%20diseases%20that%20are%20spread%20between,lives,%20both%20at%20home%20and%20away%20from%20home> (last visited Mar. 10, 2021).

³⁵ See s. 828.30(5), F.S.

³⁶ *Id.*

³⁷ See s. 828.30(6), F.S., and s. 828.27(2), F.S., authorizing the governing body of a county or municipality to enact ordinances relating to animal control or cruelty, and setting forth requirements for penalties, citations, and related procedures.

³⁸ See s. 828.30(7), F.S.

the use of telephone, audio-visual technology, or other means consistent with the veterinarian's professional judgment; however, the veterinarian/client/patient relationship must be established in person or by audio-visual technology.

Section 2 creates s. 474.2021, F.S., which:

- Authorizes veterinarians with a current Florida license to practice veterinary telemedicine;
- Prohibits the prescribing of controlled substances if the veterinary/client/patient relationship has been established remotely, without a previous physical examination by the veterinarian, unless the prescribing is for:
 - Inpatient treatment at an animal clinic or hospital; or
 - Treatment of a patient receiving hospice services;
- Provides the Florida Board of Veterinary Medicine has jurisdiction of veterinarians practicing veterinary telemedicine in Florida, regardless of the veterinarian's physical office location; and
- Provides the practice of veterinary telemedicine in accordance with this section is not a standard of care violation, and a veterinarian may not be disciplined solely for practicing veterinary telemedicine.

Section 3 amends s. 474.203(5)(a), F.S., to create an exception to the requirement that only a veterinarian may immunize or treat an animal for diseases that are communicable to people and that are significant to public health. The exception, limited to the administration of rabies vaccinations under specific conditions, is discussed in **Section 5** below.

Section 4 removes the requirement in s. 474.214(1)(y), F.S., that a veterinarian be "personally" acquainted with an animal's care and have recently seen the animal or made medically appropriate and timely visits to the premises where the animal is kept.

Section 5 amends s. 828.30, F.S., to allow employees, agents, or contractors of an animal control authority to administer rabies vaccinations to impounded animals that will be transferred, rescued, fostered, adopted, or reclaimed by the owner.

However, persons eligible to administer rabies vaccinations in this limited circumstance must be acting under a veterinarian's indirect supervision. The bill provides the term "indirect supervision," means the supervising veterinarian is available for consultation by telecommunications,³⁹ but is not required to be on the premises during the consultation. In addition, the supervising veterinarian assumes responsibility for the veterinary care given to the animal by any person working under the direction and supervision of the veterinarian.

The bill includes technical drafting changes and conforming changes.

The bill is effective July 1, 2021.

³⁹ The term "telecommunications" is not defined in the bill, but Florida's Information Technology Management Act, part I of ch. 282, F.S., related to Communications and Data Processing (ss. 282.003 to 283.318, F.S.), defines that term to mean "the science and technology of communication at a distance, including electronic systems used in the transmission or reception of information." See s. 282.0041(35), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Animal owners may be able to obtain care for an animal from a veterinarian by establishing a veterinarian/client/patient relationship by telephone or other means offered with the veterinarian's professional judgment, and a physical examination is not required. A veterinarian need not be personally acquainted with the animal's care, have recently seen the animal, or make visits to a site where the animal is kept. These new practices may improve availability, timeliness, and expense associated with veterinary care in circumstances deemed appropriate by the veterinarian, who must assume responsibility for making medical judgments or providing treatment.

Certain rabies vaccinations may be administered by employees, agents, or contractors of an animal control authority to impounded animals that will be transferred, rescued, fostered, adopted, or reclaimed by the owner. This vaccination method may allow vaccination of impounded animals to occur more quickly and reduce costs to animal control authorities.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 474.202, 474.203, 474.214, and 828.30.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries Committee on March 9, 2021:

The committee substitute:

- Provides the term “veterinary telemedicine” means the practice of veterinary medicine in a remote setting, through the use of audio-visual technology or telephone;
- Authorizes veterinarians with a current Florida license to practice veterinary telemedicine;
- Prohibits the prescribing of controlled substances if the veterinary/client/patient relationship was established remotely, without a previous physical examination by the veterinarian, unless the prescribing is for:
 - Inpatient treatment at an animal clinic or hospital; or
 - Treatment of a patient receiving hospice services;
- Provides the Florida Board of Veterinary Medicine has jurisdiction of veterinarians practicing veterinary telemedicine in Florida, regardless of the location of the veterinarian’s physical office; and
- Provides the practice of veterinary telemedicine in accordance with this section is not a standard of care violation, and a veterinarian may not be disciplined solely for practicing veterinary telemedicine.

- B. **Amendments:**

None.