

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1437 Professional Practices Involving Animals

SPONSOR(S): Porter

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1586

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	13 Y, 2 N	Cunningham	Blalock
2) Economic Affairs Committee		Morton	Tinker
3) State Affairs Committee			

SUMMARY ANALYSIS

Current law requires veterinarians seeking to practice in the state to obtain a license. However, an out-of-state professional, including a veterinarian, is exempt from the licensure requirement if that person:

- Holds an active license to practice that profession in another jurisdiction;
- Engages in the active practice of that profession outside the state; and
- Is employed or designated in that professional capacity by a sports entity visiting the state for a specific event.

The veterinarian's practice is limited to the members, coaches, and staff of the team for which he or she is employed or designated and to any animals involved in that sporting event.

The bill removes the licensing exemption for out-of-state veterinarians associated with a sports entity or sporting event and requires them to be licensed in Florida in order to practice on animals at a sporting event taking place in the state.

This bill appears to have an indeterminate positive fiscal impact on state government revenues. The bill requires out-of-state and foreign veterinarians to obtain a Florida veterinary license in order to practice veterinary medicine in Florida. Licenses cost \$265 for a biennial license and \$255 for a limited service permit.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Veterinarian Licensure

Veterinarians are licensed by the Department of Business and Professional Regulation (DBPR)¹ and overseen by the Board of Veterinary Medicine (board).²

Applicants for licensure as a veterinarian must apply to the DBPR to take a licensure examination. The DBPR must license each applicant who the board certifies has:

- Completed the application form and paid the \$200 licensure fee;³
- Graduated from a college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education or graduated from a college of veterinary medicine listed in the American Veterinary Medical Association Roster of Veterinary Colleges of the World and obtained a certificate from the Education Commission for Foreign Veterinary Graduates;
- Successfully completed the examination provided by the department for this purpose, or an examination determined by the board to be equivalent;⁴ and
- Demonstrated knowledge of the laws and rules governing the practice of veterinary medicine in Florida in a manner designated by rules of the board.⁵

An applicant may be eligible for licensure by endorsement, if the applicant:

- Pays the applicable fee of \$500;⁶
- Has demonstrated, in a manner designated by rule of the board, knowledge of the laws and rules governing the practice of veterinary medicine in Florida; and either
- Holds, and has held for the previous 3 years, a valid, active license to practice veterinary medicine in another state or territory of the United States, provided that the requirements for licensure in the issuing state are at least as stringent as Florida's requirements; or
- Meets the application and examination requirements under Florida law and has successfully completed a state, regional, national, or other examination which is equivalent to or more stringent than the examination given by the DBPR.⁷

An applicant may be eligible for temporary licensure, if the applicant:

- Has filed an application for temporary licensure identifying the name and address of the owner of the animals to be treated, the type of animals to be treated and their injury or disease, the location the treatment is to be performed, and the names, addresses, and titles of all persons entering the state with the applicant to perform the treatment; or
- Has filed an application and is responding to an emergency for the treatment of animals of multiple owners;

¹ Chapter 474, F.S.

² The board consists of seven members, who are appointed by the Governor, and are subject to confirmation by the Senate. Five members of the board must be licensed veterinarians and two members of the board must be laypersons who are not and have never been veterinarians or members of any closely related profession or occupation. Section 474.204, F.S.

³ Rule 61G18-12.007, F.A.C.

⁴ For applicants taking the Laws and Rules examination that is not conducted by a professional testing service, the examination fee is \$165.00, payable to the DBPR. For applicants taking the Laws and Rules examination that is conducted by a professional testing service, the examination fee is \$151.50 payable to the DBPR plus \$13.50 payable to the testing service. Rule 61G18-12.002, F.A.C. The applicant for licensure must also pay an initial licensure fee of \$200, if the person is licensed in the first 12 months of the biennium, or \$100, if the person is licensed in the second 12 months of the biennium.

⁵ Section 474.207, F.S.

⁶ Rule 61G18-12.011, F.A.C.

⁷ Section 474.217, F.S.

- Has paid the temporary licensure fee;
- Holds an active license to practice veterinary medicine in another state of the United States and that any license to practice veterinary medicine that the person has ever held has never been revoked, suspended or otherwise acted against by the licensing authority;
- Is neither the subject of any pending prosecution nor has ever been convicted of any offense which is related to the practice of veterinary medicine; and
- Satisfies the qualifications for licensure by endorsement.⁸

A temporary license is valid for a period of 30 days from its issuance. A temporary license does not cover more than the treatment of the animals of the owner identified in the application. Upon expiration of the license, a new license is required.⁹

Professional Exemption

Generally, out-of-state professionals visiting Florida to take part in a sporting event are exempt from the state's various licensure requirements, if the professional:

- Holds an active license to practice that profession in another jurisdiction;
- Engages in the active practice of that profession outside the state; and
- Is employed or designated in that professional capacity by a sports entity visiting the state for a specific event.¹⁰

The professional's practice is limited to the members, coaches, and staff of the team for which that professional is employed or designated and to any animals involved in that sporting event. However, such professionals do not have practice privileges in any licensed health care facility or veterinary facility without that facility's approval.

Exempt Veterinarians

According to the Florida Veterinary Medical Association, veterinarians who lack state licensure are taking advantage of the professional exemption by working at major sporting events and practicing for multiple owners, whether out of state or Florida-based. They point to a 2009 case in which 21 horses died after being injected with an incorrectly mixed supplement before the U.S. Open Polo Championship in Wellington.

In the case, a Florida-licensed veterinarian, working on behalf of the Argentinean veterinarian overseeing the horses' health, ordered a custom-mixed supplement from an Ocala-based compounding pharmacy.¹¹ The supplement was intended to be a generic for Biodyl, a vitamin and mineral supplement used to treat muscle fatigue in horses in Europe which is not approved for marketing in the United States by the Food and Drug Administration (FDA).¹² The compounding pharmacy incorrectly incorporated 5 mg of the chemical selenium, instead of the prescribed 0.5 mg, rendering the supplement toxic.¹³ The Argentinean veterinarian administered the supplement, and the horses died shortly after.¹⁴

The horses' owners have filed suit against the pharmacy, and the FDA has moved to end the pharmacy's veterinarian compounding practice and to take increase the number of legally-marketed

⁸ Rule 61G18-25.001, F.A.C.

⁹ *Id.*

¹⁰ Sections 455.2185 and 456.023, F.S.

¹¹ Pharmacy Error Probable Cause of Deaths of 21 Polo Ponies, Dressage-News (April 23, 2009), available at <http://www.dressage-news.com/?p=714>.

¹² Fred Hiers, Sources point to selenium in deaths of polo horses, Star-Banner (April 25, 2009), available at <http://www.ocala.com/article/20090425/ARTICLES/904251016?p=3&tc=pg>.

¹³ Andrew Marra, High selenium in supplement mix could be to blame in death of 21 Wellington polo ponies, Palm Beach Post (April 24, 2009), available at http://www.palmbeachpost.com/localnews/content/local_news/epaper/2009/04/24/0424horsedeaths.html.

¹⁴ Brian Skoloff, Polo team vet grief-stricken over horse deaths, Associated Press (April 26, 2009), available at <http://www.deseretnews.com/article/705299766/Polo-team-vet-grief-stricken-over-horse-deaths.html?pg=1>.

animal drugs.¹⁵ The U.S. Polo Association has also instituted a random drug testing program for horses.¹⁶

Proposed Changes

The bill removes the licensing exemption for out-of-state and foreign veterinarians associated with a sports entity or sporting event and requires them to be licensed in Florida in order to practice on animals at a sporting event taking place in the state.

The bill requires out-of-state and foreign veterinarians to obtain a Florida veterinary license in order to practice veterinary medicine in Florida. Licenses cost \$265 for a biennial license and \$255 for a limited service permit.

B. SECTION DIRECTORY:

Section 1 amends s. 455.2185, F.S., relating to exemptions for certain out-of-state or foreign professionals.

Section 2 amends s. 456.023, F.S., relating to exemptions for certain out-of-state or foreign professionals.

Section 3 provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill has an indeterminate positive fiscal impact on the state government revenues. This bill requires out-of-state and foreign veterinarians to purchase a Florida veterinary license in order to practice veterinary medicine in Florida. Licenses cost \$265 for a biennial license and \$255 for a limited service permit.¹⁷

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will require veterinarians that are currently exempt from the licensing requirement to obtain a Florida license to practice at sporting events in the state and to pay for the cost of obtaining each license.

¹⁵See Maria Herrera, FDA seeks injunction against pharmacy involved in deaths of polo horses, Sun-Sentinel (April 19, 2010), available at http://articles.sun-sentinel.com/2010-04-19/news/fl-polo-horses-killed-pharmacy-20100419_1_lechuza-caracas-polo-team-paul-franck-polo-horses; Jennifer Fiala, Future of veterinary compounding hangs in balance, The VIN News Service (February 25, 2011), available at <http://news.vin.com/VINNews.aspx?articleId=17757>; Unapproved Animal Drugs: Notice, request for comments, 75 Fed. Reg. 243, page 79383 (December 20, 2010), available at <http://edocket.access.gpo.gov/2010/pdf/2010-31889.pdf>.

¹⁶ Herrera, *supra* n. 15.

¹⁷ http://www.myfloridalicense.com/dbpr/pro/vetm/documents/vet_faqs.pdf

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES