

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 716

INTRODUCER: Regulated Industries Committee and Senator Hays and others

SUBJECT: Public Records/Animal Medical Records

DATE: March 20, 2015

REVISED: 3/22/15 _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 716 creates s. 474.2167, F.S., exempting certain animal medical records held by any state college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education from public inspection and copying. The confidential and exempt status of animal medical records held by or transferred to colleges that are eligible to claim the exemption, is based upon exemptions from both the Public Records Act and the Florida Constitution Confidential and exempt medical records that are transferred by a records owner in connection with official business by any accredited state college of veterinary medicine remain confidential and exempt from disclosure. Confidential and exempt animal medical records may be disclosed to another governmental entity in the performance of its duties and responsibilities. The bill provides a public necessity statement justifying the exemption pursuant to s. 24(c), Art. I, of the State Constitution.

II. Present Situation:

In 1979, the Legislature determined that because the practice of veterinary medicine is potentially dangerous to public health and safety if conducted by incompetent and unlicensed practitioners, it mandated minimum requirements for licensure of veterinarians in the state.¹ A veterinarian is a health care practitioner licensed to engage in the practice of veterinary medicine in Florida pursuant to ch. 474, F.S. The practice of veterinary medicine is the diagnosis of

¹ See s. 474.201, F.S.

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.² Veterinarians who are incompetent or present a danger to the public are subject to discipline and may be prohibited from practicing in the state.³

Pursuant to s. 474.203, F.S., eight categories of persons are exempt from complying with ch. 474, F.S., respecting veterinary medical practice.

- Faculty veterinarians when they have assigned teaching duties at accredited⁴ institutions;
- 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 preceptors⁵ (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. The exemption is not available to those who are licensed as a veterinarian in another state and are temporarily practicing in Florida, or those convicted of violating ch. 828, F.S., respecting 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 persons⁶ that conduct experiments and scientific research on animals as part of the development of pharmaceuticals, biologicals, serums, or treatment methods of

² 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 or fertility or infertility of animals.

³ See s. 474.213, F.S., respecting prohibited acts, and s. 474.214, F.S., respecting disciplinary proceedings.

⁴ Pursuant to s. 474.203(1) and (2), F.S., accreditation of a school or college must be granted by the American Veterinary Medical Association (AMVA) Council on Education, or the American Veterinary Medical Association 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 US 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> (last visited Mar. 20, 2015). The American Veterinary Medical Association 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 (ECFVG). See <https://www.avma.org/professionaldevelopment/education/foreign/pages/ecfvg-about-us.aspx> (last visited Mar. 20, 2015). In turn, CHEA, a national advocate for regulation of academic quality through accreditation, is an association of 3,000 degree-granting colleges and universities and recognizes 60 institutional and programmatic accrediting organizations. See <http://chea.org/> (last visited Mar. 20, 2015).

⁵ A preceptor is a skilled practitioner or faculty member who supervises students in a clinical setting to allow practical experience with patients.

⁶ 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.”

treatment or techniques to diagnose or treat 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 employee of a licensed veterinarian, who administer medication or provide help or support under the responsible supervision⁷ of a licensed veterinarian; and
- Certain non-Florida veterinarians who are licensed and actively practicing veterinary medicine in another state, who are board certified in a specialty recognized by the Florida Board of Veterinary Medicine, who assist 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.

III. Effect of Proposed Changes:

CS/SB 716 creates s. 474.2167, F.S., providing that certain animal medical records held by or transferred to any state college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education⁸ are confidential and exempt from public inspection and copying that is otherwise mandated by Florida law⁹ and the State Constitution¹⁰.

An animal medical record relates to:

- The diagnosis of the medical condition of an animal;
- Prescribing, dispensing, or administering drugs, medicine, appliances, applications, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of an animal; or
- Performing a manual procedure for the diagnosis of or treatment for pregnancy, fertility, or infertility of an animal.

Confidential and exempt medical records that are transferred by a records owner in connection with official business by any state college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education remain confidential and exempt from disclosure.

Confidential and exempt animal medical records may be disclosed to another governmental entity in the performance of its duties and responsibilities.

The bill provides a public necessity statement justifying the exemption pursuant to s. 24(c), Art. I, of the State Constitution. It provides legislative findings that the release of animal medical records will compromise the confidentiality protections otherwise afforded to animals and of owners or agents of the animals being treated by licensed veterinarians. Further, it

⁷ The term “responsible supervision” is defined in s. 474.202(10), F.S. as the “control, direction, and regulation by a licensed veterinarian” of unlicensed personnel to whom the veterinarian has delegated veterinary services duties.

⁸ The American Veterinary Medical Association (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 US 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> (last visited Mar. 20, 2015).

⁹ See s. 119.07(1), F.S.

¹⁰ FLA. CONST. art. I, s. 24(a).

finds that the owners or agents of animals have the right of privacy for the medical records of the affected animals and that the privacy concerns outweigh the public benefit received from disclosure of the records.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

CS/SB 716 provides that animal medical records held by and transferred to state colleges that are accredited by the American Veterinary Medical Association Council on Education are confidential and exempt from both the Public Records Act and the Florida Constitution. A two-thirds vote of both the Senate and the House of Representatives is required, based upon a specified public necessity justifying the exemption.

Confidential and exempt medical records that are transferred by a records owner in connection with official business by any state college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education remain confidential and exempt from disclosure.

Confidential and exempt animal medical records may be disclosed to another governmental entity in the performance of its duties and responsibilities. It is unclear whether the documents that are disclosed to another governmental entity under those conditions retain their confidential and exempt status once disclosed to that governmental entity.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Eligible accredited state colleges of veterinary medicine will be permitted to shield certain animal medical records from public disclosure. Persons seeking public inspection and copying of these confidential, exempted documents will no longer be able to obtain them.

C. Government Sector Impact:

State colleges of veterinary medicine that are eligible to shield certain animal medical records may be subject to legal challenges by those persons previously able to review those records.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The State Constitution provides in s. 23, Art. I, titled “Right of Privacy,” that every natural person has the right to be let alone and free from governmental intrusion into the person’s private life, except as otherwise provided. Constitutional privacy protections are not afforded to animals. It appears the statement of public necessity should be revised to address only the protections afforded to owners of animals.

VIII. Statutes Affected:

474.2167

This bill creates section 474.2167 of the Florida Statutes.

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 on March 18, 2015:

CS/SB 716 provides a statement of public necessity that animal medical records held by or transferred to any accredited state college of veterinary medicine be confidential and exempt from the inspection and copying requirements set forth in s. 119.07(1), F.S., and s. 24(a), Article I of the State Constitution.

Confidential and exempt medical records that are transferred in connection with official business by any accredited state college of veterinary medicine remain confidential and exempt from disclosure.

Confidential and exempt animal medical records may be disclosed to another governmental entity in the performance of its duties and responsibilities.

B. Amendments:

None.