

**Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0671.01 Jennifer Berman x3286

**SENATE BILL 16-062**

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**SENATE SPONSORSHIP**

**Marble,** Grantham, Neville T., Lambert, Woods, Holbert, Lundberg, Scheffel, Cooke, Crowder, Hill, Martinez Humenik, Sonnenberg, Tate

**HOUSE SPONSORSHIP**

**Becker J. and Vigil,** Saine, Brown, Everett, Willett, Ransom, Wist, Sias, Nordberg, Joshi, Lundeen, Klingenschmitt, Buck, Navarro, Neville P., Humphrey

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**Senate Committees**

Agriculture, Natural Resources, & Energy  
Appropriations

**House Committees**

State, Veterans, & Military Affairs  
Appropriations

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**A BILL FOR AN ACT**

101 **CONCERNING MODIFICATIONS TO THE REGULATION OF VETERINARY**  
102 **PHARMACEUTICALS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Section 1** of the bill requires the governor to appoint at least 2 members to the state board of pharmacy (board) who are engaged in the practice of, or otherwise professionally interested in, veterinary medicine or animal agriculture.

**Section 2** removes the sale of veterinary devices from the board's regulatory purview.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

SENATE  
3rd Reading Unamended  
March 10, 2016

SENATE  
Amended 2nd Reading  
March 9, 2016

**Section 3** reduces the civil penalty a person faces for unlawfully distributing a veterinary drug to a civil penalty of \$50 to \$500 for a single violation and a maximum of \$5,000 for multiple violations.

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*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.** (1) (a) THERE IS CREATED IN THE DEPARTMENT OF REGULATORY AGENCIES THE VETERINARY PHARMACEUTICAL ADVISORY COMMITTEE COMPRISED OF THREE MEMBERS, ONE MEMBER OF WHICH IS ONE OF THE NONPHARMACIST MEMBERS OF THE BOARD WHOM THE BOARD WILL APPOINT TO THE ADVISORY COMMITTEE, WITH THE OTHER TWO MEMBERS APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES, IN CONSULTATION WITH THE BOARD OF VETERINARY MEDICINE CREATED IN SECTION 12-64-105, AS FOLLOWS:

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

(II) ONE LICENSED PHARMACEUTICAL WHOLESALER ENGAGED IN THE DISTRIBUTION OF ANIMAL DRUGS, HAVING AT LEAST FIVE YEARS' EXPERIENCE IN THIS STATE AND ACTIVELY ENGAGED IN THE PRACTICE OF WHOLESAL PHARMACY.

(b) (I) THE TWO MEMBERS OF THE ADVISORY COMMITTEE WHO ARE NOT ON THE BOARD SERVE THREE-YEAR TERMS. OF THE TWO MEMBERS INITIALLY APPOINTED TO THE ADVISORY COMMITTEE WHO DO NOT SERVE

1 ON THE BOARD, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF  
2 REGULATORY AGENCIES SHALL APPOINT ONE MEMBER FOR A TWO-YEAR  
3 TERM AND ONE MEMBER FOR A THREE-YEAR TERM. THE BOARD MEMBER  
4 INITIALLY APPOINTED TO THE ADVISORY COMMITTEE SERVES FOR THE  
5 DURATION OF HIS OR HER BOARD TERM, AND THE BOARD SHALL APPOINT  
6 HIS OR HER SUCCESSOR OR THE OTHER NONPHARMACIST BOARD MEMBER  
7 AS A REPLACEMENT MEMBER OF THE ADVISORY COMMITTEE, WHO SHALL  
8 SERVE ON THE ADVISORY COMMITTEE FOR THE DURATION OF HIS OR HER  
9 TERM ON THE BOARD.

10 (II) IF THERE IS A VACANCY ON THE ADVISORY COMMITTEE, THE  
11 EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE BOARD OF  
12 VETERINARY MEDICINE, SHALL APPOINT A SUCCESSOR TO FILL THE  
13 UNEXPIRED PORTION OF THE MEMBER'S TERM; EXCEPT THAT A VACANCY  
14 OF THE SEAT ON THE ADVISORY BOARD THAT WAS FILLED BY ONE OF THE  
15 NONPHARMACIST BOARD MEMBERS SHALL BE FILLED BY THE BOARD WITH  
16 EITHER THE OTHER NONPHARMACIST BOARD MEMBER OR, IF THE VACANCY  
17 WAS CAUSED BY A VACANCY ON THE BOARD, BY ANY SUCCESSOR  
18 NONPHARMACIST BOARD MEMBER.

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

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

25 (III) PURSUANT TO SECTION 24-18-108.5, C.R.S., A MEMBER OF  
26 THE ADVISORY COMMITTEE SHALL NOT PERFORM AN OFFICIAL ACT THAT  
27 MAY HAVE A DIRECT ECONOMIC BENEFIT ON A BUSINESS OR OTHER

1 UNDERTAKING IN WHICH THE MEMBER HAS A DIRECT OR SUBSTANTIAL  
2 FINANCIAL INTEREST.

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

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

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

14 (A) SUSPEND OR REVOKE A LICENSE OR REGISTRATION;

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

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

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

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

24 (III) PROMULGATION OF RULES.

25 (b) UPON BEING REFERRED A MATTER BY THE BOARD, THE  
26 ADVISORY COMMITTEE SHALL MEET AS SOON AS PRACTICABLE TO REVIEW  
27 THE MATTER. THE BOARD SHALL SHARE ALL DOCUMENTS, RECORDINGS,

1 AND OTHER MATERIALS THAT ARE RELEVANT TO THE MATTER REFERRED  
2 WITH THE ADVISORY COMMITTEE FOR THE ADVISORY COMMITTEE'S REVIEW  
3 OF THE MATTER. THE ADVISORY COMMITTEE SHALL TREAT ALL SHARED  
4 MATERIALS AS CONFIDENTIAL. THE ADVISORY COMMITTEE SHALL PROVIDE  
5 THE BOARD A WRITTEN RECOMMENDATION ON HOW THE BOARD SHOULD  
6 PROCEED ON THE MATTER REFERRED, SETTING FORTH ITS FINDINGS AND  
7 CONCLUSIONS.

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

16 (3) THE BOARD, IN CONSULTATION WITH THE BOARD OF  
17 VETERINARY MEDICINE, MAY PROMULGATE RULES TO IMPLEMENT THIS  
18 SECTION.

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

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

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

25 **12-42.5-107. Drugs, devices, and other materials.** (2) The  
26 board is responsible for the control and regulation of the sale of devices  
27 at retail; EXCEPT THAT THE BOARD SHALL NOT REGULATE THE SALE OF ANY

1 DISPOSABLE VETERINARY DEVICE. THE BOARD MAY ALSO EXEMPT FROM  
2 REGULATION VETERINARY DEVICES:

3 (a) THAT ARE REGULATED BY THE FDA; OR

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

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

8 **12-42.5-124. Disciplinary actions.** (5) (a) (I) Except as provided  
9 in ~~subparagraph~~ SUBPARAGRAPHS (II) AND (III) of this paragraph (a), in  
10 addition to any other penalty the board may impose pursuant to this  
11 section, the board may fine any registrant violating this article or any rules  
12 promulgated pursuant to this article not less than five hundred dollars and  
13 not more than five thousand dollars for each violation.

14 (III) (A) THE BOARD, AFTER PROVIDING NOTICE AND AN  
15 OPPORTUNITY TO BE HEARD, MAY FINE A REGISTRANT WHO DISTRIBUTES  
16 A VETERINARY DRUG IN VIOLATION OF THIS ARTICLE NOT LESS THAN FIFTY  
17 DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS FOR EACH VIOLATION,  
18 WITH A MAXIMUM AGGREGATED FINE OF FIVE THOUSAND DOLLARS FOR  
19 MULTIPLE VIOLATIONS; EXCEPT THAT, IF, AFTER CONSIDERING THE  
20 RECOMMENDATIONS OF THE ADVISORY COMMITTEE CREATED IN SECTION  
21 12-42.5-104.5, THE BOARD DETERMINES THAT THE REGISTRANT HAS  
22 COMMITTED ONE OR MORE EGREGIOUS VIOLATIONS, THE BOARD MAY FINE  
23 THE REGISTRANT IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS  
24 PARAGRAPH (a).

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

1 BOARD SHALL WAIVE THE FINE.

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

4 **2-3-1203. Sunset review of advisory committees.** (3) The  
5 following dates are the dates on which the statutory authorization for the  
6 designated advisory committee is scheduled for repeal:

7 (mm) September 1, 2026:

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

10

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

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