

**VETERINARY PRACTICE ACT AMENDMENTS**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John G. Mathis**

Senate Sponsor: Beverly Ann Evans

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**LONG TITLE**

**General Description:**

This bill amends the Veterinary Practice Act.

**Highlighted Provisions:**

This bill:

- ▶ amends definitions;
- ▶ amends duties of the veterinary practice board;
- ▶ creates a licensing category for veterinary interns and requires licensing of veterinary interns;
- ▶ creates a continuing education requirement for licensure;
- ▶ adds exemptions to licensure requirements;
- ▶ defines unlicensed assistive personnel which includes veterinary assistants, veterinary technicians, and veterinary technologists and establishes that it is not unprofessional conduct for a veterinarian to delegate certain tasks to those unlicensed assistants if:
  - the veterinarian provides the level of supervision required in the bill; and
  - the delegation of duties does not violate the standards and ethics of the profession;
- ▶ provides standards of practice for:
  - reporting animal cruelty;
  - maintaining and disclosing medical records; and
  - veterinary-client-patient relationships; and
- ▶ makes technical changes.

30 **Monies Appropriated in this Bill:**

31       None

32 **Other Special Clauses:**

33       None

34 **Utah Code Sections Affected:**

35 **AMENDS:**

36       **58-24a-102**, as last amended by Chapter 124, Laws of Utah 2001

37       **58-47b-102**, as last amended by Chapter 124, Laws of Utah 2001

38       **58-72-102**, as last amended by Chapter 26, Laws of Utah 1998

39       **58-73-102**, as last amended by Chapter 124, Laws of Utah 2001

40 **ENACTS:**

41       **58-28-301**, Utah Code Annotated 1953

42       **58-28-306**, Utah Code Annotated 1953

43       **58-28-308**, Utah Code Annotated 1953

44       **58-28-501**, Utah Code Annotated 1953

45       **58-28-502**, Utah Code Annotated 1953

46       **58-28-503**, Utah Code Annotated 1953

47       **58-28-602**, Utah Code Annotated 1953

48       **58-28-603**, Utah Code Annotated 1953

49       **58-28-604**, Utah Code Annotated 1953

50       **58-28-605**, Utah Code Annotated 1953

51 **RENUMBERS AND AMENDS:**

52       **58-28-101**, (Renumbered from 58-28-1, as enacted by Chapter 3, Laws of Utah 1985)

53       **58-28-102**, (Renumbered from 58-28-2, as last amended by Chapters 4 and 297, Laws  
54 of Utah 1993)

55       **58-28-201**, (Renumbered from 58-28-3, as repealed and reenacted by Chapter 297,  
56 Laws of Utah 1993)

57       **58-28-302**, (Renumbered from 58-28-4, as last amended by Chapter 313, Laws of Utah

- 58 1994)
- 59 **58-28-303**, (Renumbered from 58-28-5, as last amended by Chapter 297, Laws of Utah
- 60 1993)
- 61 **58-28-304**, (Renumbered from 58-28-6, as last amended by Chapter 20, Laws of Utah
- 62 1995)
- 63 **58-28-305**, (Renumbered from 58-28-6.5, as enacted by Chapter 297, Laws of Utah
- 64 1993)
- 65 **58-28-307**, (Renumbered from 58-28-8, as last amended by Chapter 124, Laws of Utah
- 66 2001)
- 67 **58-28-401**, (Renumbered from 58-28-7.5, as enacted by Chapter 297, Laws of Utah
- 68 1993)
- 69 **58-28-601**, (Renumbered from 58-28-9, as enacted by Chapter 3, Laws of Utah 1985)

70 REPEALS:

- 71 **58-28-10**, as last amended by Chapter 264, Laws of Utah 1989



73 *Be it enacted by the Legislature of the state of Utah:*

74 Section 1. Section **58-24a-102** is amended to read:

75 **58-24a-102. Definitions.**

76 In addition to the definitions in Section 58-1-102, as used in this chapter:

- 77 (1) "Board" means the Physical Therapy Licensing Board.
- 78 (2) "General supervision" means the supervising physical therapist is available for
- 79 immediate voice communication with the person being supervised.
- 80 (3) "Immediate supervision" means the supervising physical therapist is:
- 81 (a) present in the area where the person supervised is performing services; and
- 82 (b) immediately available to assist the person being supervised in the services being
- 83 performed.
- 84 (4) "Physical therapist aide" means an individual performing activities related to
- 85 physical therapy under the immediate supervision of a physical therapist.

86 (5) "Physical therapist assistant" means an individual who has successfully completed  
87 an accredited physical therapy assistant program and who performs activities related to physical  
88 therapy under the general supervision of a physical therapist.

89 (6) "Physical therapy" or "physiotherapy" means the:

90 (a) treatment of a human being to assess, prevent, correct, alleviate, and limit physical  
91 disability, movement dysfunction, bodily malfunction, and pain resulting from disorders,  
92 congenital and aging conditions, injury, and disease;

93 (b) development of a physical therapy plan and the implementation of and modification  
94 of the treatment plan; and

95 (c) the practice described in this Subsection (6) on an animal to the extent permitted  
96 by:

97 (i) Subsection [~~58-28-8~~] 58-28-307(12);

98 (ii) the provisions of this chapter; and

99 (iii) division rule.

100 (7) "Unlawful conduct" as defined in Section 58-1-501 includes using in connection  
101 with his name or business activities the words "physical therapist," "physiotherapist," "licensed  
102 physical therapist," "registered physical therapist," or the letters "P.T.," "L.P.T.," "R.P.T.," or  
103 any other words, letters, abbreviations, or insignia indicating or implying directly or indirectly  
104 that the person is authorized to practice physical therapy, when the person is not licensed under  
105 this chapter.

106 (8) "Unprofessional conduct" as defined in Section 58-1-501 and as may be further  
107 defined by rule includes failing to provide immediate supervision of a physical therapist  
108 assistant or aide whose activities are the licensee's responsibility under Section 58-24a-112.

109 Section 2. Section **58-28-101**, which is renumbered from Section 58-28-1 is  
110 renumbered and amended to read:

111 [~~58-28-1~~]. **58-28-101. Short title.**

112 This chapter is known as the "Veterinary Practice Act."

113 Section 3. Section **58-28-102**, which is renumbered from Section 58-28-2 is

114 renumbered and amended to read:

115 ~~[58-28-2]~~. 58-28-102. Definitions.

116 In addition to the definitions in Section 58-1-102, as used in this chapter:

117 (1) "Abandonment" means to forsake entirely or refuse to provide care and support for  
118 an animal placed in the custody of a licensed veterinarian.

119 (2) "Administer" means:

120 (a) the direct application by a person of a prescription drug or device by injection,  
121 inhalation, ingestion, or by any other means, to the body of an animal that is a patient or is a  
122 research subject; or

123 (b) a veterinarian providing to the owner or caretaker of an animal a prescription drug  
124 for application by injection, inhalation, ingestion, or any other means to the body of the animal  
125 by the owner or caretaker in accordance with the veterinarian's written directions.

126 (3) "Animal" means any animal other than a human.

127 (4) "AVMA" means American Veterinary Medical Association.

128 [~~3~~] (5) "Board" means the Veterinary Board established in Section [~~58-28-3~~]  
129 58-28-201.

130 (6) "Client" means the patient's owner, the owner's agent, or other person responsible  
131 for the patient.

132 (7) "Direct supervision" means a veterinarian licensed under this chapter is present and  
133 available for face-to-face contact with the patient and person being supervised, at the time the  
134 patient is receiving veterinary care.

135 (8) "Extra-label use" means actual use or intended use of a drug in an animal in a  
136 manner that is not in accordance with approved labeling.

137 (9) "Immediate supervision" means the veterinarian licensed under this chapter is  
138 present with the individual being supervised, while the individual is performing the delegated  
139 tasks.

140 (10) "Indirect supervision" means a veterinarian licensed under this chapter:

141 (a) has given either written or verbal instructions for veterinary care of a patient to the

142 person being supervised; and

143 (b) is available to the person being supervised by telephone or other electronic means  
144 of communication during the period of time in which the veterinary care is given to the patient.

145 [~~(4)~~] (11) "Practice of veterinary medicine, surgery, and dentistry" means to:

146 (a) diagnose, prognose, or treat any disease, defect, deformity, wound, injury, or  
147 physical condition of any animal;

148 (b) administer or prescribe any drug, medicine, treatment, method, or practice, or  
149 perform any operation or manipulation, or apply any apparatus or appliance for the cure, relief,  
150 or correction of any animal disease, deformity, defect, wound, or injury, or otherwise practice  
151 any veterinary medicine, dentistry, or surgery on any animal;

152 (c) represent by verbal or written claim, sign, word, title, letterhead, card, or in any  
153 other manner that one is a licensed veterinarian, or one qualified to practice veterinary  
154 medicine, surgery, or dentistry, or hold oneself out as able to practice veterinary medicine,  
155 surgery, or dentistry;

156 (d) solicit, sell, or furnish any parenterally administered animal disease cures,  
157 preventions, or treatments, with or without the necessary instruments for the administration of  
158 them, or any and all worm and other internal parasitic remedies, upon any agreement, express  
159 or implied, to administer these cures, preventions, treatments, or remedies; or

160 (e) assume or use the title or designation, "veterinary," "veterinarian," "animal doctor,"  
161 "animal surgeon," or any other title, designation, words, letters, abbreviations, sign, card, or  
162 device tending to indicate that such person is qualified to practice veterinary medicine, surgery,  
163 or dentistry.

164 [~~(5)~~] (12) "Unlawful conduct" [~~as~~] is defined in [~~Section~~] Sections 58-1-501 [~~includes:~~]  
165 and 58-28-501.

166 [~~(a) fraudulently issuing or using any health certificate, inspection certificate,~~  
167 ~~vaccination certificate, test chart, or any other certificate relating to the existence of animal~~  
168 ~~diseases or the sale of animal products for human consumption;]~~

169 [~~(b) willfully misrepresenting any findings in the inspection of foodstuffs of animal~~

170 origin; and]

171 ~~[(c) fraudulently misapplying or reporting any intradermal, cutaneous, subcutaneous,~~  
172 ~~serological, or chemical test.]~~

173 (13) "Unlicensed assistive personnel":

174 (a) means any unlicensed person, regardless of title, to whom tasks are delegated by a  
175 veterinarian licensed under this chapter as permitted by administrative rule and in accordance  
176 with the standards of the profession; and

177 (b) includes:

178 (i) a veterinary assistant, if working under immediate supervision;

179 (ii) a veterinary technician who:

180 (A) has graduated from a program of veterinary technology accredited by the AVMA  
181 that is at least a two-year program; and

182 (B) who is working under direct supervision; and

183 (iii) a veterinary technologist who:

184 (A) has graduated from a four-year program of veterinary technology accredited by the  
185 AVMA; and

186 (B) is working under indirect supervision.

187 ~~[(6)]~~ (14) "Unprofessional conduct" [as] is defined in [Section] Sections 58-1-501 and  
188 58-28-502 and [as] may be further defined by rule [includes:].

189 ~~[(a) applying unsanitary methods or procedures in the treatment of any animal, contrary~~  
190 ~~to rules adopted by the board and approved by the division;]~~

191 ~~[(b) soliciting patronage by directly or indirectly employing solicitors;]~~

192 ~~[(c) procuring any fee or recompense on the assurance that a manifestly incurable~~  
193 ~~diseased condition of the body of an animal can be permanently cured;]~~

194 ~~[(d) rendering professional service in association with a person who is not licensed and~~  
195 ~~does not hold a temporary permit;]~~

196 ~~[(e) sharing fees with any person, except a licensed veterinarian, for services actually~~  
197 ~~performed;]~~

198 ~~[(f) selling any biologics containing living or dead organisms or products or such~~  
199 ~~organisms, except in a manner which will prevent indiscriminate use of such biologics;]~~

200 ~~[(g) swearing falsely in any testimony or affidavit, relating to, or in the course of, the~~  
201 ~~practice of veterinary medicine, surgery, or dentistry;]~~

202 ~~[(h) willful failure to report any dangerous, infectious, or contagious disease, as~~  
203 ~~required by law;]~~

204 ~~[(i) willful failure to report the results of any medical tests, as required by law, or rule~~  
205 ~~adopted pursuant to law; or]~~

206 ~~[(j) violating the Utah Controlled Substances Act.]~~

207 (15) "Veterinarian-client-patient relationship" means:

208 (a) a veterinarian licensed under this chapter has assumed responsibility for making  
209 clinical judgements regarding the health of an animal and the need for medical treatment of an  
210 animal, and the client has agreed to follow the veterinarian's instructions;

211 (b) the veterinarian has sufficient knowledge of the animal to initiate at least a general  
212 or preliminary diagnosis of the medical condition of the animal, including knowledge of the  
213 keeping and care of the animal as a result of recent personal examination of the animal or by  
214 medically appropriate visits to the premises where the animal is housed; and

215 (c) the veterinarian has arranged for emergency coverage for follow-up evaluation in  
216 the event of adverse reaction or the failure of the treatment regimen.

217 Section 4. Section **58-28-201**, which is renumbered from Section 58-28-3 is  
218 renumbered and amended to read:

219 **Part 2. Board**

220 ~~[58-28-3].~~ **58-28-201. Veterinary Board created -- Duties.**

221 (1) There is created a Veterinary Board consisting of four veterinarians who have  
222 practiced in the state for not less than five years and one member of the general public.

223 (2) The board shall be appointed and serve in accordance with the provisions of  
224 Section 58-1-201.

225 (3) The duties and responsibilities of the board shall be in accordance with Sections

226 58-1-202 and 58-1-203.

227 (4) (a) The board shall designate one of its members to assist and advise the division  
228 with reviewing complaints concerning unlawful or unprofessional conduct under this chapter.

229 (b) A board member shall be recused from any adjudicative proceeding held by the  
230 board concerning a complaint for which the board member advised the division under  
231 Subsection (4)(a).

232 Section 5. Section **58-28-301** is enacted to read:

233 **Part 3. Licensing**

234 **58-28-301. Licensure required.**

235 (1) (a) A license is required to engage in the practice of veterinary medicine, except as  
236 specifically provided in Sections 58-1-307 and 58-28-307.

237 (b) Notwithstanding the provisions of Subsection 58-1-307(1)(c) an individual shall be  
238 licensed under this chapter as a veterinary intern in order to engage in a program of indirectly  
239 supervised clinical training with a veterinarian licensed under this chapter, and as necessary to  
240 meet licensing requirements under Subsection 58-28-302 (1)(d).

241 (2) The division shall issue to a person who qualifies under this chapter a license in the  
242 classification of:

243 (a) veterinarian; or

244 (b) veterinarian intern.

245 Section 6. Section **58-28-302**, which is renumbered from Section 58-28-4 is  
246 renumbered and amended to read:

247 ~~[58-28-4].~~ **58-28-302. License qualifications.**

248 (1) Every applicant for a license to practice veterinary medicine, surgery, and dentistry  
249 shall:

250 ~~[(+)]~~ (a) be of good moral character as it relates to the functions and duties of a  
251 licensed veterinarian;

252 ~~[(2)]~~ (b) pass an examination approved by the board on the theory and practice of the  
253 science of veterinary medicine, surgery, dentistry, and other subjects determined by the board,

254 knowledge of which is generally required of veterinarians;

255 ~~[(3)]~~ (c) (i) graduate from a veterinary college [~~approved~~] accredited by the [~~board~~];  
256 AVMA; or

257 (ii) obtain a certificate issued by the Educational Commission for Foreign Veterinary  
258 Graduates issued by the AVMA;

259 ~~[(4)]~~ (a) (i) have practiced under the supervision of a veterinarian licensed to  
260 practice in this state for a period of at least six months;

261 ~~[(b)]~~ (ii) have participated in veterinary investigational, educational, or sanitary control  
262 work of a nature and duration as to be the equivalent of the experience of Subsection [~~(a)~~]  
263 (1)(d)(i);

264 ~~[(c)]~~ (iii) have practiced as a licensed veterinarian outside Utah for a period of at least  
265 six months; or

266 ~~[(d)]~~ (iv) have practiced as a veterinarian while employed by the United States  
267 government, its agencies, or the state or its political subdivisions for a period of at least six  
268 months; and

269 ~~[(5)]~~ (e) pay a fee to the Department of Commerce determined by it pursuant to Section  
270 63-38-3.2 for the examination, for an initial license, and for a renewal license.

271 (2) (a) An applicant for licensure as a veterinary intern shall comply with the  
272 provisions of Subsections (1)(a) and (c).

273 (b) An applicant's license as a veterinary intern is limited to the period of time  
274 necessary to complete clinical training as described in Subsection (1)(d) and extends not more  
275 than one year from the date the minimum requirement for training is completed, unless the  
276 individual presents satisfactory evidence to the division and the board that the individual is  
277 making reasonable progress toward passing the qualifying examination or is otherwise on a  
278 course reasonably expected to lead to licensure as a veterinarian, but the period of time under  
279 this Subsection (2)(b) may not exceed two years past the date the minimum supervised clinical  
280 training has been completed.

281 Section 7. Section **58-28-303**, which is renumbered from Section 58-28-5 is

282 renumbered and amended to read:

283 ~~[58-28-5].~~ **58-28-303. License -- Display -- Revocation for nondisplay or**  
 284 **nonrenewal.**

285 A licensed veterinarian shall display [~~his~~] the veterinarian's license in a conspicuous  
 286 place in [~~his~~] the veterinarian's principal place of business. The division may revoke any  
 287 license which is not displayed in accordance with this section.

288 Section 8. Section **58-28-304**, which is renumbered from Section 58-28-6 is  
 289 renumbered and amended to read:

290 ~~[58-28-6].~~ **58-28-304. Temporary license -- License reciprocity.**

291 (1) The division may issue a temporary [~~permit~~] license to practice veterinary  
 292 medicine, surgery, and dentistry to any person not qualified for licensure under Subsection (4)  
 293 who meets all requirements of Section [~~58-28-4~~] 58-28-302 with the exception of Subsections  
 294 [~~58-28-4 (2) and (4)~~] 58-28-302(1)(b) and (d), except that the temporary [~~permit~~] license shall  
 295 by its terms expire at the date examination results are available for the examination next  
 296 following the date of the issuance of the temporary [~~permit~~] license.

297 (2) The temporary [~~permit~~] license shall [~~;(a)~~] permit the holder to practice under the  
 298 indirect supervision of a veterinarian licensed to practice in this state [~~; and~~].

299 [~~(b) expire one year from the date of issuance.~~]

300 (3) The division may extend the expiration date of the temporary [~~permit~~] license until  
 301 the following examination date if:

302 (a) the applicant shows to the board good cause for failing to take or pass the  
 303 examination; and

304 (b) the majority of the board members recommend the extension.

305 (4) Upon the recommendation of the board, the division may issue a license without  
 306 examination to a person who:

307 (a) has been licensed or registered to practice veterinary medicine, surgery, and  
 308 dentistry in any state, district, or territory of the United States or in any foreign country, whose  
 309 educational, examination, and experience requirements are or were at the time the license was

310 issued equal to those of this state;

311 (b) has engaged in the practice of veterinary medicine, dentistry, and surgery while  
312 licensed by another jurisdiction for at least two years;

313 (c) obtained the license in another jurisdiction after passing an examination component  
314 acceptable to the division and the board;

315 (d) produces satisfactory evidence of having practiced veterinary medicine competently  
316 and in accordance with the standards and ethics of the profession while practicing in another  
317 jurisdiction; and

318 (e) produces satisfactory evidence of identity and good moral character as it relates to  
319 the applicant's functions and practice as a licensed veterinarian.

320 Section 9. Section **58-28-305**, which is renumbered from Section 58-28-6.5 is  
321 renumbered and amended to read:

322 ~~[58-28-6.5].~~ **58-28-305. Term of license -- Expiration -- Renewal.**

323 (1) ~~[Each]~~ A license as a veterinarian issued under this chapter shall be issued in  
324 accordance with a two-year renewal cycle established by rule. A renewal period may be  
325 extended or shortened by as much as one year to maintain established renewal cycles or to  
326 change an established renewal cycle.

327 (2) A license as a veterinarian intern issued under this chapter shall be issued for a term  
328 established by the division by rule and consistent with the requirements of Subsection  
329 58-28-302(2)(b).

330 ~~[(2)]~~ (3) Each license under this chapter automatically expires on the expiration date  
331 shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

332 Section 10. Section **58-28-306** is enacted to read:

333 **58-28-306. Continuing education.**

334 The division may, by rule, in accordance with Section 58-1-203, establish a continuing  
335 education requirement as a condition to renewal of a license under this chapter.

336 Section 11. Section **58-28-307**, which is renumbered from Section 58-28-8 is  
337 renumbered and amended to read:

338           ~~[58-28-8].~~     **58-28-307. Exemptions from chapter.**

339           In addition to the exemptions from licensure in Section 58-1-307 this chapter does not  
340 apply to:

341           (1) any person who practices veterinary medicine, surgery, or dentistry upon any  
342 animal owned by him, and the employee of that person when the practice is upon an animal  
343 owned by his employer, and incidental to his employment, except ~~[that]~~:

344           (a) this exemption does not apply to any person, or his employee, when the ownership  
345 of an animal was acquired for the purpose of circumventing this chapter; and

346           (b) this exemption does not apply to the administration, dispensing, or prescribing of a  
347 prescription drug, or nonprescription drug intended for off label use, unless the administration,  
348 dispensing, or prescribing of the drug is obtained through an existing veterinarian-patient  
349 relationship;

350           (2) any person who as a student at a veterinary college approved by the board engages  
351 in the practice of veterinary medicine, surgery, and dentistry as part of his academic training  
352 and under the direct supervision and control of a licensed veterinarian, if that practice is during  
353 the last two years of the college course of instruction and does not exceed an 18-month  
354 duration;

355           (3) a veterinarian who is an officer or employee of the government of the United  
356 States, or the state, or its political subdivisions, and technicians under his supervision, while  
357 engaged in the practice of veterinary medicine, surgery, or dentistry for that government;

358           (4) any person while engaged in the vaccination of poultry, pullorum testing, typhoid  
359 testing of poultry, and related poultry disease control activity;

360           (5) any person who is engaged in bona fide and legitimate medical, dental,  
361 pharmaceutical, or other scientific research, if that practice of veterinary medicine, surgery, or  
362 dentistry is directly related to, and a necessary part of, that research;

363           (6) veterinarians licensed under the laws of another state rendering professional  
364 services in association with licensed veterinarians of this state for a period not to exceed 90  
365 days;

366 (7) registered pharmacists of this state engaged in the sale of veterinary supplies,  
367 instruments, and medicines, if the sale is at his regular place of business;

368 (8) [~~except as otherwise provided in Subsection 58-28-2(6)(d),~~] any person in this state  
369 engaged in the sale of veterinary supplies, instruments, and medicines, except prescription  
370 drugs which must be sold in compliance with state and federal regulations, if the supplies,  
371 instruments, and medicines are sold in original packages bearing adequate identification and  
372 directions for application and administration and the sale is made in the regular course of, and  
373 at the regular place of business;

374 (9) any person rendering emergency first aid to animals in those areas where a licensed  
375 veterinarian is not available, and if suspicious reportable diseases are reported immediately to  
376 the state veterinarian;

377 (10) any person performing or teaching nonsurgical bovine artificial insemination;

378 (11) any person affiliated with an institution of higher education who teaches  
379 nonsurgical bovine embryo transfer or any technician trained by or approved by an institution  
380 of higher education who performs nonsurgical bovine embryo transfer, but only if any  
381 prescription drug used in the procedure is prescribed and administered under the direction of a  
382 veterinarian licensed to practice in Utah; [~~and~~]

383 (12) (a) upon written referral by a licensed veterinarian, the practice of animal  
384 chiropractic by a chiropractic physician licensed under Chapter 73, Chiropractic Physician  
385 Practice Act, who has completed an animal chiropractic course approved by the American  
386 Veterinary Chiropractic Association or the division;

387 (b) upon written referral by a licensed veterinarian, the practice of animal physical  
388 therapy by a physical therapist licensed under Chapter 24a, Physical Therapist Practice Act,  
389 who has completed at least 100 hours of animal physical therapy training, including quadruped  
390 anatomy and hands-on training, approved by the division; [~~and~~]

391 (c) upon written referral by a licensed veterinarian, the practice of animal massage  
392 therapy by a massage therapist licensed under Chapter 47b, Massage Therapy Practice Act,  
393 who has completed at least 60 hours of animal massage therapy training, including quadruped

394 anatomy and hands-on training, approved by the division[-]; and

395 (d) upon written referral by a licensed veterinarian, the practice of acupuncture by an  
396 acupuncturist licensed under Chapter 72, Acupuncture Licensing Act, who has completed a  
397 course of study on animal acupuncture approved by the division;

398 (13) unlicensed assistive personnel performing duties appropriately delegated to the  
399 unlicensed assistive personnel in accordance with Section 58-28-502;

400 (14) an animal shelter employee who is:

401 (a) acting under the indirect supervision of a licensed veterinarian; and

402 (b) performing animal euthanasia in the course and scope of employment; and

403 (15) an individual providing appropriate training for animals, however, this exception  
404 does not include diagnosing any medical condition, or prescribing or dispensing any  
405 prescription drugs or therapeutics.

406 Section 12. Section **58-28-308** is enacted to read:

407 **58-28-308. Provisions for current practitioners.**

408 An individual who, as of August 1, 2006, is practicing as a veterinarian intern under  
409 supervision of a veterinarian licensed under this chapter shall receive a temporary license to  
410 practice in the state as a veterinary intern:

411 (1) if, prior to August 1, 2006, the individual submits an application and any required  
412 fees to the division to obtain licensure under this chapter as a veterinary intern; and

413 (2) while the application for licensure is pending with the division.

414 Section 13. Section **58-28-401**, which is renumbered from Section 58-28-7.5 is  
415 renumbered and amended to read:

416 **Part 4. Licensing Denial and Discipline**

417 **[58-28-7.5]. 58-28-401. Grounds for denial of license -- Disciplinary**  
418 **proceedings.**

419 Grounds for refusal to issue a license to an applicant, for refusal to renew the license of  
420 a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee, to issue a  
421 public or private reprimand to a licensee, and to issue cease and desist orders shall be in

422 accordance with Section 58-1-401.

423 Section 14. Section **58-28-501** is enacted to read:

424 **Part 5. Unlawful and Unprofessional Conduct - Penalties**

425 **58-28-501. Unlawful conduct.**

426 Unlawful conduct includes, in addition to the definitions in Section 58-1-501:

427 (1) fraudulently issuing or using any health certificate, inspection certificate,  
428 vaccination certificate, test chart, or any other certificate relating to the existence of animal  
429 diseases or the sale of animal products for human consumption;

430 (2) willfully misrepresenting any findings in the inspection of foodstuffs of animal  
431 origin; and

432 (3) fraudulently misapplying or reporting any intradermal, cutaneous, subcutaneous,  
433 serological, or chemical test.

434 Section 15. Section **58-28-502** is enacted to read:

435 **58-28-502. Unprofessional conduct.**

436 (1) "Unprofessional conduct" includes, in addition to the definitions in Section  
437 58-1-501:

438 (a) applying unsanitary methods or procedures in the treatment of any animal, contrary  
439 to rules adopted by the board and approved by the division;

440 (b) procuring any fee or recompense on the assurance that a manifestly incurable  
441 diseased condition of the body of an animal can be permanently cured;

442 (c) rendering professional service in association with a person who is not licensed and  
443 does not hold a temporary permit;

444 (d) sharing fees with any person, except a licensed veterinarian, for services actually  
445 performed;

446 (e) selling any biologics containing living or dead organisms or products or such  
447 organisms, except in a manner which will prevent indiscriminate use of such biologics;

448 (f) swearing falsely in any testimony or affidavit, relating to, or in the course of, the  
449 practice of veterinary medicine, surgery, or dentistry;

450 (g) willful failure to report any dangerous, infectious, or contagious disease, as required  
451 by law;

452 (h) willful failure to report the results of any medical tests, as required by law, or rule  
453 adopted pursuant to law;

454 (i) violating Chapter 37, Utah Controlled Substances Act;

455 (j) delegating tasks to unlicensed assistive personnel in violation of standards of the  
456 profession and in violation of Subsection (2); and

457 (k) making any unsubstantiated claim of superiority in training or skill as a veterinarian  
458 in the performance of professional services.

459 (2) (a) "Unprofessional conduct" does not include the following:

460 (i) delegating to a veterinary technologist, while under the indirect supervision of a  
461 veterinarian licensed under this chapter, patient care and treatment that requires a technical  
462 understanding of veterinary medicine if written or oral instructions are provided to the  
463 technologist by the veterinarian;

464 (ii) delegating to a veterinary technician, while under the direct supervision of a  
465 veterinarian licensed under this chapter, patient care and treatment that requires a technical  
466 understanding of veterinary medicine if written or oral instructions are provided to the  
467 technician by the veterinarian; and

468 (iii) delegating to a veterinary assistant, under the immediate supervision of a licensed  
469 veterinarian, tasks that are consistent with the standards and ethics of the profession.

470 (b) The delegation of tasks permitted under Subsection (2)(a) does not include:

471 (i) diagnosing;

472 (ii) prognosing;

473 (iii) surgery; or

474 (iv) prescribing drugs, medicines, or appliances.

475 Section 16. Section **58-28-503** is enacted to read:

476 **58-28-503. Penalty for unlawful or unprofessional conduct.**

477 (1) Any person who violates the unlawful conduct provisions of Section 58-28-501 is

478 guilty of a third degree felony.

479 (2) After proceeding pursuant to Title 63, Chapter 46b, Administrative Procedures Act,  
480 and Chapter 1, Division of Occupational and Professional Licensing Act, the division may  
481 impose administrative penalties of up to \$10,000 for acts of unprofessional conduct or  
482 unlawful conduct under this chapter.

483 (3) Assessment of a penalty under this section does not affect any other action the  
484 division is authorized to take regarding a license issued under this chapter.

485 Section 17. Section **58-28-601**, which is renumbered from Section 58-28-9 is  
486 renumbered and amended to read:

487 **Part 6. Standards of Practice**

488 **~~[58-28-9]~~. 58-28-601. Animal abandonment.**

489 (1) Any animal which suffers abandonment for a period of [~~ten~~] five days may be sold  
490 or placed in the custody of the nearest humane society or county dog pound if the animal is not  
491 picked up within seven days after mailing a notification, by certified mail, to the last known  
492 address of the person placing the animal in the veterinarian's custody. If no humane society or  
493 dog pound is located in the county, the animal may be disposed of in a humane manner.

494 (2) A veterinarian who complies with this section is relieved from liability for the  
495 disposal or sale of abandoned animals.

496 Section 18. Section **58-28-602** is enacted to read:

497 **58-28-602. Cruelty to animals -- Immunity for reporting.**

498 A licensed veterinarian who in good faith and in the normal course of business, reports  
499 a suspected case of animal cruelty to law enforcement or the proper authorities is immune from  
500 liability in any civil or criminal action brought against the veterinarian for reporting the  
501 suspected cruelty.

502 Section 19. Section **58-28-603** is enacted to read:

503 **58-28-603. Medical records.**

504 Medical records maintained by a person licensed under this chapter:

505 (1) shall meet the standards and ethics of the profession;

506 (2) shall be maintained in accordance with administrative rules adopted by the division  
507 in consultation with the board; and

508 (3) may be maintained in electronic format.

509 Section 20. Section **58-28-604** is enacted to read:

510 **58-28-604. Veterinarian-client-patient relationship.**

511 (1) A licensee under this chapter may only practice under a veterinarian-client-patient  
512 relationship as defined in Section 58-28-102.

513 (2) A veterinarian-client-patient relationship may not be established solely by  
514 telephone or other electronic means.

515 Section 21. Section **58-28-605** is enacted to read:

516 **58-28-605. Veterinarian-client-patient confidentiality.**

517 (1) A licensee under this chapter may not disclose information about the licensee's care  
518 of an animal to anyone other than the client, as defined in Section 58-28-102, unless:

519 (a) the client consents to the disclosure in writing;

520 (b) disclosure to public health officials, animal health or welfare officials, agricultural  
521 authorities, or federal, state, or local officials is required, or necessary to protect the animal or  
522 to protect public health;

523 (c) disclosure is required by court order or subpoena; or

524 (d) the client has placed the veterinarian's care or treatment of the animal or the nature  
525 or extent of injuries to the animal at issue in a civil or criminal proceeding.

526 (2) A licensee who releases medical records under the provisions of this section is not  
527 liable to the client or any other person for the release of the records.

528 Section 22. Section **58-47b-102** is amended to read:

529 **58-47b-102. Definitions.**

530 In addition to the definitions in Section 58-1-102, as used in this chapter:

531 (1) "Board" means the [Utah] Board of Massage Therapy created in Section  
532 58-47b-201.

533 (2) "Breast" means the female mammary gland and does not include the muscles,

534 connective tissue, or other soft tissue of the upper chest.

535 (3) "Homeostasis" means maintaining, stabilizing, or returning to equilibrium the  
536 muscular system.

537 (4) "Massage apprentice" means an individual licensed under this chapter as a massage  
538 apprentice to work under the direct supervision of a licensed massage therapist.

539 (5) "Massage therapist" means an individual licensed under this chapter as a massage  
540 therapist.

541 (6) "Practice of massage therapy" means:

542 (a) the examination, assessment, and evaluation of the soft tissue structures of the body  
543 for the purpose of devising a treatment plan to promote homeostasis;

544 (b) the systematic manual or mechanical manipulation of the soft tissue of the body for  
545 the therapeutic purpose of:

546 (i) promoting the health and well-being of a client;

547 (ii) enhancing the circulation of the blood and lymph;

548 (iii) relaxing and lengthening muscles;

549 (iv) relieving pain;

550 (v) restoring metabolic balance; and

551 (vi) achieving homeostasis;

552 (c) the use of the hands or a mechanical or electrical apparatus in connection with this  
553 Subsection (6);

554 (d) the use of rehabilitative procedures involving the soft tissue of the body;

555 (e) range of motion or movements without spinal adjustment as set forth in Section  
556 58-73-102;

557 (f) oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower, steam, and  
558 cabinet baths;

559 (g) manual traction and stretching exercise;

560 (h) correction of muscular distortion by treatment of the soft tissues of the body;

561 (i) counseling, education, and other advisory services to reduce the incidence and

562 severity of physical disability, movement dysfunction, and pain;  
563 (j) similar or related activities and modality techniques; and  
564 (k) the practice described in this Subsection (6) on an animal to the extent permitted  
565 by:  
566 (i) Subsection [~~58-28-8~~] 58-28-307(12);  
567 (ii) the provisions of this chapter; and  
568 (iii) division rule.  
569 (7) "Soft tissue" means the muscles and related connective tissue.  
570 (8) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-47b-501.  
571 (9) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-47b-502 and as  
572 may be further defined by division rule.

573 Section 23. Section **58-72-102** is amended to read:

574 **58-72-102. Acupuncture licensing -- Definitions.**

575 In addition to the definitions in Section 58-1-102, as used in this chapter:

- 576 (1) "Acupuncturist" means a person who has been licensed under this chapter to  
577 practice acupuncture.  
578 (2) "Board" means the Acupuncture Licensing Board created in Section 58-72-201.  
579 (3) "Moxibustion" means a heat therapy that uses the herb moxa to heat acupuncture  
580 points of the body.  
581 (4) (a) "Practice of acupuncture" means the insertion of acupuncture needles and  
582 application of moxibustion to specific areas of the human body based on traditional oriental  
583 medical diagnosis and concepts as a primary mode of therapy. Adjunctive therapies within the  
584 scope of acupuncture may include:  
585 (i) manual, mechanical, thermal, electrical, and electromagnetic treatments based on  
586 traditional oriental medical diagnosis and concepts; [~~and~~]  
587 (ii) the recommendation of dietary guidelines and therapeutic exercise based on  
588 traditional oriental medical diagnosis and concepts[-]; and  
589 (iii) the practice described in this Subsection (4)(a) on an animal to the extent

590 permitted by:

591 (A) Subsection 58-28-307(12);

592 (B) the provisions of this chapter; and

593 (C) division rule.

594 (b) "Practice of acupuncture" does not include:

595 (i) the manual manipulation or adjustment of the joints of the human body beyond the  
596 elastic barrier; or

597 (ii) the "manipulation of the articulation of the spinal column" as defined in Section  
598 58-73-102.

599 (5) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-72-503, and as  
600 may be further defined by rule.

601 Section 24. Section **58-73-102** is amended to read:

602 **58-73-102. Definitions.**

603 (1) "Adjustment of the articulation of the spinal column" means performance by a  
604 chiropractic physician by the use of passive movements directed toward the goal of restoring  
605 joints to their proper physiological relationship of motion and related function, releasing  
606 adhesions, or stimulating joint receptors using one or more of the following techniques:

607 (a) impulse adjusting or the use of sudden, high velocity, short amplitude thrust of a  
608 nature that the patient cannot prevent the motion, commencing where the motion encounters  
609 the elastic barrier of resistance and ends at the limit of anatomical integrity;

610 (b) instrument adjusting, utilizing instruments specifically designed to deliver sudden,  
611 high velocity, short amplitude thrust;

612 (c) light force adjusting utilizing sustained joint traction or applied directional pressure,  
613 or both, which may be combined with passive motion to restore joint mobility; and

614 (d) long distance lever adjusting utilizing forces delivered at some distance from the  
615 dysfunctional site and aimed at transmission through connected structures to accomplish joint  
616 mobility.

617 (2) "Board" means the Chiropractic Physician Licensing Board created in Section

618 58-73-201.

619 (3) "Chiropractic assistant" means a person who performs activities related to the  
620 practice of chiropractic under the supervision of a licensed chiropractic physician in accordance  
621 with division rule established in collaboration with the board.

622 (4) "Chiropractic physician" means a person who has been licensed under this chapter  
623 to practice chiropractic.

624 (5) "Diagnosis of the articulation of the spinal column" means to examine the  
625 articulations of the spinal column of another human to determine the source, nature, kind, or  
626 extent of a disease, vertebral subluxation, or other physical condition, and to make a  
627 determination of the source, nature, kind, or extent of a disease or other physical condition.

628 (6) "Elastic barrier" means the point at which the patient cannot move a joint by his  
629 own means and through which movement is obtained or caused by a practitioner's skillful  
630 treatment using the practitioner's hands in a manipulation of a joint by thrust of sudden, high  
631 velocity, short amplitude so the patient cannot prevent the motion.

632 (7) "Incisive surgery" means any procedure having the power or quality of cutting of a  
633 patient for the purpose of treating disease, injury, or deformity, and includes the use of laser.

634 (8) (a) "Manipulate the articulation of the spinal column" means use by a practitioner  
635 of a skillful treatment using the practitioner's hands in a manipulation of a joint by thrust of  
636 sudden, high velocity, short amplitude so the patient cannot prevent the motion. Movement of  
637 the joint is by force beyond its active limit of motion.

638 (b) This manipulation commences where mobilization ends and specifically begins  
639 when the elastic barrier of resistance is encountered and ends at the limit of anatomical  
640 integrity.

641 (c) Manipulation as described in this definition is directed to the goal of restoring joints  
642 to their proper physiological relationship of motion and related function, releasing adhesions,  
643 or stimulating joint receptors.

644 (9) "Practice of chiropractic" means a practice of a branch of the healing arts:

645 (a) the purpose of which is to restore or maintain human health, in which patient care

646 or first aid, hygienic, nutritional, or rehabilitative procedures are administered;

647 (b) which places emphasis upon specific vertebral adjustment, manipulation, and  
648 treatment of the articulation and adjacent tissues of the spinal column, musculoskeletal  
649 structure of the body, and nervous system;

650 (c) that involves examining, diagnosing, treating, correcting, or prescribing treatment  
651 for any human disease, ailment, injury, infirmity, deformity, pain, or other condition, or the  
652 attempt to do so, in accordance with Section 58-73-601;

653 (d) that involves diagnosing, prescribing treatment, or making a determination of  
654 treatment necessity for another person's condition by means of:

655 (i) a physical examination of the person; or

656 (ii) a determination based upon or derived from information supplied directly or  
657 indirectly by a third person; and

658 (e) the practice described in this Subsection (9) on an animal to the extent permitted  
659 by:

660 (i) Subsection [~~58-28-8~~] 58-28-307(12);

661 (ii) the provisions of this chapter; and

662 (iii) division rule.

663 (10) "Therapeutically position the articulation of the spinal column" means to adjust or  
664 manipulate the articulation of the spinal column.

665 Section 25. **Repealer.**

666 This bill repeals:

667 Section **58-28-10, Violation of chapter -- Misdemeanor.**