

1 **VETERINARY PRACTICE ACT AMENDMENTS**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John G. Mathis**

5 Senate Sponsor: Beverly Ann Evans

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Veterinary Practice Act.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ amends definitions;
- 13 ▶ amends duties of the veterinary practice board;
- 14 ▶ creates a licensing category for veterinary interns and requires licensing of

15 veterinary interns;

- 16 ▶ creates a continuing education requirement for licensure;
- 17 ▶ adds exemptions to licensure requirements;
- 18 ▶ defines unlicensed assistive personnel which includes veterinary assistants,

19 veterinary technicians, and veterinary technologists and establishes that it is not

20 unprofessional conduct for a veterinarian to delegate certain tasks to those

21 unlicensed assistants if:

- 22 • the veterinarian provides the level of supervision required in the bill; and
- 23 • the delegation of duties does not violate the standards and ethics of the

24 profession;

- 25 ▶ provides standards of practice for:

- 26 • reporting animal cruelty;
- 27 • maintaining and disclosing medical records; and



- 28 • veterinary-patient relationships; and
- 29 ▸ 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 **58-73-102**, as last amended by Chapter 124, Laws of Utah 2001

39 **ENACTS:**

40 **58-28-301**, Utah Code Annotated 1953

41 **58-28-306**, Utah Code Annotated 1953

42 **58-28-308**, Utah Code Annotated 1953

43 **58-28-501**, Utah Code Annotated 1953

44 **58-28-502**, Utah Code Annotated 1953

45 **58-28-503**, Utah Code Annotated 1953

46 **58-28-602**, Utah Code Annotated 1953

47 **58-28-603**, Utah Code Annotated 1953

48 **58-28-604**, Utah Code Annotated 1953

49 **58-28-605**, Utah Code Annotated 1953

50 **RENUMBERS AND AMENDS:**

51 **58-28-101**, (Renumbered from 58-28-1, as enacted by Chapter 3, Laws of Utah 1985)

52 **58-28-102**, (Renumbered from 58-28-2, as last amended by Chapters 4 and 297, Laws
53 of Utah 1993)

54 **58-28-201**, (Renumbered from 58-28-3, as repealed and reenacted by Chapter 297,
55 Laws of Utah 1993)

56 **58-28-302**, (Renumbered from 58-28-4, as last amended by Chapter 313, Laws of Utah
57 1994)

58 **58-28-303**, (Renumbered from 58-28-5, as last amended by Chapter 297, Laws of Utah

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

69 REPEALS:

- 70 **58-28-10**, as last amended by Chapter 264, Laws of Utah 1989



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

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

74 **58-24a-102. Definitions.**

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

- 76 (1) "Board" means the Physical Therapy Licensing Board.
- 77 (2) "General supervision" means the supervising physical therapist is available for
- 78 immediate voice communication with the person being supervised.
- 79 (3) "Immediate supervision" means the supervising physical therapist is:
- 80 (a) present in the area where the person supervised is performing services; and
- 81 (b) immediately available to assist the person being supervised in the services being
- 82 performed.
- 83 (4) "Physical therapist aide" means an individual performing activities related to
- 84 physical therapy under the immediate supervision of a physical therapist.
- 85 (5) "Physical therapist assistant" means an individual who has successfully completed
- 86 an accredited physical therapy assistant program and who performs activities related to physical
- 87 therapy under the general supervision of a physical therapist.
- 88 (6) "Physical therapy" or "physiotherapy" means the:
- 89 (a) treatment of a human being to assess, prevent, correct, alleviate, and limit physical

90 disability, movement dysfunction, bodily malfunction, and pain resulting from disorders,
91 congenital and aging conditions, injury, and disease;

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

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

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

97 (ii) the provisions of this chapter; and

98 (iii) division rule.

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

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

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

110 ~~[58-28-1].~~ **58-28-101. Short title.**

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

112 Section 3. Section **58-28-102**, which is renumbered from Section 58-28-2 is
113 renumbered and amended to read:

114 ~~[58-28-2].~~ **58-28-102. Definitions.**

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

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

118 (2) "Administer" means:

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

121 research subject; or

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

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

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

127 [~~3~~] (5) "Board" means the Veterinary Board established in Section [58-28-3]
128 58-28-201.

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

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

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

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

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

140 (a) has given either written or verbal instructions for veterinary care of a patient to the
141 person being supervised; and

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

144 [~~4~~] (11) "Practice of veterinary medicine, surgery, and dentistry" means to:

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

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

151 (c) represent by verbal or written claim, sign, word, title, letterhead, card, or in any

152 other manner that one is a licensed veterinarian, or one qualified to practice veterinary
153 medicine, surgery, or dentistry, or hold oneself out as able to practice veterinary medicine,
154 surgery, or dentistry;

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

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

163 ~~[(5)]~~ (12) "Unlawful conduct" [as] is defined in [Section] Sections 58-1-501 [includes:]
164 and 58-28-501.

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

168 ~~[(b) willfully misrepresenting any findings in the inspection of foodstuffs of animal
169 origin; and]~~

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

172 (13) "Unlicensed assistive personnel":

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

176 (b) includes:

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

178 (ii) a veterinary technician who:

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

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

182 (iii) a veterinary technologist who:

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

185 (B) is working under indirect supervision.

186 ~~[(6)]~~ (14) "Unprofessional conduct" as defined in [Section] Sections 58-1-501 and
187 58-28-502 and [as] may be further defined by rule [includes:].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

218 **Part 2. Board**

219 **~~[58-28-3].~~ 58-28-201. Veterinary Board created -- Duties.**

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

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

224 (3) The duties and responsibilities of the board shall be in accordance with Sections
225 58-1-202 and 58-1-203.

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

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

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

232 **Part 3. Licensing**

233 **58-28-301. Licensure required.**

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

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

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

242 (a) veterinarian; or

243 (b) veterinarian intern.

244 Section 6. Section **58-28-302**, which is renumbered from Section 58-28-4 is

245 renumbered and amended to read:

246 ~~[58-28-4].~~ 58-28-302. License qualifications.

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

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

251 ~~[(2)]~~ (b) pass an examination approved by the board on the theory and practice of the
252 science of veterinary medicine, surgery, dentistry, and other subjects determined by the board,
253 knowledge of which is generally required of veterinarians;

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

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

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

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

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

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

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

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

272 (b) An applicant's license as a veterinary intern is limited to the period of time
273 necessary to complete clinical training as described in Subsection (1)(d) and extends not more
274 than one year from the date the minimum requirement for training is completed, unless the
275 individual presents satisfactory evidence to the division and the board that the individual is

276 making reasonable progress toward passing the qualifying examination or is otherwise on a
277 course reasonably expected to lead to licensure as a veterinarian, but the period of time under
278 this Subsection (2)(b) may not exceed two years past the date the minimum supervised clinical
279 training has been completed.

280 Section 7. Section **58-28-303**, which is renumbered from Section 58-28-5 is
281 renumbered and amended to read:

282 **~~[58-28-5].~~ 58-28-303. License -- Display -- Revocation for nondisplay or**
283 **nonrenewal.**

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

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

289 **~~[58-28-6].~~ 58-28-304. Temporary license -- License reciprocity.**

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

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

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

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

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

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

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

306 (a) has been licensed or registered to practice veterinary medicine, surgery, and

307 dentistry in any state, district, or territory of the United States or in any foreign country, whose
308 educational, examination, and experience requirements are or were at the time the license was
309 issued equal to those of this state;

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

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

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

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

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

321 ~~[58-28-6.5].~~ **58-28-305. Term of license -- Expiration -- Renewal.**

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

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

329 ~~[(2)]~~ (3) Each license under this chapter automatically expires on the expiration date
330 shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

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

332 **58-28-306. Continuing education.**

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

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

337 ~~[58-28-8].~~ **58-28-307. Exemptions from chapter.**

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

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

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

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

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

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

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

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

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

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

367 (8) ~~[except as otherwise provided in Subsection 58-28-2(6)(d),]~~ any person in this state
368 engaged in the sale of veterinary supplies, instruments, and medicines, except prescription

369 drugs which must be sold in compliance with state and federal regulations, if the supplies,
370 instruments, and medicines are sold in original packages bearing adequate identification and
371 directions for application and administration and the sale is made in the regular course of, and
372 at the regular place of business;

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

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

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

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

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

390 (c) the practice of animal massage therapy by a massage therapist licensed under
391 Chapter 47b, Massage Therapy Practice Act, who has completed at least 60 hours of animal
392 massage therapy training, including quadruped anatomy and hands-on training, approved by the
393 division[-];

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

396 (14) an animal shelter employee who is:

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

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

399 (15) an individual providing appropriate training for animals, however, this exception

400 does not include diagnosing any medical condition, or prescribing or dispensing any
401 prescription drugs or therapeutics.

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

403 **58-28-308. Provisions for current practitioners.**

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

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

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

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

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

413 **[58-28-7.5]. 58-28-401. Grounds for denial of license -- Disciplinary**
414 **proceedings.**

415 Grounds for refusal to issue a license to an applicant, for refusal to renew the license of
416 a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee, to issue a
417 public or private reprimand to a licensee, and to issue cease and desist orders shall be in
418 accordance with Section 58-1-401.

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

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

421 **58-28-501. Unlawful conduct.**

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

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

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

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

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

431 **58-28-502. Unprofessional conduct.**

432 (1) "Unprofessional conduct" includes, in addition to the definitions in Section
433 58-1-501:

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

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

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

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

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

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

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

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

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

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

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

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

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

460 (ii) delegating to a veterinary technician, while under the direct 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 technician by the veterinarian; and

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

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

467 (i) diagnosing;

468 (ii) prognosing;

469 (iii) surgery; or

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

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

472 **58-28-503. Penalty for unlawful or unprofessional conduct.**

473 (1) Any person who violates the unlawful conduct provisions of Section 58-28-501 is
474 guilty of a third degree felony.

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

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

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

483 **Part 6. Standards of Practice**

484 **[58-28-9]. 58-28-601. Animal abandonment.**

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

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

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

493 **58-28-602. Cruelty to animals -- Immunity for reporting.**

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

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

499 **58-28-603. Medical records.**

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

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

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

504 (3) may be maintained in electronic format.

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

506 **58-28-604. Veterinarian client-patient relationship.**

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

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

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

512 **58-28-605. Veterinarian-patient-client confidentiality.**

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

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

516 (b) disclosure to public health officials, animal health or welfare officials, agricultural
517 authorities, or federal, state, or local officials is required, or necessary to protect the animal or
518 to protect public health;

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

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

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

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

525 **58-47b-102. Definitions.**

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

527 (1) "Board" means the [~~Utah~~] Board of Massage Therapy created in Section

528 58-47b-201.

529 (2) "Breast" means the female mammary gland and does not include the muscles,
530 connective tissue, or other soft tissue of the upper chest.

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

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

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

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

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

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

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

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

544 (iii) relaxing and lengthening muscles;

545 (iv) relieving pain;

546 (v) restoring metabolic balance; and

547 (vi) achieving homeostasis;

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

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

551 (e) range of motion or movements without spinal adjustment as set forth in Section
552 58-73-102;

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

- 555 (g) manual traction and stretching exercise;
- 556 (h) correction of muscular distortion by treatment of the soft tissues of the body;
- 557 (i) counseling, education, and other advisory services to reduce the incidence and
- 558 severity of physical disability, movement dysfunction, and pain;
- 559 (j) similar or related activities and modality techniques; and
- 560 (k) the practice described in this Subsection (6) on an animal to the extent permitted
- 561 by:
- 562 (i) Subsection [~~58-28-8~~] 58-28-307(12);
- 563 (ii) the provisions of this chapter; and
- 564 (iii) division rule.
- 565 (7) "Soft tissue" means the muscles and related connective tissue.
- 566 (8) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-47b-501.
- 567 (9) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-47b-502 and as
- 568 may be further defined by division rule.

569 Section 23. Section **58-73-102** is amended to read:

570 **58-73-102. Definitions.**

- 571 (1) "Adjustment of the articulation of the spinal column" means performance by a
- 572 chiropractic physician by the use of passive movements directed toward the goal of restoring
- 573 joints to their proper physiological relationship of motion and related function, releasing
- 574 adhesions, or stimulating joint receptors using one or more of the following techniques:
- 575 (a) impulse adjusting or the use of sudden, high velocity, short amplitude thrust of a
- 576 nature that the patient cannot prevent the motion, commencing where the motion encounters
- 577 the elastic barrier of resistance and ends at the limit of anatomical integrity;
- 578 (b) instrument adjusting, utilizing instruments specifically designed to deliver sudden,
- 579 high velocity, short amplitude thrust;
- 580 (c) light force adjusting utilizing sustained joint traction or applied directional pressure,
- 581 or both, which may be combined with passive motion to restore joint mobility; and
- 582 (d) long distance lever adjusting utilizing forces delivered at some distance from the
- 583 dysfunctional site and aimed at transmission through connected structures to accomplish joint
- 584 mobility.
- 585 (2) "Board" means the Chiropractic Physician Licensing Board created in Section

586 58-73-201.

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

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

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

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

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

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

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

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

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

613 (a) the purpose of which is to restore or maintain human health, in which patient care
614 or first aid, hygienic, nutritional, or rehabilitative procedures are administered;

615 (b) which places emphasis upon specific vertebral adjustment, manipulation, and
616 treatment of the articulation and adjacent tissues of the spinal column, musculoskeletal

617 structure of the body, and nervous system;
 618 (c) that involves examining, diagnosing, treating, correcting, or prescribing treatment
 619 for any human disease, ailment, injury, infirmity, deformity, pain, or other condition, or the
 620 attempt to do so, in accordance with Section 58-73-601;

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

- 623 (i) a physical examination of the person; or
- 624 (ii) a determination based upon or derived from information supplied directly or
 625 indirectly by a third person; and

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

- 628 (i) Subsection [~~58-28-8~~] 58-28-307(12);
 - 629 (ii) the provisions of this chapter; and
 - 630 (iii) division rule.
- 631 (10) "Therapeutically position the articulation of the spinal column" means to adjust or
 632 manipulate the articulation of the spinal column.

633 Section 24. **Repealer.**

634 This bill repeals:

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

Legislative Review Note
 as of 1-17-06 12:36 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0284

Veterinary Practice Act Amendments

24-Jan-06

11:00 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst