

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 266

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE PRACTICE OF VETERINARY MEDICINE; AMENDING SECTION 54-2103, IDAHO CODE, TO REVISE THE DEFINITION OF THE "PRACTICE OF VETERINARY MEDICINE" AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-2103, Idaho Code, be, and the same is hereby amended to read as follows:

54-2103. DEFINITIONS. As used in this chapter:

(1) "Accredited continuing education activity" means a provider and course, seminar, scientific program or any other activity approved by the board or its designees for continuing education credit.

(2) "Accredited or approved school of veterinary medicine" means any veterinary college or division of a university or college inside or outside the United States or Canada that offers the degree of doctor of veterinary medicine, veterinary medicine doctor, or its equivalent and is accredited or approved by the council on education of the American veterinary medical association or other accrediting agency or association approved by the board.

(3) "Allied health professional" means a person holding a current active license, in good standing, in any state to practice one (1) of the healing arts including, but not limited to, medicine, dentistry, osteopathy, chiropractic, acupuncture and podiatry.

(4) "Anesthetized" means any condition of general anesthesia, caused by the administration of a drug or combination of drugs in sufficient quantity to produce a state of unconsciousness or disassociation and blocked response to a given pain or alarm stimulus.

(5) "Animal" means any animal other than man and includes fowl, birds, fish and reptiles, wild or domestic, living or dead.

(6) "Assistant" means any individual, other than a certified veterinary technician or a licensed veterinarian, who is utilized by a licensed veterinarian to assist in the performance of acts pertaining to the practice of veterinary medicine.

(7) "Board" means the state board of veterinary medicine.

(8) "Certified euthanasia agency" or "CEA" means a law enforcement agency, an animal control agency or a society for the prevention of cruelty to animals, which has been inspected and certified by the euthanasia task force or the board.

(9) "Certified euthanasia technician" or "CET" means:

(a) A person employed by a certified euthanasia agency, but not to include an individual employed as a technician by animal research laboratories, who is instructed and certified by the euthanasia task force or the board as defined in the rules of the board.

1 (b) Any person who is trained prior to December 31, 1992, in euthanasia  
2 methods, in a course approved by the board, may be certified upon  
3 presentation of evidence of such training to either the euthanasia task  
4 force or the board.

5 (10) "Certified veterinary technician" means a person who has fulfilled  
6 the certification requirements prescribed by board rule and has been certi-  
7 fied by the board to practice veterinary technology in this state.

8 (11) "Consultation" means a deliberation between two (2) or more vet-  
9 erinarians concerning the diagnosis of a disease or the proper management of  
10 the case.

11 (12) "Credit hour" means fifty (50) minutes of participation in an ac-  
12 credited continuing education activity.

13 (13) "Dentistry" is the practice of veterinary medicine and means the  
14 application or use of any instrument or device to any portion of an animal's  
15 tooth, gum or any related tissue for the prevention, cure or relief of any  
16 wound, fracture, injury, disease or other condition of an animal's tooth,  
17 gum or related tissue. Dentistry includes, but is not limited to:

18 (a) "Preventive dental procedures" including, but not limited to, the  
19 removal of calculus, soft deposits, plaque, stains, and floating to  
20 shape the teeth above the gum line or the smoothing, filing or polishing  
21 of tooth surfaces above the gum line; and

22 (b) "Operative dentistry/oral surgery" or any other dental procedure  
23 that invades the hard or soft oral tissue including a procedure that al-  
24 ters the structure of one (1) or more teeth, or repairs damaged and dis-  
25 eased teeth, or the deliberate extraction of one (1) or more teeth.

26 (14) "Direct supervision" means the supervising veterinarian is on the  
27 premises where the animal is being treated, is quickly and easily available  
28 and the animal has been examined by the supervising veterinarian as accept-  
29 able veterinary medical practice requires.

30 (15) "Discipline" means board action including, but not limited to:

31 (a) Refusing to issue, renew or reinstate a license, permit or certi-  
32 fication to practice as a licensed veterinarian, a certified veteri-  
33 nary technician, a certified euthanasia agency or a certified euthana-  
34 sia technician;

35 (b) Denial, revocation, suspension, sanction, probation or voluntary  
36 surrender of a license, permit or certification to practice as a li-  
37 censed veterinarian, a certified veterinary technician, a certified  
38 euthanasia agency or a certified euthanasia technician;

39 (c) The ability to enter into consent agreements and negotiated settle-  
40 ments with licensed veterinarians, certified veterinary technicians,  
41 certified euthanasia agencies and certified euthanasia technicians;

42 (d) The ability to bring an administrative or civil action against any  
43 person in or outside of this state who practices veterinary medicine,  
44 veterinary technology or who performs euthanasia within this state.

45 (16) "Emergency" means that the animal has been placed in a life-threat-  
46 ening condition where immediate treatment is necessary to sustain life.

47 (17) "Emergency veterinary facility" means any facility with the pri-  
48 mary function of receiving, treating, and monitoring emergency patients  
49 during its specified hours of operation or that displays to the public any  
50 sign, card, or advertisement that indicates it is an emergency veterinary

1 clinic or hospital. An emergency veterinary facility may be an independent  
2 after-hours service, an independent twenty-four (24) hour service, or it may  
3 be part of a full-service veterinary medical facility.

4 (18) "Euthanasia task force" means a task force established by the board  
5 for the purposes of training, examining, certifying and inspecting certi-  
6 fied euthanasia agencies and certified euthanasia technicians.

7 (19) "Extra label use" means the actual or intended use of a human or  
8 veterinary drug in an animal in a manner that is not in accordance with the  
9 drug's labeling.

10 (20) "Floating" means shaping the posterior (cheek) teeth and the in-  
11 cisors (cutting teeth) in horses, mules and donkeys through the use of hand  
12 floats, rasps, burs, mechanical files or other file-like instruments to re-  
13 store balance, allow more efficient mastication, and reduce pain and trauma  
14 to the periodontal tissues.

15 (21) "Herd, litter or flock" of animals means animals managed as a group  
16 for purposes including, but not limited to, breeding, sale, show or food pro-  
17 duction.

18 (22) "Immediate supervision" means the supervising veterinarian is in  
19 the immediate area, in audible and visual range of the animal patient and the  
20 person treating the patient and the animal has been examined by the supervis-  
21 ing veterinarian as acceptable veterinary medical practice requires.

22 (23) "In good standing" means, when used in reference to an applicant  
23 for licensure or certification, that an applicant:

24 (a) Has not been the recipient of any administrative penalties regard-  
25 ing his practice of veterinary medicine including, but not limited to,  
26 fines, formal reprimands, license suspensions or revocations (except  
27 for license revocations for nonpayment of license renewal fees) or pro-  
28 bationary limitations, or has not entered into any consent agreement or  
29 negotiated settlement that contains conditions placed by a board on his  
30 professional conduct and practice, including any voluntary surrender  
31 of a license; and

32 (b) Has never had his United States drug enforcement administration  
33 privileges restricted or revoked; and

34 (c) Is not currently under investigation by another veterinary licens-  
35 ing authority for acts which would provide a basis for disciplinary ac-  
36 tion in this state, as determined by the board; and

37 (d) Has no physical or mental impairment related to drugs, alcohol, or  
38 a finding of mental incompetence by a physician that would limit the ap-  
39 plicant's ability to undertake the practice of veterinary medicine in a  
40 manner consistent with the safety of a patient or the public; and

41 (e) Has not been convicted of a felony as defined in chapter 1, title 18,  
42 Idaho Code; and

43 (f) Has no criminal conviction record or pending criminal charge relat-  
44 ing to an offense the circumstances of which substantially relate to the  
45 practice of veterinary medicine. Applicants who have criminal convic-  
46 tion records or pending criminal charges shall require appropriate au-  
47 thorities to provide information about the record or charge directly to  
48 the board in sufficient detail to enable the board to make a determina-  
49 tion whether the record or charge is substantially related to the prac-  
50 tice of veterinary medicine.

1 (24) "Indirect supervision" means the supervising veterinarian is not  
2 on the premises but is available for immediate contact by telephone, radio or  
3 other means, has given either written or oral instructions for treatment of  
4 the animal patient, the animal has been examined by the supervising veteri-  
5 narian as acceptable veterinary medical practice requires, and the animal,  
6 if previously anesthetized, has recovered to the point of being conscious  
7 and sternal.

8 (25) "Legend/Prescription drug" means any drug which, under federal  
9 law, regulation or rule, is required, prior to being distributed or deliv-  
10 ered, to be labeled with one (1) of the following statements: "Caution:  
11 Federal law restricts this drug to be used by or on the order of a licensed  
12 veterinarian," or "Caution: Federal law prohibits dispensing without a pre-  
13 scription," or "RX Only," or a drug which is required by any applicable state  
14 or federal law, rule or regulation to be distributed or dispensed pursuant to  
15 a prescription only, or is restricted to use by licensed practitioners only.

16 (26) "Licensed veterinarian" means a person who is validly and cur-  
17 rently licensed to practice veterinary medicine in this state.

18 (27) "Malpractice" means, but is not limited to:

19 (a) Treatment in a manner contrary to accepted veterinary practices and  
20 with injurious results; or

21 (b) Any professional misconduct or unreasonable lack of professional  
22 skill or fidelity in the performance of the professional practice of  
23 veterinary medicine; or

24 (c) Failure to provide adequate supervision, except in an emergency  
25 situation; or

26 (d) Allowing an unqualified individual to perform a procedure that is  
27 part of the practice of veterinary medicine; or

28 (e) The negligent practice of veterinary medicine, as determined by the  
29 standard of practice for the area, that results in injury, unnecessary  
30 suffering or death.

31 (28) "Medical incompetence" means lacking in sufficient medical knowl-  
32 edge or skills or both to a degree likely to endanger the health of patients.

33 (29) "Mobile clinic" means a vehicle including, but not limited to, a  
34 camper, motor home, trailer or mobile home, used as a veterinary medical fa-  
35 cility. A mobile clinic is not required for house calls or farm calls.

36 (30) "On-call emergency service" means a veterinary medical facility  
37 that is available to provide emergency veterinary services as requested if  
38 a veterinarian is available.

39 (31) "Owner/Ownership" means ownership as defined by the laws of prop-  
40 erty and ownership, chapter 1, title 55, Idaho Code, and chapter 1, title 73,  
41 Idaho Code.

42 (32) "Person" means any individual, firm, partnership, association,  
43 joint venture, cooperative and corporation, or any other group or combi-  
44 nation acting in concert; and whether or not acting as principal, trustee,  
45 fiduciary, receiver, or as any other kind of legal or personal representa-  
46 tive, or as the successor in interest, assignee, agent, factor, servant,  
47 employee, director, officer, or any other representative of such person.

48 (33) "Physical or mental incompetence" means the veterinarian's abil-  
49 ity to practice veterinary medicine with reasonable skill and safety is  
50 impaired by reason of illness, excessive use of alcohol, drugs, narcotics,

1 chemicals or any other substance, or as a result of any mental or physical  
2 disability.

3 (34) "Practice of veterinary medicine" in this state, through tele-  
4 phonic, electronic or other means, regardless of the location of the veteri-  
5 narian, includes veterinary surgery, obstetrics, dentistry, and all other  
6 branches or specialties of veterinary medicine and means:

7 (a) To directly or indirectly diagnose, treat, correct, change, re-  
8 lieve or prevent animal disease, deformity, defect, injury or other  
9 physical or mental conditions; including the ~~prescription or adminis-~~  
10 ~~tration~~ prescribing, dispensing, delivering or administering of any  
11 drug, medicine, biologic, apparatus application, anesthetic or other  
12 therapeutic or diagnostic substance or technique, or the use of any  
13 obstetrical procedure or any manual or mechanical procedure for arti-  
14 ficial insemination, for testing or examining for pregnancy, fertility  
15 evaluation, embryo transplant, grading of fresh semen, or to render  
16 advice or recommendation with regard to any of the above.

17 (b) To represent, directly or indirectly, publicly or privately, an  
18 ability and willingness to do any act described in subsection (34) (a) of  
19 this section.

20 (c) To use any title, words, abbreviations or letter in a manner or un-  
21 der circumstances which induce the belief that the person using them is  
22 qualified to do any act described in subsection (34) (a) of this section,  
23 except where such person is a licensed veterinarian.

24 (35) "Professional supervision" means the supervising veterinarian is  
25 in daily contact by telephone, radio or other means with the temporary li-  
26 censee.

27 (36) "Referral" means the transfer of responsibility for diagnosis and  
28 treatment from the referring veterinarian to the receiving veterinarian, or  
29 from the referring veterinarian to the board-certified specialist, or from  
30 the referring veterinarian to an allied health professional.

31 (37) "Regular employee" means a person who performs services for the an-  
32 imal's owner other than, or in addition to, feeding, boarding, castrating  
33 and dehorning, but does not include independent contractors or agents.

34 (38) "Supervision" means the action or process of a supervising veteri-  
35 narian in directing activities or a course of action for those individuals to  
36 whom activities or functions have been assigned or delegated.

37 (39) "Supervising veterinarian" means a licensed veterinarian utiliz-  
38 ing the services of a temporary licensee, certified veterinary technician,  
39 veterinary technician, veterinary technician with a temporary certifica-  
40 tion, veterinary assistant, certified euthanasia technician, or as provided  
41 by rule. A supervising veterinarian shall be individually responsible and  
42 liable, regardless of the supervision provided, for all damages arising out  
43 of his own acts or omissions and for the performance of any acts and omissions  
44 pertaining to the practice of veterinary medicine that are delegated to the  
45 temporary licensee, certified veterinary technician, veterinary techni-  
46 cian, veterinary assistant or certified euthanasia technician. Nothing  
47 herein shall be construed to deprive the board of its disciplinary authority  
48 with respect to the temporary licensees, certified veterinary technicians,  
49 veterinary technicians, veterinary assistants or certified euthanasia  
50 technicians.

1 (40) "Unethical or unprofessional conduct" means to knowingly engage in  
2 conduct of a character likely to deceive or defraud the public, false or mis-  
3 leading advertising or solicitation, obtaining any fee or compensation by  
4 fraud or misrepresentation, sharing office space and working in conjunction  
5 with any person illegally practicing veterinary medicine, employing either  
6 indirectly or directly an unlicensed or uncertified person to perform acts  
7 pertaining to the practice of veterinary medicine, except as provided by law  
8 or rule, or the violation of any law or rules adopted by the board pertain-  
9 ing to unethical or unprofessional conduct, or that provide a code of profes-  
10 sional conduct to be followed and carried out by persons licensed or certi-  
11 fied by the board.

12 (41) "Unlicensed practice" means:

13 (a) The practice of veterinary medicine in this state, through tele-  
14 phonic, electronic or other means, regardless of the location of the  
15 veterinarian, without a valid, unexpired, unrevoked, and unsuspended  
16 active license or certification in this state to do so, except as pro-  
17 vided by law or rule; or

18 (b) Representing one's self through offerings, advertisements or use  
19 of professional titles or designations as being qualified to practice  
20 veterinary medicine.

21 (42) "Veterinarian" means a person who has received a doctor's degree  
22 in veterinary medicine from an accredited or approved school of veterinary  
23 medicine or as otherwise provided by law or rule.

24 (43) "Veterinarian on call" means a veterinarian is not present at the  
25 veterinary medical facility, but is able to respond within a reasonable time  
26 to requests for emergency veterinary services.

27 (44) "Veterinarian on premises" means a veterinarian is present at the  
28 veterinary medical facility and is prepared and qualified to render veteri-  
29 nary services.

30 (45) "Veterinary medical facility" means any premises, office, unit,  
31 structure, mobile unit, or area utilized for the practice of veterinary  
32 medicine other than the premises of an owner when used for treatment of the  
33 owner's animal.

34 (46) "Veterinary technician" means a person who has graduated from a  
35 veterinary technology program accredited or approved by the council on edu-  
36 cation of the American veterinary medical association, or other accrediting  
37 agency approved by the board, or a person who has received equivalent train-  
38 ing as set forth in the rules of the board.

39 (47) "Veterinary technology" means the performance of services within  
40 the practice of veterinary medicine by a person working under the direction  
41 of a supervising veterinarian to perform duties that require an understand-  
42 ing of veterinary medicine in order to carry out the orders of the veteri-  
43 narian. Veterinary technology does not include prognosis, diagnosis, oper-  
44 ative dentistry, deliberate tooth extraction procedures or the prescribing  
45 of treatment or performing surgery of any kind.