

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 199 Veterinary Medicine  
**SPONSOR(S):** Careers & Competition Subcommittee, Peters  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 220

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee	10 Y, 2 N, As CS	Wright	Anstead
2) Commerce Committee			

### SUMMARY ANALYSIS

In Florida, the practice of “veterinary medicine” means the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease and is regulated by the Board of Veterinary Medicine under the Florida Department of Business and Professional Regulation.

The bill allows the practice of veterinary medicine via veterinary telemedicine, where patient care is provided through the use of medical information exchanged via electronic communications.

The bill creates licensing exceptions to allow a person other than a veterinarian to perform animal massage, animal acupuncture, and animal tooth brushing.

The bill does not have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Practice of Veterinary Medicine**

###### *Background*

In 1979, the Legislature determined that minimum requirements for the safe practice of veterinary medicine were necessary to protect public health and safety.<sup>1</sup> The Board of Veterinary Medicine (board) in the Department of Business and Professional Regulation (DBPR) implements the provisions of ch. 474, F.S., on veterinary medical practice.<sup>2</sup>

A veterinarian is a health care practitioner licensed by the board to engage in the practice of veterinary medicine in Florida<sup>3</sup> and subject to disciplinary action from the board for various violations of the practice act.<sup>4</sup>

The practice of “veterinary medicine” is the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease, or holding oneself out as performing any of these functions.<sup>5</sup>

Veterinary medicine includes, with respect to animals:<sup>6</sup>

- Surgery;
- Acupuncture;
- Obstetrics;
- Dentistry;
- Physical therapy;
- Radiology;
- Theriogenology (reproductive medicine);<sup>7</sup> and
- Other branches or specialties of veterinary medicine.

A “patient” is any animal for which the veterinarian practices veterinary medicine.<sup>8</sup>

A “veterinarian/client/patient relationship” is one in which a veterinarian has assumed responsibility for making medical judgments about the health of an animal and its need for medical treatment.<sup>9</sup>

Veterinarians are permitted to prescribe drugs in the course of veterinary practice,<sup>10</sup> but may be disciplined by the board for certain related violations, including ordering, prescribing, or making available medicinal drugs or drugs<sup>11</sup> or controlled substances<sup>12</sup> for use other than for the specific

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<sup>1</sup> See s. 474.201, F.S.

<sup>2</sup> See ss. 474.204 through 474.2125, F.S., concerning the powers and duties of the board.

<sup>3</sup> See s. 474.202(11), F.S.

<sup>4</sup> ss. 474.213 & 214, F.S.

<sup>5</sup> See s. 474.202(9), F.S. Also included is the determination of the health, fitness, or soundness of an animal, and the performance of any manual procedure for the diagnosis or treatment of pregnancy or fertility or infertility of animals.

<sup>6</sup> See s. 474.202(13), F.S. Section 474.202(1), F.S., defines “animal” as “any mammal other than a human being or any bird, amphibian, fish, or reptile, wild or domestic, living or dead.”

<sup>7</sup> The Society for Theriogenology, established in 1954, is composed of veterinarians dedicated to standards of excellence in animal reproduction. See <http://www.therio.org/> (last visited Feb. 1, 2017).

<sup>8</sup> s. 474.202(8), F.S.

<sup>9</sup> s. 474.202(12), F.S.

<sup>10</sup> s. 474

<sup>11</sup> As defined in s. 465.003(8), F.S.

treatment of animal patients for which there is a documented veterinarian/client/patient relationship and without:

- Having sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal, which means that the veterinarian is personally acquainted with the keeping and caring of the animal and has recently seen the animal or has made medically appropriate and timely visits to the premises where the animal is kept;
- Being available or provide for followup care and treatment in case of adverse reactions or failure of the regimen of therapy; and
- Maintaining records which document patient visits, diagnosis, treatment, and other relevant information required under the practice act.

The practice act does not apply to the following categories of persons:<sup>13</sup>

- Veterinary aides, nurses, laboratory technicians, preceptors,<sup>14</sup> or other employee of a licensed veterinarian, who administer medication or provide help or support under the responsible supervision<sup>15</sup> of a licensed veterinarian;
- Certain non-Florida licensed veterinarians who are consulting upon request of a Florida-licensed veterinarian on the treatment of a specific animal or on the treatment on a specific case of the animals of a single owner.
- Faculty veterinarians when they have assigned teaching duties at accredited<sup>16</sup> institutions;
- Certain graduated intern/resident veterinarians of accredited institutions;
- Certain students in a school or college of veterinary medicine who perform assigned duties by an instructor or work as preceptors;
- Certain doctors of veterinary medicine employed by a state agency or the United States Government;
- Persons or their employees caring for the persons' own animals, as well as certain part-time or temporary employees, or independent contractors, who are hired by an owner to help with herd management and animal husbandry tasks; and
- Certain entities or persons<sup>17</sup> that conduct experiments and scientific research on animals as part of the development of pharmaceuticals, biologicals, serums, or treatment methods of treatment or techniques to diagnose or treatment of human ailments, or in the study and development of methods and techniques applicable to the practice of veterinary medicine.

Any permanent or mobile establishment where a licensed veterinarian practices must have a premises permit issued by DBPR.<sup>18</sup> Each person to whom a veterinary license or premises permit is issued must conspicuously display such document in her or his office, place of business, or place of employment in a permanent or mobile veterinary establishment or clinic.<sup>19</sup>

By virtue of accepting a license to practice veterinary medicine in Florida, a veterinarian consents to render handwriting samples and waive confidentiality pertaining to and authorize certain mental and physical examinations, related to certain investigations or complaints.<sup>20</sup>

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<sup>12</sup> As defined in s. 893.02(4), F.S.

<sup>13</sup> See s. 474.203, F.S.

<sup>14</sup> A preceptor is a skilled practitioner or faculty member who directs, teaches, supervises, and evaluates students in a clinical setting to allow practical experience with patients. See also <https://www.merriam-webster.com/dictionary/preceptor#medicalDictionary> (last visited Feb. 1, 2017).

<sup>15</sup> The term “responsible supervision” is defined in s. 474.202(10), F.S., as the “control, direction, and regulation by a licensed doctor of veterinary medicine of the duties involving veterinary services” delegated to unlicensed personnel.

<sup>16</sup> ss. 474.203(1) and (2), F.S., provide that accreditation of a school or college must be granted by the American Veterinary Medical Association (AVMA) Council on Education, or the AVMA Commission for Foreign Veterinary Graduates.

<sup>17</sup> See s. 474.203(6), F.S., which states that the exemption applies to “[s]tate agencies, accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine, or persons under the direct supervision thereof . . . .”

<sup>18</sup> s. 474.215(1), F.S.

<sup>19</sup> s. 474.216, F.S.

<sup>20</sup> s. 474.2185, F.S.

## *Veterinary Telemedicine*

The use of electronic communications to facilitate patient health care (telemedicine) is not addressed in the practice act and is not specifically authorized for practitioners of veterinary medicine in Florida. However, the Florida Mental Health Act (popularly known as “The Baker Act”),<sup>21</sup> contains a legislative finding that “the use of telemedicine for patient evaluation, case management, and ongoing care will improve management of patient care and reduce costs of transportation.”<sup>22</sup> Currently, medical doctors may practice telemedicine in Florida in a patient relationship with a patient evaluation, under certain circumstances.<sup>23</sup>

## *Animal Acupressure, Massage, and Tooth Brushing*

Various education facilities provide classes teaching “veterinary acupressure” and “veterinary massage” to persons not seeking licensure as veterinarians.<sup>24</sup> Generally, “veterinary acupressure” is the stimulation with finger pressure, rather than the insertion of needles, of the same points on an animal’s body which are targeted in acupuncture;<sup>25</sup> and “veterinary massage” is the use of fingers, hands, and machines to manipulate the animal’s soft tissues.<sup>26</sup> Neither term includes the prescribing of drugs or the diagnoses or prognosis of a medical condition. Currently, veterinary massage and acupressure fall under the scope of veterinary medicine and therefore must be performed by a veterinarian or under the supervision of a veterinarian.

Animal tooth brushing is commonly offered as a grooming service across the state.<sup>27</sup> Currently, veterinary dentistry is not defined and animal tooth brushing is not specifically limited to the scope of veterinary medicine.

## **Effect of the Bill**

The bill creates a definition for “complementary or alternative and integrative therapies” to be included within the scope of practice of veterinary medicine. The veterinary therapies added to the practice of veterinary medicine include:

- Acupuncture, acuthery, and acupressure;
- Homeopathy;
- Manual or manipulative therapy, such as therapies based on techniques practiced in osteopathy, chiropractic medicine, or physical medicine and therapy;
- Nutraceutical therapy; and
- Physiotherapy.

The bill creates a definition for “veterinary dentistry” to be included within the scope of practice of veterinary medicine, which the bill defines as the professional examination, evaluation, diagnosis, prevention, and nonsurgical and surgical treatment of conditions, diseases, and disorders of the oral cavity and maxillofacial area and their adjacent and associated structures. It also includes:

- Veterinary dental cleaning, which refers to scaling, supragingival and subgingival plaque and calculus removal, and polishing of the teeth with power or hand instruments by a licensed veterinarian or a person under his or her immediate supervision; and

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<sup>21</sup> See s. 394.451, F.S.

<sup>22</sup> See s. 394.453(3), F.S.

<sup>23</sup> Rule 64B8-9.0141, F.A.C.

<sup>24</sup> For examples, see National Board of Certification for Animal Acupressure & Massage, *Review Courses*, <http://nbcaam.org/review-courses> (last visited March 24, 2017).

<sup>25</sup> The Free Dictionary by Farlex, Inc., *Acupressure*, <http://medical-dictionary.thefreedictionary.com/acupressureincidence> (last visited March 24, 2017).

<sup>26</sup> National Board of Certification for Animal Acupressure & Massage, *NBCAAM Mission*, <http://nbcaam.org/about-us> (last visited March 24, 2017).

<sup>27</sup> As an example, see Petsmart, Grooming Salon, [https://www.petsmart.com/pet-services/grooming/#page\\_name=global&link\\_section=menu&link\\_name=dog\\_grooming\\_salon](https://www.petsmart.com/pet-services/grooming/#page_name=global&link_section=menu&link_name=dog_grooming_salon) (last visited March 24, 2017).

- Periodontal therapy, which refers to the treatment of diseased periodontal tissues which includes professional dental cleaning and one or more of the following treatments:
  - root planing,
  - gingival curettage,
  - periodontal flaps,
  - extractions,
  - regenerative surgery,
  - gingivectomy or gingivoplasty, and
  - local administration of antiseptics or antibiotics.

The bill creates a licensure exemption for a person whose practice is solely confined to non-veterinary and non-therapeutic acupressure and animal massage, or non-veterinary tooth polishing or brushing. Therefore, persons performing such services will not be required to be under the supervision of a veterinarian. Such terms are defined in the bill as follows:

- Non-veterinary and non-therapeutic acupressure is the stimulation with finger pressure, rather than the insertion of needles, of the same points on an animal's body which are targeted in acupuncture. The term does not include the prescribing of drugs or the diagnosis of or prognosis for a medical condition of the animal.
- Non-veterinary and non-therapeutic animal massage is the use of fingers, hands, and machines to manipulate the animal's soft tissues. The term does not include the prescribing of drugs or the diagnosis of or prognosis for a medical condition of the animal.
- Non-veterinary tooth polishing and brushing is tooth polishing or brushing on animals which uses animal toothpastes or whiteners and manual instruments which are readily available to the public.

The bill creates a definition for “veterinary telemedicine,” which is the practice of veterinary medicine by a licensed Florida veterinarian that includes a complete examination and the establishment of a valid patient relationship where patient care, treatment, or service is provided through the use of medical information exchanged via electronic communications.

Veterinary telemedicine must be practiced within a patient relationship except for patient care, treatment, or service given in an emergency care situation until such patient can be seen by or transported to a veterinarian. A veterinarian is not prohibited from consulting via veterinary telemedicine on patient care with another veterinarian who has an ongoing patient relationship with the patient, including the use of any prescription medications, nor on-call or cross-coverage situations in which the veterinarian has access to patient records.

The bill provides that veterinarians who solely practice telemedicine are not required to obtain a premises permit. Any veterinarian who performs veterinary telemedicine must conspicuously display his or her license number on any website or any other means by which he or she advertises or conducts the practice of veterinary telemedicine.

The bill creates a definition for “examination,” which is the evaluation of a patient through means such as inspection, palpation, and auscultation. An examination may be performed using veterinary telemedicine. The term does not apply in the context of certain investigations of a veterinarian.

The bill broadens the definition of “patient” to include a herd, collection, or group of animals.

The bill amends the current definition of “veterinarian/client/patient relationship” to be labeled as “‘Veterinarian relationship,’ ‘client relationship,’ ‘patient relationship,’ or ‘client/patient relationship.’”

The bill adds veterinary dentistry, complementary or alternative veterinary medicine, and veterinary telemedicine to the scope of veterinary medicine.

The bill provides that seeing an animal via a recent telemedicine appointment provides sufficient knowledge of such animal to initiate at least a general or preliminary diagnosis of the medical condition of such animal for the purpose of prescribing medicinal drugs or controlled substances.

The bill provides an effective date of July 1, 2017.

**B. SECTION DIRECTORY:**

- Section 1 Amends s. 474.202, F.S., creating definitions.
- Section 2 Amends s. 474.203, F.S., providing licensure exemptions.
- Section 3 Amends s. 474.214, F.S., revising a grounds for discipline.
- Section 4 Amends s. 474.215, F.S., relating to premises permit requirements.
- Section 5 Amends s. 474.216, F.S., relating to the display of license numbers.
- Section 6 Amends s. 474.2165, F.S., conforming a provision.
- Section 7 Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Licensed veterinarians will be permitted to practice veterinary telemedicine. Animal owners may have greater access to veterinarians and visitors with pets may be able to obtain veterinarian care while on vacation in this state.

People will be permitted to practice animal acupuncture, animal massage, or animal tooth brushing in Florida without a veterinary license or being supervised by a veterinarian. More people may be able to work in their chosen occupation as a pet care provider that offers massage, acupuncture, and tooth brushing services.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 28, 2017, the Careers and Competition Subcommittee considered a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute:

- Revises the definitions for “veterinary telemedicine,” “veterinary dentistry,” “veterinary medicine,” “complementary or alternative and integrative therapies,” “examination,” “patient,” and “veterinarian/client/patient relationship;”
- Provides exemptions from licensure and premises permit requirements; and
- Provides requirements for licensure number display for veterinary telemedicine purposes.

The analysis is drafted to the committee substitute as passed by the Careers and Competition Subcommittee.