

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Regulated Industries

---

BILL: SB 1728

INTRODUCER: Senator Hutson

SUBJECT: Veterinary Medicine

DATE: January 29, 2018

REVISED: \_\_\_\_\_

|    | ANALYST        | STAFF DIRECTOR | REFERENCE  | ACTION             |
|----|----------------|----------------|------------|--------------------|
| 1. | <u>Kraemer</u> | <u>McSwain</u> | <u>RI</u>  | <u>Pre-meeting</u> |
| 2. | _____          | _____          | <u>AGG</u> | _____              |
| 3. | _____          | _____          | <u>AP</u>  | _____              |

---

**I. Summary:**

SB 1728 revises the laws governing the practice of veterinary medicine in ch. 474, F.S., to include veterinary dentistry and veterinary telemedicine. The bill also includes “complementary and alternative and integrative therapy” within veterinary medicine, but those terms are not defined in the bill.

The bill specifies activities included in the practice of veterinary dentistry, and whether they must be performed by a veterinarian or by a person under the veterinarian’s immediate supervision.

Under the bill, the practice of veterinary telemedicine includes continuing patient care, treatment, or service by a veterinarian through medical information exchanged electronically from one site to another. The use of veterinary telemedicine is authorized subsequent to the establishment of a veterinarian/client/patient relationship, in which the veterinarian has examined the patient or made “medically appropriate” visits to the premises where the patient is kept. SB 1728 does not define the term “medically appropriate.”

The term “examination,” as defined in the bill, does not apply in the context of investigations pursuant to s. 474.2185, F.S., concerning physical examinations related to lawful investigation of a complaint against a licensed veterinarian (or of an application for licensure).

The bill has no fiscal impact on state government.

The bill provides an effective date of July 1, 2018.

## II. Present Situation:

### Veterinary Medicine, the Practice of Veterinary Medicine, and Exempted Persons

In 1979, the Legislature determined the practice of veterinary medicine is potentially dangerous to public health and safety if conducted by incompetent and unlicensed practitioners and that minimum requirements for the safe practice of veterinary medicine are necessary.<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 to engage in the practice of veterinary medicine in Florida under ch. 474, F.S.<sup>3</sup>

Veterinary medicine includes, with respect to animals:<sup>4</sup>

- Surgery;
- Acupuncture;
- Obstetrics;
- Dentistry;
- Physical therapy;
- Radiology;
- Theriogenology (reproductive medicine);<sup>5</sup> and
- Other branches or specialties of veterinary medicine.

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>6</sup> Veterinarians who are incompetent or present a danger to the public are subject to discipline and may be prohibited from practicing in the state.<sup>7</sup>

---

<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> 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>5</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 Jan. 26, 2018).

<sup>6</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>7</sup> See s. 474.213, F.S., on prohibited acts, and s. 474.214, F.S., on disciplinary proceedings.

Eight categories of persons are exempt from complying with ch. 474, F.S.:<sup>8</sup>

- Faculty veterinarians when they have assigned teaching duties at accredited<sup>9</sup> institutions;
- Intern/resident veterinarians at accredited institutions who are graduates of an accredited institution, but only until they complete or terminate their training;
- Students in a school or college of veterinary medicine who perform assigned duties by an instructor (no accreditation of the institution is required), or work as preceptors<sup>10</sup> (if the preceptorship is required for graduation from an accredited institution);
- Doctors of veterinary medicine employed by a state agency or the United States Government while actually engaged in the performance of official duties at the installations for which the services were engaged;
- Persons or their employees caring for the persons' own animals, as well as part-time or temporary employees, or independent contractors, who are hired by an owner to help with herd management and animal husbandry tasks (excluding immunization or treatment of diseases that are communicable to humans and significant to public health) for herd/flock animals, with certain limitations; however, the exemption is not available to a person licensed as a veterinarian in another state and temporarily practicing in Florida, or convicted of violating ch. 828, F.S., on animal cruelty, or of any similar offense in another jurisdiction, and employment may not be provided for the purpose of circumventing ch. 474, F.S.;
- Certain entities or persons<sup>11</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;
- Veterinary aides, nurses, laboratory technicians, preceptors, or other employees of a licensed veterinarian, who administer medication or provide help or support under the responsible supervision<sup>12</sup> of a licensed veterinarian; and
- Certain non-Florida veterinarians who are licensed and actively practicing veterinary medicine in another state, are board certified in a specialty recognized by the Florida Board

<sup>8</sup> See s. 474.203, F.S.

<sup>9</sup> Sections 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. The AVMA Council on Education is recognized by the Council for Higher Education Accreditation (CHEA) as the accrediting body for schools and programs that offer the professional Doctor of Veterinary Medicine degree (or its equivalent) in the United States and Canada, and may also approve foreign veterinary colleges. See <https://www.avma.org/professionaldevelopment/education/accreditation/colleges/pages/coe-pp-overview-of-the-coe.aspx> (last visited Jan. 26, 2018). The AVMA Commission for Foreign Veterinary Graduates assists graduates of foreign, non-accredited schools to meet the requirement of most states that such foreign graduates successfully complete an educational equivalency assessment certification program. See <https://www.avma.org/professionaldevelopment/education/foreign/pages/ecfvfg-about-us.aspx> (last visited Jan. 26, 2018). In turn, the Council for Higher Education Accreditation, a national advocate for regulation of academic quality through accreditation, is an association of 3,000 degree-granting colleges and universities and recognizes 60 institutional and programmatic accrediting organizations. See <http://chea.org/> (last visited Jan. 26, 2018).

<sup>10</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 Jan. 26, 2018).

<sup>11</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>12</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.

of Veterinary Medicine, and are assisting upon request of a Florida-licensed veterinarian to consult on the treatment of a specific animal or on the treatment on a specific case of the animals of a single owner.

### **Veterinarian/Client/Patient Relationship**

Section 474.202(12), F.S., defines a “veterinarian/client/patient relationship” as one in which a veterinarian has assumed responsibility for making medical judgments about the health of an animal and its need for medical treatment. The term “patient” means any animal “for which a veterinarian practices veterinary medicine.”<sup>13</sup>

### **Telemedicine**

The use of electronic communications to facilitate patient health care (telemedicine) is not addressed in ch. 474, F.S., and is not authorized for practitioners of veterinary medicine in Florida. However, the Florida Mental Health Act (popularly known as “The Baker Act”),<sup>14</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>15</sup>

### **III. Effect of Proposed Changes:**

SB 1728 amends s. 474.202(13), F.S., to include complementary and alternative and integrative therapy, as well as veterinary telemedicine, within the practice of veterinary medicine. The bill does not define the terms “complementary and alternative and integrative therapy.” However, the in the Standards of Practice adopted in 2005 by the DBPR, the term “complementary, alternative and integrative therapies”<sup>16</sup> is defined as:

[A] heterogenous group of preventive, diagnostic and therapeutic philosophies and practices, which at the time they are performed may differ from current scientific knowledge, or whose theoretical basis and techniques may diverge from veterinary medicine routinely taught in accredited veterinary medical colleges, or both. These therapies include, but are not limited to, veterinary acupuncture, acuthery<sup>17</sup> and acupressure, veterinary homeopathy, veterinary manual or manipulative therapy (i.e., therapies based on techniques practiced in osteopathy,

---

<sup>13</sup> See s. 474.202(8), F.S.

<sup>14</sup> See s. 394.451, F.S.

<sup>15</sup> See s. 394.453(3), F.S.

<sup>16</sup> See Fla. Admin. Code R. 61G18-19.002 (2018) at <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61G18-19> (last visited Jan. 26, 2018). The rule requires that a licensed veterinarian who offers such treatment must inform the owner of the patient of the treatment and explain (orally or in writing) the associated benefits and risks, along with the veterinarian’s education, experience, and credentials for the proposed treatment option.

<sup>17</sup> Acuthery utilizes needles or non-needle techniques with electrical stimulation or pressure. See <http://medical-dictionary.thefreedictionary.com/acuthery> (last visited Jan. 26, 2018).

chiropractic medicine, or physical medicine and therapy); veterinary nutraceutical<sup>18</sup> therapy and veterinary physiotherapy.

The bill creates s. 474.202(16), F.S., to include veterinary telemedicine by veterinarians within the practice of veterinary medicine. Veterinary telemedicine includes continuing patient care, treatment, or service by a veterinarian through medical information exchanged from one site to another by means of electronic communications.<sup>19</sup> The use of veterinary telemedicine is authorized subsequent to the establishment of a veterinarian/client/patient relationship, in which the veterinarian has examined the patient or made “medically appropriate” visits to the premises where the patient is kept. SB 1728 does not define the term “medically appropriate.”

Veterinary telemedicine does not include emergency teletriage<sup>20</sup> or poison control services.

The bill creates s. 474.202(5), F.S., to define “examination” as the evaluation of a patient by personal inspection, palpation,<sup>21</sup> and auscultation (listening to sounds using a stethoscope). The term “examination” does not apply in the context of investigations pursuant to s. 474.2185, F.S., concerning physical examinations related to lawful investigation of a complaint against a licensed veterinarian (or of an application for licensure).

SB 1728 amends the current definition of “patient” in s. 474.202(8), F.S., to also include a “herd, collection, or group of animals.”

The bill amends the current definition of “veterinarian/client/patient relationship” in s. 474.202(12), F.S., which is a relationship in which a veterinarian has assumed responsibility for making medical judgments about the health of an animal and its need for medical treatment.<sup>22</sup> The existing definition is revised by the bill to require the veterinarian to examine the patient or make “medically appropriate” visits to the premises where the patient is kept. The term “medically appropriate” is not defined in the bill.

The bill creates s. 474.202(14), F.S., to include the following activities in the practice of veterinary dentistry performed either by a veterinarian or by a person under his or her immediate supervision:<sup>23</sup>

---

<sup>18</sup> A “nutraceutical” is a food or dietary supplement that is believed to provide health benefits. *See the Dictionary of Cancer Terms of the National Cancer Institute at the National Institutes of Health, available at <https://www.cancer.gov/publications/dictionaries/cancer-terms?cdrid=454743>* (last visited Jan. 26, 2018).

<sup>19</sup> Electronic communication” is defined in 18 U.S. Code s. 2510(12) to mean, in pertinent part, any transfer of signals, writing, images, sounds, data, or intelligence of any nature transmitted by a wire, radio, electromagnetic, photo-electronic or photo-optical system, excluding (a) any wire or oral communication; (b) any communication made through a tone-only paging device; (c) any communication from a tracking device; or (d) electronic funds transfer information stored by a financial institution in an electronic communications system used for the storage and transfer of funds.

<sup>20</sup> The term “triage means the sorting of patients, as in an emergency, according to the urgency of their need for care. *See <https://www.merriam-webster.com/dictionary/triage#medicalDictionary>* (last visited Jan. 26, 2018).

<sup>21</sup> Palpation is an examination that includes pressing on the body to feel organs and tissues underneath. *See the Dictionary of Cancer Terms of the National Cancer Institute at the National Institutes of Health, available at <https://www.cancer.gov/publications/dictionaries/cancer-terms?cdrid=454743>* (last visited Jan. 26, 2018).

<sup>22</sup> *See* s. 474.202(12), F.S.

<sup>23</sup> The term “immediate supervision” is defined in s. 474.202(5), F.S., to mean “a licensed doctor of veterinary medicine is on the premises whenever veterinary services are being provided.” Section 474.215, F.S., requires a premises permit from the DBPR for any permanent or mobile establishment where a licensed veterinarian practices. *See also* Fla. Admin. Code

- The examination, evaluation, diagnosis, prevention, and surgical and nonsurgical treatment of conditions, diseases, and disorders of the oral cavity, maxillofacial (jaw and facial) area and adjacent and associated structures; and
- Dental cleaning, which includes:
  - Removal of plaque and calcified dental plaque from gums and teeth;<sup>24</sup> and
  - Teeth polishing using power or hand instruments.<sup>25</sup>

The treatment of diseased periodontal tissues (periodontal therapy) is also included in veterinary dentistry; periodontal therapy includes dental cleaning and one or more of the following treatments:

- Root planing (trimming);
- Gum trimming (gingival curettage);
- Removal or repositioning of soft tissue (periodontal flap surgery);
- Extractions of teeth;
- Regenerative surgery (for natural renewal of a tissue or part);
- Procedures to remove or re-contour gums (gingivectomy or gingivoplasty); and
- Local administration of antiseptics and antibiotics.

The bill provides that the practice of veterinary dentistry does not include nonveterinary polishing or brushing of an animal's teeth with toothpastes or whiteners (for animals) readily available to the public.

SB 1728 revises s. 474.2165, F.S., to substitute the term "examination" for "physical examination," to conform to the definition "examination" created in s. 474.202(5), F.S., proposed in the bill.

The bill provides an effective date of July 1, 2018.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

---

R. Ch. 61G18-15 (2018) at <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61G18-15> (last visited Jan. 26, 2018), for the requirements for issuance of a premises permit by the DBPR.

<sup>24</sup> The technical terms in the bill are scaling and supragingival and subgingival plaque and calculus removal.

<sup>25</sup> Section 474.203(5)(b), F.S., authorizes part-time or temporary employees and independent contractors of horse owners to manually hand float (file) teeth without being licensed as veterinarians. A "float" is used to smooth or contour a horse's teeth, which grow continually. See <https://www.bing.com/search?q=floating+teeth+horses&FORM=QSRE3> (last visited Jan. 26, 2018).

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By specifying the practice of veterinary medicine includes complementary and alternative and integrative therapy, veterinary telemedicine, and veterinary dentistry, as defined in SB 1728, and requiring that certain activities be performed by veterinarians (and others if properly supervised), SB 1728 may adversely affect persons who have previously engaged in these regulated activities, but are not licensed as veterinarians in Florida.

Prosecution of the unlicensed practice of veterinary medicine by the DBPR is based upon the definition of “veterinary medicine” in s. 474.202(13), F.S.<sup>26</sup> The revised definition of veterinary medicine and “veterinarian/client/patient relationship” may increase the number of persons deemed to be engaging in the unlicensed practice of veterinary medicine.

C. Government Sector Impact:

The DBPR indicates the bill has no fiscal impact.

**VI. Technical Deficiencies:**

The DBPR noted the term “examination” is used elsewhere in ch. 474, F.S.<sup>27</sup> See s. 474.2065, F.S., relating to Fees, s. 474.207, F.S., relating to Licensure by Examination, and ss. 474.214(1)(h) and (2)(a), F.S., relating to Disciplinary Proceedings.<sup>28</sup> The definition of the term “examination” proposed in SB 1728, however, refers to the evaluation of a patient, meaning an animal upon which a veterinarian practices veterinary medicine.

An amendment should be considered to the definition of “examination” to provide that term does not apply to ss. 474.2065, 474.207, or 474.214(1)(h) and (2)(a), F.S.

**VII. Related Issues:**

None.

---

<sup>26</sup> See 2018 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for HB 1221 (identical to SB 1728), dated Jan. 25, 2018 (on file with Senate Committee on Regulated Industries) at page 2.

<sup>27</sup> *Id.* at page 6.

<sup>28</sup> *Id.*

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 474.202 and 474.2165.

**IX. Additional Information:**

A. **Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.

---

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---