

**ALASKA STATE LEGISLATURE
HOUSE RULES STANDING COMMITTEE**

March 19, 2008

5:07 p.m.

MEMBERS PRESENT

Representative John Coghill, Chair
Representative John Harris
Representative Anna Fairclough
Representative Craig Johnson
Representative Ralph Samuels
Representative Beth Kerttula
Representative David Guttenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 297

"An Act relating to the practice of veterinary medicine."

- MOVED CSHB 297(RLS) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 297

SHORT TITLE: PRACTICE OF VETERINARY MEDICINE

SPONSOR(S): REPRESENTATIVE(S) NEUMAN

01/11/08	(H)	PREFILE RELEASED 1/11/08
01/15/08	(H)	READ THE FIRST TIME - REFERRALS
01/15/08	(H)	L&C
02/08/08	(H)	L&C AT 3:00 PM CAPITOL 17
02/08/08	(H)	Moved CSHB 297(L&C) Out of Committee
02/08/08	(H)	MINUTE(L&C)
02/13/08	(H)	L&C RPT CS(L&C) 6DP 1NR
02/13/08	(H)	DP: GARDNER, BUCH, NEUMAN, GATTO, RAMRAS, OLSON
02/13/08	(H)	NR: LEDOUX
03/12/08	(H)	RLS AT 5:00 PM BARNES 124
03/12/08	(H)	Heard & Held
03/12/08	(H)	MINUTE(RLS)
03/13/08	(H)	RULES TO CALENDAR PENDING REPORT
03/13/08	(H)	IN RULES

03/19/08

(H)

RLS AT 5:00 PM CAPITOL 120

WITNESS REGISTER

REPRESENTATIVE MARK NEUMAN

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 297.

REPRESENTATIVE BERTA GARDNER

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Offered and explained proposed Amendment 1 to HB 327.

TIMOTHY BOWSER, D.V.M.

Soldotna Animal Hospital

Soldotna, Alaska

POSITION STATEMENT: Offered testimony on HB 297 and proposed Amendment 1.

ACTION NARRATIVE

CHAIR JOHN COGHILL called the House Rules Standing Committee meeting to order at [5:07:36 PM](#). Representatives Coghill, Harris, Fairclough, Johnson, Guttenberg, and Kerttula were present at the call to order. Representative Samuels arrived as the meeting was in progress.

HB 297-PRACTICE OF VETERINARY MEDICINE

[5:07:53 PM](#)

CHAIR COGHILL announced that the only order of business would be HOUSE BILL NO. 297, "An Act relating to the practice of veterinary medicine."

[5:08:12 PM](#)

REPRESENTATIVE FAIRCLOUGH moved to adopt Version 25-LS0357\T, Bullard, 3/17/08, as the working document. There being no objection, Version T was before the committee.

[5:09:17 PM](#)

REPRESENTATIVE MARK NEUMAN, Alaska State Legislature, explained that due to the coming end of this legislative session and the desire to address the concerns of the committee he has decided to focus on the main issues desired by the Alaska Board of Veterinary Examiners. Therefore, the legislation now focuses on allowing fourth-year veterinary students to practice under the supervision of an Alaska licensed veterinarian. He explained that veterinary students attend four years of college and then have four years of professional practice. He expressed the hope that some of these fourth-year veterinary students would want to stay in Alaska as the number of veterinarians in the state is decreasing. The "for compensation" provision was deleted as was the provisions related to the accreditation of the schools.

[5:11:36 PM](#)

REPRESENTATIVE NEUMAN explained that Section 1 addresses the student permit issues already addressed. Section 2 specifies that the Department of Commerce, Community, & Economic Development (DCCED) has the authority to mail out the license to a student permittee. Section 3 addresses veterinarians that are already licensed at the federal level and allows such veterinarians to practice without obtaining an Alaska license. Section 4 refers to the practice of telemedicine [by a student under the supervision of a licensed veterinarian].

[5:13:07 PM](#)

REPRESENTATIVE KERTTULA moved that the committee adopt Amendment 1, labeled 25-LS0357\T.1, Bullard, 3/19/08, which read:

Page 1, line 2:

Delete the first occurrence of "**and**"

Page 1, line 3, following "**persons**":

Insert "**; and relating to cruelty to animal complaints reported by veterinarians, veterinary technicians, veterinary school student permittees, and veterinarians' employees**"

Page 1, following line 4:

Insert new bill sections to read:

"* **Section 1.** AS 03.55.110(a) is amended to read:

(a) A person **licensed as or holding a temporary permit to practice as a veterinarian under AS 08.98.120 - 08.98.200, including a person who holds a license as a veterinary technician, as authorized by**

AS 08.98.167, or a veterinary school student permittee under AS 08.98.188, and any employee of a person licensed as or holding a temporary permit to practice as a veterinarian, who is engaging in professional activities authorized by that license or permit who reasonably believes that cruelty to animals has taken place or is taking place because the standards of care for an animal under AS 03.55.100 have not been met or because of commission of an act that constitutes the offense of cruelty to animals under AS 11.61.140, and any other person who believes that cruelty to animals has taken place or is taking place may file a complaint with a public or private animal control agency or organization, the department, or a peace officer. An agency or organization or the department receiving a complaint under this subsection may refer the complaint to a peace officer.

* Sec. 2. AS 03.55.110(b) is amended to read:

(b) Except when the complaint is received from a veterinarian, veterinary technician, or veterinary school student permittee concerning an animal that is, at the time of the complaint, in the physical custody of the person making the complaint, a [A] peace officer who receives a complaint of animal cruelty may apply for a search warrant under AS 12.35 to the judicial officer in the judicial district in which the alleged violation has taken place or is taking place. If the court finds that probable cause exists, the court shall issue a search warrant directing a peace officer to proceed immediately to the location of the alleged violation, search the place designated in the warrant, and, if warranted, take property, including animals, specified in the warrant. The warrant shall be executed by the peace officer and returned to the court.

* Sec. 3. AS 03.55.110(c) is amended to read:

(c) Except when the complaint concerns an animal that is, at the time of the complaint, in the physical custody of a veterinarian, veterinary technician, or veterinary school student permittee making the complaint, before [BEFORE] a peace officer may take an animal and place it into protective custody, the peace officer shall request an immediate inspection and decision by a veterinarian licensed under AS 08.98 that placement into protective custody is in the immediate best interest of the animal. If a veterinarian is not available to perform an

inspection, before a peace officer may take an animal, the peace officer shall communicate with a veterinarian who has, after hearing a description of the condition of the animal and its environment, decided it is in the immediate best interest of the animal that it be placed into protective custody. If the peace officer is not able to communicate with a veterinarian, before the officer may take an animal, the officer shall decide it is in the immediate best interest of the animal that it be placed into protective custody. [FOR PURPOSES OF THIS SECTION, "PEACE OFFICER" MEANS

- (1) AN OFFICER OF THE STATE TROOPERS;
- (2) A MEMBER OF THE POLICE FORCE OF A MUNICIPALITY;
- (3) A VILLAGE PUBLIC SAFETY OFFICER; OR
- (4) A REGIONAL PUBLIC SAFETY OFFICER.]

* **Sec. 4.** AS 03.55.110 is amended by adding new subsections to read:

(d) If the person making a complaint of animal cruelty under (a) of this section is a veterinarian, veterinary technician, or veterinary school student permittee and, at the time of making the complaint, has physical custody of the animal about which the complaint is made, the provisions of AS 03.55.130 relating to the disposition of the animal apply.

- (e) In this section, "peace officer" means
- (1) an officer of the state troopers;
 - (2) a member of the police force of a municipality;
 - (3) a village public safety officer; or
 - (4) a regional public safety officer.

* **Sec. 5.** AS 03.55.120(a) is amended to read:

(a) Unless the animal about which an animal cruelty complaint has been filed by a veterinarian, veterinary technician, or veterinary school student permittee under AS 03.55.110(a) is, at the time the complaint is filed, in the physical custody of the person making the complaint, a [A] peace officer shall place an animal in protective custody before removing the animal from the location where it was found. If the animal is removed, the peace officer shall place the animal with a veterinarian licensed under AS 08.98 or, if a veterinarian is not readily available, with a responsible public or private custodian to be sheltered, cared for, and provided necessary medical attention."

Page 1, line 5:
Delete "**Section 1**"
Insert "**Sec. 6**"

Renumber the following bill sections accordingly.

Page 2, following line 13:
Insert a new bill section to read:
"*** Sec. 7.** AS 08.98.050 is amended by adding a new subsection to read:

(c) A standard for the practice of veterinary medicine established in a regulation adopted by the board under (a) of this section directing a licensee to establish and maintain a confidential relationship between the licensee and a person who seeks professional service or to whom a professional service is provided does not apply to prevent the licensee from filing a complaint under AS 03.55.110. For purposes of this subsection, "licensee" includes a person who holds a permit issued under this chapter."

Renumber the following bill sections accordingly.

CHAIR COGHILL objected.

[5:14:04 PM](#)

REPRESENTATIVE KERTTULA related her understanding that an existing regulation is misunderstood by veterinarians as some believe that they have a duty of confidentiality to their clients not to report, even cruelty. Representative Kerttula said that she doesn't intend to change the practice of the Alaska Board of Veterinary Examiners that cruelty is reported.

[5:15:04 PM](#)

REPRESENTATIVE BERTA GARDNER, Alaska State Legislature, said that Amendment 1 addresses a policy call. She pointed out that the Alaska Board of Veterinary Examiners has a regulation that specifies that the veterinarians have to maintain confidentiality with their clients. However, some veterinarians believe that they don't have the option to decide whether to report animal cruelty to law enforcement. Although Amendment 1 seems complex, it's conforming language. The intention of Amendment 1 is simply to clarify that in Alaska, veterinarians can use their own judgment and conscious determining when and

whether to report animal cruelty. Amendment 1 doesn't address or change [animal] cruelty statutes, which exempts hunting, fishing, and dog mushing from activities that are considered to be cruel. Representative Gardner specified that cruelty is the failure to meet the basic needs of an animal and intentionally and knowingly causing prolonged pain and suffering to an animal. She opined that a veterinarian should make the call whether or not to pursue animal cruelty. What's being proposed in Amendment 1 is to allow veterinarians to make the decision with regard to reporting animal cruelty.

5:17:46 PM

CHAIR COGHILL commented that although he generally wouldn't allow one piece of legislation to overlay another, he felt it best to vet the matter in committee. He then expressed fear that activist groups would use [charges of cruelty] as a way to stop people from using animals in situations in which the animal physically exerts itself, such as ski-journing. He also expressed concern that student veterinarians may place pressure on veterinarians for problems that come forward as a complaint.

REPRESENTATIVE GARDNER highlighted that a veterinarian is focused on relieving animal pain and suffering. Furthermore, the veterinarian is running a business and she said she couldn't imagine a veterinarian with students or employees who would undermine the business. Representative Gardner opined that anyone who wants to make an issue of hunting or dog mushing can do so at any time. She further opined that she didn't see how allowing a veterinarian to file cruelty charges would enhance or impede the aforementioned. She pointed out that Alaska statutes are very clear that dog mushing isn't cruelty to animals.

5:19:53 PM

REPRESENTATIVE FAIRCLOUGH inquired as to why [the subject of Amendment 1] isn't being addressed in regulation since the matter is related to a regulation of the Alaska Board of Veterinary Examiners.

REPRESENTATIVE GARDNER related that there is at least one veterinarian who says he has unsuccessfully tried to address this matter through the board. She further related her belief that the legislature can make a policy call about whether veterinarians can be allowed to report [cruelty] if they see fit, under the existing cruelty statutes.

[5:20:50 PM](#)

REPRESENTATIVE FAIRCLOUGH opined that if Amendment 1 is really legislation versus a change to HB 327, the public won't have the opportunity to comment. She indicated that she supported the clarification provided by Amendment 1, although she expressed her support of doing so through the [committee] process.

REPRESENTATIVE GARDNER noted her agreement that the committee process is appropriate. However, there is confusion among veterinarians regarding whether they can report [cruelty to animals]. She reiterated that she is interested in clarifying that veterinarians can use their consciences as a guide with regard to [reporting animal cruelty and client confidentiality].

[5:22:56 PM](#)

REPRESENTATIVE JOHNSON related his understanding that Amendment 1 would merely specify that the veterinarians "may file" and thus doesn't really seem to address the problem.

[5:23:46 PM](#)

REPRESENTATIVE KERTTULA said that she's convinced there is a problem as people have misunderstood their right to report. While it might be preferable to address this in the regulations, the statute has to be clear enough because the statute trumps the regulations.

[5:24:41 PM](#)

CHAIR COGHILL inquired as to the deletion of the definition of "peace officer means."

REPRESENTATIVE GARDNER pointed out that the definition [of peace officer] was moved [to Section 4].

[5:25:28 PM](#)

CHAIR COGHILL surmised then that AS 03.44.110(c) and AS 03.44.110(e) "fall under the same operative."

REPRESENTATIVE GARDNER noted her agreement.

[5:25:44 PM](#)

REPRESENTATIVE GUTTENBERG referred to the legal opinions that address statute, which are included in the committee packet. He asked if there has been an analysis regarding whether there has been a conflict between the regulations and the statutes.

CHAIR COGHILL asked if the Administrative Regulation Review Committee has been contacted.

REPRESENTATIVE GARDNER replied no.

REPRESENTATIVE KERTTULA related her understanding that the concern would be that regulations don't actually seem to cover [the reporting of animal cruelty] but rather cover the confidential relationship. She then related her agreement that the legal opinions are correct in that the statute rules, but because the regulations are silent on the matter there has been some confusion.

[5:27:27 PM](#)

CHAIR COGHILL remarked that he isn't convinced that Amendment 1 doesn't continue the confusion.

[5:28:19 PM](#)

REPRESENTATIVE GARDNER, regarding the earlier remarks about going through the committee process, noted that she wasn't aware of this issue until after HB 297 left [the House Labor and Commerce Standing Committee]. She added that she initially worked with the chair of the House Labor and Commerce Standing Committee and ultimately decided to go the amendment route.

[5:29:16 PM](#)

REPRESENTATIVE NEUMAN informed the committee that since the concern addressed in Amendment 1 has been brought forth, the matter is scheduled to be addressed by the Alaska Board of Veterinary Examiners at its May 16, 2008, meeting. Representative Neuman opined that this is a regulation issue that should be reviewed in a public process and have oversight by veterinarians. Furthermore, the statutes clearly state the objectives of the profession and the regulations related to the unethical conduct of a veterinary technician III preclude a technician from reporting. He suggested that a veterinary technician III and temporary permit holders may not have the ability to identify what is abuse. He reiterated his concern with regard to activists related to cruelty. He noted that he

discussed Amendment 1 with some members of the Iditarod who were concerned about what's considered abuse.

[5:31:42 PM](#)

CHAIR COGHILL noted that dog mushing is exempt from [what's considered animal cruelty].

REPRESENTATIVE NEUMAN acknowledged that exemption.

[5:32:32 PM](#)

TIMOTHY BOWSER, D.V.M., Soldotna Animal Hospital, recalled that this issue hasn't been brought before the board over the past five or so years he has been a member of the board. He related his belief that this is something that should be addressed by the Alaska Board of Veterinary Examiners, and therefore the board is scheduled to hear the matter at its May 16, 2008, meeting. As a private veterinarian, Dr. Bowser interpreted the regulation regarding assisting in relieving animal suffering such that he would report animal abuse. However, he said he is sensitive to the issue and possible confusion of it and thus it should be addressed in regulation. As a board member, Dr. Bowser opined that it's important that veterinarians are involved in the process and pointed out that HB 297 includes the concerns of board. With regard to Amendment 1, Dr. Bowser said he believes the Alaska Board of Veterinary Examiners is charged with regulation and this matter should be addressed in regulation. Dr. Bowser encouraged reporting animal abuse and wouldn't discipline a veterinarian for doing so. If the aforementioned isn't clear, it should be addressed in regulation, he said.

[5:35:35 PM](#)

CHAIR COGHILL directed attention to Section 7 of Amendment 1, which speaks to establishing and maintaining a confidential relationship. He asked if Dr. Bowser currently considers his relationship with the owner of an animal to be confidential and thus would be compelled not to report.

DR. BOWSER responded that he believes there is a confidential relationship, and thus he wouldn't share medical information. However, he opined that an abuse situation is different and he is charged in regulation to address abuse and thus he would report it.

[5:37:05 PM](#)

CHAIR COGHILL asked if Dr. Bowser has had to discipline a veterinarian for harboring abused animals.

DR. BOWSER replied no. In further response to Chair Coghill, Dr. Bowser confirmed that there has been disciplinary action during his time on the board, but it wasn't related to animal abuse. He related that if he were to encounter animal abuse in his practice, he would notify the Alaska State Troopers and the Animal Control Agency. He noted that usually the abuse is not from the veterinarian and he has reported such abuse.

[5:37:55 PM](#)

REPRESENTATIVE KERTTULA offered that perhaps some of the confusion has arisen from the regulation of unethical conduct of veterinarian technicians. That regulation specifies that it's unethical and grounds for discipline for a veterinarian technician to compromise the veterinarian client relationship. However, the attorney general's letter clearly states that veterinarian technicians can also file a report of animal abuse.

DR. BOWSER related his understanding of existing law that a veterinarian technician shouldn't report, but should discuss it with the veterinarian. The veterinarian is the one to judge the situation and is obligated to report. If the aforementioned needs to be addressed, then it should be addressed through regulations, he reiterated.

[5:39:28 PM](#)

REPRESENTATIVE KERTTULA opined that perhaps that's the heart of the problem because she said she didn't read existing law or the attorney general's letter as Dr. Bowser did. The attorney general's letter clearly says that veterinarian technicians do have the ability to report. Representative Kerttula said that she doesn't believe the amendment will do any harm.

[5:39:58 PM](#)

CHAIR COGHILL maintained his objection, stating that [Amendment 1] includes substantive provisions and he doesn't know how they work. He then related that he wanted to have this debate in order to [encourage] those on the board [to address this matter].

[5:40:30 PM](#)

REPRESENTATIVE GUTTENBERG inquired as to what it means that the issue will be before the board in May.

DR. BOWSER explained that this matter is an agenda item on which public testimony will be taken and the board will discuss it. Usually, if the board identifies a problem, then it begins the regulatory process, which takes some time.

[5:42:06 PM](#)

A roll call vote was taken. Representatives Kerttula and Guttenberg voted in favor of Amendment 1. Representatives Harris, Fairclough, Johnson, Samuels, and Coghill voted against it. Therefore, Amendment 1 failed by a vote of 2-5.

[5:43:17 PM](#)

REPRESENTATIVE SAMUELS moved to report CSHB 297, Version 25-LS0357\T, Bullard, 3/17/08, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 297(RLS) was reported from the House Rules Standing Committee.

[5:43:30 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Rules Standing Committee meeting was adjourned at [5:43:34 PM](#).