

## 1 SENATE BILL NO. 314

2 INTRODUCED BY S. DOHERTY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE REGULATION AND CERTIFICATION OF  
 5 PERSONS AND ENTITIES THAT EUTHANIZE ANIMALS; ALLOWING A CERTIFIED ~~PRACTITIONER~~ AGENCY  
 6 OR A CERTIFIED EUTHANASIA TECHNICIAN TO APPLY FOR REGISTRATION TO POSSESS, ~~DISPENSE,~~  
 7 AND ADMINISTER CONTROLLED SUBSTANCES FOR THE PURPOSE OF EUTHANIZING ANIMALS UNDER  
 8 THE ~~PRACTITIONER'S~~ AGENCY'S OR TECHNICIAN'S LAWFUL POSSESSION WHEN THE PRACTITIONER  
 9 AGENCY OR TECHNICIAN IS CERTIFIED BY THE BOARD OF VETERINARY MEDICINE; PROVIDING AN  
 10 EXEMPTION FOR CERTIFIED ~~PRACTITIONERS~~ AGENCIES AND CERTIFIED EUTHANASIA TECHNICIANS  
 11 FROM OVERSIGHT BY THE BOARD OF PHARMACY WHEN ~~DISPENSING~~ ADMINISTERING APPROVED  
 12 CONTROLLED SUBSTANCES FOR EUTHANASIA; PROVIDING AN EXEMPTION TO THE PRACTICE OF  
 13 VETERINARY MEDICINE FOR CERTIFIED ~~PRACTITIONERS~~ AGENCIES AND CERTIFIED EUTHANASIA  
 14 TECHNICIANS WHO ARE PRACTICING ANIMAL EUTHANASIA; AND AMENDING SECTIONS 37-7-103  
 15 AND 37-18-104, MCA."

16

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18

19 NEW SECTION. Section 1. Definition. In [sections 1 through 5], the following definitions apply:

20 (1) "Certified euthanasia technician" means an agent of a certified ~~practitioner~~ AGENCY or a person  
 21 ~~that~~ WHO is working under the ~~direct~~ supervision of a licensed veterinarian and ~~that~~ WHO has been certified  
 22 by the board to administer a controlled substance approved by the board for the purpose of euthanasia.

23 (2) "Certified ~~practitioner~~ AGENCY" means a ~~person, that is not otherwise a licensed veterinarian,~~  
 24 LAW ENFORCEMENT AGENCY, PUBLIC OR PRIVATE ANIMAL CONTROL AGENCY, OR A HUMANE SOCIETY ORGANIZED FOR THE  
 25 PREVENTION OF CRUELTY TO ANIMALS that has been certified by the board to possess controlled substances  
 26 approved for the purposes of euthanasia.

27 (3) "Controlled substance" means all drugs or other substances regulated under federal or state  
 28 law.

29 (4) "Euthanasia" means the act or practice of ending the life of an animal in order to end suffering  
 30 or for some other humane purpose.

1 (5) "Person" means an individual, corporation, partnership, government or governmental  
2 subdivision or agency, trust, estate, or any other legal entity.

3

4 NEW SECTION. Section 2. Powers of board -- euthanasia. The board may:

5 (1) establish qualifications and prescribe the application format for certification as a ~~practitioner~~  
6 CERTIFIED AGENCY or euthanasia technician, review each application for compliance with the certification  
7 requirements, and issue certifications;

8 (2) examine and determine the qualifications and fitness of applicants to operate as a certified  
9 ~~practitioner~~ AGENCY in the state or as a certified euthanasia technician IN THE STATE;

10 (3) issue, renew, reinstate, deny, suspend, require voluntary surrender of, or revoke any  
11 certifications or temporary permits or impose other forms of discipline and enter into consent agreements  
12 and negotiated settlements with certified ~~practitioners~~ AGENCIES OR EUTHANASIA TECHNICIANS consistent with  
13 the provisions of this chapter and rules adopted pursuant to this chapter;

14 (4) establish a schedule of fees for certifying ~~practitioners~~ AGENCIES and euthanasia technicians;

15 (5) establish a list of controlled substances approved for the purpose of euthanasia;

16 (6) ADOPT RULES FOR THE STORAGE AND HANDLING OF CONTROLLED SUBSTANCES BY CERTIFIED AGENCIES AND  
17 EUTHANASIA TECHNICIANS AND PROVIDE FOR THE INSPECTION OF CERTIFIED AGENCIES' STORAGE, HANDLING, AND  
18 ACCOUNTING PROCEDURES FOR CONTROLLED SUBSTANCES; and

19 ~~(6)~~(7) adopt any other rules that the board or department determines are necessary for the  
20 implementation of [sections 1 through 5].

21

22 NEW SECTION. Section 3. Certified ~~practitioner~~ AGENCY. (1) A person may not possess controlled  
23 substances for the purposes of euthanasia without first becoming a LICENSED VETERINARIAN OR A certified  
24 ~~practitioner~~ AGENCY under rules adopted by the board.

25 (2) Certified ~~practitioners may~~ AGENCIES SHALL apply for registration with the applicable state or  
26 federal agency to possess and ~~dispense~~ ADMINISTER controlled substances approved by the board for the  
27 purposes of euthanasia.

28 (3) Certified ~~practitioners~~ AGENCIES shall comply with all state and federal laws regarding the  
29 storage, care, and ~~dispensing~~ ADMINISTRATION of controlled substances. Failure to comply with these laws  
30 must result in the immediate revocation of the certification in addition to any other civil or criminal

1 penalties provided under any other statute.

2 ~~—— (4) A certified practitioner who intends to administer controlled substances for the purposes of~~  
3 ~~euthanasia must also be a certified euthanasia technician.~~

4

5 NEW SECTION. **Section 4. Certified euthanasia technician.** (1) A person may not administer  
6 controlled substances for euthanasia purposes without first becoming a LICENSED VETERINARIAN OR A certified  
7 euthanasia technician under rules adopted by the board.

8 (2) A certified euthanasia technician may use controlled substances only for euthanasia purposes  
9 unless the certified euthanasia technician is under the direct supervision of a licensed veterinarian.

10

11 NEW SECTION. **Section 5. Disposition of fees.** Any fees collected under [sections 1 through 5]  
12 must be deposited in a state special revenue account to offset costs incurred by the board or department  
13 in carrying out [sections 1 through 5].

14

15 **Section 6.** Section 37-7-103, MCA, is amended to read:

16 **"37-7-103. Exemptions.** Subject only to 37-7-401 and 37-7-402, this chapter does not:

17 (1) subject a person who is licensed in this state to practice medicine, dentistry, or veterinary  
18 medicine to inspection by the board, prevent the person from compounding or using drugs, medicines,  
19 chemicals, or poisons in the person's practice, or prevent a person who is licensed to practice medicine  
20 from furnishing to a patient drugs, medicines, chemicals, or poisons that the person considers proper in  
21 the treatment of the patient;

22 (2) prevent the sale of drugs, medicines, chemicals, or poisons at wholesale;

23 (3) prevent the sale of drugs, chemicals, or poisons ~~either~~ at either wholesale or retail for use for  
24 commercial purposes or in the arts; ~~or~~

25 (4) changes change any of the provisions of this code relating to the sale of insecticides and  
26 fungicides;

27 (5) and does not prevent the sale of common household preparations and other drugs if the stores  
28 selling them are licensed under the terms of this chapter;

29 ~~(4)(6)~~ apply to or interfere with manufacture, wholesaling, vending, or retailing of flavoring  
30 extracts, toilet articles, cosmetics, perfumes, spices, and other commonly used household articles of a

1 chemical nature for use for nonmedicinal purposes;

2 ~~(5)(7)~~ prevent a registered nurse employed by a family planning clinic under contract with the  
3 department of public health and human services from dispensing factory prepackaged oral contraceptives  
4 if the dispensing is in accordance with a physician's written protocol specifying the circumstances under  
5 which dispensing is appropriate and is in accordance with the ~~board of pharmacy's~~ board's requirements  
6 for labeling, storage, and recordkeeping of drugs; ~~or~~

7 ~~(8)~~ prevent a certified practitioner AGENCY or certified euthanasia technician from possessing,  
8 dispensing, or administering any controlled substance authorized by the board of veterinary medicine for  
9 the purpose of euthanasia pursuant to [sections 1 through 5]."

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11 **Section 7.** Section 37-18-104, MCA, is amended to read:

12 **"37-18-104. Exemptions -- rules.** (1) This chapter does not apply to:

13 (a) veterinarians in the performance of their official duties, either civil or military, in the service  
14 of the United States unless they engage in the practice of veterinary medicine in a private capacity;

15 (b) laboratory technicians and veterinary research workers, as distinguished from veterinarians,  
16 in the employ of this state or the United States and engaged in labors in laboratories under the direct  
17 supervision of the board of livestock, Montana state university-Bozeman, or the United States;

18 (c) lawfully qualified veterinarians from other states or a foreign country meeting legally licensed  
19 and registered Montana veterinarians in this state in consultation;

20 (d) a veterinarian residing on a border of a neighboring state and authorized under the laws of that  
21 state to practice veterinary medicine, who is actually called to attend cases in this state but who does not  
22 open an office or appoint a place to meet patients or receive calls in this state, if veterinarians licensed and  
23 registered in this state are extended a like privilege to engage in the practice of veterinary medicine to the  
24 same extent in the neighboring state;

25 (e) the employment of veterinary medical students who have successfully completed 3 years of  
26 the professional curriculum in veterinary medicine at a college having educational standards equal to those  
27 approved by the American veterinary medical association, if the students are employed by and work under  
28 the immediate supervision of a veterinarian licensed and registered under this chapter; or

29 (f) a person advising with respect to or performing acts that the board defines by rule as accepted  
30 livestock management practices.

1 (2) The operations known and designated as castrating or dehorning of cattle, sheep, horses, and  
2 swine are not the practice of veterinary medicine within the meaning of this chapter.

3 (3) Nonsurgical embryo transfers in bovines may be performed under the supervision of a  
4 veterinarian licensed and residing in Montana. At a minimum, board rules regarding nonsurgical embryo  
5 transfers in bovines must address:

6 (a) minimum education requirements;

7 (b) minimum requirements of practical experience;

8 (c) continuing education requirements;

9 (d) limitations on practices and procedures that may be performed by certified individuals;

10 (e) the use of specific drugs necessary for safe and proper practice of certified procedures;

11 (f) content and administration of the certification test, including written and practical testing;

12 (g) application and reexamination procedures; and

13 (h) conduct of certified individuals, including rules for suspension, revocation, and denial of  
14 certification.

15 (4) This chapter does not prohibit a person from caring for and treating the person's own farm  
16 animals or being assisted in this treatment by the person's full-time employees, as defined in 2-18-601,  
17 employed in the conduct of the person's business or by other persons whose services are rendered  
18 gratuitously in case of emergency.

19 (5) This chapter does not prohibit the selling of veterinary remedies and instruments by a  
20 registered pharmacist at the pharmacist's regular place of business.

21 (6) This chapter does not prohibit an employee of a licensed veterinarian from performing activities  
22 determined by board rule to be acceptable, when performed under the supervision of the employing  
23 veterinarian.

24 (7) This chapter does not prohibit an employee of a licensed veterinarian from rendering care for  
25 that veterinarian's animal patients in cases of emergency. Permissible emergency employee activities under  
26 this subsection include activities determined by board rule to be acceptable but do not include the  
27 performance of surgery or the rendering of diagnoses.

28 (8) This chapter does not prohibit certified ~~practitioners~~ AGENCIES or certified euthanasia  
29 technicians from possessing or administering controlled substances authorized by the board for the  
30 purposes of euthanasia as provided in [sections 1 through 5]."

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2           NEW SECTION. **Section 8. Codification instruction.** [Sections 1 through 5] are intended to be  
3 codified as an integral part of Title 37, chapter 18, and the provisions of Title 37, chapter 18, apply to  
4 [sections 1 through 5].

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