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6	SUPERIOR COURT OF WASHINGTON	IN AND FOR THURSTON COUNTY	
7	JENNIFER SCHULTZ and CEANNA JOHNSTON, individuals,	Case No.	
8 9	Plaintiffs,	COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND	
10	V.	VIOLATION OF THE CIVIL RIGHTS ACT 42 U.S.C. § 1983	
11	WASHINGTON DEPARTMENT OF HEALTH, an agency of the State of Washington; UMAIR A.		
12	SHAH, in his official capacity as Washington Secretary of Health; WASHINGTON VETERINARY BOARD OF GOVERNORS, an		
13	instrumentality of the State of Washington; ANDREA SANCHEZ-CHAMBERS, AJA		
14	SENESTRARO, DEBRA SELLON, KATHRYN HAIGH, DORDOR VANG, REBECCA KNOKE,		
15	KIM MORGAN, JESSICA REED, and KATHERINE BIBI, in their official capacities as		
16	members of the Veterinary Board of Governors,		
17	Defendants.		
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19	I. INTRODUCTION		
20	1. Caring for the teeth of domesticated	horses is an ancient occupation. Mongolian	
21	herders experimented with equine tooth care more than 3,000 years ago, and documents from the		
22	Middle Ages refer to filing and extracting horse teeth. In 17th century America, horse dentistry		
23	specialists plied their trade in communities across the nation. Today, it is accepted that caring for		
24	Complaint - 1	PACIFIC LEGAL FOUNDATION	

555 Capitol Mall, Suite 1290 Sacramento, California 95814 (916) 419-7111 domesticated horses requires "floating" their teeth, using tools to smooth sharp points that, if
 untreated, can cut the horse's mouth and interfere with comfort, eating, digestion, and locomotion.
 Accordingly, various trade schools train and accredit students to properly float horse teeth, while
 also instilling a recognition of the limits of their education and emphasizing the importance of
 collaboration with veterinary practitioners as needed.

6 2. Plaintiffs are highly trained in horse teeth floating and would like to offer those 7 services commercially in Washington. However, Washington has granted veterinarians and 8 supervised veterinary technicians the privilege of being the sole providers of commercial horse 9 teeth floating services, excluding trained non-veterinary floaters from the market.

The Washington Department of Health, which is charged with enforcing the State's
 prohibition of unlicensed veterinary practice, has threatened and imposed civil and criminal
 punishment against experienced floaters who have not met the Veterinary Board of Governor's
 onerous licensure requirements. This lawsuit seeks to vindicate trained floaters' right to carry on
 business and earn a living in Washington.

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II. PARTIES

4. Plaintiff Jennifer Schultz is a resident of Roy, Washington, and a trained floater. In
 2015, she trained at the Equine Gnathological Training Institute in King Hill, Idaho. She is not a
 veterinarian or veterinary technician.

Plaintiff Ceanna Johnston is a resident of Yacolt, Washington, and a trained floater.
 In 2022, she graduated from the Horsemanship Dentistry School in Palm City, Florida. She is not
 a veterinarian or veterinary technician.

22 6. Defendant Umair A. Shah is the Secretary of Defendant Washington Department
23 of Health. The Department, through Secretary Shah, has authority to investigate and punish

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PACIFIC LEGAL FOUNDATION 555 Capitol Mall, Suite 1290 Sacramento, California 95814 (916) 419-7111 unlicensed veterinary practice and administers various aspects of the licensure schemes for
 veterinarians and veterinary technicians. Defendant Shah is sued solely in his official capacity.

7. Defendant Veterinary Board of Governors (collectively with its individual members, the Board) is a regulatory body within the Department of Health. The Board has licensing authority over veterinarians and veterinary technicians, as well as investigatory and disciplinary powers over unlicensed veterinary practice. Defendants Andrea Sanchez-Chambers, Aja Senestraro, Debra Sellon, Kathryn Haigh, Dordor Vang, Rebecca Knoke, Kim Morgan, Jessica Reed, and Katherine Bibi are members of the Board. They are sued solely in their official capacities.

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III. JURISDICTION AND VENUE

8. Jurisdiction over Plaintiffs' claims for declaratory and injunctive relief is vested in
 this Court by Wash. Const. art. IV, § 6; RCW § 2.08.010; RCW § 7.24.010; RCW § 7.24.080; and
 RCW § 7.40.010.

14 9. Venue is proper in this Court pursuant to RCW § 4.12.020(2) and RCW §
15 4.92.010(5).

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IV. FACTUAL ALLEGATIONS

Equine Teeth Floating

18 10. A horse's teeth progressively erupt from its gums throughout its life. This is known 19 as "hypsodontism." An undomesticated or wild diet naturally grinds the teeth down, but typical 20 feeding of domesticated horses does not provide the same grinding effect. Domesticated horses 21 routinely require their teeth to be filed through human intervention, or "floated."

11. Floating is a routine procedure that all domesticated horses need. When leftunfloated, a horse's teeth can become uneven or broken and develop sharp points. This can cause

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discomfort, injure soft tissues in the horse's mouth, hinder proper chewing and digestion, disrupt
the sitting of tack bits (the part of bridle headgear that sits inside the horse's mouth), and even
distort the horse's walking and running. These harms to horses' physical and mental wellbeing can
in turn endanger their owners and riders.

5 12. The frequency with which floating is needed varies based on factors such as the 6 horse's age, breed, and lifestyle, but it is generally accepted that an adult horse's teeth require 7 floating approximately once per year. Younger horses and high-performance horses commonly 8 require floating every six months.

9 13. Many states with high horse populations allow for non-veterinary floating by 10 individuals with specialized training. These states include: Arizona, Arkansas, Connecticut, 11 Florida, Idaho, Illinois, Louisiana, Maryland, Minnesota, Nevada, New Hampshire, New York, 12 Oklahoma, South Carolina, Tennessee, Texas, Vermont, Virginia, and the Navajo Nation.

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Regulation of Floating in Washington

14 14. Washington defines "veterinary medicine, surgery and dentistry" broadly to include 15 "diagnos[ing] or prognos[ing] any animal diseases, deformities, defects, wounds or injuries, for 16 hire, fee, reward, or compensation," RCW § 18.92.010(3), and "prescrib[ing] or administer[ing] 17 any . . . treatment, method or practice, or perform[ing] any operation, or manipulation, or 18 apply[ing] any apparatus or appliance for the cure, amelioration, alleviation, correction, or 19 modification of any animal disease, deformity, defect, wound, or injury, for hire, fee, 20 compensation, or reward." RCW § 18.92.010(4).

15. This definition has remained substantially unaltered since Washington first began
requiring veterinary licensure in 1907, 18 years after it became a State. *See* Laws of 1907, ch.
124, § 1. During the 18 years in which no veterinary licensure was required in Washington,

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engaging in commercial animal care, such as floating horse teeth, was an occupation of common
 right.

Washington's broad statutory definition of "veterinary medicine, surgery and 3 16. dentistry" includes floating. The Board restricts floating to licensed veterinarians unless the task 4 5 is properly delegated to a licensed veterinary technician operating under direct supervision of a veterinarian. See WAC §§ 246-935-040(1)(a); 246-935-050(3)(c). The Department has 6 7 investigated and disciplined non-veterinary floaters for unlicensed veterinary practice. 8 Unmet Demand for Floating 9 17. There is an ongoing shortage of professional equine healthcare, widely recognized 10 in the veterinary industry.

11 18. There are approximately 200,000 domesticated horses in Washington, as well as 12 many other equids such as donkeys and mules, which also require regular floating care. Most 13 Washington veterinarians and veterinary technicians do not provide equine dental care, and the 14 small number that do are unable to provide needed floating services for all these animals.

15 19. The equine healthcare crisis is especially evident when considering the rural 16 location of many horses. Travel to provide and receive floating services from veterinarians is 17 highly costly and burdensome for both owners and providers.

18 20. Licensed veterinarians and supervised veterinary technicians are unable to fully19 satisfy the demand for floating services in Washington.

20 21. Despite the shortage of veterinarians providing equine healthcare, the Washington 21 State Veterinary Medical Association has objected to allowing non-veterinary floaters to work in 22 the state and has encouraged authorities to prosecute non-veterinary floaters.

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1 22. The Department has investigated and disciplined individuals for unlicensed 2 floating.

3 Veterinary Licensure in Washington 23. Licensed veterinarians are allowed to commercially float in Washington. 4 5 24. To qualify for veterinary licensure in Washington, an individual must pass the 6 North American Veterinary Licensing Examination (NAVLE). WAC § 246-933-250(1). 25. 7 NAVLE includes questions designed to test a candidate's ability to properly 8 diagnose and treat a wide range of animals including fish, cows, deer, llamas, dogs, cats, 9 chinchillas, ferrets, guinea pigs, hamsters, primates, rabbits, rats, mice, sheep, goats, pigs, birds, 10 poultry, and reptiles. 11 26. To qualify for veterinary licensure in Washington, an individual must successfully 12 complete the Washington state jurisprudence examination and graduate from a veterinary program 13 accredited by the American Veterinary Medical Association (AVMA). WAC § 246-933-250(3). 27. 14 Veterinary programs cover numerous topics wholly irrelevant to floating. 15 28. Many national veterinary programs allow students to graduate without taking any 16 equine-specific courses, let alone courses that teach floating. 29. 17 Veterinarians who work with horses commonly enroll in equine dentistry 18 institutions such as those attended by Plaintiffs to gain floating training and experience that was 19 lacking in their approved veterinary programs. 20 30. Approved veterinary programs are also substantially more expensive and time 21 consuming than specialized floating education programs. Veterinary school typically lasts 3 or 4

22 years and carries a total cost of attendance in the hundreds of thousands of dollars.

23 31. Trade schools provide specialized floating training at a much lower cost.

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32. The burdensome requirements to engage in horse floating, coupled with the lofty
 financial costs, unreasonably limit the supply of trained floating services in Washington.

- 3 33. Indeed, the legislature has recognized that veterinary licensure requirements "can
 be unnecessarily cumbersome" when applied to "individuals who would like to limit their practice"
 to other specialized areas of animal care. RCW § 18.240.005.
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Veterinary Technician Licensure in Washington

7 34. Licensed veterinary technicians can commercially float in Washington, but only 8 when under a licensed veterinarian's "direct supervision." WAC § 246-935-050(3)(c). "Direct 9 supervision' means the veterinary supervisor is on the premises, is quickly and easily available 10 and the animal patient has been examined by a veterinarian at such times as acceptable veterinary 11 medical practice requires, consistent with the particular delegated animal health care task." WAC 12 § 246-935-010(3).

13 35. To qualify for veterinary technician licensure in Washington, an individual must
14 pass the Veterinary Technician National Examination (VTNE). WAC § 246-935-070(1).

15 36. The VTNE covers many subjects irrelevant to floating, including: anesthesia,
16 emergency medicine/critical care, pharmacy and pharmacology, laboratory procedures, diagnostic
17 imaging, and surgical nursing.

18 37. To qualify to sit for the VTNE, an individual must satisfy one of seven paths 19 prescribed by Washington law. WAC § 246-935-060. Each path to sit for the VTNE is 20 unreasonably costly and time-consuming for individuals who specialize in floating horse teeth.

- 38. As with veterinary programs, veterinary technician programs cover numerous
 topics wholly irrelevant to floating, and even when they cover equine dentistry, they do not provide
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the same degree of specialized education, training, and hands-on experience as do equine dental
 institutes such as those Plaintiffs attended.

3 39. AVMA-accredited veterinary technician programs typically last two to four school
4 years and are extremely costly.

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Washington's Licensing Exemptions

40. Washington's veterinary statute includes specific licensure exemptions for certain
animal services, like castration or dehorning of cattle, that are similarly or more dangerous than
floating. RCW § 18.92.060(3).

9 41. Washington also exempts wholly untrained owners who want to float their own
10 horses' teeth, RCW § 18.92.060(2), as well as an owner's untrained business employees, RCW
11 § 18.92.060(7).

42. Washington also allows non-veterinary floaters to assist owners with floating, as
long as they do so without being compensated for their services. RCW § 18.92.060(8).

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Plaintiff Schultz

43. Upon returning to Washington after her training at the Gnathological Institute,
Plaintiff Schultz engaged in unsuccessful legislative advocacy to change the law so non-veterinary
floaters could carry on business in the state.

44. Plaintiff Schultz has received two separate investigation letters from the
Department of Health regarding complaints alleging the practice of unlicensed veterinary
dentistry.

45. Both investigations were closed without disciplinary action. The more recent
investigation was closed on November 2, 2023.

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1	46.	Horse owners have repeatedly contacted Plaintiff Schultz requesting her floating
2	services, but she has had to turn these willing clients down.	
3	47.	Were it not for Washington's prohibition of non-veterinary floaters, Plaintiff
4	Schultz woul	d provide floating services.
5		Plaintiff Johnston
6	48.	Plaintiff Johnston traveled from Washington to Florida to train in floating at the
7	Horsemanship Dentistry School, in part so she could assist her boyfriend's mother in caring for	
8	horses belonging to her boyfriend's mother.	
9	49.	After returning to Washington, Plaintiff Johnston has gratuitously assisted her
10	boyfriend's n	nother in floating these horses' teeth, but has not performed any floats for hire because
11	of Washington's prohibition on non-veterinary commercial floating.	
12	50.	Plaintiff Johnston wants to conduct floats to gain hands-on experience that is
13	necessary to receive additional certification from the Horsemanship Dentistry School, but has no	
14	done so because of the state's prohibition.	
15	51.	Were it not for Washington's prohibition of non-veterinary floaters, Plaintiff
16	Johnston would continue her education with the goal of providing commercial floating services.	
17		Declaratory Relief Allegations
18	52.	Plaintiffs seek a declaratory judgment of rights and obligations under the
19	Washington	Uniform Declaratory Judgment Act, RCW ch. 7.24, and Washington Civil Rule 57.
20	53.	An actual dispute exists between Plaintiffs and Defendants whose interests are
21	genuinely op	pposing in nature. These disputed interests are direct and substantial. A judicial
22	determination	n can provide a final and conclusive resolution as to the parties' rights and
23	responsibilities.	
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1	54.	Plaintiffs are entitled to a judgment declaring that the prohibition of non-veterinary	
2	floaters as applied to them violates their rights under Wash. Const. art. I, § 12 and the Fourteenth		
3	Amendment of the United States Constitution.		
4	Injunctive Relief Allegations		
5	55.	Plaintiffs seek injunctive relief pursuant to this Court's general injunctive authority,	
6	see Wash. Const. art. IV, § 6; RCW § 7.40.010, and its authority to grant injunctions based on		
7	declaratory judgments. RCW § 7.24.080.		
8	56.	Plaintiffs have no adequate remedy at law to address Defendants' violation of their	
9	constitutional rights and the injury that Plaintiffs suffer because of that violation.		
10	57.	Plaintiffs have a well-grounded fear that Defendants will continue to violate their	
11	constitutional rights by prohibiting them from floating without a veterinary or veterinary		
12	technician license.		
13	58.	Upon judgment that Defendants are violating Plaintiffs' constitutional rights,	
14	adequate grounds exist to enjoin Defendants' unconstitutional acts.		
15		V. CLAIMS FOR RELIEF	
16		FIRST CAUSE OF ACTION	
17WASH. CONST. A		VIOLATION OF PRIVILEGES OR IMMUNITIES CLAUSE WASH. CONST. ART. I, § 12 (Against All Defendents)	
18	•	(Against All Defendants)	
19	59.	Plaintiffs incorporate each of the above allegations.	
20	60.	The Washington Constitution's Privileges or Immunities Clause forbids the state	
20	from violating the fundamental right to carry on business through the unreasonable limitation of		
22	an occupation of common right to a privileged, licensed class.		
22	61.	Washington's licensure requirements, which limit commercial floating of horse	
23 24	teeth to veterinarians and directly supervised veterinary technicians, grants a privilege to these		
<i>∠</i> -т	Complaint -	10 PACIFIC LEGAL FOUNDATION 555 Capitol Mall, Suite 1290	

555 Capitol Mall, Suite 1290 Sacramento, California 95814 (916) 419-7111 individuals to engage in an occupation of common right that all citizens of Washington could have
 engaged in at the time it became a State.

3 62. This grant of privilege implicates and interferes with trained floaters' fundamental
4 right to carry on business in Washington.

63. These rules subject non-veterinary floaters to highly burdensome, time-consuming,
and financially costly education and examination requirements that are irrelevant to competently
floating horses' teeth.

8 64. The rules unreasonably limit the supply of competent floating services in the state9 and leave many horses with worse care.

10 65. The exceptions to Washington's licensure requirements incentivize horse owners 11 to turn to floating options from individuals who are less trained and less competent than 12 professionally trained non-veterinary floaters.

13 66. These exceptions highlight the unreasonableness of limiting the provision of
14 routine animal husbandry tasks, such as floating, to veterinarians and veterinary technicians.

15 67. Washington has numerous reasonable regulatory alternatives to the prohibition of16 non-veterinary floaters.

SECOND CAUSE OF ACTION 17 **VIOLATION OF EOUAL PROTECTION CLAUSE** 18 U.S. CONST. AMEND. XIV; 42 U.S.C. § 1983 (Against the Individual Defendants) 19 68. Plaintiffs incorporate the allegations in paragraphs numbered 1 through 58 above. 20 69. The Equal Protection Clause of the Fourteenth Amendment forbids the irrational 21 application of exemptions to professional licensure requirements. 22 23 24 Complaint - 11 PACIFIC LEGAL FOUNDATION

PACIFIC LEGAL FOUNDATION 555 Capitol Mall, Suite 1290 Sacramento, California 95814 (916) 419-7111 1 70. Washington's veterinary and veterinary technician licensure requirements are 2 meant to protect the public and animals by ensuring the competency of animal healthcare 3 providers.

The law exempts specified procedures that fall within the definition of veterinary
practice, but it does not exempt equine teeth floating, even though the exempt procedures are
similarly or more difficult and dangerous than equine teeth floating.

7 72. The law also exempts animal owners and their business employees who perform 8 veterinary medicine on their animals, regardless of whether these individuals have had any animal 9 healthcare training or have demonstrated any competency in the same, while prohibiting trained 10 equine teeth floaters from providing services for these animals commercially.

11 73. The law exempts the performance of veterinary procedures when they are done
12 gratuitously to assist an owner, even though the absence of compensation has no bearing on these
13 procedures' difficulty or riskiness.

14 74. Washington's veterinary licensure exemptions undercut the rationale for15 prohibiting non-veterinary floaters from engaging in business.

16 75. Any legitimate rationale for allowing these exemptions applies equally to equine17 teeth floating.

18 76. Failure to apply these exemptions to equine teeth floating unconstitutionally19 deprives Plaintiffs of equal protection of the laws.

20 77. The individual Defendants are "persons" under 42 U.S.C. § 1983.

21 78. The actions of the individual Defendants complained of herein were and are done
22 under color of Washington state law.

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1		VI. REQUEST FOR RELIEF	
2	WHEREFORE, Plaintiffs respectfully request relief as follows:		
3	А.	A. A declaratory judgment that Washington's licensing schemes for veterinarians and	
4	veterinary technicians as applied to Plaintiffs violate Plaintiffs' right to carry on business in		
5	Washington as protected by the Privileges or Immunities Clause.		
6	В.	B. A declaratory judgment that Washington's licensing schemes for veterinarians and	
7	veterinary technicians as applied to Plaintiffs violate Plaintiffs' rights under by the Equal		
8	Protection Clause.		
9	C.	Entry of a permanent injunction against Defendants' enforcement of these licensure	
10	requirements against Plaintiffs with respect to commercial horse teeth floating.		
11	D.	An award of attorneys' fees, costs, and expenses in this action as allowed by law	
12	pursuant to RCW ch. 4.84 and 42 U.S.C. § 1988.		
13	E.	An award of nominal damages; and	
14	F.	All further relief as the Court may deem just and proper.	
15	DATED: December 22, 2023.		
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24	4 Complaint - 13 PACIFIC LEGAL FOUNDAT		

1	Respectfully submitted, Jennifer Schultz and Ceanna Johnston, by their attorneys,	
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