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SUPERIOR COURT OF WASHINGTON IN AND FOR THURSTON COUNTY

JENNIFER SCHULTZ and CEANNA
JOHNSTON, individuals,

Plaintiffs,

v.

WASHINGTON DEPARTMENT OF HEALTH,
an agency of the State of Washington; UMAIR A.
SHAH, in his official capacity as Washington
Secretary of Health; WASHINGTON
VETERINARY BOARD OF GOVERNORS, an
instrumentality of the State of Washington;
ANDREA SANCHEZ-CHAMBERS, AJA
SENESTRARO, DEBRA SELLON, KATHRYN
HAIGH, DORDOR VANG, REBECCA KNOKE,
KIM MORGAN, JESSICA REED, and
KATHERINE BIBI, in their official capacities as
members of the Veterinary Board of Governors,

Defendants.

Case No. _____

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND
VIOLATION OF THE CIVIL RIGHTS
ACT 42 U.S.C. § 1983**

I. INTRODUCTION

1. Caring for the teeth of domesticated horses is an ancient occupation. Mongolian
herders experimented with equine tooth care more than 3,000 years ago, and documents from the
Middle Ages refer to filing and extracting horse teeth. In 17th century America, horse dentistry
specialists plied their trade in communities across the nation. Today, it is accepted that caring for

1 domesticated horses requires “floating” their teeth, using tools to smooth sharp points that, if
2 untreated, can cut the horse’s mouth and interfere with comfort, eating, digestion, and locomotion.
3 Accordingly, various trade schools train and accredit students to properly float horse teeth, while
4 also instilling a recognition of the limits of their education and emphasizing the importance of
5 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.

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

15 II. PARTIES

16 4. Plaintiff Jennifer Schultz is a resident of Roy, Washington, and a trained floater. In
17 2015, she trained at the Equine Gnathological Training Institute in King Hill, Idaho. She is not a
18 veterinarian or veterinary technician.

19 5. Plaintiff Ceanna Johnston is a resident of Yacolt, Washington, and a trained floater.
20 In 2022, she graduated from the Horsemanship Dentistry School in Palm City, Florida. She is not
21 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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1 unlicensed veterinary practice and administers various aspects of the licensure schemes for
2 veterinarians and veterinary technicians. Defendant Shah is sued solely in his official capacity.

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

10 III. JURISDICTION AND VENUE

11 8. Jurisdiction over Plaintiffs' claims for declaratory and injunctive relief is vested in
12 this Court by Wash. Const. art. IV, § 6; RCW § 2.08.010; RCW § 7.24.010; RCW § 7.24.080; and
13 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).

16 IV. FACTUAL ALLEGATIONS

17 *Equine Teeth Floating*

18 10. A horse's teeth progressively erupt from its gums throughout its life. This is known
19 as "hypodontism." 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."

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

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1 discomfort, injure soft tissues in the horse’s mouth, hinder proper chewing and digestion, disrupt
2 the sitting of tack bits (the part of bridle headgear that sits inside the horse’s mouth), and even
3 distort the horse’s walking and running. These harms to horses’ physical and mental wellbeing can
4 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.

13 *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).

21 15. This definition has remained substantially unaltered since Washington first began
22 requiring veterinary licensure in 1907, 18 years after it became a State. *See* Laws of 1907, ch.
23 124, § 1. During the 18 years in which no veterinary licensure was required in Washington,

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

3 16. Washington’s broad statutory definition of “veterinary medicine, surgery and
4 dentistry” includes floating. The Board restricts floating to licensed veterinarians unless the task
5 is properly delegated to a licensed veterinary technician operating under direct supervision of a
6 veterinarian. *See* WAC §§ 246-935-040(1)(a); 246-935-050(3)(c). The Department has
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 fully
19 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 the same degree of specialized education, training, and hands-on experience as do equine dental
2 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.

5 *Washington's Licensing Exemptions*

6 40. Washington's veterinary statute includes specific licensure exemptions for certain
7 animal services, like castration or dehorning of cattle, that are similarly or more dangerous than
8 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).

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

14 *Plaintiff Schultz*

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

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

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

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1 individuals to engage in an occupation of common right that all citizens of Washington could have
2 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.

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

8 64. The rules unreasonably limit the supply of competent floating services in the state
9 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 of
16 non-veterinary floaters.

17 **SECOND CAUSE OF ACTION**
18 **VIOLATION OF EQUAL PROTECTION CLAUSE**
19 **U.S. CONST. AMEND. XIV; 42 U.S.C. § 1983**
20 **(Against the Individual Defendants)**

21 68. Plaintiffs incorporate the allegations in paragraphs numbered 1 through 58 above.

22 69. The Equal Protection Clause of the Fourteenth Amendment forbids the irrational
23 application of exemptions to professional licensure requirements.

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.

4 71. The law exempts specified procedures that fall within the definition of veterinary
5 practice, but it does not exempt equine teeth floating, even though the exempt procedures are
6 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 for
15 prohibiting non-veterinary floaters from engaging in business.

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

18 76. Failure to apply these exemptions to equine teeth floating unconstitutionally
19 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 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 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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1 Respectfully submitted, Jennifer Schultz and Ceanna Johnston, by their attorneys,

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