

Opinion No. 89**Veterinarians—Diagnosing Pregnant Condition of Livestock—
Laboratory Diagnosis to Determine Reproductive
Capacity—Section 66-2209, RCM, 1947**

Held: The diagnosing of an animal to determine pregnancy or to determine the reproductive capacity of bulls is not the practice of veterinary medicine as defined in Section 66-2209, RCM, 1947.

December 23, 1958

Dr. John W. Safford
State Veterinarian
Capitol Building
Helena, Montana

Dear Dr. Safford:

You have requested my opinion on two matters concerning the practice of veterinary medicine and I shall answer your questions *seriatim*.

Your first inquiry is whether the diagnosing of an animal to determine pregnancy is the practice of veterinary medicine under Section 66-2209, RCM, 1947. Section 66-2209 provides in part:

"Any person shall be deemed in the practice of veterinary medicine when he does any of the following:

(c) Diagnosis, prescribes or administers any drug, medicine, appliance, application, or treatment of whatever nature, or performs a surgical operation or manipulation, for the prevention, cure, or relief of a pain, deformity, wound, fracture, or bodily injury or physical condition or disease of animals."

The pertinent portion of Section 66-2209(c) *supra*, is the phrase: "Diagnosis . . . for the prevention, cure or relief of a . . . physical condition . . ." This same statute, with the exception to the reference to physical condition, is contained in Section 4826, California Code, Business and Professions. The identical question was raised in California and in an opinion issued November 9, 1953, the Attorney General of California held that such activity was not the practice of veterinary medicine.

The purpose of diagnosing such an animal to determine pregnancy is not for the prevention, cure or relief of the condition but to ascertain a condition. Thus, such a determination is not the practice of veterinary medicine.

The following amendment to the statute was enacted in California to reach such practice:

"Performs any manual procedure for the diagnosis of pregnancy, sterility, or infertility upon livestock."

Your second inquiry is whether the laboratory testing and physical examination of bulls to determine their productive capacity is the practice of veterinary medicine as defined by Section 66-2209, RCM, 1947.

Section 66-2211(b) excludes laboratory technicians employed by the State of Montana or the United States of America who are engaged in labors in laboratories under the supervision of the Montana Livestock Sanitary Board, Montana State College, or the United States of America. However, Section 66-2209, *supra*, defines the practice of veterinary medicine and makes no reference to laboratory testing of animals to determine their productive capacity. Diagnosis is limited for the purposes of preventing, curing or relieving a bodily injury, physical condition or disease of animals.

Therefore, it is my opinion that the diagnosing of an animal to determine pregnancy or to determine the reproductive capacity of bulls is not the practice of veterinary medicine as defined in Section 66-2209, RCM, 1947.

Very truly yours,
FORREST H. ANDERSON
Attorney General