

SUNSET COMMISSION DECISIONS



**TEXAS STATE BOARD OF
VETERINARY MEDICAL EXAMINERS**

July 2004

AGENCY INFORMATION

Agency at a Glance

To ensure that safe and quality veterinary services are provided to the citizens of Texas and their animals, the Texas State Board of Veterinary Medical Examiners regulates the practice of veterinary medicine in Texas. The State began regulating veterinarians in 1911, when the Legislature created the Veterinary Licensing Act and established the Board. Board members handled all licensing and enforcement functions until 1953, when the Legislature authorized the Board to hire staff to carry out the requirements of the Act. The Board's main functions include:

- licensing qualified individuals to practice veterinary medicine in Texas;
- setting standards regarding the practice of veterinary medicine; and
- enforcing the Veterinary Licensing Act and Board rules, which includes investigating and resolving complaints against both licensed and unlicensed individuals, and taking disciplinary action when necessary.

Key Facts

- **Funding.** In fiscal year 2003, the Board operated with a budget of \$613,472. All costs are covered by licensing and examination fees collected from the profession.
- **Staffing.** The Board has a staff of 11, all based in Austin.
- **Licensing.** The Board regulates 6,624 veterinarians, including about 1,400 that live outside of Texas. In fiscal year 2003, the Board issued 280 new licenses.
- **Enforcement.** In fiscal year 2003, the Board received 260 jurisdictional complaints and resolved 281. Of the resolved complaints, 39 resulted in disciplinary action, with the largest category of complaints relating to standard of care.

ISSUES / RECOMMENDATIONS

Issue 1 Continuing Education Efforts Lack Controls to Ensure the Benefits Intended From Enhanced Professional Competence.

Recommendations

Change in Statute

1.1 Require the Board to check veterinarians' compliance with continuing education (CE) through the licensing process.

Under this recommendation, the Board's primary method for checking that veterinarians have obtained the mandatory hours of continuing education would be through a random audit of license renewals. Those licensees randomly selected would send their proof of CE completion to the Board, which would then verify attendance. Staff would not be restricted to conducting the random audits when license renewals are due, but could conduct the audits throughout the year. The Board would accept certificates for individual CE courses as proof, and discontinue the practice of allowing veterinarians to list all courses on one presigned form. While the Board would not be prohibited from checking CE during inspections, the Board would focus its CE-monitoring efforts through its licensing functions. Doing so would allow investigators to concentrate on more imminent threats, such as controlled substance and sanitation violations. Also, the Board would be able to ensure a more equitable means of checking for CE compliance among licensees, regardless of where the licensee resides.

1.2 Authorize the Board to require a licensee to take more than the annual number of continuing education hours as part of a disciplinary action.

Under this recommendation, the provision in the Veterinary Licensing Act that limits the Board from requiring a licensee to take more than 17 hours of continuing education in any one year would be removed. As a result, after finding that a licensee violated the Board's CE requirements, the Board would be authorized to require a veterinarian to make up the missing hours in subsequent years. Although the veterinarian would be allowed to practice while making up the missed hours, the Board would monitor the licensee's progress. In addition, the Board would be able to specify that a veterinarian take continuing education in addition to the standard amount as part of a disciplinary action that resulted from a violation of the Act or Board rules.

Management Action

1.3 The Board should explore and implement ways to ensure that continuing education providers comply with minimum standards established by the Board.

Approaches explored should include the following:

- staff or Board-member site visits and monitoring;
- regular submission of records, such as sign-in and sign-out logs;
- providing guidelines to CE providers regarding the types of acceptable certificates of completion; and
- other methods established by the Board.

The Board would establish methods for making sure that continuing education courses cover the topics and meet the class length advertised to licensees and the Board, that providers have a method for recording and verifying attendance, and that providers give certificates of completion at the end of the course. The Board would work with CE providers to make them aware of the Board's requirements and standards. As needed, Board members and staff would be able to make site visits to continuing education courses, particularly if the Board receives a complaint regarding a specific course or provider. Providers who do not meet these standards would be subject to being removed from the Board's list of acceptable continuing education providers.

Fiscal Implication

These recommendations would have a minimal fiscal impact to the State. Checking licensees' compliance with continuing education requirements by a random audit conducted through the licensing process throughout the year could be accomplished with existing staff. Spending less time checking for compliance with continuing education requirements during inspections would allow Board investigators to make periodic on-site visits to CE providers. Depending on the approach used, stricter monitoring of providers could require additional travel by staff and Board members, which was not estimated for this report.

Responses

Agency

Recommendation 1.1: The Board supports this recommendation, but would prefer a modified version of the approach used by the Texas State Board of Pharmacy to ensure compliance with continuing education requirements. The Board fears that the Sunset Commission has underestimated the full extent to which continuing education is monitored. Since 1999, the Board has conducted 2,128 compliance inspections, and it has a goal of conducting 600 such inspections annually. Limited travel resources have caused that to be less in 2003, when only 77 were conducted. The Board ensures compliance with continuing education requirements through license renewal affirmations, onsite compliance inspections, and audits by mail, and it opens complaints against licensees found to be in violation. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

Agency Modification

1. Provide for the Board to randomly select 3 percent of renewals and mail the licensees certified letters requesting their complete documentation for the audited period. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

Staff Comment: The staff recommendation is intended to authorize the Board to adopt a process similar to the approach taken by the Texas State Board of Pharmacy.

Recommendation 1.2: The Board supports recommendation 1.2. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

Recommendation 1.3: The Board supports affirming the integrity of CE provided to licensees and agrees with requiring the types of documentation outlined in the recommendation necessary to support quality programs. However, Board staff randomly monitoring CE providers may not be an effective use of their time. The Board would prefer not to be limited to using only staff and Board members to accomplish this goal, but would like to explore options in developing a program to ensure the integrity of CE providers. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

For

Recommendations 1.1 and 1.2 – Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel

Against

None received.

Recommended Action: Adopt Recommendations 1.1 through 1.3.

Commission Decision: Adopted Recommendations 1.1 through 1.3.

Issue 2 Key Elements of the Board's Licensing and Regulatory Functions Do Not Conform to Commonly Applied Licensing Practices.

Recommendations

Licensing

Change in Statute

2.1 Eliminate the statutory authority for oral exams in the Board's statute.

This recommendation would remove the Board's authority to use oral exams from its statute, since this language is obsolete and does not conform to model examination procedures.

2.2 Require the Board to establish a policy for refunding examination fees.

This recommendation would authorize the Board to retain all or part of examination fees should an applicant withdraw from an exam without reasonable advance notice or a satisfactory excuse, such as an emergency. The Board would need to develop a rule to define the reasonable notification period and the emergencies that would warrant a refund. In determining its refund policies, the Board should ensure that its policies do not conflict with the National Board of Veterinary Medical Examiners' policies.

2.3 Provide an exemption from the provisional license supervision requirement for applicants who are already licensed to practice independently in other states.

Allowing qualified veterinarians from other states to practice independently in Texas while the Board processes their applications would remove a barrier to entry into the profession. As long as a veterinarian has a license to practice independently, is in good standing in another state, and meets Texas' licensing requirements, the Board should allow independent practice in Texas. Even without supervision by another licensed veterinarian, provisionally licensed veterinarians still practice under the authority of the Board and are subject to enforcement action.

2.4 Change the basis for the Board's late renewal penalties.

This recommendation would require the Board to use the standard renewal fee as the basis for its late renewal penalties, rather than the cost of the exams required for licensure. For example, the Board would charge a person whose license has been expired for 90 days or less the standard renewal fee plus a penalty equal to 1-1/2 times the renewal fee. For those whose licenses have been expired for more than 90 days, but less than one year, the Board would charge the standard renewal fee plus a penalty of twice the renewal fee. In calculating the late penalty, the Board would not include the \$200 professional fee assessed on veterinarians.

Enforcement

Change in Statute

2.5 Require at least two veterinarian Board members to review complaints requiring professional expertise, and authorize staff to settle administrative complaints.

This recommendation would require the Board to submit all complaints that may require the expertise of a practitioner to at least two veterinarian members of the Board to review and decide how to proceed. The decision would include whether to dismiss or to refer the matter directly to an informal settlement

conference. In the event the two Board members differ on how to proceed, the complaint would automatically be referred to the Board's enforcement committee for a settlement conference. All proposed and agreed orders recommended in settlement conference would still need to receive final approval by the full Board.

This recommendation would also authorize staff to resolve cases involving nontechnical and administrative violations. Staff would have the ability to dismiss these complaints, subject to review by the Board at its public meeting, or refer the matter directly to a settlement conference. A committee of staff would recommend enforcement action, which the licensee could accept or reject in a settlement conference. The Board would retain final decision-making authority over the staff's recommendations.

2.6 Require the Board to include one of its public members in the informal settlement process.

This recommendation would ensure that the Board includes at least one public member in its informal settlement conferences. These conferences help the Board determine whether a violation occurred and what action to take, and therefore should always include public membership to ensure consumer interests are properly represented in the enforcement process.

2.7 Authorize the Board to set penalties at a level that match the egregiousness of each drug-related felony conviction.

This recommendation would give the Board the discretion to determine appropriate sanctions against licensees with drug-related felonies by considering each case on its own merits, as opposed to the automatic suspension or revocation of a license currently required by the Act.

2.8 Clarify the Board's administrative penalty authority.

This change repeals the statutory provision that requires a subcommittee of the Board to recommend the amount of administrative penalties. In addition, the provision for the Board to impose a civil penalty on a licensee would be eliminated and replaced by administrative penalty authority. The option for the Board to seek civil penalties for unlicensed practice through the courts would be retained.

The recommendation also increases the amount of an administrative penalty the Board would be able to impose on an individual who violates the Veterinary Licensing Act or Board rules to \$5,000 per violation per day from \$2,500 per violation per day. The provision that each day a violation continues or occurs is a separate violation for purposes of imposing the penalty would continue to apply. The amount for violations that involve controlled substances would remain the same, at \$5,000 per violation.

2.9 Authorize the Board to require restitution as part of the settlement process.

Under this recommendation, the Board would be allowed to include restitution as a part of an agreed order reached in an informal settlement conference on a complaint. Restitution authority would be limited to ordering a refund not to exceed the amount the complainant paid for services. Any restitution order would not include an estimation of other damages or harm. The refund may be in lieu of or in addition other sanctions against a licensee.

2.10 Authorize the Board to issue cease-and-desist orders.

This recommendation would allow the Board to issue cease-and-desist orders. Cease-and-desist authority would enable the Board to move more quickly to stop unlicensed activity that threatens the health and safety of the public and their animals. The recommendation would also authorize the Board to assess administrative penalties against persons who violate cease-and-desist orders.

2.11 Require the Board to adopt formal policies that focus the Board on resolving complaints and prioritize complaints according to risk.

This recommendation would require the Board to adopt a formal policy that would focus its enforcement efforts on investigating complaints as opposed to performing compliance inspections. For example, the Board should consider whether it is meeting its target for complaint resolution time or if its caseload of pending complaints is reasonable when planning for compliance inspections. This recommendation would also require the Board to place complaints in priority order so that the agency handles the most serious problems first. Addressing complaints based on seriousness would ensure that the agency's attention is always placed where it is most needed.

Management Action

2.12 The Board should post information about disciplinary orders and sanctions on its Web site in a format that consumers may access easily.

Under this recommendation, consumers would have improved access to disciplinary information. Increasing accessibility could include creating a searchable database of practitioners showing disciplinary history or listing licensees who have had disciplinary action taken against them, including the type of sanction and violation, and the date the sanction was ordered. In addition to helping the public, this listing may reduce the amount of time staff must dedicate to handling consumer inquiries.

2.13 The Board should post information about the peer assistance program on its Web site.

This recommendation would direct the Board to post information on its Web site about the peer assistance program for veterinarians who are chemically dependent or mentally impaired. Since the Board contracts with the Texas Veterinary Medical Association (TVMA) to administer the program, the Board should also provide TVMA's contact information in its description of the program.

Fiscal Implication

These recommendations would result in an overall gain to the State of about \$16,000. Changing the basis for the late renewal penalty would result in a positive fiscal impact of \$27,000 annually. The Board would need \$4,600 a year to cover travel costs associated with requiring a public member to attend informal conferences. The Board may incur additional costs associated with an anticipated increase in cases before the State Office of Administrative Hearings because of disagreements about restitution or because of appeals of cease-and-desist orders. Those costs were not estimated for this report.

Responses

2.1 Authority for Oral Examination

Agency Response

The Board supports recommendation 2.1. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

Other Response

For

Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel

Against

None received.

2.2 Refund Examination Fees

Agency Response

The Board supports recommendation 2.2. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

Other Response

For

Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel

Against

None received.

2.3 Exemption from Provisional License Supervision

Agency Response

The Board supports recommendation 2.3. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

Other Response

For

None received.

Against

Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel

2.4 Late License Renewal Penalties

Agency Response

The Board supports recommendation 2.4. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

Other Response

For

Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel

Against

None received.

2.5 Review of Veterinary Complaints

Agency Response

The Board supports Recommendation 2.5, but indicates that mailing complaints to an additional Board member for review would result in additional costs of about \$1,040 per fiscal year. The Board would raise licensing fees to cover the costs; no impact to the General Revenue Fund would occur. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

Other Responses

For

Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel

Julie Catalano, Member – American Society of Journalists and Authors; Founder – www.vetabusenetwork.com, San Antonio

Rita S. Agenstein, e-mail; Anne Lombardo Ardolino, New York; Barbara Bagley, Waco; Valine Bartlett, e-mail; Diana and Robert Bender, e-mail; K. Bennett, e-mail; Susan Blumert, e-mail; Candace Bradley, Louisville, KY; Susan Cannon, Ferris; Larry Dakin, e-mail; Nancy Deas, e-mail; Janet DeLuca, e-mail; Diane Gallagher, New York; Mary Gallatin, e-mail; Adelaida Hernandez, San Antonio; Carol Mahler, RN, San Antonio; Sharlene Marchese, e-mail; the Patrick family, e-mail; Dan Presswood, Boerne; Deborah Ramos, Austin; Linda Gómez Richter, San Antonio; Adam Riff, e-mail; Marcia Rosenberg, Mt. Pleasant, SC; Dina Walker, e-mail

Against

None received.

2.6 Public Member in Informal Settlement Conferences

Agency Response

Because the Board has only three public members, if none of the public members can attend an informal conference, the conference would have to be rescheduled, slowing the process and impeding the Board's ability to resolve cases in a timely manner. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

Agency Modification

1. Authorize the Board to use a veterinarian member of the Board if no public member is available to attend an informal conference. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

Other Responses

For

Julie Catalano, Member – American Society of Journalists and Authors; Founder – www.vetabusenetwork.com, San Antonio

Rita S. Agenstein, e-mail; Anne Lombardo Ardolino, New York; Barbara Bagley, Waco; Valine Bartlett, e-mail; Diana and Robert Bender, e-mail; K. Bennett, e-mail; Susan Blumert, e-mail; Candace Bradley, Louisville, KY; Susan Cannon, Ferris; Larry Dakin, e-mail; Nancy Deas, e-mail; Janet DeLuca, e-mail; Diane Gallagher, New York; Mary Gallatin, e-mail; Adelaida Hernandez, San Antonio; Carol Mahler, RN, San Antonio; Sharlene Marchese, e-mail; the Patrick family, e-mail; Dan Presswood, Boerne; Deborah Ramos, Austin; Linda Gómez Richter, San Antonio; Adam Riff, e-mail; Marcia Rosenberg, Mt. Pleasant, SC; Dina Walker, e-mail

Against

None received.

Modification

2. Require two veterinarian Board members required to review complaints in Recommendation 2.5 and one public member required for informal settlement conferences in Recommendation 2.6 to be present at all informal settlement conferences. (Julie Catalano, Member – American Society of Journalists and Authors; Founder – www.vetabusenetwork.com, San Antonio; Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel)

2.7 Flexibility to Set Penalties

Agency Response

The Board supports recommendation 2.7. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

Other Response

For

Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel

Against

None received.

2.8 Administrative Penalties

Agency Response

The Board supports Recommendation 2.8. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

Other Response

For

Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel

Against

None received.

2.9 Restitution as Part of Settlement Process

Agency Response

Adding restitution as an option will cause the number of complaints received to increase and may complicate the voluntary settlement of complaints if a complainant expects restitution and a respondent resists. To continue to meet the measure for complaint resolution time outlined in the General Appropriations Act, the Board would need to request an additional staff investigator at a cost of \$42,654 per fiscal year. The Board would raise licensing fees to cover the costs; no impact to the General Revenue Fund would occur. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

Other Responses

For

None received.

Against

Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel

Modification

3. Require restitution orders to be made available to the public. (Julie Catalano, Member – American Society of Journalists and Authors; Founder – www.vetabusenetwork.com)

Staff Comment: Under the staff recommendation, restitution – or refund – requirements would only be allowed as part of an agreed order. All agreed orders are public documents.

2.10 Cease-and-Desist Orders

Agency Response

The Board supports recommendation 2.10. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

Other Response

For

Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel

Against

None received.

Modification

4. Authorize the Board to assess civil penalties as part of Recommendation 2.8 for the unauthorized practice of veterinary medicine through a “citation system,” in which the Board would use its administrative process to cite an individual for practicing without a license and assess a civil

penalty. The Board would be able to issue such a citation under its own authority, without the need for outside assistance, such as from the Attorney General, unless an individual contests the citation. (Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel)

2.11 Prioritization of Complaints

Agency Response

The Board currently operates under this policy, although it is not in rule. The average closing time for complaints is the Board's highest priority performance measure. The Board will put this priority into its rules. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

Other Responses

For

Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel

Julie Catalano, Member – American Society of Journalists and Authors; Founder – www.vetabusenetwork.com, San Antonio

Against

None received.

2.12 Public Access to Disciplinary Information

Agency Response

The Board has this information on its Web site and is in the process of improving the format. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

Other Responses

For

Julie Catalano, Member – American Society of Journalists and Authors; Founder – www.vetabusenetwork.com, San Antonio

Rita S. Agenstein, e-mail; Anne Lombardo Ardolino, New York; Barbara Bagley, Waco; Valine Bartlett, e-mail; Diana and Robert Bender, e-mail; K. Bennett, e-mail; Susan Blumert, e-mail; Candace Bradley, Louisville, KY; Susan Cannon, Ferris; Larry Dakin, e-mail; Nancy Deas, e-mail; Janet DeLuca, e-mail; Diane Gallagher, New York; Mary Gallatin, e-mail; Adelaida Hernandez, San Antonio; Carol Mahler, RN, San Antonio; Sharlene Marchese, e-mail; the Patrick family, e-mail; Dan Presswood, Boerne; Deborah Ramos, Austin; Linda Gómez Richter, San Antonio; Adam Riff, e-mail; Marcia Rosenberg, Mt. Pleasant, SC; Dina Walker, e-mail

Against

Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel

2.13 Public Information About Peer Assistance Program

Agency Response

The Board supports this recommendation and is in the process of posting this information on its Web site. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

Other Response

For

Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel

Against

None received.

Recommended Action: Adopt Recommendations 2.1 through 2.13 with Modification 2.

Commission Decision: Adopted Recommendations 2.1 through 2.13 with Modification 2.

Issue 3 Decide on Continuation of the Board After Completion of Sunset Reviews of Other Professional Licensing Agencies.

Recommendation

Licensing

Change in Statute

3.1 Decide on continuation of the Texas State Board of Veterinary Medical Examiners as a separate agency upon completion of upcoming Sunset reviews of other health-profession licensing agencies.

This recommendation would postpone the Sunset Commission’s decision on the status of the Board as a separate agency until completion of Sunset reviews of other health-profession licensing agencies being reviewed this biennium.

Fiscal Implication

This recommendation would not have a fiscal impact to the State.

Responses

Agency

The Board believes that the citizens of Texas and the veterinary community will best be served by maintaining the agency as a separate entity. It seems any reorganization of board operations among or within other agencies would be for the purpose of reducing costs and improving efficiencies. As an agency that is part of the Health Professions Council, the Board continues to find ways to improve efficiencies by collaborative arrangements between member boards. (Ron Allen, Executive Director – Texas State Board of Veterinary Medical Examiners)

For

None received.

Against

None received.

Modification

1. TVMA strongly believes that the Board should be continued, as the Board is more important to the public and the profession today than it has been at any time in its history. (Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel)

Recommended Action: None. The Sunset Commission already has decided to postpone action on the continuation of health licensing agencies until all such agencies have been reviewed.

Commission Decision: The Commission had already decided to postpone action on the continuation of all health licensing agencies until all such agencies have been reviewed.

ACROSS-THE-BOARD RECOMMENDATIONS

Texas State Board of Veterinary Medical Examiners	
Recommendations	Across-the-Board Provisions
Already in Statute	1. Require public membership on the agency's policymaking body.
Update	2. Require provisions relating to conflicts of interest.
Already in Statute	3. Require unbiased appointments to the agency's policymaking body.
Apply	4. Provide that the Governor designate the presiding officer of the policymaking body.
Update	5. Specify grounds for removal of a member of the policymaking body.
Update	6. Require training for members of the policymaking body.
Update	7. Require separation of policymaking and agency staff functions.
Already in Statute	8. Provide for public testimony at meetings of the policymaking body.
Update	9. Require information to be maintained on complaints.
Apply	10. Require the agency to use technology to increase public access.
Apply	11. Develop and use appropriate alternative rulemaking and dispute resolution procedures.

Recommended Action: Adopt staff recommendations.

Commission Decision: Adopted staff recommendations.

NEW ISSUES

New Issues

The following issues were raised in addition to the issues raised in the staff report. These issues are numbered sequentially to follow the staff's recommendations.

4. Remove the statutory requirement that a representative from the Attorney General's Office be present during informal proceedings, as the Board has a staff attorney that fills the need for legal representation. (Ron Allen, Executive Director – Texas State Board of Veterinary Medicine)
5. Clarify the definition of dentistry in the Veterinary Licensing Act as “any extraction or invasion of soft tissue.” (Ron Allen, Executive Director – Texas State Board of Veterinary Medicine)
6. Define the practice of dentistry as it relates to the practice of veterinary medicine to mean the application or use of any instrument or device to any portion of an animal's tooth, gum, or any related tissue for the prevention, cure or relief of any wound, fracture, injury, disease or other condition of an animal's tooth, gum or related tissue. Dentistry includes: (a) “Preventive dental procedures” including the removal of calculus, soft deposits, plaque, stains, and floating to shape the teeth above the gum line or the smoothing, filing or polishing of tooth surfaces above the gum line; and (b) “Operative dentistry/oral surgery” or any other dental procedure that invades the hard or soft oral tissue including, a procedure that alters the structure of one or more teeth or repairs damaged and diseased teeth, or the deliberate extraction of one or more teeth. (Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel)
7. Modify the Veterinary Licensing Act to address laypersons who work on the teeth of equines to include the following provisions.
 - a. Require laypersons to use the term “equine dental technician” or a similar term, as opposed to the term “equine dentist,” to differentiate between these individuals and licensed veterinarians.
 - b. Standardize education and training for laypersons.
 - c. Provide for licensure or registration of laypersons who work on the teeth of equines.
 - d. Require that layperson working on the teeth of equines be supervised by a licensed veterinarian. The level of supervision could be adjusted according to the difficulty of the procedures being performed.

(Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel)

8. Require unlicensed individuals working on the teeth of equines to work under the supervision of a licensed veterinarian. (Robert Clay Stubbs, DVM, owner – Stubbs Equine Dental Clinic)

Staff Comment: In public testimony, the following individuals addressed issues relating to the practice of equine dentistry and recommended that such issues be addressed in legislation separate from the Sunset process: Rick Bettes, owner – Bettes Acres Miniature Horses, Buda; Tony Greaves, owner – Little America Miniature Horses, Buda; Jan Nuckolls, owner – Wild Oak Miniature Horse Farm, Round Rock; Lara Riedinger, Weatherford; Randy Riedinger, Weatherford

9. Authorize Board investigators to be Commissioned Peace Officers for purposes of their duties under the Veterinary Medical Act to allow Board staff to take more effective action against illegal practice. (Ron Allen, Executive Director – Texas State Board of Veterinary Medicine)
10. Amend the Veterinary Licensing Act to clearly state that a human health-care provider or lay person, who diagnoses and/or treats an animal, is committing a Class A misdemeanor. (Ron Allen, Executive Director – Texas State Board of Veterinary Medicine)
11. Require a veterinarian’s history of complaints, not just those that resulted in disciplinary orders, to be made public. (Julie Catalano, Member – American Society of Journalists and Authors; Founder – www.vetabusenetwork.com, San Antonio)
12. Require the Board to disclose the licensee’s response to the complaint at the same time the agency receives it, before the settlement conference, since the burden of proof is placed on the complainant during that conference. (Julie Catalano, Member – American Society of Journalists and Authors; Founder – www.vetabusenetwork.com, San Antonio)
13. Clarify that *surgical* artificial insemination is the practice of veterinary medicine and is not an accepted livestock management technique that can be performed by non-licensees. (Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel)
14. Limit pregnancy testing in cows, including ultrasound and rectal palpation, and examinations for breeding soundness in bulls to licensed veterinarians when such status or breeding soundness is a condition of sale or change of ownership. (Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel)
15. Expand the definition of “alternative therapies” for which the Board must adopt rules to include acupuncture, and acupressure; massage therapy, and veterinary physical therapy. (Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel)
16. Specify that the venue for cases involving the unauthorized practice of veterinary medicine is Travis County. (Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel)
17. Clarify that to practice veterinary medicine, a veterinarian-client-patient relationship must be established and that a valid veterinarian-client-patient relationship cannot be established solely by telephonic or other electronic means. (Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel)
18. Clarify that it is not a violation of confidentiality provisions in the Veterinary Licensing Act for a veterinarian to divulge the name and address of the animal owner to any health authority, veterinarian, or physician who requests the identity of the client for purposes of obtaining the information to verify rabies vaccinations or other treatment involving life-threatening situations. (Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel)
19. Reduce the amount of time a veterinarian must hold abandoned animals before disposing of them from 12 days to 10 days. (Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel)

20. Provide an exemption from civil liability for any act or omission by a licensed veterinarian who in good faith renders or attempts to render emergency treatment to humans. (Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel)
21. Provide civil and criminal immunity to licensed veterinarians who, in good faith, report suspected cases of animal cruelty, as described by law, to the proper authorities. (Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel)
22. Authorize veterinarians to dispense veterinary legend drugs prescribed by other veterinarians so long as, during any year, the total drugs so dispensed do not constitute more than 5 percent of the total dosage units of legend drugs the veterinarian dispenses and the veterinarian maintains records of his or her dispensing activities consistent with board rules. A “veterinary legend drug” is a legend drug which is restricted to use by licensed veterinarians by any law or regulation of the federal government. (Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel)
23. Clarify regulatory requirements on releasing agencies, which include non-profit private and public animal shelters, pounds, and humane organizations, as follows.
 - a. Limit veterinary services to animals of low-income households for electronic identification, surgical sterilization, and vaccinations, and specify that these services must be provided by a veterinarian;
 - b. Authorize the Board to establish rules to allow releasing agencies to provide care on an emergency basis;
 - c. Require veterinarians and releasing agencies providing limited veterinarian services to be subject to laws and rules in the same fashion as any licensed veterinarian or veterinary medical facility in the state. Clarify that no individual associated with a releasing agency may impose conditions that interfere with the veterinarian’s professional judgment or infringe upon the use of the veterinarian’s professional skills;
 - d. Require releasing agencies to register with the Board; and
 - e. Require the Board to adopt rules to establish registration and registration renewal requirements, govern the purchase and use of drugs for the veterinary services authorized to be provided, and ensure that releasing agencies are in compliance with the law.

(Roland Lenarduzzi, DVM, President-Elect – Texas Veterinary Medical Association, Manvel)
24. Prohibit a veterinarian from misrepresenting the benefit of a vaccine, diagnostic test, or medical treatment, or from obtaining a fee from such a misrepresentation. (Bob Rogers, DVM, Spring)

Staff Comment: In written testimony, the Board and the Texas Veterinary Medical Association (TVMA) referred to guidelines from the American Veterinary Medical Association indicating that several factors besides the duration of immunity should be considered when establishing an optimal vaccination schedule. They further indicated that the Board already has regulations in place that address the issue through the Board’s complaint process and through standard of care language that is common to regulation of other health professions in Texas.

25. Require that for a continuing education course to be approved, all speakers at the course must reveal all financial ties to any and all products, manufacturers of products, or companies whose products are related to the topics to be discussed in the course, as well as agree that they are not influenced by any conflict of interest or other outside interest. (Bob Rogers, DVM, Spring)
26. Prohibit the Board from accepting continuing education courses that are promotional, where the course speaker is a paid employee of the company whose products are to be discussed, or where any conflict of interest or lack of impartiality on the part of the speaker or material to be presented may exist. Allow for exceptions to be made in the following situations:
- hands-on or wet lab instruction involving the instruction on the operation or administration of a product or device such as an ultrasound machine, laser surgery, orthopedic device, or endoscope instrument; and
 - seminar content is peer reviewed by three veterinarians who are current staff members of an AVMA-accredited College of Veterinary Medicine or are veterinarians certified by an AVMA-recognized specialty board in the field of the topic to be discussed.

(Bob Rogers, DVM, Spring)

Recommended Action: Staff made no recommendations on any of the new issues.

Commission Decision: The Commission did not adopt any of the new issues.