



TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

November 30, 2020

Ms. Jennifer Jones
Executive Director
Sunset Advisory Commission
P.O Box 13066
Austin, Texas 78711

Re: Sunset Staff Report on the Texas Board of Veterinary Medical Examiners

Dear Ms. Jones,

Thank you for the opportunity to respond to the Sunset Staff Report on the Texas Board of Veterinary Medical Examiners. We appreciate the professionalism of the project team and their willingness to look at our agency with an open mind, especially given the new and challenging circumstances we find ourselves in.

We feel that this report is an acknowledgement of the hard work and dedication that the staff and board have put into the agency in the three years between reviews. As is indicated in the report, the last review of this agency was far from positive. We would like to take this opportunity to share some of the encouraging changes that have occurred in the interim between reports.

The agency has an entirely new leadership team both at the board and agency level since the first review. That leadership team has implemented all of the 2016 report's recommendations. In addition, the new leadership team found further issues that were not addressed in the report and has set about to rectify them as well. With new leadership at the helm, the agency has experienced zero employee turnover in the last fiscal year. The results of these efforts are an agency that is remarkably more functional and responsive than it was just three years ago.

The agency has also reformed the way we view the inspection and regulatory processes. Rather than viewing these processes as merely punitive, the agency has shifted the focus to education and encouraging voluntary compliance of our regulations. For those cases where voluntary compliance is not appropriate, the agency has introduced a schedule of sanctions to ensure fair disciplinary action across complaints. This increase in fairness and transparency has allowed us to foster new and better relationships with a myriad of stakeholders across the state, including industry associations and state and federal agencies.

We concur with the report's findings that the agency's data, database and website is being improved upon. It is not for lack of priority that the agency's database has not been sufficiently upgraded or replaced. However, after facing vendor challenges in that area, the agency is on track to roll out a new fully functional database this year. The agency used existing funds for this project and didn't require any additional appropriations to cover the associated costs.

Due to the limited scope of the review, issues that have been identified by the agency staff in the last three years were not addressed in the Sunset Staff Report and we would like to bring some of those issues to the attention of the Commission.



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One of the biggest issues facing the agency is the practice of veterinary medicine without a license in the state. This is a serious issue that generates many complaints every year and has broader public health implications. However, the agency presently lacks the enforcement authority to stop this practice in any meaningful way. Currently, the agency can issue cease and desist orders and administrative fines up to \$1,000. Oftentimes, the agency cannot find these unlicensed practitioners or collect on those fees. While the practice of veterinary medicine without a license is a criminal offense, many local law enforcement agencies are unwilling or unable to pursue these cases. If the agency had the specific authority to seek injunctive relief, we could begin pursuing these cases knowing that we had the jurisdictional teeth to put a stop to this practice and better protect the public from unlicensed practitioners.

An issue the agency has identified internally is the length of time it takes to fully resolve a complaint. Currently, our statute requires that every single complaint received by the board must be investigated. This does not allow for any expedient way to dispose of non-jurisdictional complaints. Even a patently non-jurisdictional complaint must be run through the full process, which can take months. In addition, these non-jurisdictional complaints divert agency resources from investigation and enforcement of valid and germane complaints. Allowing the agency to dismiss meritless complaints after a preliminary review would speed up the resolution process and allow the agency to devote appropriate resources to viable complaints that are within the agency's jurisdiction.

An independent panel of medical reviewers would also help expedite our complaint resolution process. Currently, we rely on our veterinarian board members to perform the medical reviews on cases involving standard of care, the most commonly received category of complaint. The agency's budget does not allow for outside medical review in every case and is reserved for complex or specialized cases. Our board members are volunteers and do this work for the agency in addition to their regular board and professional duties. Sometimes it can take months for a board member to review a case and then they must recuse themselves from any further disciplinary action on that case. This process lengthens our complaint resolution time and removes board members from weighing in on disciplinary matters. An independent panel would help alleviate backlog and allow board members to perform their duties and fully participate in the disciplinary process.

Another way to speed up the complaint resolution process would be to grant the agency the authority to dismiss complaints at a few key points in the complaint life cycle. Under our current statute, all complaints received must be finally disposed of by the Board in a public meeting, including all dismissals. In a normal year, the board convenes quarterly. This means that dismissed cases can sit around for up to three months awaiting public board action, which bogs down the complaint pipeline and elongates our average time for resolution. If the agency could directly dismiss cases at the medical review level and at the staff or informal conference level, we would be able to clear non-violation cases that much faster. This would free up the necessary resources to adequately investigate and prosecute those that do pose a danger to the public.

The agency has five investigators in the field across the state to investigate complaints and conduct random and risk-based inspections of licensees. We have over 11,000 licensees that require random inspections at regular intervals to ensure compliance with the Board's rules. Inspections are also the primary mechanism of the agency to monitor the proper prescribing and dispensing of controlled substances, which has been a major concern of the Legislature over the last few years. Increasing the



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funding and resources for our investigative and inspection efforts would help the agency independently identify licensees that pose risks to the public rather than relying on complaints.

We want to thank you again for the opportunity to provide comments on the Sunset Commission Staff Report on the Texas Board of Veterinary Medical Examiners. TBVME looks forward to working with you, your team, the Sunset Advisory Commission, and the Texas Legislature throughout this process. Thank you for the consideration.

Sincerely,

Jessica Quillivan, DVM

Jessica Quillivan, DVM
Chair

A handwritten signature in black ink, appearing to read "John Helenberg".

John Helenberg
Executive Director