

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/26/17
Date

Honorable Dan Patrick
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 319 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Phil Watson

L.H. Penn Raymond
Raymond

J. J. Hing

Geoffronia Thompson
Geoffronia

Van Taylor

Cinda Buehler

Robert Nichols

Clark DeArden

Chuk Perry
On the part of the Senate

Thompson
On the part of the House Thompson

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 319

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation and functions of the State Board of
3 Veterinary Medical Examiners; authorizing a reduction in fees;
4 providing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 826.042, Health and Safety Code, is
7 amended by adding Subsections (f) and (g) to read as follows:

8 (f) At the time an owner submits for quarantine an animal
9 described by Subsection (b), the veterinarian or local rabies
10 control authority, as applicable, shall:

11 (1) provide written notification to the animal's owner
12 of the date the animal enters quarantine and the date the animal
13 will be released from quarantine;

14 (2) obtain and retain with the animal's records a
15 written statement signed by the animal's owner and a supervisor
16 employed by the veterinarian or local rabies control authority
17 acknowledging that the information required by Subdivision (1) has
18 been provided to the animal's owner; and

19 (3) provide the animal's owner a copy of the signed
20 written statement obtained under Subdivision (2).

21 (g) A veterinarian or local rabies control authority, as
22 applicable, shall identify each animal quarantined under this
23 section with a placard or other marking on the animal's kennel that
24 indicates the animal is quarantined under this section.

1 SECTION 2. Section 826.043, Health and Safety Code, is
2 amended by amending Subsection (d) and adding Subsection (e) to
3 read as follows:

4 (d) Except as provided by Subsection (e), the [~~The~~]
5 veterinarian or local rabies control authority may sell the animal
6 and retain the proceeds or keep, grant, or destroy an animal if the
7 owner or custodian does not take possession of the animal before the
8 fourth day following the final day of the quarantine period.

9 (e) A veterinarian or local rabies control authority may not
10 destroy an animal following the final day of the quarantine period
11 unless the veterinarian or local rabies control authority has
12 notified the animal's owner, if available, of the animal's
13 scheduled destruction.

14 SECTION 3. Section 801.003, Occupations Code, is amended to
15 read as follows:

16 Sec. 801.003. APPLICATION OF SUNSET ACT. The State Board of
17 Veterinary Medical Examiners is subject to Chapter 325, Government
18 Code (Texas Sunset Act). Unless continued in existence as provided
19 by that chapter, the board is abolished and this chapter expires
20 September 1, 2021 [2017].

21 SECTION 4. Section 801.004, Occupations Code, is amended to
22 read as follows:

23 Sec. 801.004. APPLICATION OF CHAPTER. This chapter does
24 not apply to:

25 (1) the treatment or care of an animal in any manner by
26 the owner of the animal, an employee of the owner, or a designated
27 caretaker of the animal, unless the ownership, employment, or

1 designation is established with the intent to violate this chapter;

2 (2) a person who performs an act prescribed by the
3 board as an accepted livestock management practice, including:

4 (A) castrating a male animal raised for human
5 consumption;

6 (B) docking or earmarking an animal raised for
7 human consumption;

8 (C) dehorning cattle;

9 (D) aiding in the nonsurgical birth process of a
10 large animal, as defined by board rule;

11 (E) treating an animal for disease prevention
12 with a nonprescription medicine or vaccine;

13 (F) branding or identifying an animal in any
14 manner;

15 (G) artificially inseminating an animal,
16 including training, inseminating, and compensating for services
17 related to artificial insemination; and

18 (H) shoeing a horse;

19 (3) the performance of a cosmetic or production
20 technique to reduce injury in poultry intended for human
21 consumption;

22 (4) the performance of a duty by a veterinarian's
23 employee if:

24 (A) the duty involves food production animals;

25 (B) the duty does not involve diagnosis,
26 prescription, or surgery;

27 (C) the employee is under the direction and

1 general supervision of the veterinarian; and

2 (D) the veterinarian is responsible for the
3 employee's performance;

4 (5) the performance of an act by a person who is a
5 full-time student of an accredited college of veterinary medicine
6 if the act is performed under the direct supervision of a
7 veterinarian;

8 (6) an animal shelter employee who performs euthanasia
9 in the course and scope of the person's employment if the person has
10 successfully completed training in accordance with Chapter 829,
11 Health and Safety Code;

12 (7) a person who is engaged in a recognized
13 state-federal cooperative disease eradication or control program
14 or an external parasite control program while the person is
15 performing official duties required by the program;

16 (8) a person who, without expectation of compensation,
17 provides emergency care in an emergency or disaster; ~~[or]~~

18 (9) a consultation given to a veterinarian in this
19 state by a person who:

20 (A) resides in another state; and

21 (B) is lawfully qualified to practice veterinary
22 medicine under the laws of that state; or

23 (10) a licensed health care professional who, without
24 expectation of compensation and under the direct supervision of a
25 veterinarian on staff, provides treatment or care to an animal
26 owned by or in the possession, control, or custody of an entity
27 accredited by the Association of Zoos and Aquariums or one of the

1 following organizations that has a veterinarian on staff:

2 (A) the Global Federation of Animal Sanctuaries;

3 or

4 (B) the Zoological Association of America.

5 SECTION 5. Section 801.051(a), Occupations Code, is amended
6 to read as follows:

7 (a) The State Board of Veterinary Medical Examiners
8 consists of nine members appointed by the governor with the advice
9 and consent of the senate as follows:

10 (1) five [six] veterinarian members, including:

11 (A) one veterinarian member who is associated
12 with an animal shelter; and

13 (B) one veterinarian member who has at least
14 three years of experience practicing veterinary medicine in this
15 state on horses, livestock, or other large animals; [and]

16 (2) one licensed veterinary technician member; and

17 (3) three members who represent the public.

18 SECTION 6. Section 801.057, Occupations Code, is amended by
19 amending Subsection (b) and adding Subsection (d) to read as
20 follows:

21 (b) The training program must provide the person with
22 information regarding:

23 (1) the law governing board operations;

24 (2) the [legislation that created the board and the
25 board's] programs, functions, rules, and budget of the board;

26 (3) the scope of and limitations on the rulemaking
27 authority of the board;

1 (4) the types of board rules, interpretations, and
2 enforcement actions that may implicate federal antitrust law by
3 limiting competition or impacting prices charged by persons engaged
4 in a profession or business the board regulates, including rules,
5 interpretations, and enforcement actions that:

6 (A) regulate the scope of practice of persons in
7 a profession or business the board regulates;

8 (B) restrict advertising by persons in a
9 profession or business the board regulates;

10 (C) affect the price of goods or services
11 provided by persons in a profession or business the board
12 regulates; or

13 (D) restrict participation in a profession or
14 business the board regulates;

15 (5) [~~+2~~] the results of the most recent formal audit
16 of the board;

17 (6) [~~+3~~] the requirements of:

18 (A) laws relating to open meetings, public
19 information, administrative procedure, and disclosing conflicts of
20 interest; and

21 (B) other laws applicable to members of the board
22 in performing their duties; and

23 (7) [~~+4~~] any applicable ethics policies adopted by
24 the board or the Texas Ethics Commission.

25 (d) The executive director of the board shall create a
26 training manual that includes the information required by
27 Subsection (b). The executive director shall distribute a copy of

1 the training manual annually to each board member. On receipt of
2 the training manual, each board member shall sign and submit to the
3 executive director a statement acknowledging receipt of the
4 training manual.

5 SECTION 7. Section 801.154, Occupations Code, is amended to
6 read as follows:

7 Sec. 801.154. FEES. [~~a~~] The board by rule shall set fees
8 in amounts that are reasonable and necessary so that the fees, in
9 the aggregate, cover the costs of administering this chapter. [~~The~~
10 ~~board may not set a fee that existed on September 1, 1993, in an~~
11 ~~amount that is less than the fee on that date.~~]

12 SECTION 8. Subchapter D, Chapter 801, Occupations Code, is
13 amended by adding Section 801.164 to read as follows:

14 Sec. 801.164. RISK-BASED INSPECTIONS RELATED TO CONTROLLED
15 SUBSTANCES PRACTICES. The board may conduct a risk-based
16 inspection of a veterinarian's practice based on information
17 obtained from the veterinarian or another source concerning the
18 veterinarian's use, handling, prescribing, dispensing, or delivery
19 of controlled substances.

20 SECTION 9. Section 801.205, Occupations Code, is amended to
21 read as follows:

22 Sec. 801.205. GENERAL RULES REGARDING COMPLAINT
23 INVESTIGATION AND DISPOSITION. The board shall adopt rules
24 relating to the investigation of complaints filed with the board.
25 The rules must:

- 26 (1) distinguish between categories of complaints;
27 (2) ensure that complaints are not dismissed without

1 appropriate consideration;

2 (3) require that the board be advised of a complaint
3 that is dismissed [~~and that a written explanation be given to the~~
4 ~~person who filed the complaint explaining the action taken on the~~
5 ~~dismissed complaint~~];

6 (4) ensure that the person who filed the complaint has
7 the opportunity to explain the allegations made in the complaint;
8 and

9 (5) prescribe guidelines concerning the categories of
10 complaints that require the use of a private investigator and the
11 procedures for the board to obtain the services of a private
12 investigator.

13 SECTION 10. Section 801.2055, Occupations Code, is amended
14 to read as follows:

15 Sec. 801.2055. COMPLAINTS REQUIRING MEDICAL EXPERTISE.

16 (a) A complaint that requires medical expertise to review must be
17 reviewed by one [~~two~~] or more veterinarians designated by the
18 [~~veterinarian~~] board [~~members~~]. The veterinarian reviewers [~~board~~
19 ~~members~~] shall determine whether to dismiss the complaint or refer
20 it to an informal proceeding under Section 801.408.

21 (b) If the veterinarian reviewers determine to:

22 (1) dismiss the complaint, the dismissal must be
23 approved by the board at a public meeting; or

24 (2) refer the complaint to an informal proceeding, the
25 complaint is referred to an informal proceeding under Section
26 801.408.

27 (c) If the board designates more than one veterinarian

1 reviewer and the reviewers [~~members~~] do not agree to dismiss or
2 refer the complaint to an informal proceeding, the complaint is
3 referred to an informal proceeding under Section 801.408.

4 (d) A veterinarian board member who reviews a complaint
5 under this section may not participate in any subsequent
6 disciplinary proceeding related to the complaint.

7 SECTION 11. Section 801.207, Occupations Code, is amended
8 by amending Subsection (b) and adding Subsections (c), (d), and (e)
9 to read as follows:

10 (b) Each complaint, investigation file and record, and
11 other investigation report and all other investigative information
12 in the possession of or received or gathered by the board or the
13 board's employees or agents relating to a license holder, an
14 application for license, or a criminal investigation or proceeding
15 is privileged and confidential and is not subject to discovery,
16 subpoena, or other means of legal compulsion for release to anyone
17 other than the board or the board's employees or agents involved in
18 discipline of a license holder [~~An investigation record of the~~
19 ~~board, including a record relating to a complaint that is found to~~
20 ~~be groundless, is confidential)].~~

21 (c) The board shall protect the identity of a complainant to
22 the extent possible.

23 (d) Not later than the 30th day after the date of receipt of
24 a written request from a license holder who is the subject of a
25 formal complaint initiated and filed under this subchapter or from
26 the license holder's counsel of record, and subject to any other
27 privilege or restriction set forth by rule, statute, or legal

1 precedent, and unless good cause is shown for delay, the board shall
2 provide the license holder with access to all information in its
3 possession that the board intends to offer into evidence in
4 presenting its case in chief at the contested hearing on the
5 complaint. The board is not required to provide:

- 6 (1) a board investigative report or memorandum;
7 (2) the identity of a nontestifying complainant; or
8 (3) attorney-client communications, attorney work
9 product, or other materials covered by a privilege recognized by
10 the Texas Rules of Civil Procedure or the Texas Rules of Evidence.

11 (e) Furnishing information under Subsection (d) does not
12 constitute a waiver of privilege or confidentiality under this
13 chapter or other applicable law.

14 SECTION 12. Subchapter E, Chapter 801, Occupations Code, is
15 amended by adding Section 801.208 to read as follows:

16 Sec. 801.208. NOTIFICATION TO COMPLAINANT REGARDING
17 COMPLAINT DISPOSITION. (a) The board shall promptly notify a
18 complainant of the final disposition of the complaint, including
19 notice:

- 20 (1) that the complaint was dismissed;
21 (2) that a penalty, disciplinary action, or other
22 sanction was imposed; or
23 (3) that the complaint was disposed of in another
24 manner and the nature of that disposition.

25 (b) The board shall include with the notification a copy of
26 any public sanction imposed by the board.

27 (c) The board shall include in the notification an

1 explanation of each reason for the disposition, including, as
2 applicable, in plain, easily understandable language, each reason
3 the conduct alleged in the complaint did or did not constitute
4 grounds for the imposition of a penalty, disciplinary action, or
5 other sanction.

6 (d) The notification may not include information that is
7 confidential under Section 801.207(b).

8 SECTION 13. Subchapter E, Chapter 801, Occupations Code, is
9 amended by adding Section 801.209 to read as follows:

10 Sec. 801.209. REQUIREMENTS FOR CERTAIN COMPLAINTS. (a) In
11 this section:

12 (1) "Anonymous complaint" means a complaint that lacks
13 sufficient information to identify the source or the name of the
14 person who filed the complaint.

15 (2) "Insurance professional" means a person licensed
16 under Title 13, Insurance Code.

17 (3) "Insurer" means an insurance company or other
18 entity authorized to engage in the business of insurance under
19 Title 6, Insurance Code.

20 (b) The board may not accept anonymous complaints.

21 (c) Notwithstanding any confidentiality requirements under
22 Chapter 552, Government Code, or this chapter, a complaint filed
23 with the board against a license holder by a pharmaceutical company
24 or by an insurance professional or insurer relating to insurance
25 covering veterinary services must include the name and address of
26 the pharmaceutical company, insurance professional, or insurer
27 filing the complaint. Not later than the 15th day after the date

1 the complaint is filed with the board, the board shall notify the
2 license holder who is the subject of the complaint of the name and
3 address of the pharmaceutical company, insurance professional, or
4 insurer who filed the complaint, unless the notice would jeopardize
5 an investigation.

6 SECTION 14. Subchapter F, Chapter 801, Occupations Code, is
7 amended by adding Section 801.267 to read as follows:

8 Sec. 801.267. CRIMINAL HISTORY RECORD INFORMATION FOR
9 LICENSE ISSUANCE. (a) The board shall require that an applicant
10 for a license submit a complete and legible set of fingerprints, on
11 a form prescribed by the board, to the board or to the Department of
12 Public Safety for the purpose of obtaining criminal history record
13 information from the Department of Public Safety and the Federal
14 Bureau of Investigation.

15 (b) The board may not issue a license to a person who does
16 not comply with the requirement of Subsection (a).

17 (c) The board shall conduct a criminal history record
18 information check of each applicant for a license using
19 information:

20 (1) provided by the individual under this section; and

21 (2) made available to the board by the Department of
22 Public Safety, the Federal Bureau of Investigation, and any other
23 criminal justice agency under Chapter 411, Government Code.

24 (d) The board may:

25 (1) enter into an agreement with the Department of
26 Public Safety to administer a criminal history record information
27 check required under this section; and

1 (2) authorize the Department of Public Safety to
2 collect from each applicant the costs incurred by the Department of
3 Public Safety in conducting the criminal history record information
4 check.

5 SECTION 15. Section 801.301, Occupations Code, is amended
6 to read as follows:

7 Sec. 801.301. LICENSE TERM AND ~~[ANNUAL]~~ RENEWAL ~~[REQUIRED]~~.

8 (a) The board shall provide:

9 (1) that each type of license under this chapter is
10 valid for a term of one year or two years; and

11 (2) for the ~~[annual]~~ renewal of a license.

12 (b) The board by rule may adopt a system under which
13 licenses expire on various dates during the year.

14 (c) For a year in which the license expiration date is
15 changed, the board shall prorate license fees ~~[payable on March 1~~
16 ~~shall be prorated]~~ on a monthly basis so that each license holder
17 pays only that portion of the fee that is allocable to the number of
18 months during which the license is valid. On renewal of the license
19 on the new expiration date, the total license renewal fee is
20 payable.

21 SECTION 16. Section 801.306, Occupations Code, is amended
22 to read as follows:

23 Sec. 801.306. INACTIVE STATUS. The board by rule may
24 provide for the placement of a license holder on inactive status.
25 The rules adopted under this section may not ~~[must]~~ include a limit
26 on the time a license holder may remain on inactive status.

27 SECTION 17. Sections 801.307(b) and (c), Occupations Code,

1 are amended to read as follows:

2 (b) The board may:

3 (1) establish general categories of continuing
4 education that meet the needs of license holders; ~~and~~

5 (2) require a license holder to successfully complete
6 continuing education courses; and

7 (3) for a license valid for two years, provide a one
8 year or two year period for the completion of continuing education.

9 (c) The board may require a license holder who does not
10 complete the required number of hours of continuing education in a
11 period [year] to make up the missed hours in a later period [years].
12 Hours required to be made up in a later period [year] are in
13 addition to the hours normally required to be completed in that
14 period [year].

15 SECTION 18. Subchapter G, Chapter 801, Occupations Code, is
16 amended by adding Section 801.309 to read as follows:

17 Sec. 801.309. CRIMINAL HISTORY RECORD INFORMATION
18 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a
19 license issued under this chapter shall submit a complete and
20 legible set of fingerprints for purposes of performing a criminal
21 history record information check of the applicant as provided by
22 Section 801.267.

23 (b) The board may administratively suspend or refuse to
24 renew the license of a person who does not comply with the
25 requirement of Subsection (a).

26 (c) A license holder is not required to submit fingerprints
27 under this section for the renewal of the license if the license

1 holder has previously submitted fingerprints under:

2 (1) Section 801.267 for the initial issuance of the
3 license; or

4 (2) this section as part of a prior license renewal.

5 SECTION 19. The heading to Section 801.407, Occupations
6 Code, is amended to read as follows:

7 Sec. 801.407. RIGHT TO HEARING[~~, SCHEDULE OF SANCTIONS~~].

8 SECTION 20. Section 801.407(c), Occupations Code, is
9 amended to read as follows:

10 (c) The State Office of Administrative Hearings shall use
11 the schedule of sanctions under Section 801.411 [~~adopted by board~~
12 ~~rule~~] for any sanction imposed as the result of a hearing conducted
13 by that office.

14 SECTION 21. Subchapter I, Chapter 801, Occupations Code, is
15 amended by adding Section 801.411 to read as follows:

16 Sec. 801.411. SCHEDULE OF SANCTIONS. (a) The board by
17 rule shall adopt a schedule of penalties, disciplinary actions, and
18 other sanctions that the board may impose under this chapter.

19 (b) In adopting the schedule of sanctions under Subsection
20 (a), the board shall ensure that the severity of the sanction
21 imposed is appropriate to the type of violation or conduct that is
22 the basis for disciplinary action. The schedule must provide that
23 the type of disciplinary action or other sanction and the amount of
24 a penalty imposed under this chapter must be based on:

25 (1) the seriousness of the violation, including:

26 (A) the nature, circumstances, extent, and
27 gravity of any prohibited act; and

1 (B) the hazard or potential hazard created to the
2 health, safety, or economic welfare of the public;

3 (2) the economic harm to property or the environment
4 caused by the violation;

5 (3) the history of previous violations;

6 (4) the amount of penalty or type of disciplinary
7 action or sanction necessary to deter a future violation;

8 (5) efforts to correct the violation; and

9 (6) any other matter that justice may require.

10 SECTION 22. Sections 801.452(b) and (c), Occupations Code,
11 are amended to read as follows:

12 (b) The amount of the penalty shall be based on the schedule
13 of sanctions adopted under Section 801.411[+]

14 [~~(1) the seriousness of the violation, including:~~

15 [~~(A) the nature, circumstances, extent, and~~
16 ~~gravity of any prohibited act; and~~

17 [~~(B) the hazard or potential hazard created to~~
18 ~~the health, safety, or economic welfare of the public;~~

19 [~~(2) the economic harm to property or the environment~~
20 ~~caused by the violation;~~

21 [~~(3) the history of previous violations;~~

22 [~~(4) the amount necessary to deter a future violation;~~

23 [~~(5) efforts to correct the violation; and~~

24 [~~(6) any other matter that justice may require].~~

25 (c) A committee described by Section 801.408(c) or (d) shall
26 recommend the amount of the administrative penalty based on the
27 schedule of sanctions adopted under Section 801.411 [~~a standardized~~

1 ~~penalty schedule. The board by rule shall develop the standardized~~
2 ~~penalty schedule based on the criteria listed in Subsection (b)].~~

3 SECTION 23. Subchapter K, Chapter 801, Occupations Code, is
4 amended by adding Section 801.5011 to read as follows:

5 Sec. 801.5011. MONITORING HARMFUL PRESCRIBING AND
6 DISPENSING PATTERNS. (a) The board shall periodically check the
7 prescribing and dispensing information submitted to the Texas State
8 Board of Pharmacy as authorized by Section 481.076(a)(1), Health
9 and Safety Code, to determine whether a veterinarian is engaging in
10 potentially harmful prescribing or dispensing patterns or
11 practices.

12 (b) The board, in coordination with the Texas State Board of
13 Pharmacy, shall determine the conduct that constitutes a
14 potentially harmful prescribing or dispensing pattern or practice
15 for purposes of Subsection (a). In determining the conduct that
16 constitutes a potentially harmful prescribing or dispensing
17 pattern or practice, the board, at a minimum, shall consider:

18 (1) the number of times a veterinarian prescribes or
19 dispenses:

20 (A) opioids;

21 (B) benzodiazepines;

22 (C) barbiturates; or

23 (D) carisoprodol; and

24 (2) for prescriptions and dispensations described by
25 Subdivision (1), patterns of prescribing or dispensing
26 combinations of those drugs and other dangerous combinations of
27 drugs identified by the board.

1 (c) If the board suspects that a veterinarian may be
2 engaging in potentially harmful prescribing or dispensing patterns
3 or practices, the board may notify the veterinarian of the
4 potentially harmful prescribing or dispensing pattern or practice.

5 (d) The board may initiate a complaint against a
6 veterinarian based on information obtained under this section.

7 SECTION 24. (a) For purposes of Section 801.003,
8 Occupations Code, as amended by this Act, the Sunset Advisory
9 Commission shall conduct a special-purpose review of the State
10 Board of Veterinary Medical Examiners for the 87th Legislature.

11 (b) In conducting the special-purpose review under this
12 section:

13 (1) the Sunset Advisory Commission staff evaluation
14 and report must be limited to reviewing the effectiveness of
15 recommendations made by the Sunset Advisory Commission to the 85th
16 Legislature; and

17 (2) the Sunset Advisory Commission's recommendations
18 to the 87th Legislature may include any recommendation the
19 commission considers appropriate based on the special-purpose
20 review.

21 SECTION 25. (a) The changes in law made by this Act to
22 Section 801.051(a), Occupations Code, do not affect the entitlement
23 of a member serving on the State Board of Veterinary Medical
24 Examiners immediately before the effective date of this Act to
25 continue to serve for the remainder of the member's term. As the
26 terms of board members expire, the governor shall appoint or
27 reappoint members who have the qualifications required for members

1 under Section 801.051, Occupations Code, as amended by this Act.

2 (b) In making appointments under Section 801.051(a),
3 Occupations Code, as amended by this Act, the governor may not
4 appoint a veterinarian member who is not described by Section
5 801.051(a)(1)(A) or (B) unless one member described by Section
6 801.051(a)(1)(A), one member described by Section
7 801.051(a)(1)(B), and one member described by Section
8 801.051(a)(2) have been appointed to or are serving on the State
9 Board of Veterinary Medical Examiners. This subsection does not
10 apply after the first date on which one member described by Section
11 801.051(a)(1)(A), one member described by Section
12 801.051(a)(1)(B), and one member described by Section
13 801.051(a)(2) are serving on the board.

14 SECTION 26. (a) Except as provided by Subsection (b) of
15 this section, Section 801.057, Occupations Code, as amended by this
16 Act, applies to a member of the State Board of Veterinary Medical
17 Examiners appointed before, on, or after the effective date of this
18 Act.

19 (b) A member of the State Board of Veterinary Medical
20 Examiners who, before the effective date of this Act, completed the
21 training program required by Section 801.057, Occupations Code, as
22 that law existed before the effective date of this Act, is only
23 required to complete additional training on the subjects added by
24 this Act to the training program required by Section 801.057,
25 Occupations Code. A board member described by this subsection may
26 not vote, deliberate, or be counted as a member in attendance at a
27 meeting of the board held on or after December 1, 2017, until the

1 member completes the additional training.

2 SECTION 27. (a) The following changes in law apply only to
3 a complaint filed with the State Board of Veterinary Medical
4 Examiners on or after the effective date of this Act:

5 (1) Section 801.205, Occupations Code, as amended by
6 this Act;

7 (2) Section 801.2055, Occupations Code, as amended by
8 this Act;

9 (3) Section 801.207(b), Occupations Code, as amended
10 by this Act, and Sections 801.207(c), (d), and (e), Occupations
11 Code, as added by this Act;

12 (4) Section 801.208, Occupations Code, as added by
13 this Act; and

14 (5) Section 801.209, Occupations Code, as added by
15 this Act.

16 (b) A complaint filed before the effective date of this Act
17 is governed by the law in effect on the date the complaint was
18 filed, and the former law is continued in effect for that purpose.

19 SECTION 28. Sections 801.267 and 801.309, Occupations Code,
20 as added by this Act, apply only to an application for the issuance
21 or renewal of a license submitted to the State Board of Veterinary
22 Medical Examiners on or after the effective date of this Act. An
23 application submitted before the effective date of this Act is
24 governed by the law in effect on the date the application was
25 submitted, and the former law is continued in effect for that
26 purpose.

27 SECTION 29. Sections 801.407(c) and 801.452(b) and (c),

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1 Occupations Code, as amended by this Act, and Section 801.411,
2 Occupations Code, as added by this Act, apply only to conduct that
3 occurs on or after the date that rules under Section 801.411 become
4 effective. Conduct that occurs before that date is governed by the
5 law in effect immediately before the effective date of this Act, and
6 the former law is continued in effect for that purpose.

7 SECTION 30. This Act takes effect September 1, 2017.

Senate Bill 319
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION (IE)

CONFERENCE

No equivalent provision.

SECTION __. Section 826.042, Health and Safety Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) At the time an owner submits for quarantine an animal described by Subsection (b), the veterinarian or local rabies control authority, as applicable, shall:

(1) provide written notification to the animal's owner of the date the animal enters quarantine and the date the animal will be released from quarantine;

(2) obtain and retain with the animal's records a written statement signed by the animal's owner and a supervisor employed by the veterinarian or local rabies control authority acknowledging that the information required by Subdivision (1) has been provided to the animal's owner; and

(3) provide the animal's owner a copy of the signed written statement obtained under Subdivision (2). [FA5]

(g) A veterinarian or local rabies control authority, as applicable, shall identify each animal quarantined under this section with a placard or other marking on the animal's kennel that indicates the animal is quarantined under this section. [FA5,FA6(1)-(2)]

SECTION 1. Same as House version

No equivalent provision.

SECTION __. Section 826.043, Health and Safety Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) Except as provided by Subsection (e), the ~~The~~ veterinarian or local rabies control authority may sell the animal and retain the proceeds or keep, grant, or destroy an animal if the owner or custodian does not take possession of the animal before the fourth day following the final day of the quarantine period. [FA5]

(e) A veterinarian or local rabies control authority may not

SECTION 2. Same as House version.

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destroy an animal following the final day of the quarantine period unless the veterinarian or local rabies control authority has notified the animal's owner, if available, of the animal's scheduled destruction. [FA5,FA6(3)]

SECTION 1. Section 801.003, Occupations Code, is amended.

SECTION 1. Same as Senate version.

SECTION 3. Same as Senate version.

No equivalent provision.

SECTION __. Section 801.004, Occupations Code, is amended to read as follows:

SECTION 4. Same as House version.

Sec. 801.004. APPLICATION OF CHAPTER. This chapter does not apply to:

- (1) the treatment or care of an animal in any manner by the owner of the animal, an employee of the owner, or a designated caretaker of the animal, unless the ownership, employment, or designation is established with the intent to violate this chapter;
- (2) a person who performs an act prescribed by the board as an accepted livestock management practice, including:
 - (A) castrating a male animal raised for human consumption;
 - (B) docking or earmarking an animal raised for human consumption;
 - (C) dehorning cattle;
 - (D) aiding in the nonsurgical birth process of a large animal, as defined by board rule;
 - (E) treating an animal for disease prevention with a nonprescription medicine or vaccine;
 - (F) branding or identifying an animal in any manner;
 - (G) artificially inseminating an animal, including training, inseminating, and compensating for services related to

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artificial insemination; and
(H) shoeing a horse;
(3) the performance of a cosmetic or production technique to reduce injury in poultry intended for human consumption;
(4) the performance of a duty by a veterinarian's employee if:
(A) the duty involves food production animals;
(B) the duty does not involve diagnosis, prescription, or surgery;
(C) the employee is under the direction and general supervision of the veterinarian; and
(D) the veterinarian is responsible for the employee's performance;
(5) the performance of an act by a person who is a full-time student of an accredited college of veterinary medicine if the act is performed under the direct supervision of a veterinarian;
(6) an animal shelter employee who performs euthanasia in the course and scope of the person's employment if the person has successfully completed training in accordance with Chapter 829, Health and Safety Code;
(7) a person who is engaged in a recognized state-federal cooperative disease eradication or control program or an external parasite control program while the person is performing official duties required by the program;
(8) a person who, without expectation of compensation, provides emergency care in an emergency or disaster; ~~[øf]~~
(9) a consultation given to a veterinarian in this state by a person who:
(A) resides in another state; and
(B) is lawfully qualified to practice veterinary medicine under the laws of that state; or [FA8]
(10) a licensed health care professional who, without expectation of compensation and under the direct supervision

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of a veterinarian on staff, provides treatment or care to an animal owned by or in the possession, control, or custody of an entity accredited by the Association of Zoos and Aquariums or one of the following organizations that has a veterinarian on staff:
(A) the Global Federation of Animal Sanctuaries; or
(B) the Zoological Association of America. [FA8,FA11(1)-(2)]

SECTIONS 2-10. Section 801.051(a); Section 801.057; Section 801.154; Subchapter D, Chapter 801; Section 801.205; Section 801.2055; Section 801.207; and Subchapter E, Chapter 801, Occupations Code, are amended.

SECTIONS 2-10. Same as Senate version.

SECTIONS 5-13. Same as Senate version.

SECTION 11. Subchapter F, Chapter 801, Occupations Code, is amended by adding Section 801.267 to read as follows:

Sec. 801.267. CRIMINAL HISTORY RECORD INFORMATION FOR LICENSE ISSUANCE. (a) The board shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the board, to the board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The board may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The board shall conduct a criminal history record information check of each applicant for a license using information:

(1) provided by the individual under this section; and

No equivalent provision. [Deleted by FA4(1)]

SECTION 14. Same as Senate version.

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(2) made available to the board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The board may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history record information check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history record information check.

SECTION 12. Section 801.301, Occupations Code, is amended.

SECTION 12. Same as Senate version.

SECTION 15. Same as Senate version.

SECTION 13. Section 801.306, Occupations Code, is amended to read as follows:

Sec. 801.306. INACTIVE STATUS. The board by rule may provide for the placement of a license holder on inactive status. ~~*[The rules adopted under this section must include a limit on the time a license holder may remain on inactive status.]*~~

SECTION 13. Section 801.306, Occupations Code, is amended to read as follows:

Sec. 801.306. INACTIVE STATUS. The board by rule may provide for the placement of a license holder on inactive status. *The rules adopted under this section ~~must~~ shall not include a limit on the time a license holder may remain on inactive status.* [FA1]

SECTION 16. Substantially the same as House version.

SECTION 14. Sections 801.307(b) and (c), Occupations Code, are amended.

SECTION 14. Same as Senate version.

SECTION 17. Same as Senate version.

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SECTION 15. Subchapter G, Chapter 801, Occupations Code, is amended by adding Section 801.309 to read as follows:

Sec. 801.309. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a license issued under this chapter shall submit a complete and legible set of fingerprints for purposes of performing a criminal history record information check of the applicant as provided by Section 801.267.

(b) The board may administratively suspend or refuse to renew the license of a person who does not comply with the requirement of Subsection (a).

(c) A license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under:

- (1) Section 801.267 for the initial issuance of the license; or
- (2) this section as part of a prior license renewal.

SECTIONS 16-20. The heading to Section 801.407; Section 801.407(c); Subchapter I, Chapter 801; Sections 801.452(b) and (c); and Subchapter K, Chapter 801, Occupations Code, are amended.

SECTION 21. Procedural provision relating to a requirement for the Sunset Advisory Commission to conduct a special-purpose review of the State Board of Veterinary Medical Examiners for the 87th Legislature.

No equivalent provision. [Deleted by FA4(2)]

SECTION 18. Same as Senate version.

SECTIONS 16-20. Same as Senate version.

SECTIONS 19-23. Same as Senate version.

SECTION 21. Same as Senate version.

SECTION 24. Same as Senate version.

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SECTION 22. Transition provision.	SECTION 22. Same as Senate version.	SECTION 25. Same as Senate version.
SECTION 23. Transition provision.	SECTION 23. Same as Senate version.	SECTION 26. Same as Senate version.
SECTION 24. Saving provision.	SECTION 24. Same as Senate version.	SECTION 27. Same as Senate version.
SECTION 25. Sections 801.267 and 801.309, Occupations Code, as added by this Act, apply only to an application for the issuance or renewal of a license submitted to the State Board of Veterinary Medical Examiners on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.	<i>No equivalent provision.</i> [Deleted by FA4(3)]	SECTION 28. Same as Senate version.
SECTION 26. Saving provision.	SECTION 26. Same as Senate version.	SECTION 29. Same as Senate version.
SECTION 27. This Act takes effect September 1, 2017.	SECTION 27. Same as Senate version.	SECTION 30. Same as Senate version.
<i>No equivalent provision.</i>	SECTION __. Article 2.12, Code of Criminal Procedure, is amended. [FA8,FA9]	Same as Senate version.
<i>No equivalent provision.</i>	SECTION __. Subchapter D, Chapter 801, Occupations Code, is amended by adding Section 801.163. [FA8,FA9]	Same as Senate version.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 27, 2017

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
 Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB319 by Watson (Relating to the continuation and functions of the State Board of Veterinary Medical Examiners; authorizing a reduction in fees; providing penalties.),
Conference Committee Report

Estimated Two-year Net Impact to General Revenue Related Funds for SB319, Conference Committee Report: an impact of \$0 through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>Appropriated Receipts</i> 666	Probable Revenue Gain/(Loss) from <i>Appropriated Receipts</i> 666
2018	(\$73,775)	\$73,775	(\$306,000)	\$306,000
2019	(\$73,775)	\$73,775	(\$20,000)	\$20,000
2020	(\$73,775)	\$73,775	(\$20,000)	\$20,000
2021	(\$73,775)	\$73,775	(\$20,000)	\$20,000
2022	(\$73,775)	\$73,775	(\$20,000)	\$20,000

Fiscal Year	Change in Number of State Employees from FY 2017
2018	1.0
2019	1.0
2020	1.0
2021	1.0
2022	1.0

Fiscal Analysis

The bill would amend the Occupations Code relating to the continuation and functions of the State Board of Veterinary Medical Examiners (SBVME); authorizing a reduction in fees; providing penalties. The bill would eliminate provisions that prohibit SBVME from setting fees below a specific amount. The bill would continue SBVME for four years, until September 1, 2021.

The bill would require that an applicant for licensure submit fingerprints to SBVME or the Department of Public Safety (DPS) for the purpose of a criminal history record check from the DPS and Federal Bureau of Investigation. The bill would allow SBVME to enter into an agreement with DPS to administer the criminal history check and authorize DPS to collect from applicants an amount to cover the costs incurred by the agency in conducting the criminal history check.

The bill would permit SBVME to extend the validity of a license issued by the agency from one year to two years through board rule. The bill would eliminate the requirement of the agency to include a limit on the time a license holder may remain on inactive status.

The bill would require SBVME to adopt a schedule of penalties, disciplinary actions, and other sanctions to be imposed appropriately to the type of violation or conduct that is the basis for disciplinary action.

The bill would require SBVME to periodically check prescribing information submitted by licensees to the TSBP in the PMP to determine whether a licensee is engaging in potentially harmful prescribing patterns or practices. The bill would require SBVME, in coordination with TSBP, to determine conduct that constitutes such patterns or practices. The bill would permit SBVME, if it suspects that a licensee is engaging in such patterns or practices, to notify the licensee and to initiate a complaint against the licensee.

The bill would require SBVME to conduct a risk-based inspection of a veterinarian's practice based on information obtained from the veterinarian or another source concerning the veterinarian's prescription of controlled substances.

The bill would establish regulations for veterinarians or local rabies control authorities to document and identify certain quarantined animals and to notify the owners of the quarantined animal.

The bill would modify the exemptions of the applicability of Chapter 801, Occupations Code. The bill would require the Sunset Advisory Commission to conduct a special-purpose review of SBVME for the 87th Legislature.

Except as other specified by the bill, the bill would take effect on September 1, 2017.

Methodology

The provisions of the bill would result in a total cost of \$73,775 in General Revenue in fiscal year 2018 and following fiscal years. According to SBVME, an additional Investigator FTE would be needed to comply with provisions of the bill that require SBVME to conduct risk-based inspections of veterinarian practices. SBVME estimates annual costs of \$54,000 in salaries and wages for an Investigator FTE, \$810 in insurance and retirement costs, and \$18,965 in other benefits costs.

SBVME is statutorily required to generate sufficient revenue to cover operational costs. This analysis assumes that any increased cost to SBVME would be offset by an increase in fee-generated revenue.

Based on information provided by the TSBP, it is assumed the periodic check of prescribing information to determine whether a licensee is engaging in potentially harmful prescribing patterns or practices must be conducted by the administrator of the program at TSBP. Based on LBB analysis of TSBP, duties and responsibilities associated with implementing the provisions of this bill could be accomplished by utilizing existing resources.

Based on information provided by the Comptroller of Public Accounts (CPA) and SBVME, approximately 10,600 current licensees would need to obtain a background check upon renewal in fiscal year 2018 and 750 new applicants would need to obtain a background check in each fiscal year beginning in fiscal year 2018. Therefore, revenue in this analysis includes revenue attributed to current licensees without a fingerprint-based background check and new applicants as reported by the CPA. This analysis assumes that the implementation of the requirement of current licensees to obtain background checks would be done in fiscal year 2018 to meet the requirements for the bill. DPS charges applicants \$27 to perform a finger-print based background check to cover the cost to DPS to obtain state and national criminal history record information. Based on the number of renewals and applicants and assumed implementation of the requirement, it is estimated that there will be a revenue increase to Appropriated Receipts at DPS of \$286,000 in FY2018 (for current licensees to obtain background checks) and \$20,000 (for new licensees) in each fiscal year beginning in fiscal year 2018, offset by an equal cost of Appropriated Receipts at the agency in each fiscal year to perform the background check.

This analysis assumes that removing the agency's statutorily set fee floor would not have a significant impact on revenues to the state. This analysis assumes the elimination of a time limit a license holder may hold an inactive license would not result in a significant impact on revenues to the state. This analysis assumes that SBVME's adoption of administrative penalties and other sanctions could result in a change in revenue to General Revenue. Because the amount of penalties and sanctions that may be assessed is unknown, the fiscal impact cannot be calculated.

State Office of Administrative Hearings and Office of Attorney General anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 356 Texas Ethics Commission, 360 State

Office of Administrative Hearings, 405 Department of Public Safety, 407
Commission on Law Enforcement, 515 Board of Pharmacy, 578 Board of
Veterinary Medical Examiners

LBB Staff: UP, EK, SZ, EH, GGo

**Certification of Compliance with
Rule 13, Section 6(b), House Rules of Procedure**

Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under House Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not a sustainable point of order under Rule 13.

I certify that a copy of the conference committee report on SB 319 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.

William Plin Raymond
(name)

5/27/17
(date)