

## **BILL ANALYSIS**

Senate Research Center

S.B. 1084  
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Agriculture, Water & Rural Affairs  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

With some important exceptions, Chapter 801, Occupations Code, requires people to obtain a license from the Texas Board of Veterinary Medical Examiners (TBVME) before practicing veterinary medicine. The current statutory exceptions cover animal shelter employees performing euthanasia and an animal's owner or designated caretaker.

Sunset Advisory Commission staff concluded in the recent review of TBVME that the current statutory scheme has not kept pace with the modern state of veterinary medicine because many shelters now prefer to save animals using low-cost effective care instead of euthanizing them.

S.B. 1084 accommodates and encourages this shift in shelter medicine by ensuring TBVME does not discipline unlicensed employees and volunteers for providing basic treatment under the general supervision or protocol of a veterinarian. It also creates good faith protections for veterinarians who provide new, innovative, low-cost, or even unsuccessful treatments for a shelter.

At the same time, S.B. 1084 ensures TBVME can discipline shelter veterinarians who provide truly problematic care. This change is needed because, under a recent court decision, shelter veterinarians are largely exempt from TBVME regulation under the designated caretaker exception.

S.B. 1084 also creates a new status for "safety net shelters." This distinction gives these shelters, which take in and try to save animals without regard to their breed or size, greater protection from TBVME overreach. Finally, S.B. 1084 brings greater transparency to the practice of shelter medicine and more protection for a member of the public who takes a shelter pet home.

With these changes, S.B. 1084 modernizes the Veterinary Licensing Act to ensure animal shelters and the veterinarians who work for them have a reasonable opportunity to use innovative ideas to try and save as many abandoned pets as possible.

As proposed, S.B. 1084 amends current law relating to the medical treatment and care of animals by certain persons in animal shelters and releasing agencies.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 823.001, Health and Safety Code, by adding Subsection (5-a), to define "releasing agency."

SECTION 2. Amends Section 823.003, Health and Safety Code, by adding Subsections (e-1), (e-2), and (e-3), as follows:

(e-1) Requires an animal shelter or releasing agency, before an animal adoption becomes final, to provide the proposed new owner with a written history that shows if the animal

has been screened or tested for diseases and conditions that are common to that species. Provides that if the animal has been tested, the written history should include the dates and results of each test.

(e-2) Requires the State Board of Veterinary Medical Examiners (TBVME) to promulgate forms that an animal shelter or releasing agency is authorized to use to comply with Subsection (e-1). Authorizes an animal shelter or releasing agency to use an alternative form, so long as it complies with Subsection (e-1).

(e-3) Provides that this section does not require an animal shelter or releasing agency to provide certain screens or test.

SECTION 3. Amends Chapter 823, Health and Safety Code, by adding Section 823.004, as follows:

Sec. 823.004. TREATMENT OF ANIMALS ON BEHALF OF ANIMAL SHELTERS AND RELEASING AGENCIES. (a) Provides that notwithstanding any other law, once an animal shelter or releasing agency takes possession of an animal:

(1) authorizes a veterinarian acting on behalf of the animal shelter or releasing agency to perform a surgical or nonsurgical sterilization of certain animals; prescribe or administer a vaccine or medication for or to the animal; and provide any other treatment the veterinarian believes is reasonably necessary;

(2) authorizes an unlicensed employee, volunteer, or agent acting on behalf of the animal shelter or releasing agency to provide nonsurgical veterinary care or treatment to the animal under the authorization and general supervision of a veterinarian; or pursuant to a protocol approved by a veterinarian; and

(3) authorizes any employee, volunteer, or agent acting on behalf of the animal shelter or releasing agency to provide emergency veterinary care or treatment to the animal.

(b) Authorizes a veterinarian who provides treatment on behalf of an animal shelter or releasing agency, notwithstanding any other law, to deliver or cause to be delivered a medication to an unlicensed employee, volunteer, or agent of an animal shelter or releasing agency. Authorizes the unlicensed employee, volunteer, or agent to administer the medication in accordance with the veterinarian's instructions. Requires a veterinarian who delivers or causes to be delivered a controlled substance under this section to comply with Section 801.359, Occupations Code.

SECTION 4. Amends Subchapter A, Chapter 801, Occupations Code, by adding Section 801.0011, as follows:

Sec. 801.0011. POLICY; CONSTRUCTION. (a) Sets forth legislative findings and intent.

(b) Provides that this chapter should be construed in favor of licensed veterinarians and unlicensed persons who care for certain animals in good faith.

SECTION 5. Amends Section 801.002, Occupations Code, by adding Subsections (0), (5-a), and (5-b), to define "animal shelter," "releasing agency," and "safety net shelter."

SECTION 6. Amends Subchapter A, Chapter 801, Occupations Code, by adding Section 801.0021, as follows:

Sec. 801.0021. NO-KILL BENCHMARKS. (a) Requires an animal shelter to first declare its intent to satisfy the no-kill benchmarks in writing to the Texas Department of Licensing and Regulation (TDLR) to satisfy the no-kill benchmarks.

(b) Provides that during the first two years after an animal shelter declares its intent under Subsection (a), the shelter satisfies the no-kill benchmarks if it euthanizes 30% or less of the animals in takes ownership of in a year.

(b) Provides that during the third and fourth years after an animal shelter declares its intent under Subsection (a), an animal shelter satisfies the no-kill benchmarks if it euthanizes 20% or less of the animals it takes ownership of in a year.

(c) Provides that beginning on the four-year anniversary of the date the animal shelter declared its intent under Subsection (a), an animal shelter satisfies the no-kill benchmarks if it euthanizes 15% or less of the animals it takes ownership of in a year.

SECTION 7. Amends Section 801.004, Occupations Code, to provide that this chapter does not apply to certain actions, except as provided by Section 801.4021.

SECTION 8. Amends Section 801.351, Occupations Code, by adding Subsection (d), as follows:

(d) Provides that this section does not apply to a person who provides treatment on behalf of an animal shelter or releasing agency.

SECTION 9. Amends Section 801.359, Occupations Code, as follows:

Sec. 801.359. New heading: RECORDKEEPING REQUIREMENTS. (a) Makes no changes to this subsection.

(b) Provides that the records required to be maintained under Subsection (a) are subject to review by a law enforcement agency or TBVME representative.

(c) Authorizes the records required to be maintained under Subsection (a) to be maintained in a daily log, or in billing records, provided that the treatment information that is entered is adequate to substantiate the identification of the animals treated and the medical care provided. Authorizes animal shelter or releasing agency employees, volunteers, or agents who are not veterinarians but who act under the general supervision or protocol of a veterinarian to contribute to the records.

SECTION 10. Amends Section 801.402, Occupations Code, as follows:

Sec. 801.402. GENERAL GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. Provides that if a person commits certain actions, the person is subject to denial of a license or to disciplinary action under Section 801.401 (Disciplinary Powers of Board), except as provided by Section 801.4021.

SECTION 11. Amends Subchapter I, Chapter 801, Occupations Code, by adding Section 801.4021, as follows:

Sec. 801.4021. DISCIPLINE FOR TREATMENT OR CARE PERFORMED ON BEHALF OF AN ANIMAL SHELTER OR RELEASING AGENCY. (a) Prohibits TBVME, notwithstanding any other law, from denying a license or taking disciplinary action against an unlicensed person for providing treatment or care in accordance with Section 823.004, Health and Safety Code.

(b) Prohibits TBVME from denying a license or taking disciplinary action against a veterinarian for providing treatment or care to an animal on behalf of an animal

shelter or releasing agency unless the veterinarian acted without regard for the animal's health or safety or intended to cause the animal pain.

(c) Provides that it is an affirmative defense to an action under Subsection (b) that the veterinarian provided the treatment or care in question on behalf of a safety net shelter; had a reasonable belief that the treatment or care provided would enable the animal to survive an illness or injury; and gave reasonable consideration to the animal's pain.

(d) Prohibits TBVME, in making a determination under Subsection (b) or (c), from relying solely on allegations made by a person who lacks personal knowledge of the underlying events; or the fact that the treatment or care provided is new, innovative, low-cost, or results in the animal's death. Requires TBVME, in making a determination under Subsection (b) or (c), to consider the policy statement in Section 801.0011; the veterinarian's intent; and the size, sophistication, and fiscal constraints of the animal shelter or releasing agency.

(e) Provides that notwithstanding any other law, a veterinarian or unlicensed person working on behalf of an animal shelter or releasing agency is not liable for a violation of this chapter or any applicable rules unless the violation is committed by the veterinarian or unlicensed person or a person under the direct or immediate supervision of the veterinarian or unlicensed person.

SECTION 12. Amends Section 801.410, Occupations Code, as follows:

Sec. 801.410. New heading: VENUE AND STANDARD OF REVIEW FOR APPEALS. Provides that an appeal of a TBVME action must be filed in a district court in Travis County and is reviewed by trial de novo.

SECTION 13. Effective date: September 1, 2017.