

SUBJECT: Allowing limited waiver of veterinarian-client privilege in some situations

COMMITTEE: Agriculture and Livestock — favorable, without amendment

VOTE: 7 ayes — Springer, Anderson, Buckley, Burns, Fierro, Meza, Raymond

2 nays — Beckley, Zwiener

WITNESSES: For — Donald Ferrill and James O'Bryan, Texas Veterinary Medical Association; (*Registered, but did not testify:* Aimee Bertrand, Harris County Commissioners Court; Bill Kelly, City of Houston Mayor's Office; Elizabeth Choate, Texas Veterinary Medical Association; Scott Bugai)

Against — Heather Kutumba; Greg Munson; Judy Santerre; Jodi Ware

On — (*Registered, but did not testify:* John Helenberg and Michael Tacker, State Board of Veterinary Medical Examiners)

BACKGROUND: Occupations Code sec. 801.353 prohibits a veterinarian from violating the confidentiality of a relationship with a client, including by releasing information concerning the veterinarian's care of an animal.

DIGEST: HB 2787 would establish that a client of a veterinarian or owner of an animal being treated by a veterinarian would waive veterinarian-client privilege if the client or owner published in a public forum information regarding the animal's care and treatment.

The bill would allow a veterinarian to disclose to a veterinarian or appropriate governmental entity information regarding cruelty to an animal or information on the prescribing, dispensing, or requesting of controlled substances without violating veterinarian-client privilege. A governmental entity that received such information would be prohibited from treating that information as public information or using it for any purpose other than law enforcement or the protection of public health and safety.

The bill would take effect September 1, 2019.

**SUPPORTERS
SAY:**

HB 2787 would allow veterinarians who had been subject to defamatory and false attacks posted on a public forum to respond without fear of censure by the state veterinary board for violating confidentiality. The bill would establish a standard that is consistent with the general law of privilege, which treats professional-client confidentiality as waived in certain situations where the client already has made public disclosures.

Currently, one of the only remedies available to a veterinarian in this situation is to file a defamation suit, but this can be costly, time-consuming, and excessive if the veterinarian merely wants to respond to an allegation online with information pertinent to the medical situation of the animal. The bill would ensure a veterinarian's right to do so.

HB 2787 would create only a narrow exception to the veterinary profession's statutory confidentiality requirements by allowing a waiver of confidentiality only with respect to information regarding an animal's treatment that already was published by an owner in a public forum.

Veterinarians also can be witnesses to animal abuse or improper prescribing practices and should not be subject to disciplinary actions for sharing that information with proper authorities.

**OPPONENTS
SAY:**

HB 2787 would permit breaches of confidentiality by veterinary professionals. The bill could make it more difficult for customers to find competent veterinarians. Negative online reviews are important means by which customers judge the competency of providers before selecting a veterinarian. The bill could threaten this by discouraging persons who were concerned about the care their animals received from posting information online.

Veterinarians already have the right to bring a civil suit for defamation. If a veterinarian felt unjustly criticized online, the veterinarian should exercise this right of remedy in a court of law.

