

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1032  
By: Seliger  
Agriculture & Rural Affairs  
4/20/2011  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The intent of this legislation is to define and establish training and certification for persons performing equine dentistry. Veterinarians currently provide equine dentistry services and have training to do so. However, there are also several veterinarian technicians who are practicing equine dentistry procedures, such as teeth floating (filing away sharp points on the teeth) without proper training. The concern is that these veterinarian technicians are not providing quality care and may actually be doing more harm than good.

C.S.S.B. 1032 amends current law relating to the licensure and regulation of equine dental providers and provides penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Board of Veterinary Medical Examiners (TBVME) in SECTION 2 (Section 801.151, Occupations Code) of this bill.

Rulemaking authority previously granted to TBVME is modified in SECTION 2 (Section 801.151, Occupations Code), SECTION 14 (Section 801.258, Occupations Code), SECTION 19 (Section 801.306, Occupations Code), and SECTION 20 (Section 801.307, Occupations Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 801.002, Occupations Code, by adding Subdivisions (3-a) and (4-a), to define "equine dentistry" and "licensed equine dental provider."

SECTION 2. Amends Section 801.151, Occupations Code, by amending Subsection (c) and adding Subsections (e) and (f), as follows:

(c) Requires the Texas Board of Veterinary Medical Examiners (TBVME) to adopt rules to:

(1) and (2) Makes nonsubstantive changes; and

(3) ensure that equine dentistry is performed only by a veterinarian who is active and in good standing or by a licensed equine dental provider who is active and in good standing under the appropriate level of supervision of a veterinarian who is active and in good standing and who has established a veterinarian-client-patient relationship with the owner or other caretaker or an animal and the animal in accordance with Section 801.351 (Existence of Veterinarian-Client-Patient Relationship).

(e) Requires TBVME to adopt rules to implement a jurisprudence examination for licensed equine dental providers, including rules relating to the development and administration of the examination, examination fees, guidelines for reexamination, examination grading, and provision of notice of examination results.

(f) Prohibits TBVME from adopting rules that unreasonably restrict the selection by the owner or other caretaker of an animal of a licensed equine dental provider who is in good standing to provide equine dental services.

SECTION 3. Amends Sections 801.154(b) and (c), Occupations Code, as follows:

(b) Provides that the veterinarian license renewal fee set by TBVME under this chapter is the amount set by TBVME under Subsection (a) (relating to requiring TBVME by rule to set fees that are reasonable and necessary) and an additional fee of \$200.

(d) Provides that the additional fee under Subsection (b) does not apply to a veterinarian, rather than a license holder, who is exempt from paying the renewal fee under Section 801.304, or placed on inactive status as provided by Section 801.306.

SECTION 4. Amends Section 801.156, Occupations Code, as follows:

Sec. 801.156. REGISTRY. (a) Requires TBVME to maintain a record of each license holder's, rather than each veterinarian's, name, residence address, and business address.

(b) Makes a conforming change.

SECTION 5. Amends Section 801.203(b), Occupations Code, to make a conforming change.

SECTION 6. Amends Section 801.2056(b), Occupations Code, to make a conforming change.

SECTION 7. Amends Sections 801.251 and 801.251, Occupations Code, as follows:

Sec. 801.251. New heading: LICENSE REQUIRED FOR PRACTICE OF VETERINARY MEDICINE. Prohibits a person, except as provided by Section 801.004 (Application of Chapter), from practicing, or offering or attempting to practice, veterinary medicine unless the person holds a license to practice veterinary medicine issued under this chapter.

Sec. 801.252. New heading: ELIGIBILITY REQUIREMENTS FOR LICENSE TO PRACTICE VETERINARY MEDICINE. Requires TBVME to issue a license to practice veterinary medicine to a person who is qualified to be licensed to practice veterinary medicine under this chapter. Provides that a person is qualified to practice veterinary medicine if the person has met certain requirements, including the person successfully completes the licensing examination for veterinarians conducted by TBVME.

SECTION 8. Amends the heading to Section 801.253, to read as follows:

Sec. 801.253. LICENSING EXAMINATIONS FOR VETERINARIANS.

SECTION 9. Amends Section 801.253(a) to require TBVME to hold a regular meeting at least twice each year to conduct licensing examinations for veterinarians as provided by TBVME rule.

SECTION 10. Amends the heading to Section 801.256, Occupations Code, to read as follows:

Sec. 801.256. SPECIAL LICENSE TO PRACTICE VETERINARY MEDICINE.

SECTION 11. Amends Section 801.256(a), Occupations Code, to authorize TBVME to issue a special license to practice veterinary medicine to an applicant who meets certain criteria.

SECTION 12. Amends the heading to Section 801.257, Occupations Code, to read as follows:

Sec. 801.257. PROVISIONAL LICENSE TO PRACTICE VETERINARY MEDICINE.

SECTION 13. Amends Section 801.257(a), Occupations Code to authorize TBVME to grant a provisional license to practice veterinary medicine to an applicant who presents proof that the applicant is licensed in good standing as a veterinarian in another state that has licensing requirements substantially equivalent to the requirements of this chapter and maintains professional standards TBVME considers equivalent to the professional standards of this chapter, and has passed a national or other examination recognized by TBVME relating to veterinary medicine.

SECTION 14. Amends Section 801.258, Occupations Code, as follows:

Sec. 801.258. New heading: TEMPORARY LICENSE TO PRACTICE VETERINARY MEDICINE. Authorizes TBVME by rule to provide for the issuance of a temporary license to practice veterinary medicine.

SECTION 15. Amends Subchapter F, Chapter 801, Occupations Code, by adding Sections 801.259, 801.260, 801.261, 801.262, 801.263, and 801.264, as follows:

Sec. 801.259. LICENSED EQUINE DENTAL PROVIDER DESIGNATIONS. (a) Prohibits a person, subject to Subsection (b), from representing to the public that the person is authorized to perform equine dentistry or use the titles "dentist," "certified equine dental provider," "equine dental provider," "CEDP," or "EDP" unless the person is licensed to practice equine dentistry under this chapter.

(b) Provides that only a licensed equine dental provider who is certified in accordance with Section 801.261(a)(3) may use the title "certified equine dental provider" or the description "CEDP." Provides that only a licensed equine dental provider who is licensed before September 1, 2013, and who is not certified in accordance with Section 801.261(a)(3) may use the title "equine dental provider" or the designation "EDP."

Sec. 801.260. LICENSE REQUIRED FOR EQUINE DENTISTRY. Prohibits a person from performing equine dentistry or offering or attempting to act as an equine dental provider unless the person is:

- (1) a veterinarian who is active and in good standing; or
- (2) a licensed equine dental provider who is active and in good standing performing under the supervision of a veterinarian who is active and in good standing.

Sec. 801.261. LICENSED EQUINE DENTAL PROVIDER: APPLICATION, QUALIFICATIONS, AND ISSUANCE. (a) Requires TBVME to issue an equine dental provider license to a person who is qualified under this section. Provides that a person is qualified to be licensed as an equine dental provider if the person:

- (1) passes a jurisprudence examination conducted by TBVME in accordance with Section 801.264;
- (2) is not disqualified under this chapter or TBVME rule; and
- (3) is certified by the International Association of Equine Dentistry or another TBVME-approved certification entity or organization.

(b) Requires an applicant for an equine dental provider license to submit to TBVME:

- (1) an application on the form prescribed by TBVME;
- (2) information to enable TBVME to conduct a criminal background check as required by TBVME; and

(3) any other information required by TBVME.

Sec. 801.262. SCOPE OF PRACTICE OF LICENSED EQUINE DENTAL PROVIDER. (a) Prohibits a licensed equine dental provider from performing equine dentistry unless the provider is active and in good standing and performs equine dentistry under the general supervision of a veterinarian who is active and in good standing.

(b) Authorizes a licensed equine dental provider to perform only certain equine dental procedures as set forth in this subsection.

(c) Prohibits Subsection (b) from being construed to prohibit an employee of a veterinarian who is not a licensed equine dental provider from performing the equine dental procedures described in Subsection (b) if the employee is under the direct supervision of a veterinarian.

(d) Provides that a copy of the dental chart of an equine animal is to be left with the person who authorizes an equine dental procedure and is to be made available to the supervising veterinarian upon request.

Sec. 801.263. LICENSED EQUINE DENTAL PROVIDER RESPONSIBILITY. Requires a licensed equine dental provider to be held to the same standard of care as a veterinarian when the provider performs the equine dental procedures described in Section 801.262(b).

Sec. 801.264. JURISPRUDENCE EXAMINATION. Requires TBVME to develop and administer a jurisprudence examination for licensed equine dental providers to determine an applicant's knowledge of this chapter, TBVME rules, and any other applicable laws of this state affecting the applicant's equine dentistry practice.

SECTION 16. Amends Sections 801.303(b) and (c), Occupations Code, as follows:

(b) Authorizes a person whose license has been expired for 90 days or less to renew the license by paying to TBVME a renewal fee that is equal to the sum of 1-1/2 times the renewal fee set by TBVME under Section 801.154(a) (relating to fees) and the additional fee required by Section 801.154(b) (relating to a license renewal fee), if applicable.

(c) Authorizes a person whose license has been expired for more than 90 days but less than one year to renew the license by paying to TBVME a renewal fee that is equal to the sum of two times the renewal fee set by TBVME under Section 801.154(a) and the additional fee required by Section 801.154(b), if applicable.

SECTION 17. Amends Section 801.304, Occupations Code, to provide that a veterinarian, rather than a license holder, is exempt from the fee requirements imposed under Section 801.303 if the veterinarian, rather than license holder is on active duty with the Armed Forces of the United States and does not engage in private or civilian practice, or is permanently and totally retired.

SECTION 18. Amends Section 801.305(a), Occupations Code, to authorize a person who was licensed to practice veterinary medicine in this state, moved to another state, and is currently licensed in good standing and has been in practice in the other state for the two years preceding the date of application to a obtain new license to practice veterinary medicine without reexamination.

SECTION 19. Amends Section 801.306, Occupations Code, to make conforming changes.

SECTION 20. Amends Sections 801.307(a) and (b), Occupations Code, as follows:

(a) Requires TBVME by rule to establish a minimum number of hours of continuing education required to renew a license to practice veterinary medicine. Requires TBVME

to require eight hours of continuing education annually to renew an equine dental provider license.

(b) Authorizes TBVME to:

(1) establish general categories of continuing education that meet the needs of license holders, rather than veterinarians; and

(2) require a license holder, rather than a veterinarian, to successfully complete continuing education courses.

SECTION 21. Amends Sections 801.352(b) and (c), Occupations Code, as follows:

(b) Prohibits a veterinarian from allowing a person who does not hold a license to practice veterinary medicine issued under this chapter to interfere with or intervene in the veterinarian's practice of veterinary medicine, or from submitting to interference or intervention by a person who does not hold a license to practice veterinary medicine issued under this chapter.

(c) Makes a conforming change.

SECTION 22. Amends Section 801.3541, Occupations Code, to make a conforming change.

SECTION 23. Amends Sections 801.402, 801.403, and 801.404, Occupations Code, as follows:

Sec. 801.402. GENERAL GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. Provides that a person is subject to denial of a license or to disciplinary action under Section 801.401 (Disciplinary Powers of Board) if the person engages in certain activities, including engaging in dishonest or illegal practices in, or connected with, the practice of veterinary medicine or the practice of equine dentistry; permitting another to use the person's license to practice veterinary medicine or to practice equine dentistry in this state; fraudulently issuing a health certificate, vaccination certificate, test chart, or other form used in the practice of veterinary medicine or the practice of equine dentistry that relates to the presence or absence of animal disease; paying or receiving a kickback, rebate, bonus, or other remuneration for treating an animal or for referring a client to another provider of veterinary or equine dental services or goods; committing gross malpractice or a pattern of acts that indicate consistent malpractice, negligence, or incompetence in the practice of veterinary medicine or the practice of equine dentistry; or being subject to disciplinary action in another jurisdiction, including the suspension, probation, or revocation of a license to practice veterinary medicine or the practice equine dentistry issued by another jurisdiction.

Sec. 801.403. FAILURE TO REPORT DISEASE. Authorizes TBVME to suspend or revoke a license to practice veterinary medicine, place a veterinarian on probation, or reprimand a veterinarian if the veterinarian knowingly fails to report a disease to the Texas Animal Health Commission as required by Section 161.101 (Duty to Report), Agriculture Code, rather than authorizes TBVME to suspend or revoke a license, place a license holder on probation, or reprimand a license holder if the license holder knowingly fails to report a disease to the Texas Animal Health Commission as required by Section 161.101, Agriculture Code.

Sec. 801.404. FAILURE TO MAINTAIN RECORDS. Makes conforming changes.

SECTION 24. Amends Section 801.502(a), Occupations Code, as follows:

(a) Authorizes TBVME, through the attorney general or a district or county attorney, to bring an action for an injunction, or a proceeding incident to an injunction, to:

(1) Makes no changes to this subdivision; or

(2) enjoin a person, including a corporation, organization, business trust, estate, trust, partnership, association, or other legal entity, from practicing veterinary medicine or equine dentistry in violation of this chapter.

SECTION 25. Amends Sections 801.506(a) and (b), Occupations Code, as follows:

(a) Prohibits a sole proprietorship, partnership, or corporation from engaging in veterinary medicine unless the owner, each partner, or each shareholder, as appropriate, holds a license to practice veterinary medicine issued under this chapter.

(b) Prohibits a corporation, organization, business trust, estate trust, partnership, association, or other legal entity not owned exclusively by one or more persons licensed to practice veterinary medicine under this chapter from engaging in veterinary medicine.

SECTION 26. Amends Section 801.508(a), Occupations Code, to authorize TBVME, if it appears to TBVME that a person is engaging in an act or practice that constitutes the practice of veterinary medicine without a license or the practice of equine dentistry without a license under this chapter, to, after notice and opportunity for a hearing, issue a cease and desist order prohibiting the person from engaging in the activity.

SECTION 27. Amends Chapter 801, Occupations Code, by adding Subchapter L, as follows:

#### SUBCHAPTER L. EQUINE DENTAL PROVIDER ADVISORY COMMITTEE

Sec. 801.551. EQUINE DENTAL PROVIDER ADVISORY COMMITTEE. (a) Provides that the equine dental provider advisory committee (advisory committee) is an informal advisory committee to TBVME and is not subject to Chapter 2110 (State Agency Advisory Committees), Government Code.

(b) Provides that advisory committee does not have any independent rulemaking authority but is required to assist TBVME in adopting rules relating to licensed equine dental providers.

(c) Requires TBVME to consult the advisory committee regarding matters relating to a disciplinary action that involves a licensed equine dental provider.

Sec. 801.552. APPOINTMENT OF ADVISORY COMMITTEE. (a) Provides that the advisory committee is composed of three members appointed by the presiding officer of TBVME who meet certain criteria set forth in this subsection.

(b) Provides that notwithstanding Subsection (a)(1) (relating to two members being licensed equine dental providers), the advisory committee members are not required to hold a license to practice equine dentistry issued under this chapter until September 1, 2012. Provides that this subsection expires September 1, 2013.

(c) Requires that appointments to the advisory committee be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 801.553. TERMS; VACANCY. (a) Provides that members of the advisory committee are appointed for staggered six-year terms. Provides that the terms of the members expires on February 1 of each odd-numbered year.

(b) Requires the presiding officer TBVME, if a vacancy occurs during a member's term, to appoint a new member to fill the unexpired term.

(c) Prohibits an advisory committee member from serving more than two consecutive full terms.

Sec. 801.554. GROUNDS FOR REMOVAL. (a) Provides that it is a ground for removal from the advisory committee that a member does not have at the time of appointment the

qualifications required by Section 801.552, does not maintain during service on the advisory committee the qualifications required by Section 801.552, and cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term.

(b) Provides that the validity of an action of the advisory committee is not affected by the fact that it is taken when a ground for removal of an advisory committee member exists.

Sec. 801.555. OFFICERS. Requires the presiding officer of TBVME to designate biennially an advisory committee member as the presiding officer of the advisory committee to serve in that capacity at the will of the presiding officer of TBVME.

Sec. 801.556. REIMBURSEMENT; COMPENSATION. Provides that an advisory committee member is not entitled to reimbursement for travel expenses or compensation.

Sec. 801.557. MEETINGS. (a) Requires the advisory committee to meet at the call of the presiding officer of TBVME.

(b) Provides that a meeting may be held by telephone conference call.

SECTION 28. Amends Subchapter F, Chapter 411, Government Code, by adding Section 411.0995, as follows:

Sec. 411.0995. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE BOARD OF VETERINARY MEDICAL EXAMINERS. Entitles TBVME to obtain from the Texas Department of Public Safety of the State of Texas (DPS) criminal history record information maintained by DPS that relates to a person who is:

- (1) an applicant for a license to practice equine dentistry under Chapter 801 (Veterinarians), Occupations Code; or
- (2) the holder of a license under that chapter.

SECTION 29. (a) Requires the presiding officer of TBMVE, not later than October 1, 2011, to appoint the initial members of the advisory committee established under Subchapter L, Chapter 801, Occupations Code, as added by this Act, with the term of one member expiring February 1, 2013, the term of one member expiring February 1, 2015, and the term of one member expiring February 1, 2017.

(b) Requires TBVME, not later than June 1, 2012, in consultation with the advisory committee established under Subchapter L, Chapter 801, Occupations Code, as added by this Act, to adopt the rules, procedures, and jurisprudence examination required to implement the licensure of equine dental providers under Chapter 801, Occupations Code, as amended by this Act.

(c) Provides that a person employed as an equine dental provider is not required to hold a license under Chapter 801, Occupations Code, and is not subject to the imposition of a penalty for not holding a license under that chapter before September 1, 2012, notwithstanding Section 801.260, Occupations Code, as added by this Act.

SECTION 30. (a) Requires TBMVE, before September 1, 2013, to issue a provisional equine dental provider license required by Section 801.260, Occupations Code, as added by this Act, to a person who is not certified by the International Association of Equine Dentistry or another TBVME-approved entity or organization if the person:

- (1) presents proof of graduation from or completion of 280 hours of course work at a dental school; and

(2) submits, with the applicant and other information required by Section 801.261(b), Occupations Code, as added by this Act, three notarized affidavits in which equine owners or industry professionals who are residents of this state state that they know the person and that the person is known in the community to be competent in the practice of smoothing or filing teeth by floating, and three letters of recommendation from veterinarians licensed to practice in this state.

(b) Authorizes a license issued under this section to be renewed in the same manner as a license issued to a person under Section 801.261, Occupations Code, as added by this Act.

(c) Provides that this section expires September 1, 2013.

SECTION 31. Effective date: September 1, 2011.