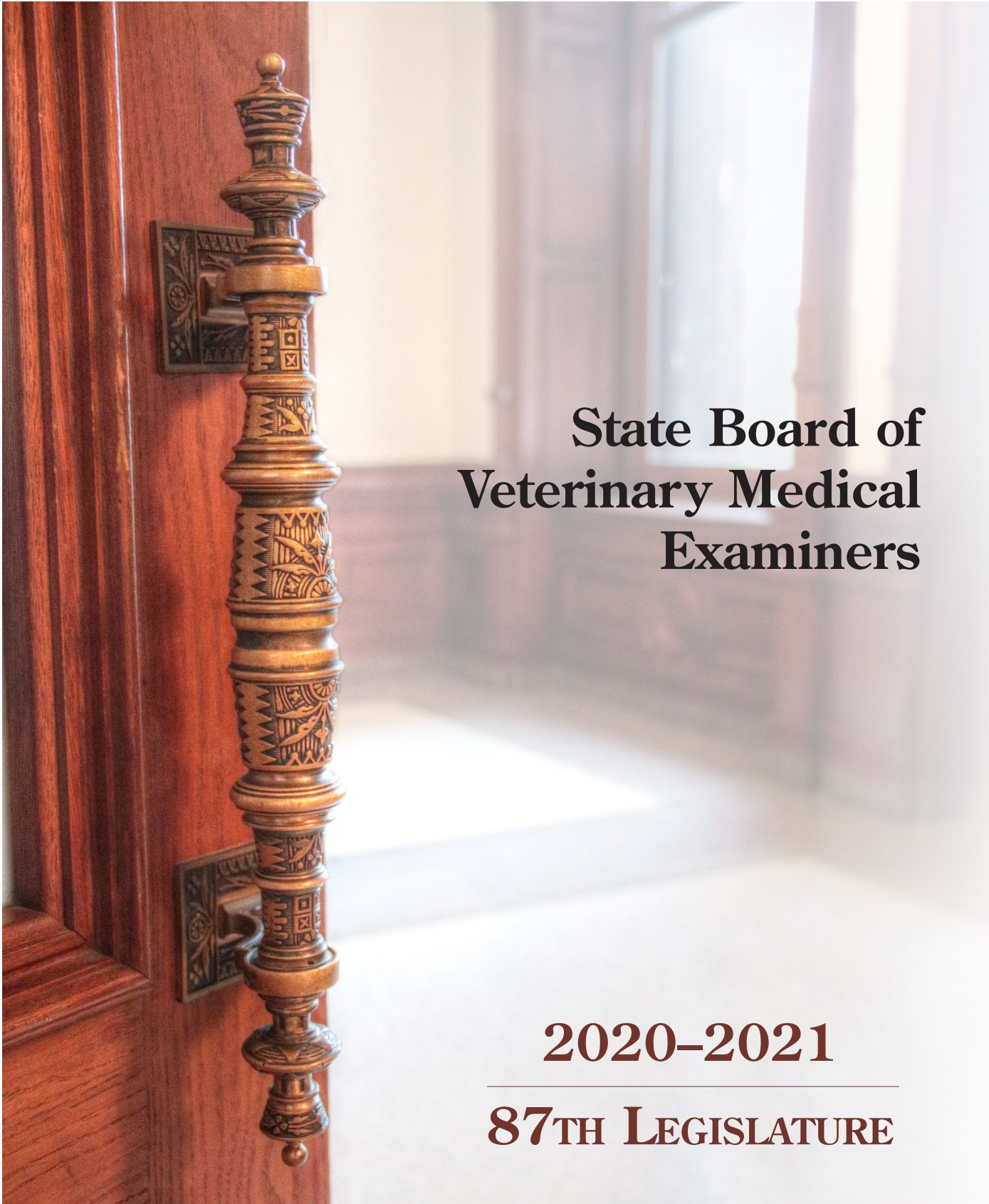


SUNSET ADVISORY COMMISSION

STAFF REPORT WITH FINAL RESULTS



State Board of
Veterinary Medical
Examiners

2020–2021

87TH LEGISLATURE

SUNSET ADVISORY COMMISSION



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Vice Chair

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Cover photo: The Texas Capitol is a marvel of craftsmanship down to the smallest details. Elaborate, custom-designed hardware accentuates the beautifully carved wooden doors. The Sargent and Co. of New Haven, Connecticut created the glass molds especially for the building in the 1880s. The Capitol hardware features incised designs of geometric and stylized floral motifs. This reflects the shift from the Renaissance Revival style of the building's interior architecture to the simpler Aesthetic Movement for its decorative details. Photo credit: Janet Wood

STATE BOARD OF VETERINARY MEDICAL EXAMINERS

SUNSET STAFF REPORT WITH FINAL RESULTS

2020–2021

87TH LEGISLATURE

HOW TO READ SUNSET REPORTS

For each agency that undergoes a Sunset review, the Sunset Advisory Commission publishes three versions of its staff report on the agency. These three versions of the staff report result from the three stages of the Sunset process, explained in more detail at sunset.texas.gov/how-sunset-works. The current version of the Sunset staff report on this agency is noted below and can be found on the Sunset website at sunset.texas.gov.

Sunset Staff Report

The first version of the report, the Sunset Staff Report, contains Sunset staff's recommendations to the Sunset Commission on the need for, performance of, and improvements to the agency under review.

Sunset Staff Report with Commission Decisions

The second version of the report, the Sunset Staff Report with Commission Decisions, contains the original staff report as well as the commission's decisions on which statutory recommendations to propose to the Legislature and which management recommendations the agency should implement.

CURRENT VERSION: Sunset Staff Report with Final Results

The third and final version of the report, the Sunset Staff Report with Final Results, contains the original staff report, the Sunset Commission's decisions, and the Legislature's final actions on the proposed statutory recommendations.

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FINAL RESULTS

Senate Bill 713 Buckingham (Cyrier)

Summary

The limited scope review of the State Board of Veterinary Medical Examiners follows up on the full Sunset review of the agency conducted in the 2016–17 biennium. The 85th Legislature continued the agency for only four years, and limited the scope of this current Sunset staff review on evaluating the ongoing appropriateness of the statutory recommendations previously adopted by the Sunset Commission. The commission determined the agency implemented all of the previously adopted statutory recommendations, and recommended continuing the agency for eight years, instead of the standard 12 years, to coincide with the Sunset reviews of the other boards regulating the prescribing and dispensing of controlled substances. The commission also determined its previous management recommendations related to improving the agency’s data collection, tracking, and analysis remain appropriate. The commission did not file a separate Sunset bill for the agency during the 87th Legislative Session. Instead, the commission’s statutory recommendations were incorporated into Senate Bill 713, the Sunset Schedule Bill, which requires a special purpose Sunset review during the 2022–23 biennium, as well as a limited scope audit by the State Auditor’s Office due to the Sunset Commission by December 1, 2024.

The following material summarizes results of the Sunset review of the State Board of Veterinary Medical Examiners.

ISSUE 1— Continue

Recommendation 1.1, Modified — Continue the State Board of Veterinary Medical Examiners for eight years, until 2029, and specify only the agency, not its statute, is subject to abolishment under the Sunset Act.

NEW RECOMMENDATIONS ADDED BY THE SUNSET COMMISSION

Special purpose sunset review, Adopted — Require the State Board of Veterinary Medical Examiners to undergo a special purpose Sunset review during the 2022–23 biennium to evaluate the agency’s implementation of its database system and processes and procedures for collecting and analyzing data.

Limited scope state audit, Adopted — Require the State Auditor’s Office, during its 2024–25 audit period, to conduct an audit of the State Board of Veterinary Medical Examiners. The audit should focus on the agency’s implementation of the data-related recommendations adopted by the Sunset Commission in the 85th Legislative Session and identified as not fully implemented in the 2021 staff report, and any additional recommendations identified in the special purpose Sunset review to be conducted during the 2022–23 biennium.

Board member training update, Not Adopted — Update the standard across-the-board requirement related to board member training, including a requirement for each board member to attest to both receiving and reviewing the training manual annually.

Complaints information update, Not Adopted — Update the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public. Specify agencies may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation.

Provisions Added by the Legislature

No provisions were added by the Legislature.

Fiscal Implication Summary

None of the provisions in S.B. 713 related to the State Board of Veterinary Medical Examiners will have a fiscal impact to the state or the board.

SUNSET COMMISSION DECISIONS

Summary

The following material summarizes the Sunset Commission's decisions on the staff recommendation for the State Board of Veterinary Medical Examiners, as well as new recommendations raised during the public hearing.

The limited scope review of the State Board of Veterinary Medical Examiners follows up on the full Sunset review of the agency conducted in the 2016–17 biennium. At that time, the Sunset Commission and the 85th Legislature adopted changes to address significant issues with the agency's management and information technology, as well as growing concerns about controlled substance monitoring and enforcement in veterinary practices. The agency's Sunset bill, Senate Bill 319, continued the agency for only four years, and limited the scope of this current Sunset staff review on evaluating the ongoing appropriateness of the statutory recommendations previously adopted by the Sunset Commission. The Sunset Commission determined the agency has implemented all of the commission's previous statutory recommendations, and recommends continuing the agency for eight years, instead of the standard 12 years, to coincide with the Sunset reviews of the other boards regulating the prescribing and dispensing of controlled substances.

The commission also determined its previous management recommendations related to improving the agency's data collection, tracking, and analysis remain appropriate. To monitor and ensure their ongoing implementation, the commission recommends a special purpose Sunset review during the 2022–23 biennium, as well as a limited scope audit by the State Auditor's Office in its 2024–25 audit period. Lastly, the commission adopted two standard across-the-board recommendations to update existing provisions for board member training and complaints information.

ISSUE 1

The State Has a Continuing Need to Regulate the Practice of Veterinary Medicine, but the Agency Continues to Struggle With Effective Data Collection and Trend Analysis.

Recommendation 1.1, Adopted — Continue the State Board of Veterinary Medical Examiners for eight years.

ADOPTED NEW RECOMMENDATIONS

Special Purpose Sunset Review

Require the State Board of Veterinary Medical Examiners to undergo a special purpose Sunset review during the 2022–23 biennium to evaluate the agency's implementation of its database system and the agency's processes and procedures for collecting and analyzing data.

Limited Scope State Audit

Require the State Auditor's Office, during its 2024–25 audit period, to conduct an audit of the State Board of Veterinary Medical Examiners. The audit should focus on the agency's implementation of the data-related recommendations adopted by the Sunset Advisory Commission in the 85th Legislative Session and identified as not fully implemented in the current staff report, and any additional recommendations identified in the special purpose Sunset review to be conducted during the 2022–23 biennium.

Board Member Training Update

Update the standard across-the-board requirement related to board member training, including a requirement for each board member to attest to both receiving and reviewing the training manual annually.

Complaints Information Update

Update the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public. Specify agencies may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation.

Fiscal Implication Summary

Overall, if the Legislature continues the agency, an annual appropriation of about \$1.4 million in general revenue would be needed for its operations.

SUMMARY OF SUNSET STAFF REPORT

The limited scope review of the State Board of Veterinary Medical Examiners follows up on the full Sunset review of the agency conducted in the 2016–17 biennium. At that time, the Sunset Commission adopted and forwarded recommendations on the agency to the 85th Legislature to address the significant issues found with management and information technology, as well as the growing concerns about controlled substance monitoring and enforcement in veterinary practice. The Sunset Commission’s statutory recommendations were incorporated into Senate Bill 319, which ultimately passed, continuing the agency for only four years. Additionally, both Senate Bill 319 and House Bill 2561 required improved monitoring of veterinarians’ use of controlled substances, including automatically registering veterinarians to use the Texas Prescription Monitoring Program (PMP) database, and requiring the agency to monitor, identify, and investigate potentially harmful prescribing and dispensing patterns. Senate Bill 319 also focused this current Sunset staff review on evaluating the ongoing appropriateness of the statutory recommendations adopted by the Sunset Commission.

The agency has implemented all of the Sunset Commission’s previous statutory recommendations.

Sunset staff determined the agency has implemented all of the Sunset Commission’s previous statutory recommendations. Sunset staff recommends continuing the agency for eight years, instead of the standard 12 years, to coincide with the Sunset reviews of other boards prescribing and dispensing boards. Aligning these reviews will allow Sunset to evaluate the state’s overall regulation of practitioners prescribing and dispensing of controlled substances. The status of each statutory recommendation made by the commission and adopted by the 85th Legislature is shown in the chart, *Status of 2017 Sunset Commission Recommendations on the State Board of Veterinary Medical Examiners*, beginning on page 3 of this report. Although the Sunset Commission’s previous management recommendations related to data collecting, tracking and analysis were outside the limited scope of this review, these recommendations remain appropriate and require ongoing implementation.

The following material summarizes the recommendation in this report to continue the agency. For additional information on the previous Sunset review of the agency, please see the *Staff Report with Final Results*, published in June 2017 and available on the Sunset Commission’s website. The 2017 report contains detailed information on the original Sunset staff recommendations, Sunset Commission decisions, and legislative action on the agency taken during the 85th Legislature.

Summary of Sunset Issue and Recommendation

ISSUE 1

The State Has a Continuing Need to Regulate the Practice of Veterinary Medicine, but the Agency Continues to Struggle With Effective Data Collection and Trend Analysis.

The state continues to need an agency with the expertise to regulate the practice of veterinary medicine to protect the public. Since the last Sunset review in 2016, the agency has implemented the Sunset Commission's previous statutory recommendations. However, the agency continues to struggle with complete and reliable trend data collection. While the agency works to implement its new database system, the previous management recommendations regarding improving data collection, tracking, and analysis remain appropriate.

Key Recommendation

- Continue the State Board of Veterinary Medical Examiners for eight years, until 2029.

Fiscal Implication Summary

If the Legislature continues the agency, an annual appropriation of about \$1.4 million in general revenue would be needed for its operations.

Status of 2017 Sunset Commission Recommendations on the State Board of Veterinary Medical Examiners

Issue 1 — The State Has a Continuing Need to Regulate the Practice of Veterinary Medicine, but the Agency Struggles Administratively.

2017 Recommendation	Status
Change in Statute	
<p>Adopted by the 85th Legislature in S.B. 319</p> <p>1.1 Continue the State Board of Veterinary Medical Examiners for four years. The Sunset Commission staff shall limit the upcoming review of the veterinary board to the effectiveness of recommendations made by the Sunset Commission to the 85th Legislature, although the commission itself may include any recommendations it considers appropriate.</p>	<p>Legislative action needed to continue the State Board of Veterinary Medical Examiners beyond 2021.</p>
<p>Adopted by the 85th Legislature in S.B. 319</p> <p>1.2 Update the standard Sunset across-the-board requirement related to board member training, including the board's rulemaking authority and anti-trust actions.</p>	<p>Implemented. The agency created a manual that all board members receive annually.</p>

Issue 2 — The Agency's Enforcement Processes Cannot Ensure Fair Treatment of Licensees and Complainants.

2017 Recommendation	Status
Change in Statute	
<p>Adopted by the 85th Legislature in S.B. 319</p> <p>2.1 Require the board to develop and adopt a schedule of sanctions in rule, and to use it in determining disciplinary actions.</p>	<p>Implemented. The board adopted a schedule of sanctions in rule, effective November 5, 2018, and uses the schedule in making disciplinary decisions.¹</p>

Issue 3 — The State Has an Ineffective and Inconsistent Approach to Monitoring Potential Diversion of Controlled Substances by Veterinarians.

2017 Recommendation	Status
Change in Statute	
<p>Adopted by the 85th Legislature in S.B. 319 and H.B. 2561</p> <p>3.1 Clarify statute and direct the agency to monitor veterinarians dispensing and prescribing of controlled substances. Require the veterinary board and pharmacy board to develop guidelines for and determine the conduct that constitutes responsible prescribing and dispensing of certain controlled substances, and allow the agency to open investigations based on information obtained from the Prescription Monitoring Program (PMP).</p>	<p>Implemented. The agency adopted a standard operating procedure for monitoring harmful prescribing and dispensing patterns, effective November 5, 2018. This includes requiring investigators to check the PMP database before inspections, reviewing the number of times and amounts a veterinarian prescribes controlled substances, and examining controlled substances logs during inspections.</p>

Issue 4 — Key Elements of the State Board of Veterinary Medical Examiners' Statutes, Rules, and Policies Do Not Conform to Common Licensing Standards.

2017 Recommendation	Status
Change in Statute	
<p>Adopted by the 85th Legislature in S.B. 319</p> <p>4.1 Require the agency to conduct fingerprint-based criminal background checks of all licensure applicants and existing licensees</p>	<p>Implemented. The agency now requires all licensed veterinarians, veterinary technicians, and equine dental providers to submit fingerprints for criminal background checks. As of January 2019, the agency no longer processes renewals until licensees submit their fingerprints for a criminal background check.</p>
<p>Adopted by the 85th Legislature in S.B. 319</p> <p>4.2 Authorize the agency to provide biennial staggered license renewals for all license types.</p>	<p>No action required by the agency. The agency has chosen not to switch to biennial renewals.</p>
<p>Adopted by the 85th Legislature in S.B. 319</p> <p>4.3 Remove the statutory limitation currently restricting the agency's authority to lower fees.</p>	<p>No action required by the agency. Following the removal of the statutory fee minimum, the board increased licensing renewal fees, in rule, for veterinarians and equine dental providers but lowered renewal fees for licensed veterinary technicians, effective January 1, 2018.²</p>
<p>Adopted by the 85th Legislature in S.B. 319</p> <p>4.4 Prohibit a board member who reviews a standard of care investigation from participating in any resulting disciplinary proceeding, and allow the board to delegate medical reviews to licensed veterinarians who are not board members.</p>	<p>Implemented. Board members recuse themselves appropriately from disciplinary proceedings. The board entered into an annual contract with a licensed veterinarian to review complex standard of care cases as needed.</p>

New Issues Adopted by the Sunset Commission

2017 Recommendation	Status
Change in Statute	
<p>Modified by the Sunset Commission, Adopted by the 85th Legislature in S.B. 319</p> <p>Board composition — Adjust the composition of the nine-member State Board of Veterinary Medical Examiners to consist of</p> <ul style="list-style-type: none"> • five licensed veterinarians, one of whom must be associated with an animal shelter and one of whom must have at least three years of experience practicing veterinary medicine in this state on horses, livestock, or other large animals; • one licensed veterinary technician; and • three public members. <p>In making the licensee member appointments, the governor must first appoint the shelter veterinarian, large animal veterinarian, and veterinary technician. Current board members would be eligible for reappointment.</p>	<p>No action required by the agency. The board has been appointed according to the new statutory composition.³</p>
<p>Adopted by the 85th Legislature in S.B. 319</p> <p>Confidentiality of complaints — Require the veterinary board to maintain confidentiality of complaints, investigative reports, adverse reports, the identity of a nontestifying complainant, and other investigative information in the possession of, or received or gathered by the board or its employees or agents relating to a license holder, license application, or criminal investigation or proceeding. Require the board to protect the identity of the complainant to the extent possible. Prohibit the board from accepting anonymous complaints.</p> <p>Require complaints filed with the board by an insurance agent, insurer, pharmaceutical company, or third-party administrator against a licensee to include the name and address of the insurance agent, insurer, pharmaceutical company, or third-party administrator filing the complaint.</p> <p>Require the board to notify, within 15 days of the complaint being filed, the licensee who is the subject of the complaint of the name and address of the insurance agent, insurer, pharmaceutical company, or third-party administrator who filed the complaint, unless the notice would jeopardize an investigation.</p>	<p>Implemented. The agency has adopted a standard operating procedure for complaint investigations, effective July 1, 2019. The procedure requires employees to seek supervisor approval before divulging any information related to the complaint investigation.</p> <p>The new procedure also requires the board to protect the identity of the complainant to the extent possible. The agency adopted a new rule prohibiting anonymous complaints and requiring complainants provide their contact information, effective May 15, 2018.⁴</p>
<p>Adopted by the 85th Legislature in S.B. 319</p> <p>Access to investigation outcomes — Statutorily require the agency to provide a clear and easily understood summary of the outcome of a complaint investigation to the complainant. While investigatory records would remain confidential, the agency would be required to provide more information than the mere outcome of the complaint.</p>	<p>Implemented. The board adopted a new rule requiring notification to the complainant and respondent with the projected timeframes for the investigation, unless such notification would jeopardize an investigation, effective May 15, 2018.⁵</p>

¹ 22 T.A.C. Section 575.25.

² 22 T.A.C. Section 577.15.

³ All citations to Texas statutes are as they appear on <http://www.statutes.legis.state.tx.us/>. Section 801.051, Texas Occupations Code.

⁴ 22 T.A.C. Section 575.27.

⁵ 22 T.A.C. Section 575.28.

AGENCY AT A GLANCE

The Legislature created the State Board of Veterinary Medical Examiners in 1911 to regulate the practice of veterinary medicine, surgery, and dentistry.¹ The agency's mission is to establish and enforce policies to ensure the best possible quality of veterinary services and equine dental care for the animals of Texas. To fulfill this mission, the agency carries out the following key activities:

- Licenses veterinarians, veterinary technicians, and equine dental providers.
- Sets standards for the practice of veterinary medicine and equine dental services.
- Enforces the Veterinary Licensing Act by investigating and resolving complaints against licensees and taking disciplinary action when necessary.

Key Facts

- **Governance.** The board consists of nine members appointed by the governor and confirmed by the Senate — five veterinarians, one licensed veterinary technician, and three members of the public — who serve staggered six-year terms.² The governor designates the presiding officer. As part of the agency's last Sunset review, the Legislature added several specific qualifications for board members, listed in the accompanying textbox.
- **Funding.** In fiscal year 2019, the agency operated on a budget of about \$1.4 million, with the majority of revenue coming from licensing fees. The pie chart, *State Board of Veterinary Medical Examiners Expenditures*, breaks out the agency's spending by major program areas.

The agency generates revenue in excess of what is needed for operations, transferring more than \$700,000 in fees to the General Revenue Fund in fiscal year 2019. The chart on the following page, *Flow of State Board of Veterinary Medical Examiners Revenue and Expenditure*, shows the overall impact of board revenue and expenditures in fiscal year 2019.

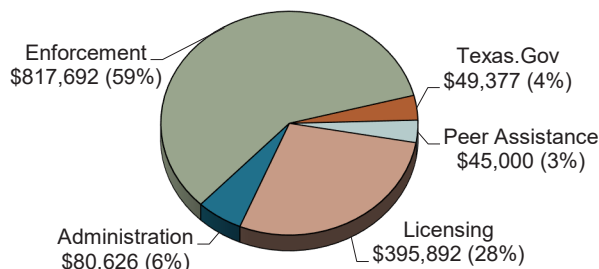
Appendix A describes the agency's use of historically underutilized businesses in purchasing goods and services for fiscal years 2017–19.

- **Staffing.** The agency, headquartered in Austin, employed 20 full-time employees in fiscal year 2019. Six investigative staff work in the field and are located in Austin, Brady, Corpus Christi, Dallas-Fort Worth, Houston, and San Antonio. A comparison of the agency's workforce composition to the percentage of minorities in the statewide civilian workforce for the past three fiscal years is

New Qualifications for Board Members

- Veterinarian members must have been practicing veterinary medicine in Texas for at least six years.
- One veterinarian member must be associated with an animal shelter.
- One veterinarian member must have at least three years of experience practicing veterinary medicine in the state on horses, livestock, or other large animals.

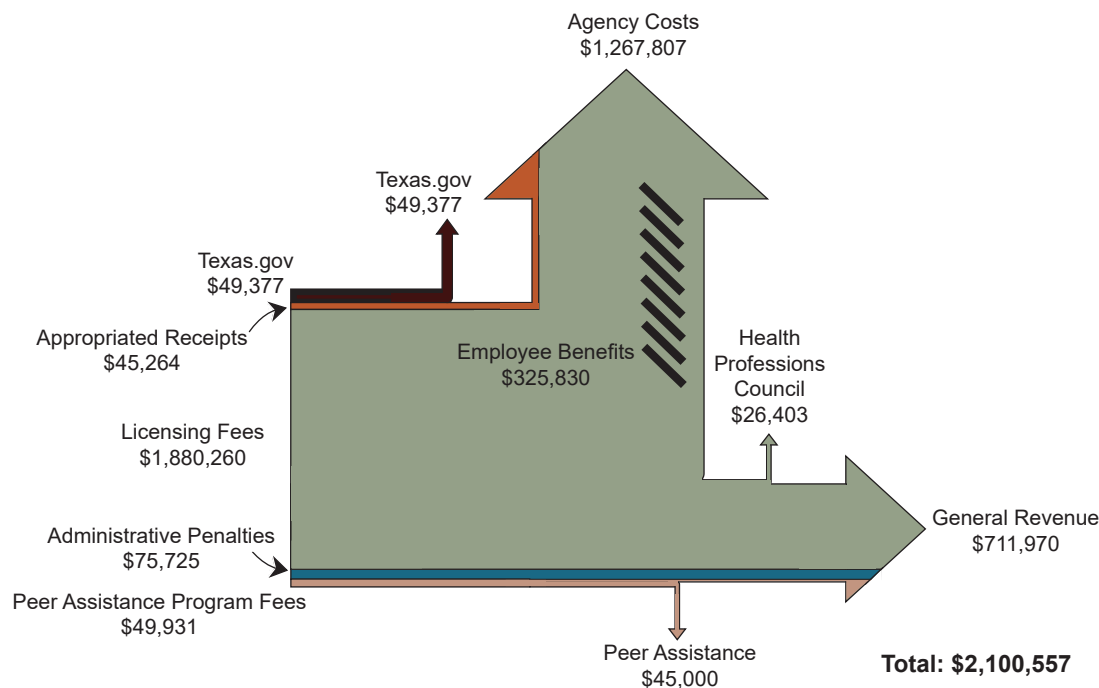
State Board of Veterinary Medical Examiners Expenditures – FY 2019



Total: \$1,388,587

included in Appendix B. Additionally, the agency is a member of the Health Professions Council, which provides supplementary information technology staffing for the agency and other health professions licensing agencies.

Flow of State Board of Veterinary Medical Examiners Revenue and Expenditure – FY 2019



- **Licensing.** The agency determines eligibility, processes license applications and annual renewals, performs criminal history checks, and administers jurisprudence exams for three occupations.

Veterinarians. The Veterinary Licensing Act requires Doctors of Veterinary Medicine to be licensed by the agency to practice veterinary medicine in Texas.³ In addition to other requirements, applicants must graduate from an accredited school or college of veterinary medicine, or provide proof of equivalence; complete a fingerprint criminal history background check; and pass both the national licensing and state jurisprudence exams to qualify for licensure. The board also requires licensed veterinarians to comply with all requirements of the Drug Enforcement Administration (DEA), including registering with the DEA and complying with recordkeeping requirements.

Licensed Veterinary Technicians (LVTs). The state began licensing LVTs in 2013.⁴ LVTs assist veterinarians in animal care and veterinary tasks, such as taking basic vital information, suturing, and inducing anesthesia. By virtue of their license, LVTs may conduct these tasks with a lower level of veterinary supervision than unlicensed veterinary assistants or technicians. LVT applicants must graduate from an accredited veterinary technician program, and pass both the national licensing and state jurisprudence exams.

Equine Dental Providers (EDPs). The state began licensing EDPs in 2011.⁵ EDPs may perform a statutorily defined set of dental procedures on equine animals under the general supervision of a licensed veterinarian. Applicants must complete an agency-approved equine dentistry certification program and pass the state jurisprudence exam. The board has a statutory equine dental provider

advisory committee, consisting of two EDPs engaged in the practice for five years before appointment and a veterinarian in good standing who supervises an EDP, to advise and assist the board in adopting rules and determining disciplinary actions related to EDPs.⁶

The table, *State Board of Veterinary Medical Examiners Licensees and Fees*, shows the number of licensees and amounts of certain licensing fees at the end of fiscal year 2019.⁷

- **Inspections and enforcement.** Enforcement staff conducts compliance inspections of licensees; investigates possible violations of the Texas Veterinary Licensing Act and related rules by licensed and unlicensed individuals; and enforces federal and state regulations regarding controlled substances. The agency receives complaints from licensees and members of the public, and initiates its own complaints from compliance inspection reports. If the agency finds a violation, it may impose a sanction or combination of sanctions.⁹ In fiscal year 2019, standard of care and controlled substances recordkeeping were the most common licensee violations. The agency received 402 complaints and averaged 502 days to resolve complaints in fiscal year 2019. The agency also conducted 897 inspections in the same fiscal year.

State Board of Veterinary Medical Examiners Licensees and Fees – FY 2019

License Type	Number of Licensees	Initial Application Fee	Renewal Fee
Veterinarian	9,672	\$515 ⁸	\$195
LVT	1,991	\$50	\$50
EDP	62	\$100	\$83
Total	11,725		

The board cooperates with the DEA and the Texas State Board of Pharmacy to track and monitor prescriptions of controlled substances by veterinarians. The textbox, *Texas Prescription Monitoring Program*, provides more information about controlled substances oversight by the program and other stakeholders.¹⁰

- **Peer assistance.** The agency contracts for peer assistance services for licensees who may be impaired by substance abuse or dependence, or mental illness. Through the peer assistance program, licensees are evaluated to determine if they are safe to practice, and if not, may be subject to treatment and monitoring before being allowed to practice. In fiscal year 2019, 22 licensed individuals participated in the peer assistance program.

Texas Prescription Monitoring Program (PMP)

- The PMP collects and monitors prescription data for all Schedule II, III, IV, and V controlled substances dispensed in Texas.
- Statute allows prescribers, pharmacists, and related regulatory agencies to check a patient’s information in the database to determine potential drug diversion or drug abuse.
- If the board determines a veterinarian has potentially harmful prescribing or dispensing patterns, the board may initiate a complaint using the information obtained through the PMP.

¹ Chapter 76 (H.B. 62), Acts of the 32nd Texas Legislature, Regular Session, 1911.

² All citations to Texas statutes are as they appear on <http://www.statutes.legis.state.tx.us/>. Sections 801.051, 801.052, and 801.054, Texas Occupations Code.

³ Section 801.251, Texas Occupations Code.

⁴ Chapter 481 (S.B. 1312), Acts of the 83rd Texas Legislature, Regular Session, 2013.

⁵ Chapter 940 (H.B. 414), Acts of the 82nd Texas Legislature, Regular Session, 2011.

⁶ Section 801.551, Texas Occupations Code.

⁷ Total veterinarian licensees includes all active, inactive, retired, military, and special license types.

⁸ Fees listed for veterinarians apply to the regular veterinary license and not special, temporary, or inactive licenses.

⁹ 22 T.A.C. Section 575.25.

¹⁰ Sections 481.076 and 481.0764, Texas Health and Safety Code; Section 801.5011, Texas Occupations Code.

ISSUE 1

The State Has a Continuing Need to Regulate the Practice of Veterinary Medicine, but the Agency Continues to Struggle With Effective Data Collection and Trend Analysis.

Background

The Legislature created the State Board of Veterinary Medical Examiners in 1911 to regulate the practice of veterinary medicine, surgery, and dentistry.¹ In the past decade, the Legislature authorized the agency to license and regulate equine dental providers (EDPs) and licensed veterinary technicians (LVTs).²

The agency's mission is to establish and enforce policies to ensure the best possible quality of veterinary and equine dental provider services for the people and animals of Texas. At the end of fiscal year 2019, the agency licensed 8,978 veterinarians, 1,991 LVTs, and 62 EDPs.³ The agency sets standards for the practice of veterinary medicine and equine dental services, and ensures adherence to these standards by inspecting licensees, investigating and resolving complaints against licensees, and taking disciplinary action when necessary. In fiscal year 2019, the agency reported completing 897 inspections, resolving 251 complaints, issuing 99 disciplinary orders, and dismissing 163 complaints.

Findings

The state has a continuing need to regulate the practice of veterinary medicine.

The state continues to need to regulate the practice of veterinary medicine to protect the public. Veterinarians provide a number of medical services for a broad range of animals, including diagnosing illness; performing surgeries; prescribing and directly dispensing drugs, including controlled substances; treating disease and injury; and administering therapeutic care. The agency's licensure of veterinarians, LVTs, and EDPs ensures providers can demonstrate minimum competency through education and training. Regulation also addresses the risk to the public by defining reasonable standards of veterinary medical care and disciplining or removing veterinarians from practice who do not meet those standards. Although a veterinarian's patients are not human, owners do not have the expertise to ensure proper and quality veterinary care when obtaining services. The regulation of veterinary medicine also extends beyond typical care provided to companion animals, but affects all industries that rely on the health of animals, from agriculture to racing to human medical research.

All 50 states regulate veterinary medicine.

No significant benefit would result from consolidating the State Board of Veterinary Medical Examiners with another agency or under an umbrella structure at this time. All 50 states regulate veterinary medicine; however, the regulatory structures vary. In Texas, the agency has historically existed as a standalone entity and has a different, albeit related, focus from human healthcare regulatory agencies. Agencies regulating human healthcare professionals, like dentists, doctors, and nurses, protect the public by regulating practitioners who

directly treat their patients and therefore have a direct impact on public health and welfare. Veterinarians and EDPs do not directly treat their clients, the owners, when providing services to their animal patients. Furthermore, federal and state legal structures that govern human healthcare often do not apply to the veterinary profession. For example, laws governing human healthcare costs, insurance, medical facilities, patient confidentiality, and patient medical records, among others, either differ significantly or do not apply to veterinarians.

The agency continues to struggle with poor data management.

The agency's previous Sunset review found significant management and IT issues, contributing to the decision to continue the agency for only four years in 2017. While the agency has implemented most of the recommendations from the previous review, it continues to struggle with data collection and analysis, particularly enforcement data. Several of the Sunset Commission's management recommendations in the previous review specifically addressed the agency's poor data collection, tracking, and analysis. While management recommendations were not included in this limited scope review, the agency still struggled to provide trend data, which was also compromised by unreliable historical data. However, the lack of trend data made it difficult for Sunset staff to determine ultimate implementation of other statutory recommendations without accurate data to verify. The agency is in the process of implementing a new database that should address these concerns, but the ongoing problems outlined below illustrate the Sunset Commission's previous management recommendations remain appropriate.

The agency still struggles with data collection and analysis.

- **Delayed IT upgrades.** After the last Sunset review, the agency acknowledged and began trying to address its inadequate IT systems, but vendor challenges have significantly delayed the improvements. Today, the agency still lacks the IT updates needed to conduct basic, reliable data collection and analysis. The agency chose not to pursue the available database from the Health Professions Council, citing high costs for customization and low functionality. Instead, the agency entered into a contract with an approved Department of Information Resources (DIR) vendor toward the end of fiscal year 2018 to replace its legacy database system. However, in fiscal year 2019, the vendor's subcontractor went out of business, leaving the agency scrambling to find another solution to replace the database. As an interim solution, the vendor agreed to revamp the existing legacy database system and assist with data migration once the agency selected a new vendor. In mid-fiscal year 2020, the agency selected another DIR-approved vendor for a new database, whose subcontractor has experience working with other state veterinary boards and did not require an upfront payment from the agency. At the beginning of fiscal year 2021, the agency was implementing its new database, but had to rely on questionable data from its legacy system and division-specific spreadsheets for the current Sunset review.
- **Insufficient data collection.** Similar to the previous review, the agency still struggled to provide Sunset staff basic, verifiable, end-of-fiscal year

Unforeseen vendor issues significantly delayed needed IT upgrades.

enforcement data, such as the number of complaints resolved in a year, average number of days to resolve a complaint, the priority assigned to a complaint, sources of complaints, and number of backlogged cases. Not trusting their unreliable data, agency staff reported counting data points manually for verification, which is time consuming and risks additional human error. The lack of data significantly limits the agency's ability to have a complete, accurate picture of its efforts and to make needed adjustments to best carry out its mission, serve its licensees, and protect the public.

- **Lack of comprehensive trend analysis.** Since the last Sunset review, the agency has been assisting more in criminal investigations at the request of other state agencies, such as the Texas Parks and Wildlife Department, as well as local law enforcement. While providing this assistance is not out of line with its mission, the agency has not been tracking any data or trends to determine how many investigations the agency actually assists with or the time and resources spent assisting other agencies. In addition, and as reflected above, the agency is unable to effectively track and analyze its own regulatory efforts. Instead, the agency relies on staff to identify trends based on their experiences, which allows anecdotes, not data, to drive the agency's strategic planning and resource allocation. Without a standard, reliable process for collecting and analyzing its data, the agency misses significant opportunities for improving its own operations as well as further understanding trends in veterinarians' violations of board laws and rules across the state.
- **Incomplete and inconsistent information available on the agency's website.** An agency's website is the primary place members of the public go to learn about an agency and its operations. However, the agency does not provide complete information about its regulatory activities on its website. The Sunset Commission's recommendations in the previous review directed the agency to ensure the website accurately reflects the disciplinary status of each licensee, as well as making all board-approved disciplinary orders available and easily found on the website. The agency has not fully addressed these deficiencies, citing issues with the now defunct connection to the former database, and its focus on more important priorities, such as controlled substances investigations. While the new database should eventually provide this information, the agency's current website still does not provide the public accurate information about the disciplinary status of each of its licensees.

The agency has not fully addressed website deficiencies.

Sunset Staff Recommendation

Change in Statute

1.1 Continue the State Board of Veterinary Medical Examiners for eight years.

This recommendation would continue the agency until 2029 to coincide with the Sunset reviews of other prescribing and dispensing boards, allowing Sunset to evaluate the state's overall regulation of

practitioners prescribing and dispensing of controlled substances. This recommendation would also continue the agency's statutory EDP advisory committee.

Fiscal Implication

This recommendation would not result in a fiscal impact to the state. Continuing the agency based on fiscal year 2019 appropriations would require approximately \$1.4 million annually.

¹ Chapter 76 (H.B. 62), Acts of the 32nd Texas Legislature, Regular Session, 1911.

² Chapter 940 (H.B. 414), Acts of the 82nd Texas Legislature, Regular Session, 2011; Chapter 481 (S.B. 1312), Acts of the 83rd Texas Legislature, Regular Session, 2013.

³ Total veterinarian licensees reflects all active, retired, military, and special veterinarians, but does not include inactive veterinarians.

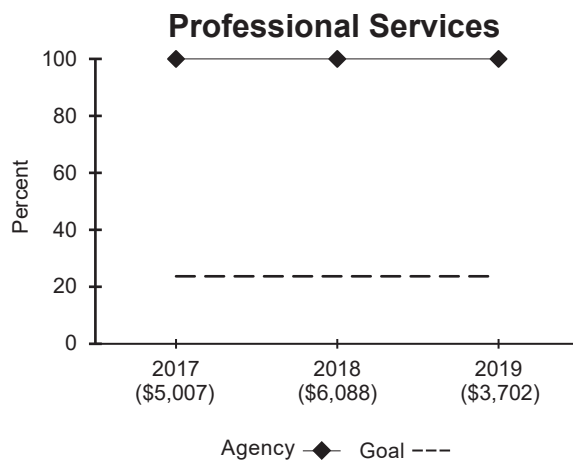
APPENDIX A

Historically Underutilized Businesses Statistics, FYs 2017–2019

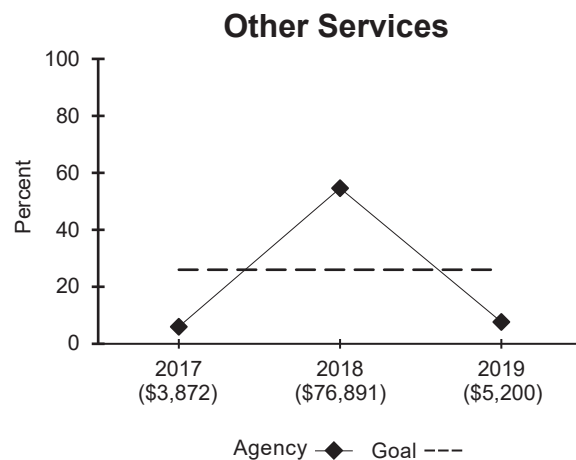
The Legislature has encouraged state agencies to increase their use of historically underutilized businesses (HUBs) to promote full and equal opportunities for all businesses in state procurement. The Legislature also requires the Sunset Commission to consider agencies’ compliance with laws and rules regarding HUB use in its reviews.¹

The following material shows trend information for the State Board of Veterinary Medical Examiners’ use of HUBs in purchasing goods and services. The agency maintains and reports this information under guidelines in statute.² In the charts, the dashed lines represent the goal for HUB purchasing in each category, as established by the comptroller’s office. The diamond lines represent the percentage of agency spending with HUBs in each purchasing category from fiscal years 2017–19. Finally, the number in parentheses under each year shows the total amount the agency spent in each purchasing category.

The agency exceeded the state’s goal for HUB spending in the professional services category in fiscal years 2017–19, but has struggled to consistently meet statewide goals for other services and commodities. The agency did not have purchases in heavy construction, building construction, and special trade categories in the last three fiscal years. The agency has neither biennial appropriations nor contracts large enough to mandate other HUB-related requirements such as creating HUB subcontracting plans for large contracts, appointing a HUB coordinator, creating a HUB forum program, and developing a mentor protégé program.

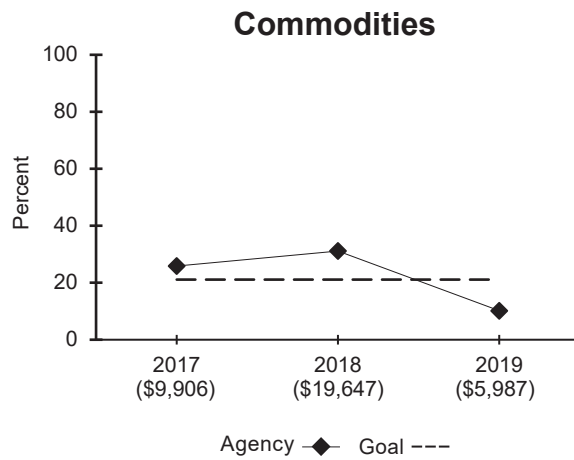


The agency exceeded the statewide purchasing goal for professional services in the last three fiscal years.



The agency exceeded the statewide purchasing goal for other services in fiscal year 2018, but fell significantly below the goal in fiscal years 2017 and 2019.

Appendix A



The agency exceeded the statewide purchasing goal for commodities in fiscal years 2017 and 2018, but fell below the goal in 2019.

¹ All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 325.011(9)(B), Texas Government Code.

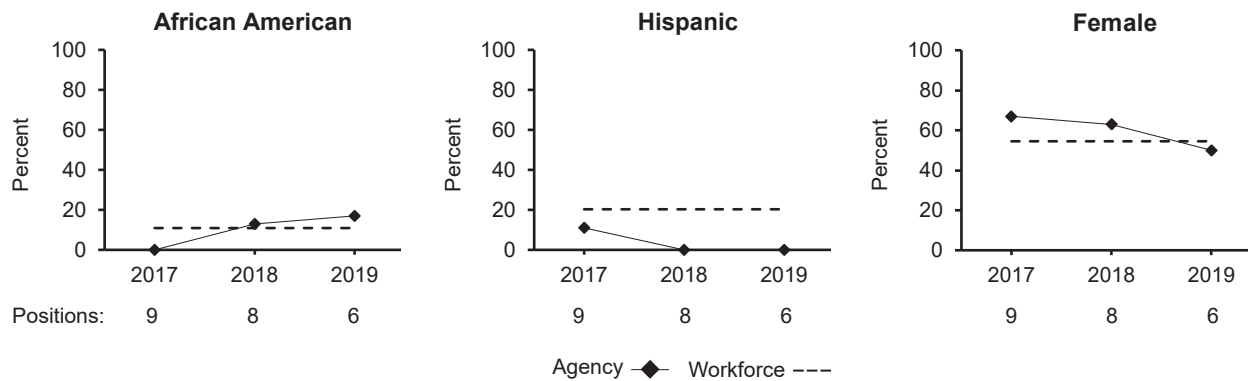
² Chapter 2161, Texas Government Code.

APPENDIX B

Equal Employment Opportunity Statistics, FYs 2017–2019

In accordance with the requirements of the Sunset Act, the following material shows trend information for the employment of minorities and females in all applicable categories by the State Board of Veterinary Medical Examiners.¹ The agency maintains and reports this information under guidelines established by the Texas Workforce Commission.² In the charts, the dashed lines represent the percentages of the statewide civilian workforce for African Americans, Hispanics, and females in each job category.³ These percentages provide a yardstick for measuring agencies’ performance in employing persons in each of these groups. The diamond lines represent the agency’s actual employment percentages in each job category from fiscal years 2017–19. The agency has struggled to meet statewide civilian workforce percentages for African Americans and Hispanics, failing to meet the statewide percentage for African Americans in fiscal year 2017 in the professional services category and for Hispanics in fiscal years 2018 and 2019 in the professional and administrative support categories. The agency exceeded state civilian workforce percentages for females in fiscal years 2017 and 2018 in both the professional services and administrative support categories, but struggled in the professional category in in fiscal year 2019. The agency does not have positions in technical, service/maintenance, or skilled craft job categories. The officials/administration category had too few employees to conduct a meaningful comparison to the overall civilian workforce over the past three fiscal years.

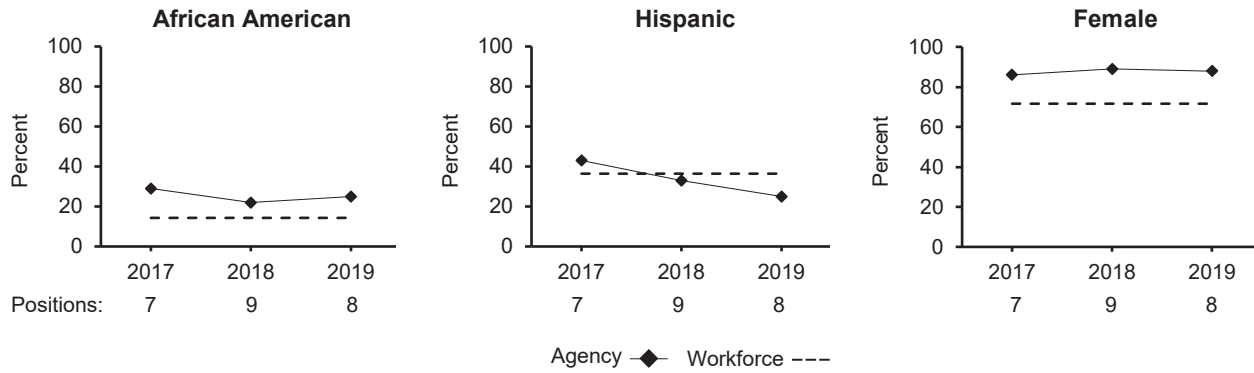
Professional



The agency failed to meet statewide civilian workforce percentages for Hispanics in the last three fiscal years, for African Americans in fiscal year 2017, and females in fiscal year 2019. The agency exceeded the statewide civilian workforce percentages for African Americans in fiscal years 2018 and 2019 and for females in fiscal years 2017 and 2018.

Appendix B

Administrative Support



The agency exceeded the statewide civilian workforce percentages for African Americans and females in the last three fiscal years. The agency exceeded statewide civilian workforce percentages for Hispanics in fiscal year 2017, but fell below in fiscal years 2018 and 2019.

¹ All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 325.011(9)(A), Texas Government Code.

² Section 21.501, Texas Labor Code.

³ Based on the most recent statewide civilian workforce percentages published by the Texas Workforce Commission.

APPENDIX C | Staff Review Activities

During the review of the State Board of Veterinary Medical Examiners, Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with agency personnel; attended a board meeting; conducted interviews and solicited written comments from interest groups and the public; reviewed agency documents and reports, state statutes, legislative reports, previous legislation, and literature; researched the organization and functions of similar state agencies in other states; and performed background and comparative research.

In addition, Sunset staff also performed the following activities unique to this agency:

- Interviewed staff from the Drug Enforcement Administration, Texas State Board of Pharmacy, and the Health Professions Council.
- Obtained relevant controlled substances data from the Drug Enforcement Administration.
- Researched comparative state controlled substances and facilities regulation.
- Reviewed agency enforcement case files and observed informal conferences.

Sunset Staff Review of the *State Board of Veterinary Medical Examiners*

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