

Animal Association of Texas
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Dear Chairman, and Members of the Sunset Commission:

My name is Brenda Collier. This written testimony, regarding the Sunset Commission Staff report on the Texas Board of Veterinary Medical Examiners, is on behalf of the Animal Association of Texas (AAT).

I am primarily an attorney in private practice, and Board Chair of AAT. The AAT represents animal shelters, shelter vets, farm and ranch animal owners, and any other interested party who ascribes to our position on the ethical protection of orphaned, abandoned, and in many cases discarded, animals who are in need of medical care, fostering, or a new permanent home. These needs are met at low-costs to local governments, prospective owners, and the animal shelters themselves.

The Animal Association of Texas opposes overreaching government regulation that would result in the unnecessary deaths of animals, and the imposition of burdensome costs on animal shelters and local governments in Texas.

The AAT agrees with the Sunset Staff's analysis contained in Issue 2 and I will limit my remarks to that particular section of the Report. My intent here is to brief you on a case study of how the TBVME has treated one of the more gifted, and generous, veterinarians in Texas, Dr. Ellen Jefferson, and to tell you how this agency arbitrarily painted a target on her back, in contravention of their own published guidance. Indeed, the TBVME's "enforcement processes cannot ensure fair treatment of licensees and complainants".

In its Fall 2012 *Board Notes*, the "From the Executive Director" section addresses the creation of veterinarian-client-patient relationships at animal shelters. In that piece, the E.D. states definitively that shelter vets are exempt from the Veterinary Licensing Act under either the owner exemption, or the caretaker exemption, once ownership of the animal transfers to the shelter.

Yet, despite its own guidance, the TBVME on 2013 brought an enforcement action against Dr. Jefferson for practicing veterinary medicine in good faith reliance on the exact same owner/caretaker exemption outlined by the E.D. in September 2012, and plainly stated in statute since 1953. For years, Dr. Jefferson fought to maintain her good name, her reputation, and her excellent record, while the TBVME increased the threatened penalties time and again.

Eventually Dr. Jefferson won her case at the 3rd Court of Appeals which, in its Memorandum Opinion, directly quoted the SOAH ALJ's interpretation of the statute. Not surprisingly, the ALJ's interpretation also mirrored the interpretation in the Fall 2012 *Board Notes*.

The 3rd Court determined that was that there is no ambiguity to the statute: Dr. Jefferson's veterinary practices on the animals belonging to her, and her no-kill shelters, were legal. Therefore, the administrative rule adopted by the TBVME to undermine the statutory exemptions for owners and caretakers was invalidated.

Given the *lack* of ambiguity cited by the 3rd Court, the "lack of clarity" narrative that appears over and over in the TBVME Self-Evaluation should no longer apply. That is why the AAT requested in writing that the TBVME revise its self-evaluation, given the court's decision came after the publication of the self-evaluation report. Frankly, we did not think it should have taken a letter to get TBVME to clean this up, but we're not particularly surprised.

As an epilogue, it's not just the enforcement processes described in the Sunset Staff Report that are unreliable; it's also how the agency conducts its day-to-day business with practitioners and other interested parties.

For example, the agency purposefully left out the shelter vets when it convened 4 stakeholder meetings in early 2016 to gather input on draft regulations that would have directly affected animal shelters and shelter vets. It wasn't until the third meeting out of four scheduled that shelter vets were even aware of these meetings, and then proceeded to protest and register their objections.

The agency eventually abandoned the rulemaking process because opposing sides could not agree.

I will conclude by saying that the AAT does not believe the agency can be trusted to effectively oversee the practice of veterinary medicine in Texas, and remain within the statutory boundaries established by the Legislature.

If I can provide any further information to the Commission members or staff, please don't hesitate to contact me.



Brenda H. Collier
Chair of the Board of Directors