



*Recognized as the World Leader in Animal Chiropractic*

# AMERICAN VETERINARY CHIROPRACTIC ASSOCIATION

October 21, 2016

Re: Sunset Commission Review of the Texas Board of Chiropractic Examiners

Thank you for the opportunity to comment on the findings and recommendations of the Texas Sunset Commission. My name is James Israelsen, and I am a member of the legislative committee for the American Veterinary Chiropractic Association. I am writing on behalf of the AVCA, and I thank the members of the Texas Sunset Commission for the opportunity to comment on their recent review and recommendations for the Texas Board of Chiropractic Examiners. As an interested party, we have had regulatory interactions with the TBCE in the past, and wish to give our perspective.

The American Veterinary Chiropractic Association is the largest organization in the world involved in certifying Doctors of Chiropractic and veterinarians to perform chiropractic adjustments on animals. We also grant providership recognition to animal chiropractic educators, thus allowing state regulatory agencies to approve continuing education credits for participants in those programs. Our certification program is widely recognized in the United States and around the world as the authority in this area. Our goal in providing certification is to assure that our certified practitioners are safe and knowledgeable in the area of animal chiropractic, thus protecting the public.

The question of scope of practice and exact limitations on individual practitioners of animal chiropractic is a question that is being discussed throughout the country by multiple veterinary and chiropractic boards, state legislatures, and licensing agencies. As a national organization, we at the AVCA have seen numerous different approaches to appropriately regulating the practice of animal chiropractic, and we feel that it starts with having an educated, safe, ethical, and professional practitioner. We accomplish this through rigorous training of our certificants, including required continuing education hours to maintain certification. Animal chiropractic is something that is being demanded by the public; we feel that without a contingent of educated, trained animal chiropractic practitioners, this procedure will be done by untrained laypeople, possibly resulting in harm to patients, and a general weakening of the public's perception of the value of our shared profession.

It is the policy of the AVCA that certificants practice within the laws and regulations of their individual states/provinces. Thus, when several of our certificants were contacted by the TBCE in 2012 and informed they were being investigated for practicing outside the scope of practice, we provided the above perspective to the TBCE. We had several AVCA-certified stakeholders in attendance at the TBCE board meeting on December 4, 2012, and submitted a legislative packet explaining our position in advance. Yvette Yarborough, the administrative assistant to the TBCE at the time was very helpful in this area. The members of the TBCE board were polite and interested in our perspective. After hearing our presentation, and listening to the advice of counsel, they elected to suspend enforcement actions against our certificants. Discussion was

had about further-pursuing a legislative clarification allowing AVCA-certified doctors to adjust animals under the oversight of their respective regulatory boards, but no further action was taken. Our perspective is that the veterinary board and chiropractic board individually agreed that no significant problem existed, and thus saw no need for further action.

In regards to the recommendations made by the Sunset Commission, we would like to provide our perspective. As not all recommendations involve our area of interest, only comments pertaining to our experience will be made.

- **Issue 1**
- ***Slow Complaint Resolution and Misplaced Focus on Low-Risk Enforcement Activities Could Present Risks to Patient Safety.***
- *By focusing too much time and resources on administrative violations, the board risks delays in investigating violations that could jeopardize patient safety. The board's slow complaint resolution time, despite comparably low caseloads, raises concerns about the investigation process. The board cannot clearly account for its investigators' time, does not formally prioritize complaints according to public risk, and uses an overly broad definition of "gross unprofessional conduct" that does not distinguish between high- and low-risk violations. When investigations find a violation requiring enforcement action, the board's penalty guidelines put almost all violations in the highest severity category — effectively equating providing substandard chiropractic care with defaulting on student loan payments.*

Our experience in this area tends to mirror that of the Sunset Commission's findings. All of the enforcement activities against our certificants were pursued under "advertising violations". There was never a stated concern about the safety of the public, or a question that AVCA-certified doctors were endangering the public by their actions. We agree with the recommendation to implement a penalty matrix so that not violations may be weighted by their severity and the degree of risk they present to the public.

- **Issue 3**
- ***The Board Lacks Formal Mechanisms to Ensure Chiropractic Expertise in Its Enforcement Process.***
- *Statute requires the board to implement peer review committees to provide expertise on billing and chiropractic standard of care complaints. However, the peer review committee structure outlined in statute is too cumbersome for the limited number of complaints requiring chiropractic expertise. To fill the need for chiropractic expertise, the board recently implemented an expert review process under which it contracts with licensed chiropractors to provide expert reviews of standard of care complaints as needed. Although the board's new expert review process is a step in the right direction, the process lacks clear legal authority and formal policies and requirements.*
- **Key Recommendations**
- *Repeal the local and executive peer review requirements from statute.*
- *Require the board to develop an expert review process in rule to ensure chiropractic expertise in its enforcement process.*

We agree with this finding. When the practice of animal chiropractic was being discussed, the board really had no means of determining the safety, training, or efficacy of chiropractors performing adjustments on animals. Most members of the board were surprised to learn that an organization such as the AVCA existed. Our recommendation would be that if an expert review process is implemented, input for AVCA-certified animal practitioners should be required in the area of animal chiropractic. The AVCA would be happy to make recommendations for certified DCs (and possibly DVMs) that could provide expert input in this area.

In summary, we agree with the findings of the Sunset Commission that address areas with which we are familiar. We agree with the recommendations of prioritizing enforcement activities to focus on those that are a direct threat to the public welfare, and to reduce enforcement activities that do not do so. We suggest that if an expert review process is developed to ensure chiropractic expertise, the AVCA can provide numerous Texas-licensed experts in animal chiropractic.

Thank you again for the opportunity to comment,

Sincerely,

A handwritten signature in black ink, appearing to read "James E. Israelsen, DVM". The signature is written in a cursive style with a large initial "J" and a distinct "DVM" at the end.

James E. Israelsen, DVM  
Past President, Legislative Chair

JEI/lm