



TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

October 21, 2016

Ken Levine
Director
Sunset Advisory Commission
P.O. Box 13066
Austin, Texas 78711-3066

Via email: Sunset@sunset.texas.gov

Dear Mr. Levine:

Thank you for the opportunity to provide responses to the issues and recommendations presented in the Sunset Advisory Commission Staff Report on the Texas State Board of Veterinary Medical Examiners (TBVME).

The attached document reflects TBVME's responses to the issues in the report. This report provides valuable recommendations that the Board can utilize to more skillfully ensure sufficient veterinary medical standards to serve and protect the people and animals of Texas. I look forward to working with you as we move through the rest of the process.

Sincerely,

A handwritten signature in cursive script that reads "Nicole Oria".

Nicole Oria
Executive Director

cc: Chairman Larry Gonzales, via email Larry.Gonzales@house.state.tx.us
TBVME Board Members

Enclosure: TBVME Responses to Sunset Staff Report

ISSUE 1

Recommendation 1.

Continue the State Board of Veterinary Medical Examiners for six years.

TBVME Response: The Agency agrees with this recommendation. It is the Agency's hope that with the prompt and successful implementation of the recommendations outlined in this report, that the Sunset review date would be postponed for twelve years rather than six. The Agency has completed a large number of the recommendations in the Sunset staff report and has started the process to complete the rest of the recommendations, except for those recommendations which require legislative action.

Recommendation 1.2

Update the standard Sunset across-the-board requirement to board member training.

TBVME Response: The Agency agrees with this recommendation.

ISSUE 2

Recommendation 2.1

Require the Board to develop and adopt a schedule of sanctions in rule, and to use it in determining disciplinary actions.

TBVME Response: The Agency agrees with this recommendation. The agency will be proposing a schedule of sanctions in a rule at the January 2017 Board meeting, following a rules committee meeting and public stakeholder meeting for pre-comment.

Recommendation 2.2

Direct the Agency to clearly define and consistently implement its enforcement procedures.

TBVME Response: The Agency agrees with this recommendation. The Agency expects to complete this process within six months.

Recommendation 2.3

Direct the Agency to improve its enforcement data tracking systems and processes.

TBVME Response: The Agency agrees with this recommendation. The Agency has already identified all IT recommendations from Sunset and Agency staff, prioritized those recommendations and expects completion by the end of this year. The Agency expects to complete documentation of enforcement data tracking processes within six months.

ISSUE 3

Recommendation 3.1

Clarify statute and provide direction for the Agency to monitor veterinarians dispensing and prescribing of controlled substances.

TBVME Response: The Agency agrees with this recommendation.

Recommendation 3.2

Require Texas veterinarians with a DEA registration to report dispensing data to the Texas Prescription Monitoring Program.

TBVME Response: The Agency agrees with this recommendation.

Recommendation 3.3

Require the Agency to collect and track relevant data to establish a risk-based approach to onsite inspections.

TBVME Response: The Agency agrees with this recommendation. Statutory clarification would provide clear authority to implement this recommendation.

Recommendation 3.4

The Agency should create and implement inspection guidelines with aggravating and mitigating factors to evaluate controlled substances deficiencies recorded during onsite inspections.

TBVME Response: The Agency agrees with this recommendation. The Agency established a workgroup at the October board meeting to advise on the creation of these guidelines. The Board has already approved a new disciplinary matrix regarding controlled substances drug logs at the July 2016 Board meeting. The Board will create further disciplinary matrices regarding other possible violations from an inspection with aggravating and mitigating factors with the advice of the workgroup. This should be complete within six months.

Recommendation 3.5

Direct the Agency to develop a robust educational process to regularly educate licensees about controlled substances laws, rules, and inspection standards.

TBVME Response: The Agency agrees with this recommendation. This should be complete within six months.

Issue 4

Recommendation 4.1

Require the Agency to conduct fingerprint-based criminal background checks of all licensure applicants and existing licensees.

TBVME Response: The Agency agrees with this recommendation.

Recommendation 4.2

Authorize the Agency to provide biennial staggered license renewals for all license types.

TBVME Response: The Agency agrees with this recommendation.

Recommendation 4.3

Remove the statutory limitation currently restricting the agency's authority to lower fees.

TBVME Response: The Agency agrees with this recommendation.

Recommendation 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.

TBVME Response: The Agency agrees with this recommendation. The Agency has already taken action at the October Board meeting to have board members who reviewed cases recuse themselves from vote on the en masse agreed orders before the Board. The Agency has for many years required reviewing Board members to recuse themselves from orders where the facts of the case were to be discussed by the Board, such as orders with a proposal for decision from SOAH before the Board. The agency also currently seeks opinions of veterinarians or veterinary specialists who have expertise when needed during the medical review process that are relied upon by the board member medical reviewers and at no additional expense to the agency.

The agency would also like to note that this portion of the recommendation, the staff veterinarian and/or the expert panel will require additional resources appropriated to the Agency in order to accomplish and could increase the agency's average days to resolution.

Recommendation 4.5

Direct the Agency to solicit and consider input from LVTs and EDPs on all rule changes and policy decisions affecting these license types.

TBVME Response: The Agency agrees with this recommendation and has already implemented this recommendation.

Recommendation 4.6

Direct the Agency to conduct continuing education audits as part of the license renewal process.

TBVME Response: The Agency agrees with this recommendation. This is to be implemented by January 2017.

Recommendation 4.7

Direct the Agency to evaluate jurisprudence exam questions for each license type and create question banks for its jurisprudence exams.

TBVME Response: The Agency agrees with this recommendation and has already done so.

Recommendation 4.8

Direct the Agency to remove the notarization requirement and evaluate other application requirements to streamline temporary license processing.

TBVME Response: The Agency agrees with this recommendation and has already removed the notarization requirement and has proposed amendments to the rule on temporary licensure that conform to the Sunset recommendations at the agency's October Board meeting.

Recommendation 4.9

Direct the Agency to improve tracking of non-jurisdictional complaints.

TBVME Response: The Agency agrees with this recommendation and has already done so.

ISSUE 5**Recommendation 5.1**

Request the Senate Committee on Agriculture, Water, and Rural Affairs and the House Committee on Agriculture and Livestock to take action to clearly define the scope and limits of the statutory owner exemption in the Veterinary Licensing Act.

TBVME Response: The Agency agrees with this recommendation.

Recommendation 5.2

Direct the State Board of Veterinary Medical Examiners to provide the legislative committees of jurisdiction proposed statutory definitions of designated caretaker.

TBVME Response: The Agency agrees with this recommendation. This will be completed before January 31, 2017.