

From: [Elizabeth Jones](#)
To: [Trisha Linebarger](#)
Subject: FW: Public Input Form for Agencies Under Review (Public/After Publication)
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From: sunset@sunset.texas.gov On Behalf Of Texas Sunset Commission
Sent: Wednesday, December 2, 2020 3:03:29 PM (UTC-06:00) Central Time (US & Canada)
To: Sunset Advisory Commission
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: STATE BOARD VETERINARY MEDICAL EXAMINERS

First Name: Judy

Last Name: Santerre

Title:

Organization you are affiliated with:

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City: Wimberley

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or Opposed:

The Sunset Advisory Commission staff's 2020 review of the TBVME reports no improvement in the TBVME since the 2016 review, when Senator Kirk Watson's scathing assessment caused three of its board members to quit. Yet Sunset staff states the TBVME should be extended for another eight years, an incongruous and troubling conclusion. Sunset staff reports the TBVME cannot come up with data because its attempts at new computer technology have repeatedly failed over the last four years.

Data collection, tracking, and analysis is nonexistent. The word used by Sunset staff in its report is "anecdotes" and not facts, so there were no data for Sunset staff to review, the same complaint made by the Sunset Commission in 2016.

At no time during the last four years has the TBVME published all of its board orders so the public knows which veterinarians have been disciplined.

In fact, judging from the dropping numbers of complaints, most victims of veterinary malpractice are contacted (as I was) and offered pay-off settlements with non-disparagement clauses to effectively silence them, so the prevalence of veterinary malpractice in Texas is unknown.

The TBVME was to implement an interface with the Prescription Monitoring Program in order to obtain information on controlled substances prescribed by veterinarians. This appeared to be a top concern for Sunset in 2016 following its finding that veterinarians lost nine times more controlled substances than all Texas medical doctors combined. While Sunset staff reports this was accomplished, the only time the TBVME reviews veterinarian purchasing of controlled substances is prior to an inspection, which is only done approximately every ten years, and during inspections the controlled substance logs are reviewed. Given the reported IT issues, it is unclear whether the TBVME is reviewing this information and if the targeted inspections which were intended are taking place. This occurred with the

2018 change in rule no longer permitting anonymous complaints. The people in the best position to notice problems with a veterinarian early, before harm can happen to either the public, their pets, or the veterinarian, are the veterinary technicians and staff who work in the clinics. As it now stands, employees must risk their jobs and careers to do the right thing. The only people protected by not reviewing anonymous complaints are dangerous veterinarians. Please restore investigation of anonymous complaints so staff in veterinary clinics can safely report problems early.

The TBVME requires continuing education hours but only checks for them during rare inspections. They could easily and more cheaply be doing this online the same way attorneys and pharmacists do.

The TBVME also stopped the board notes that were issued quarterly to inform both veterinarians and the public of the agency's activities, including disciplinary actions taken. This lack of transparency is at odds with Sunset's requirements.

Sunset points out legal structures that govern human healthcare do not apply to the veterinary profession because veterinarians treat animal patients, however, in the absence of that legal structure, consumer protections apply, and in the abuse of companion animals for money, a ton of ethics considerations as well. Deceptive practices in veterinary medicine are prevalent. People with pets are unaware of the dangers they face in a veterinary clinic. The TBVME not only does nothing to correct these abuses, they support them, including ignoring and dismissing gross violations of veterinary malpractice, including animal cruelty, to the shock and dismay of victims who have lost beloved pets to veterinarians they trusted. Roughly 60% of Texas families have pets. True rates of harm and losses due to malpractice are unknown to Sunset or the public. At the same time, costs of veterinary care have been rising dramatically with zero oversight.

The TBVME has been assisting in criminal investigations for other agencies and local law enforcement, but there is no data to report how often. While Sunset states this is not "out of line" with its mission, they admit they don't have data on those either. The TBVME isn't meeting its own duties, so it should not be expanding its scope to others.

Neither Sunset staff nor the TBVME reports the status of the Dr. Ron Hines case, which the TBVME pursued to the Supreme Court to block this veterinarian from practicing telemedicine, which is now legal in human and veterinary medicine. It seems a waste of public resources and taxpayer money.

Following Senate Bill 1497 from the 70th Legislature in 1987, which approved the exemption of both veterinarian negligence and veterinarian malpractice from the Deceptive Trade Practices Act, protecting citizens and their pets from both became manifest. If the State exempts malfeasance from special interest groups, it must legislate to ensure those special interest groups are not victimizing the public and harming companion animals.

The guilt or innocence of a veterinarian matters, but it takes ethical government. There are many things the State could be doing to protect the public from less than quality veterinary care. The State should consider the following:

(1) Adopt informed consent so people can make good decisions for their pets.

When we take our car in for repairs, the mechanic will diagnose the problem and let us know what's wrong and how much it will cost to fix it. We either agree or take the car elsewhere. By law, our pets are consumer products. Informed consent means "the veterinarian has informed the client, in a manner that would be understood by a reasonable person, of the diagnostic and treatment options, risk assessment and prognosis and has provided the client with an estimate of the charges for veterinary services to be rendered and the client has consented to the recommended treatment"

(State of Mississippi.) The TBVME should require informed consent for all interventions, not just select "alternative" ones. Our pets are more important to us than our cars. We consider them our family members. Included with informed consent should be advising pet owners of the difference between human anesthesia and pet anesthesia so they can make informed decisions about its use, particularly for elective procedures like teeth cleaning. People assume human and pet anesthesia are the same, but there is dramatically more risk for animals.

(2) Revise the vaccination laws to follow the AAHA Guidelines and include an allowance for titers in lieu of vaccines so pets with immunity don't have to risk another vaccination they don't need. The State of Delaware has accepted titers in lieu of rabies vaccination earlier this year, the first state to do so.

(3) Require veterinarians to report adverse events directly to the appropriate federal agency so dangerous products are timely withdrawn. Given the lack of informed consent statute, dangerous products may be sold without appropriate risk and benefit discussions with pet owners.

Good veterinarians already follow a lot of these practices.

The last Sunset was supposed to correct a lot of the problems that were exposed in 2016, but instead of becoming more transparent and responsive to the public the TBVME serves, the opposite has occurred. The TBVME is less transparent and has gone further to block veterinary malpractice victims'

access to any information on their cases. The new complaint process is not even on the TBVME website. The website says the pamphlet will be sent with the complaint form, but when the public clicks on the space provided, only the complaint form comes up. Apparently, the public has to know to file a public information request to get the complaint pamphlet, and that may take weeks to fulfill.

The TBVME cut the statute of limitations for complaints from four years to two years with no public comment

period, cutting off victims from timely filing. The TBVME continues to dismiss obvious cases of malpractice. The board meetings have been shortened, the agendas hidden from the public (they are on the Secretary of State's website, not the TBVME's website), no board meeting materials whatsoever are available prior to or at meetings, and public comments have been moved to the end of the meetings.

The TBVME has been dismissing guilty veterinarians for so many years, there are a lot of bad actors practicing. On the rare occasions when the TBVME issues a board order, the public can't see it. Since the COVID pandemic, only one public meeting was held online while other agencies continued operations and veterinary clinics remained open. Most clinics have separated pets from their owners, making strict oversight even more vital.

Please legislate to make the TBVME work for the citizens of Texas. Please review the TBVME again in two years to ensure it is making progress on needed changes. Patient care must be prioritized. Transparency is badly needed along with accountability.

My comments are made in memory of my beloved horse, Harvey, brutally killed by gross veterinary malpractice.

Thank you for your consideration.

Judy C. Santerre

Any Alternative or New Recommendations on This Agency: Please see comments above.

My Comment Will Be Made Public: I agree