

TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

**Staff Report
to the
Sunset Advisory Commission**

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FOREWORD

The Texas Sunset Act (Article 5429k V.A.C.S.) terminates named agencies on specific dates unless continued. The Act also requires an evaluation of the operations of each agency be conducted prior to the year in which it terminates to assist the Sunset Commission in developing recommendations to the legislature on the need for continuing the agency or its functions.

To satisfy the evaluation report requirements of Section 1.07, Subsection (3) of the Texas Sunset Act, the Program Evaluation section of the Legislative Budget Board has evaluated the operations of the Texas Board of Veterinary Medical Examiners, which will terminate on September 1, 1981 unless continued by law.

Based on the criteria set out in the Sunset Act, the evaluation report assesses the need to continue the agency or its function and provides alternative approaches to the current method of state regulation. The material contained in the report is divided into seven sections: Summary and Conclusions, Background, Review of Operations, Alternatives and Constraints, Compliance, Public Participation, and Statutory Changes. The Summary and Conclusions section summarizes the material developed in the report from the standpoint of whether or not Sunset criteria are being met, assesses the need for the agency or the agency's functions relative to the findings under the various criteria and develops alternative approaches for continued state regulatory activities. The Background section provides a brief history of legislative intent and a discussion of the original need for the agency. The Review of Operations section combines, for the purposes of review, the sunset criteria of efficiency, effectiveness, and the manner in which complaints are handled. The Alternatives and Constraints section combines the sunset criteria of overlap and duplication, potential for consolidation, less restrictive means of performing the regulation, and federal impact if the agency were modified or discontinued. The Compliance Section combines the Sunset criteria relating to conflicts of interest, compliance with the Open Meetings Act and the Open Records Act, and the equality of employment opportunities. The Public Participation section covers the sunset criterion which calls for an evaluation of the extent to which the public participates in agency activities. The final section, Statutory Changes, deals with legislation adopted which affected the agency, proposed legislation which was not adopted and statutory changes suggested by the agency in its self-evaluation report.

This report is intended to provide an objective view of agency operations based on the evaluation techniques utilized to date, thus providing a factual base for the final recommendations of the Sunset Commission as to the need to continue, abolish or restructure the agency.

I. SUMMARY AND CONCLUSIONS

In the early periods of the nation's history, diseases in cattle and other livestock were treated by untrained individuals who used a variety of treatment methods, few of which were grounded in scientific medical principles. This often resulted in devastating economic losses to the livestock industry. However, throughout the late Nineteenth and early Twentieth Centuries, great advances were made in controlling animal diseases through the application of scientific treatment procedures by individuals trained in colleges of veterinary medicine. Thus, the need increased to identify those qualified practitioners who, through the use of sophisticated veterinary medical principles, could minimize economic losses to the livestock industry.

In Texas, two main factors underscored the need for state intervention in the veterinary profession. First, Oklahoma prohibited the importation of Texas cattle unless they were inspected by qualified individuals. Second, several veterinarians who were trained and licensed in other states identified the cause of Texas Fever and helped develop effective immunization procedures against the disease. In recognition of the need to identify qualified practitioners the Thirty-second Legislature created the Board of Veterinary Medical Examiners in 1911 and provided for regulation of the practice of veterinary medicine.

The board, composed of six licensed veterinarians, presently regulates 3,460 licensees through its licensing and enforcement functions. Additional responsibilities include determining the qualification of applicants for licensure and enforcing provisions against the unauthorized practice of veterinary medicine. Operations of the board are supported entirely from fees collected by the agency and appropriated for its use from the Veterinary Fund in the State Treasury.

Review of the board operations reveals that the regulatory activities of the board generally serve to ensure the competent practice of veterinary medicine. In the areas of administration, practices are generally conducted in an efficient and effective manner. However, projections indicate that agency expenditures could exceed revenues by 1985. The Act should therefore be amended to allow the board to charge all necessary and reasonable fees to cover its legislative appropriation.

With respect to licensing, the review indicated that the licensing process generally functions in a satisfactory manner. However, six aspects of the licensing activity should be improved. First, grounds for refusal to allow an individual to sit for an examination and grounds for removal of a license once issued should be restructured so that provisions meet a two part test: grounds for disqualification should be clear and related to the practice of the profession and grounds should be stated in terms of a currently existing condition rather than an absolute condition which exists throughout the lifetime of the individual. Some prerequisites for examination do not meet this test. Second, the statute requires applicants for licensure to be United States citizens. This provision has been ruled to be unconstitutional and should be removed from the board's act. Third, candidates are permitted to take the examination without the candidate's name being matched against some type of identification such as a photograph. This approach unnecessarily decreases the security that should be present in the examination setting. As a result, the board should develop a process so that names of persons taking the examination are matched against an appropriate type of identification. Fourth, in certain cases, the board currently recognizes applicants who are licensed in other states by reciprocity. This is not consistent with the Sunset Commission endorsement approach to recognize individuals who are licensed in other states. The principle of licensing by endorsement should therefore be included in the Act.

Fifth, an oral interview is required for all applicants holding out-of-state licenses who are seeking licensure in Texas. However, questions are not always related directly to the practice of veterinary medicine or requirements for licensure, thereby creating an unnecessary potential for bias in making licensing decisions. To help avoid this possibility, procedures and guidelines should be established for use in interviewing applicants holding out-of-state licenses. Sixth, the board's statute currently requires a five dollar delinquent renewal fee for expired licenses. This penalty does not appear to be sufficient to discourage late renewals. Furthermore, there is no uniform method for insuring continued competence of those persons who do not renew their licenses over an extended period of time. As a means of discouraging late renewals and helping to insure continued competency, the Act should be amended so that: 1) the renewal of licenses expired more than 90 days would require payment of the examination fee; and 2) the renewal of licenses expired for more than two years would require reexamination or continuing education as determined by the board.

With respect to the agency's enforcement activities, the review indicated that the board is generally active in following up on complaints and that complaint files are maintained properly. However, there are several areas of the enforcement process which should be improved. First, the board does not have specific statutory authority to require its licensees to maintain records on the quantity of controlled substances purchased, dispensed, administered and balance on hand. Lack of records of this sort coupled with the board's lack of access to records related to drug dispensing makes it difficult for the board to ensure that veterinarians are not prescribing drugs in an illicit manner. The board should be given the authority to require licensed veterinarians to maintain the necessary records, subject to inspection by representatives of the board. Second, students

who are enrolled in an extern/preceptor program in an accredited college of veterinary medicine are permitted to practice all aspects of veterinary medicine under the direct visual supervision of a licensed veterinarian without being licensed by the board. However, these individuals are not clearly exempted from the licensing requirements of the board's statute. To be technically correct, the Act should be amended to provide such an exemption. Third, the board currently is enforcing a rule which is basically consistent with the Sunset Commission's approach which prohibits only that advertising which is false, misleading, or deceptive. However, since the provision is in the form of a rule rather than a statutory provision, it is subject to change without legislative consideration. The provision should therefore be placed in the board's statute. Fourth, the Act currently requires review of board actions in district court by "trial de novo." Trial de novo requires all evidence to be presented anew in district court in the review of a board action. This procedure can hinder the disposition of appeals and possibly make a hearing or appeal impossible. The current procedure should be replaced with the "substantial evidence" approach provided in the Administrative Procedure Act. This approach allows the use of the record developed by the board. Finally, the board does not have the statutory authority necessary to probate license suspensions, and the review showed that situations arise where the application of such authority could be appropriate. The agency should therefore be given such authority.

Apart from the areas mentioned above, several concerns were identified in light of recommendations made by the Sunset Commission on an across-the-board basis. First, the board adjourns into executive sessions to deliberate in formal hearings, a practice not authorized under the Open Meetings Act. Second, a board member is currently an officer in a professional association of the regulated

industry. Finally, there are no public members on the board. Standard sunset provisions concerning, respectively, compliance with the Open Meetings Act, conflicts-of-interest, and public membership on the board should be added to the agency's statute.

Need to Regulate

As in the case of other regulated activities, regulation of veterinarians should be undertaken only when there is a continuing need to protect the public health, safety, or welfare. As previously noted, the Texas cattle industry had suffered devastating economic losses from the high incidence of Texas Fever in herds before state regulation of veterinarians, initiated in 1911. The success of trained, licensed veterinarians from other states in reducing Texas Fever emphasized the need for such qualified persons to protect the economic welfare of persons involved in a major sector of the state's economy. The state began its licensing effort to help ensure competency and identify qualified practitioners, a step that appears to be justified because of the economic importance associated with the performance of veterinary medicine.

The need for state regulation has increased since Texas instituted regulation in 1911. The potential for major economic harm from animal diseases such as brucellosis still exists. In addition, the work of veterinarians has acquired added public health significance. More than 150 diseases and disorders can be transmitted from animals to people. Transmissibility is increasingly important because Texas' urban population is growing with consequent heavy concentrations of domestic animals. This increases the possibility of the spread of disease in such situations and underscores the need to ensure the competency of veterinarians to help to prevent and control the incidence of such transmissible diseases. Finally,

controlled or dangerous drugs are often used in the modern treatment of animals. Veterinarians have the authority to obtain and use such substances. A need exists for state regulation to ensure appropriate handling and use of these substances because of the potential harm to the public that can result in the careless or illegal use of drugs. For these reasons it can be concluded that there is a continuing need for state regulation of veterinarians.

The need for regulation of veterinarians can be met through structures other than an independent board. While the current organizational structure appears to function adequately, a potential exists for increased efficiency if the board's responsibilities were consolidated with another agency performing related operations. Although 18 states, including Texas, have created agencies with the exclusive purpose of regulating veterinarians, 32 states have placed responsibility for such regulation in agencies with other responsibilities such as an occupational licensing agency, a department of agriculture, a department of health, or a livestock sanitary board.

Alternatives

If the legislature determines that the current regulatory function and/or board should be continued, the following alternatives could be considered:

1. CONTINUE THE BOARD AND ITS FUNCTIONS WITH MODIFICATIONS.

This approach would maintain an independent board to perform licensing and enforcement activities. The review indicated that the following modifications would result in more effective regulation of veterinarians:

- a) Amend the statute to authorize the board to set reasonable and necessary fees (page 15);
- b) Restructure the statute so that grounds for an applicant disqualification for examination or removal of license are: 1) easily determined and 2) currently existing conditions (page 18);

- c) Remove the unconstitutional statutory requirement for applicants to be citizens of the United States (page 19);
- d) Develop a process so that names of persons taking the licensing examination are matched against an appropriate type of identification bearing a photograph (page 19);
- e) Modify the reciprocal licensing provisions of the statute to authorize the board to adopt a system of endorsement for out-of-state licensees (page 19);
- f) The board should establish guidelines and procedures for conducting interviews with applicants holding out of state licenses (page 20);
- g) Amend the statutory provision regarding delinquent license renewals so that: 1) the renewal of licenses expired for more than 90 days would require payment of the examination fee, and 2) the renewal of licenses expired for more than two years would require reexamination or continuing education as determined by the board (page 21);
- h) Amend the statute to authorize the board to require licensed veterinarians to maintain records, subject to inspection by representatives of the board, regarding the purchasing, dispensing, administering and balance on hand of certain controlled substances (page 22);
- i) Provide the board with clear statutory authority to exempt persons in an intern program at an accredited college of veterinary medicine from the practice of veterinary medicine (page 23);
- j) Modify the statute so that only advertising that is false, misleading or deceptive is prohibited, following the principle established in the board's Rules of Professional Conduct (page 24);
- k) Amend the statute to require that appeals from board enforcement proceedings be conducted according to the "substantial evidence" approach provided in the Administrative Procedures Act rather than on the current "trial de novo" basis (page 24);

- l) Amend the statute to authorize the board to probate suspensions (page 24);
- m) Amend the statute to include specific conflict-of-interest provisions recommended by the Sunset Commission on an across-the-board basis (page 34);
- n) Amend the statute to include the Sunset Commission's across-the-board provision requiring that agencies comply with the Open Meetings Act and the Administrative Procedures and Texas Register Act (page 35); and
- o) Modify the composition of the board to include six veterinarians and three public members (page 37).

2. TRANSFER THE FUNCTIONS CURRENTLY PERFORMED BY THE STATE BOARD OF VETERINARY MEDICAL EXAMINERS TO THE TEXAS ANIMAL HEALTH COMMISSION (page 30).

This approach would combine the regulation of veterinarians into a state agency with generally compatible goals and functions. Benefits to this approach include the use of the commission's area offices and inspectors to carry on enforcement functions, an administrative structure already in place, the expertise of veterinarians already on the staff, existing computer capability, and the commission's focus on control and eradication of animal diseases.

Implementation of this alternative should be accompanied with the adoption of items a through n set out in the first alternative.

II. BACKGROUND

Historical Perspective

The State Board of Veterinary Medical Examiners was first established in 1911 to regulate the practice of veterinarians. The history leading to the state regulation of this profession appears to be based largely on economic conditions associated with the cattle industry around the turn of this century.

About 1900 the cattle industry of this state was experiencing significant economic harm as a result of Texas Fever. This disease, which could not be effectively controlled for many years, had caused devastating losses of cattle. In addition, as a result of the Texas Fever problem, Oklahoma had instituted a prohibition on the importation of Texas cattle across its borders unless such livestock had been inspected by qualified individuals. Oklahoma took this action by enacting a statute which restricted the interstate transportation of livestock from Texas.

In the early 1900s the serious economic problems associated with Texas Fever in cattle herds were largely solved as a result of work performed in Texas through research and practical experiments conducted by several veterinarians who were trained and licensed in other states. These veterinarians identified the cause of Texas Fever and helped to develop effective immunization procedures against the disease. The success of these trained veterinarians in helping to restore the economic health of this major Texas industry underscored the need for formally trained and qualified veterinarians to deal with livestock problems.

In an effort to secure the previously demonstrated benefits resulting from the practice of qualified veterinarians, Texas began to license such professionals in 1911 in order to ensure the competent practice of veterinary medicine. The agency empowered to carry out this licensing program was the State Board of

Veterinary Medical Examiners.

Since 1911 the statute regulating veterinarians has been modified on several occasions. The Act, adopted in 1911 was repealed and a restructured Act was enacted in 1919. The Act approved in 1919 was repealed and a restructured Act, the present statute, was adopted in 1953. While various changes in the law are significant, the current scope of the board's regulatory authority under its statute is similar in many respects to its original design.

Currently, the board is composed of six veterinarians appointed by the governor to overlapping six-year terms. The board has a staff of four employees -- an executive secretary, an administrative assistant, an investigator and a secretary. One or two part-time employees work during peak periods. At present the board regulates 3,460 licensees.

Operations of the board are supported entirely from fees collected by the board and appropriated for its use by the legislature from Veterinary Fund No. 35 in the State Treasury. In fiscal year 1979 the board collected \$123,635 and expended \$132,910. The appropriation from the Veterinary Fund is \$161,733 for fiscal year 1980.

Comparative Analysis

To determine the pattern of regulation of the occupation of veterinarian within the United States, a survey of the fifty states was conducted.

The need to regulate the occupation of veterinarian is currently recognized through licensing requirements imposed by fifty states. From the standpoint of organizational patterns, eighteen states, including Texas, meet this expressed need through an independent board or commission. In thirty-two states, the regulation of veterinarians is carried out through a board associated with a state agency charged with multiple regulatory functions. Board members are appointed by the

chief executive in forty-six states.

Licensing boards composed entirely of licensed practitioners administer veterinary laws in thirty states, including Texas. In twenty states, the regulation of veterinarians is achieved through a board possessing public members. Animal health technicians serve on the board in two states. While fees are collected by all fifty boards, funding patterns vary across the states. Boards in thirty-six states, including Texas, are supported at least partially by the fees they collect. Unlike Texas, seventeen of the veterinarian boards are funded through the appropriation of general revenue funds. In seven states, not including Texas, veterinary boards perform only advisory functions .

In Texas, as in forty-three other states, veterinary boards conduct investigations in response to consumer complaints. In all states but one, veterinary boards have responsibility for conducting disciplinary hearings. Twenty-two state boards indicate that they regulate more than one occupation. Thirteen veterinary boards license animal health technicians. Animal health technicians are not licensed in Texas. Continuing education is a condition for relicensure in twenty-three states, not including Texas.

All veterinary boards surveyed indicate the need to perform the basic regulatory functions of administration, testing, licensing, and enforcement.

III. REVIEW OF OPERATIONS

The material presented in this section combines several sunset criteria for the purpose of evaluating the activities of the agency. The specific criteria covered are the efficiency with which the agency operates; the objectives of the agency and the manner in which these objectives have been achieved; and the promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the agency.

Organization and Objectives

The State Board of Veterinary Medical Examiners was established to regulate persons who practice, attempt to practice or represent themselves as engaged in the practice of veterinary medicine. The board's principal stated objective is to assure Texas citizens proper and adequate veterinary services for their livestock and other domestic animals by enforcing the provisions of the Act. The board performs three major functions to achieve its objectives: administration, licensing, and enforcement.

The board is composed of six veterinarians appointed by the governor for overlapping six-year terms. To be qualified for appointment, persons must be Texas residents and practitioners of veterinary medicine for six years immediately preceding appointment. An appointee cannot be a member of the faculty or have a financial interest in a veterinary medical college. Statutorily required duties of the board include adopting general rules of practice and procedures and rules of professional conduct; reviewing qualifications of applicants; issuing and renewing licenses; administering examinations; conducting license reprimand, suspension and revocation hearings; instituting actions to enjoin violations of the Act; and generally aiding in the enforcement of the statute.

The board's staff consists of four full-time employees. One or two part-time persons are employed during peak work periods. Duties performed by the staff include processing examination and license applications and license renewals; maintaining records; accounting for board revenue and expenditures; investigating alleged violations of the Act; responding to requests for information; inspecting veterinarian's offices, clinics and premises; providing secretarial services; and assisting the board in conducting meetings and examinations.

All revenue received by the board is deposited in Veterinary Fund No. 35 in the State Treasury and all funding for the board is provided exclusively from appropriations by the legislature from the Veterinary Fund. Balances in the Veterinary Fund exceeding \$100,000 at the end of each fiscal year are reverted to the General Revenue Fund.

Evaluation of Agency Activities

As with most other licensing agencies, the operations of the State Board of Veterinary Medical Examiners can be broken down into three basic activities: administration, licensing, and enforcement. Below, each of these activities were reviewed to determine the degree to which agency objectives have been met. To make this determination, the evaluation focused on whether the board has complied with statutory provisions, whether these provisions facilitate accomplishment of the objectives, whether agency organization, rules, and procedures are structured in a manner that contributes to cost-effective accomplishment of the agency's task, and whether procedures provide for fair and unbiased decision-making.

Administration

The general objective of any administration activity is to provide for the efficient operation of all agency functions. The review of these activities

indicated that present administration practices are generally conducted in an efficient and effective manner. Licensee and accounting records are thorough and well organized and licenses are renewed without substantial backlogs. The agency has not received a management letter from the State Auditor's Office during the last four fiscal years. Board activities and staff duties are clearly defined and agency procedures related to record maintenance and mail processing are adequate. While agency management is generally efficient, the review indicated one area that could be improved.

The concern relates to the board's fee structure displayed in Exhibit III-1. While these fees have produced revenues sufficient to cover agency expenditures for three of the last four fiscal years, projections indicate that by fiscal year 1985, agency expenditures could exceed revenues by almost \$50,000.

As a general principle, a licensing agency's fee structure should be designed so that it generates sufficient revenue to cover its operating costs. In order to give the board the flexibility to adjust its fee structure to cover the cost of its operations as the situation dictates, its statute should be amended to allow the board to charge the necessary and reasonable fees to cover its appropriation.

Licensing

The general objective of the licensing activity of the Texas Board of Veterinary Medical Examiners is to ensure the minimum competency of veterinarians through an efficient licensing process. To accomplish this purpose, the board is directed by statute to administer an examination to applicants for licensure. In order to be licensed as a veterinarian, an applicant must be a graduate of a reputable school or college of veterinary medicine as approved by the board. An applicant must also present evidence of good moral character.

Exhibit III-1
FEE STRUCTURE
1976-1979

Type of Fee	1976		1977		1978		1979	
	Statutory Limits	Actual Fee						
1. Examination	\$50	\$50	\$50	\$50	\$25 to \$100	\$100	\$25 to \$100	\$100
2. License Renewal	\$5 to \$30	\$30	\$5 to \$30	\$30	\$10 to \$60	\$45	\$10 to \$60	\$30
3. Reciprocal License	\$100	\$100	\$100	\$100	\$100 to \$200	\$200	\$100 to \$200	\$200
4. Duplicate License	\$20	\$20	\$20	\$20	\$20 to \$40	\$40	\$20 to \$40	\$40
5. Late Renewal	\$5	\$5	\$5	\$5	\$5	\$5	\$5	\$5
6. Annual Renewal for Faculty Members of a Veterinary College	\$2.50 to \$15	\$15	\$2.50 to \$15	\$15	\$5 to \$30	\$22.50	\$5 to \$30	\$15

During the period covered by fiscal year 1976 through 1979, the number of licensed veterinarians increased by 504 or 15 percent. Exhibit III-2 shows the licensing activity by year.

Exhibit III-2
LICENSES ISSUED
1976-1979

	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>
By Examination	167	184	190	196
By Reciprocity	13	7	10	11
By Renewal	2,676	2,930	2,963	3,136
Military	96	99	93	111
Reinstatement	<u>4</u>	<u>3</u>	<u>2</u>	<u>6</u>
TOTAL	2,956	3,223	3,258	3,460
Increase in Total Licenses		+267	+35	+202
Percent Increase in Total Licenses		+9	+1	+6

The review showed that the licensing process generally functions in a satisfactory manner. The board has developed thorough procedures for receiving and reviewing applications and examining applicants. The examination consists of a two-part practical segment, developed by the board, involving a station identification and a written test, along with the national examination. Review of procedures to develop and administer the examination showed the processes are appropriate. The pass-fail rates shown in Exhibit III-3 indicate that the examination is not overly restrictive and, when prerequisites for licensure are considered, the examination is not overly permissive.

Exhibit III-3
LICENSING EXAMINATION PASS/FAIL RATES
1976-1979

<u>Year</u>	<u>Examined</u>	<u>Passed</u>	<u>Percent</u>	<u>Failed</u>	<u>Percent</u>
1976	180	180	100	0	0
1977	193	191	99	2	1
1978	213	200	94	13	6
1979	227	207	91	20	9

While the licensing function generally operates well to ensure a minimum level of competency, several aspects of the licensing activity could be improved. The first concern deals with grounds for refusal to allow an applicant to take an examination and grounds for removal of a license once issued. The statutory framework developed for this agency contains the same language found in the statutes of many other licensing agencies which, because of the nature of the qualifications and vagueness of terminology, make consistent application difficult.

The statute, in effect, erroneously requires the board in many cases to act as a court of competent jurisdiction in determining the legal status of an individual and requires the board to define and apply terms which may have no legal basis. Grounds for disqualification should be structured in such a manner that each of the grounds meet a two-part test. First, the grounds for disqualification should be clear and related to the practice of the profession. Second, the grounds should be stated in terms of a currently existing condition rather than an absolute condition which exists throughout the lifetime of the individual.

Review of the grounds for disqualification to sit for the examination shows that several fail to meet this test. For example, applicants are required to be of "good moral character" to be licensed. In addition, the board may deny a license or suspend or revoke a license for: 1) chronic or habitual intoxication or drug

addiction; 2) conviction of a felony; or 3) conduct violative of established rules of professional conduct. The statute should be restructured so that such provisions comply with the two criteria.

The second concern with licensing deals with the requirement in the board's statute that applicants be citizens of the United States. The Attorney General's Office has stated in several opinions that such a requirement for licensure is unconstitutional under the equal protection clause of the 14th Amendment to the United States Constitution. While this citizenship provision has not been applied by the agency since the issuance of these opinions, the unconstitutional language should be removed.

The third concern with licensing relates to examination security. While examinees must verbally identify themselves before taking the board's test, the name given by the candidate is not matched against any document that definitively identifies the candidate. Lack of such a check adds to the possibility that a person other than the actual candidate is admitted to the examination. To address this concern, the agency should adopt some means of identification such as documentation which bears both a name and a photograph. Interviews with the executive secretary indicate that the agency is taking steps to implement a system which will provide for identification.

The fourth concern relates to the process of licensing out-of-state persons by reciprocity. Currently, the board has a reciprocal agreement with only one other state. As an across-the-board policy, the Sunset Commission has recommended that licensing by endorsement, rather than reciprocity, be used for out-of-state licensees seeking licensure in Texas. Under this process, the board is given the authority to waive at its discretion certain licensing requirements, including examination, if the standards of the other state are equal to or more stringent than

Texas' standards. However, formal agreements with other states are not required. The lack of such a requirement facilitates entry into the practice of veterinary medicine in Texas since licensing steps for qualified out-of-state applicants can be waived regardless of the persons' prior state of residence. As a result, the standard Sunset Commission approach concerning licensing by endorsement should be incorporated into the agency's statute.

The fifth area for improvement relates to the oral interview conducted with all applicants holding out-of-state licenses. Interviews can be a useful tool in the evaluation of an applicant's qualifications and the board has utilized interviews for this purpose. However, the review indicated that the questions asked during these interviews are not always related directly to the practice of veterinary medicine or requirements for licensure. As a result, an unnecessary potential exists for licensing decisions to be biased on the basis of subjective information not directly related to the practice of veterinary medicine. To avoid this possibility, the board should develop written guidelines and procedures for conducting interviews. These guidelines should be structured so that questions asked in oral interviews are clearly and objectively related to a person's application and professional ability to practice veterinary medicine in Texas.

The final concern with licensing relates to the delinquency period for renewals. Licenses expire on March 1 of each year, with no grace period specified by statute. A \$5 late renewal penalty plus any annual renewal fees in arrears are required for delinquent renewals. In addition, the board is authorized to exercise discretion regarding any additional requirements for renewing an expired license. By board rule, an expired license may be renewed by payment of appropriate fees up until the renewal date of the third year of delinquency with reexamination or other requirements considered when application is made after the third lapsed

renewal date.

While there have not been large numbers of delinquent renewals, three concerns were identified with the delinquent renewal procedure. First, the late renewal penalty, authorized by statute, is not adequate to serve the purpose of discouraging late renewals. The present \$5 fee has been unchanged since 1953 and compares unfavorably with those found in most other licensing acts. Second, the statute does not provide for a grace period in which an expired license may be renewed. This flexibility is provided for many other licensing agencies. Third, there is no uniform method for ensuring continued competence of those licensees who do not renew over an extended period of time. The board has recognized the need for reviewing the qualifications of a licensee who has not been active for a period of time, but this procedure should be consistently applied. To address these concerns, the delinquent renewal process should be structured so that a licensee has a ninety-day period in which to renew a license with the current \$5 penalty. After this period, a penalty equal to the examination fee would be required to renew an expired license. If a license is not renewed within a two-year period, then reexamination or continuing education, as determined by the board, would be required to renew a license.

Enforcement

The basic objective of the enforcement activity is to protect the public by identifying and, where necessary, taking appropriate action against persons not complying with the provisions of the Act or board rules. The board's primary enforcement efforts are aimed at possible violations reported by consumers and licensees. Exhibit III-4 shows the number of complaints by type for fiscal years 1976-1979.

Exhibit III-4

**SOURCE AND DISPOSITION OF COMPLAINTS
1976-1978**

	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>
<u>Source of Complaint</u>				
Consumer	32	40	28	*
Licensee	23	26	30	
Referral from another Agency	<u>2</u>	<u>6</u>	<u>7</u>	
TOTAL	57	72**	65	
<u>Disposition of Complaints</u>				
Revocation	0	1	1	
Probation or Suspension	7	1	4	
Inunction	3	1	2	
Warning or Reprimand	6	19	18	
Conciliation Reached	19	34	27	
No Action Required	22	10	12	
Pending	<u>0</u>	<u>1</u>	<u>1</u>	
TOTAL	57	67**	65	

*Unavailable at the time of the review.

**These totals are not equivalent because several complaints were lodged against a single person whose license was revoked.

Review of the board's enforcement activities indicated that the agency is generally active in pursuing complaints and that complaint files are properly maintained. However, the review revealed several areas of concern that hamper the effectiveness of the board's enforcement activities.

The first concern in the area of enforcement relates to the lack of board authority to require or to have direct access to licensed veterinarians' records

regarding the dispensing and administering of certain controlled substances. Currently, under federal Drug Enforcement Administration (DEA) guidelines, veterinarians are required to keep records only on those controlled substances that they dispense. They are not required to maintain records on the drugs that they administer in their own offices. In addition, representatives of the board are not statutorily authorized to have direct access to records that veterinarians are required to keep by DEA. Presently, the Department of Public Safety is the only state agency that has direct access to these records.

Thus, under the present structure regarding control over the proper use of controlled substances, it is difficult for the board to ensure that veterinarians do not prescribe drugs for uses other than the proper treatment of animals. In order to provide greater authority to help control the prescribing of drugs for improper uses, the board should be given statutory authority to require its licensees to maintain records, open to inspection by representatives of the board, on the purchase, dispensing, administering, and balance on hand of certain drugs.

The second area of concern relates to students involved in a college extern or preceptor program of an accredited college of veterinary medicine. These student "interns" are permitted to perform all aspects of veterinary medicine under the direct visual supervision of a licensed veterinarian for a period not to exceed five weeks.

While the board does not require that these students be licensed, a review of the board's statute shows that the interns are not specifically exempted in statute from licensing regulations and, technically, could fall within such requirements. The agency's statute should be amended to clarify that such students are not subject to licensure. These students are commonly exempted from state regulation in other states, and no problems relating to improper or negligent practices of

persons involved in the extern/preceptor program were identified during the review.

A third area related to enforcement concerns the absence of a statutory provision on advertising by veterinarians. The board is currently enforcing an advertising rule adopted in late 1979. This rule is similar to a model rule that was drawn up by the American Veterinary Medical Association. The rule essentially prohibits advertising which is false, deceptive, or misleading. However, contrary to the approach used by the Sunset Commission, the board's policy in this area is not established by statute. As a result, the policy is subject to change by the board through its rule-making process. To ensure that the advertising approach recommended by the Sunset Commission and required by the courts continues, the advertising provision should be placed in the agency's statute. Thus, any change in policy would be preceded by proper legislative consideration.

The fourth concern in enforcement relates to the provision in the Act requiring review of board actions in district court by "trial de novo." This process requires all testimony and evidence to be presented anew in district court in the review of a board action. If witnesses or evidence are unavailable, the possibility of long delays exists in the disposition of appeals. The trial de novo provision in the board's statute should be removed, thereby allowing the "substantial evidence" approach set out in the Administrative Procedures Act to be the basis for appeals. This approach permits a court to review the record of a board hearing as a basis for a ruling, thereby helping to expedite disposition of appeals of board actions.

A final concern with the board's enforcement effort relates to the agency's range of enforcement effort relates to the agency's range of enforcement sanctions. Currently the board does not have specific authority to probate suspensions when such action is warranted. The attorney general has concluded that the absence of any expressed authority in a board or agency's enabling statute

indicates legislative intent that a specific enforcement sanction is not an alternative available for use by a board or agency.

As a general principle, an agency's range of enforcement sanctions should be able to conform to the seriousness of the violations presented to it. The review indicated that situations arise in which the probation of a suspension is appropriate. The board's enforcement powers should therefore be expanded by statute to authorize the board to probate suspensions.

Summary

The Texas State Board of Veterinary Medical Examiners consists of six members appointed by the governor for six-year overlapping terms. The board is directed by statute to regulate veterinarians through the licensure of qualified applicants and the enforcement of the provisions of the Act.

Board operations can be divided into three activities: administration, licensing, and enforcement. With respect to administration, it was projected that by fiscal year 1985, agency expenditures will exceed revenues by almost \$50,000. As a result, the board's statute should be amended to allow it to charge necessary and reasonable fees to cover the amount of its legislative appropriations.

With regard to the licensing activity, several aspects should be improved. First, grounds for refusal to allow an individual to sit for the examination and grounds for removal of a license once issued should meet a two-part test. Grounds should be clear and related to the practice of the profession, and should be stated in terms of a currently existing condition rather than an absolute condition which exists throughout the lifetime of an individual. Some of the grounds in the Act do not meet this test. The statute should be restructured so that such provisions comply with the criteria.

Second, the statutory requirement that licensees be United States citizens is

unconstitutional in light of attorney general opinions and past Supreme Court decisions. This requirement should therefore be removed from the Act.

Third, candidates for licensure are admitted to the examination room without having to show proper identification. This system unnecessarily increases the possibility for a person other than the candidate to sit for an examination. Thus, a procedure should be developed that enables the agency to match a candidate's name to some type of appropriate identification.

Fourth, in limited circumstances, the board uses a reciprocal licensing procedure for out-of-state applicants. The Sunset Commission has recommended on an across-the-board basis that an "endorsement" rather than a reciprocal agreement approach be used. The standard sunset language concerning the less restrictive endorsement procedure should be incorporated in the agency's statute. This approach gives the board the authority to accept licenses from other states as grounds for waiving certain Texas licensing requirements without a reciprocal agreement if standards in other states are determined by the board to be substantially equivalent to, or more stringent than, Texas' requirements.

Fifth, an oral interview is required for all applicants holding out-of-state licenses who are seeking licensure in Texas. The questions asked during these interviews are not always related directly to the practice of veterinary medicine or requirements for licensure. As a result, procedures and guidelines should be established for use in interviewing applicants holding out-of-state licenses.

Sixth, the board charges a small fee for late license renewal and there is no uniform method for ensuring continued competence of those licensees who do not renew over an extended period of time. As a means of discouraging late renewals and helping to ensure continued competency, the Act should be amended so that the delinquency period for license renewal is structured to provide for a ninety-

day period in which a license can be renewed with the current small penalty. After that, a penalty equal to the examination fee would be required to renew an expired license. If a license remains expired for more than two years, then reexamination or continuing education would be a prerequisite to renewing a license.

With regard to enforcement, the review identified five concerns. First, the board currently does not have specific statutory authority to require licensed veterinarians to maintain records, subject to board inspection, on certain types of controlled substances that are used in the practice of veterinary medicine. Thus, it is difficult for the board to ensure that veterinarians do not prescribe drugs for uses other than the proper treatment of animals. In order to help control the prescribing of drugs for improper uses, the board should be given statutory authority to require its licenses to maintain records, subject to board inspection, on the purchase, dispensing, administering, and balance on hand of certain drugs.

Second, the board has adopted a rule that permits full-time students of an accredited college of veterinary medicine on a college extern or preceptor program to perform all aspects of veterinary medicine under the direct visual supervision of a licensed veterinarian. This rule appears to conflict with the statutory provision that permits only licensed individuals to practice veterinary medicine. The statute should be amended to exempt students of an accredited college of veterinary medicine involved in an extern or preceptor program from the licensing requirements of the Act.

The third area of concern under enforcement relates to the fact that, although the current board policy which essentially prohibits false and misleading advertising is consistent with the approach recommended by the Sunset Commission and recent court decisions, the policy is established in rule and is therefore potentially subject to change without proper legislative consideration. As a result,

the board's policy regarding advertising should be made statutory.

Fourth, review of board actions in district court by trial de novo should be removed from the statute. Trial de novo requires all testimony and evidence to be presented anew in court. This procedure could hinder the disposition of appeals. The "substantial evidence" rule provided in the Administrative Procedures Act should be applied on appeals.

Finally, the board currently does not have specific statutory authority to probate suspension of licenses. In the absence of explicit authority, a Texas Supreme Court decision and an attorney general's opinion have shown that such a sanction cannot be applied by an administrative agency. The review showed that situations arise where the probating of suspensions is appropriate. Board enforcement powers should therefore be increased by statute to authorize the probating of suspensions.

IV. ALTERNATIVES AND CONSTRAINTS

The material presented in this section combines several sunset criteria for the purpose of evaluating the activities of the agency. The specific criteria covered are the extent of overlap and duplication with other agencies and the potential for consolidation with other agencies; an assessment of less restrictive or alternative methods of performing any regulation that could adequately protect the public; and the impact in terms of federal intervention or the loss of federal funds if the agency is abolished.

Consolidation Alternatives

Organizational structures in other states were reviewed to identify consolidation alternatives with potential for use in Texas. The review indicated that all fifty states provide regulation of veterinarians. Of these states, thirty-two carry out regulation of veterinarians through a board associated with a state agency charged with multiple regulatory functions. Veterinarians are regulated through occupational licensing agencies, departments of health, departments of agriculture, and livestock sanitary boards.

Among the consolidation alternatives identified in other states, neither a department of professional and occupational licensing nor a department of consumer affairs is a feasible option for Texas since these organizational forms do not exist in Texas. The state does, however, have departments of agriculture and health and an animal health commission similar to livestock sanitary boards in other states. Apart from the options identified from other states, no other organizational alternatives for consolidation were identified for consideration.

To determine the feasibility of the remaining three options set out above, each agency was reviewed to determine whether its goals and functions were

reasonably compatible with those of the State Board of Veterinary Medical Examiners. The alternatives were also considered from the standpoint of whether consolidation of functions would result in identifiable benefits.

Analysis of organizational alternatives available in Texas shows that the Texas Animal Health Commission best satisfies the requirements of closely related operations with identifiable benefits resulting from consolidation. Both the commission and the State Board of Veterinary Medical Examiners carry out animal health-related functions, thereby having compatible missions. In addition, the commission has area offices and inspectors over the state to carry on enforcement functions. The inspectors perform duties related to animal health. The commission has information services available which could be utilized to disseminate information on functions now performed by the board. It performs permitting functions and some licensing duties. The commission is acquiring computer capability which would be available for veterinarian licensing data.

Regulatory Alternatives

Need for State Regulation

As in the case of other regulated activities, regulation of veterinarians should be undertaken only when there is a continuing need to protect the public health, safety, or welfare. Prior to the regulation of veterinarians by the state, initiated in 1911, the cattle industry had suffered devastating economic losses as a result of the high incidence of Texas Fever in cattle herds. The success of trained and licensed veterinarians from other states in isolating the cause of the fever and developing an effective treatment underscored the importance of trained and qualified veterinarians. To help ensure competency and identify qualified practitioners to the public, the state undertook its licensing effort. Given the economic significance of the services rendered by veterinarians, this step appears justified.

This conclusion is supported by the finding that most states began such regulation between 1893 and 1920.

Since the initiation of regulation in 1911, the need for continued state involvement in this area has not lessened. The potential for major economic harm resulting from animal diseases such as brucellosis still exists today. In addition, the work of veterinarians has gained an added public health significance. Estimates show that more than 150 diseases and disorders can be transmitted from animals to people. This fact is becoming increasingly important since a growing percentage of the state's population can be found in large urban centers along with heavy concentrations of domestic animals. The increased possibility of the spread of disease in such situations suggests the need to ensure the competency of veterinarians in an effort to guard effectively against the spread of animal disorders to humans. Finally, the modern treatment of animals often requires the use of controlled or dangerous drugs. As a result, veterinarians have been given the authority to obtain and use such substances in the treatment of animals. Because of the danger to the public in the careless or illegal use of drugs, there is a need for the state to help ensure appropriate handling and use of these substances through regulation. Given the above, it would appear that there is a continuing need for state regulation of veterinarians.

Other Methods of Regulation

All fifty states were reviewed in order to identify alternatives to the licensure method used to regulate veterinarians in Texas. However, no alternative to the licensing approach was found to be used in the other states.

While licensure is the only approach used in other states, two additional regulatory methods, certification and registration, are in common use in the

regulation of other occupations and could therefore be considered as possible alternatives for the regulation of veterinarians. Under the certification option the ability to practice veterinary medicine would be contingent on an applicant taking and passing a one-time "certifying" examination and meeting other licensure qualifications. In the registration option, any person wishing to practice veterinary medicine would be required to be "registered" with the state without regard to qualifications. Neither of these options generally includes an enforcement component.

Before any of the regulatory alternatives reviewed can be considered as a reasonable alternative to current regulation in Texas, the option should offer at least the same degree of public protection as the current method and should be less restrictive than the present system.

Review of the certification and registration options indicates that both methods are less restrictive than the current licensing options. Neither option subjects veterinarians to an ongoing enforcement effort. In addition, registration imposes no educational, experience or other requirements to ensure competency, while certification does not require the annual payment of renewal fees or the submission of any updated information that may be needed in the annual licensing process. However, while registration and certification alternatives are less restrictive than licensing, both options offer less protection to the public than the current method of regulation. This reduced level of protection results from eliminating current licensing and enforcement restrictions which are aimed at ensuring licensee competency. Given this reduced level of public protection, neither certification nor registration offer feasible regulatory alternatives.

Summary

With regard to consolidation alternatives, the review showed that, among the fifty states which license veterinarians, thirty-two carry out regulation through a board associated with a state agency charged with multiple regulatory functions. Veterinarians are regulated through occupational licensing agencies, departments of health, departments of agriculture, and livestock sanitary boards. While Texas has no occupational licensing agency, the state does have other agencies which are used in various states for the regulation of veterinarians. These are the Department of Agriculture, Department of Health and Animal Health Commission.

Among these alternatives, the Animal Health Commission is the most reasonable alternative for consolidation. Both the commission and the board carry out animal health-related functions. The commission has area offices and inspectors over the state to perform enforcement functions. The commission has information services available, is acquiring computer capability and performs permitting and licensing duties. Its focus is on control and eradication of animal diseases.

The review concluded that there is a continued need for state regulation of veterinarians. Such regulation is performed through licensing in all fifty states. With regard to regulatory alternatives to licensing, the methods of certification and registration are frequently used to regulate other occupations. While they are less restrictive than licensing, these two options provide less protection to the public than the present system and therefore do not constitute suitable alternatives for Texas.

V. COMPLIANCE

The material presented in this section combines several sunset criteria for the purpose of evaluating the activities of the agency. The specific criteria covered are the extent to which the agency issues and enforces rules relating to potential conflict of interest of its employees; the extent to which the agency complies with the Open Records Act and the Open Meetings Act; and the extent to which the agency has complied with necessary requirements concerning equality of employment opportunities and the rights and privacy of individuals.

In its efforts to protect the public, the agency's operations should be structured in a manner that is fair and impartial to all interests. The degree to which this objective is met can be partially judged on the basis of potential conflicts of interest in agency organization and operation, as well as agency compliance with statutes relating to conflicts of interests, open meetings, and open records.

Conflict of Interest

Board members, as appointed state officers, are subject to statutory standards of conduct and conflict-of-interest provisions (Article 6252-9b, V.A.C.S). A review of documents filed in the Office of the Secretary of State indicates that both the board members and the executive secretary of the agency have complied with the filing requirements in the state's general statutes concerning conflict of interest. The executive secretary informs newly appointed board members of their obligations under the Ethics and Financial Disclosure Act by providing them with a copy of provisions dealing with standards of conduct for state officers and employees.

In addition to state requirements, the Sunset Commission has adopted an across-the-board approach concerning conflicts of interest. This recommended approach should be included in the agency's statute. It should be noted that one provision of this recommended approach prohibits board members from being officers in a professional trade association of the regulated industry. This provision would currently affect one board member who also serves as president of a professional trade association for veterinarians.

Open Meetings - Open Records

As evidenced by publications in the Texas Register, board meetings have been preceded by adequate and timely notice to the public.

The Sunset Commission has adopted an across-the-board approach which requires that agencies comply with the Open Meetings Act and the Administrative Procedure and Texas Register Act. The review showed that board procedures used in disciplinary hearings are not in full compliance with the Open Meetings Act. During disciplinary hearings, the board closes the meeting to the parties involved to deliberate on its final action on the matter. The attorney general has ruled that, under the Open Meetings Act, the deliberation and vote on findings of fact, conclusions of law and final orders by an agency are required to be conducted in a public session (Attorney General Opinion No. H-1269, 1978). The Sunset Commission's approach regarding compliance with the Open Meetings Act should be incorporated in the agency's statute and agency procedures modified accordingly.

The agency has established a procedure for disseminating information. Certain requests for information are referred to the executive secretary. The agency indicated that no requests for confidential information have been received.

Employment Policies

Agency staff consists of four full-time employees and occasional part-time employees. The agency has filed an affirmative action plan and has never received a formal complaint on employment practices.

Summary

The agency has complied with statutory requirements regarding conflict of interest. However, the Sunset Commission's standard approaches regarding conflicts of interest and compliance with the Open Meetings Act and the Administrative Procedure and Texas Register Act should be incorporated in the agency's statute. With respect to open records, the agency has established procedures to deal with certain requests for information. With respect to employment practices, the agency has submitted an affirmative action plan and has received no formal complaints concerning its employment practices.

VI. PUBLIC PARTICIPATION

The review under this section covers the sunset criterion which calls for an evaluation of the extent to which the agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by those it regulates and the extent to which the public participation has resulted in rules compatible with the objectives of the agency.

The extent to which the agency has involved the public in agency rules and decisions can be judged on the basis of agency compliance with statutory provisions regarding public participation, the nature of rule changes adopted, the availability of information concerning rules and agency operations, and the existence of public members on the commission.

Agency Activities

The review indicated that the board has proposed and adopted five rule changes during the last four years. The adoption of these rules has been in compliance with the requirements of the Administrative Procedures Act. Review of board minutes indicate that there were no members from the general public in attendance at the public hearings. The board provides copies of its professional directory to licensees and libraries for public use at no charge. In addition, members of the general public may purchase copies of the directory from the board.

Public Membership

The statutory composition of the board does not provide for any members of the general public. Thus, the ability of the board to provide for representation of the public viewpoint in board deliberations and policymaking is limited. In order to

ensure the public's viewpoint in board activities, the statute should be amended to add three public members to the current membership of six veterinarians. This composition would be consistent with the Sunset Commission's approach regarding public membership.

Summary

The board has complied with the public participation requirements found in general state law. However, public input in board activities has been minimal. To help ensure that the public's point of view is properly represented, three public members should be placed on the board.

VII. STATUTORY CHANGES

The material presented in this section combines several sunset criteria for the purpose of evaluating the activities of the agency. The specific criteria covered are whether statutory changes recommended by the agency or others were calculated to be of benefit to the public rather than to an occupation, business, or institution the agency regulates; and statutory changes recommended by the agency for the improvement of the regulatory function performed. In the period covering the last four legislative sessions, the review focused on both proposed and adopted changes in the law. Prior to that period, the staff review was limited to adopted changes only.

Past Legislative Action

While enabling legislation for the regulation of veterinarians in Texas was enacted as early as 1911, the present statute was not enacted until 1953 by the Fifty-third Legislature. This Act created a six-member board of veterinarians appointed by the governor for six-year terms, specified disciplinary procedures, authorized the adoption of rules of professional conduct, and established a new schedule of fees.

The present Act has been amended seven times with the enactment of the following bills: Senate Bill 329, Fifty-fifth Legislature, 1957; Senate Bill 378, Fifty-sixth Legislature, 1959; House Bill 423, Fifty-ninth Legislature, 1965; Senate Bill 184, Sixtieth Legislature, 1967; Senate Bill 523, Sixty-first Legislature, 1969; Senate Bill 831, Sixty-third Legislature, 1973; and House Bill 1897 and Senate Bill 54, Sixty-fifth Legislature, 1977. These bills provided for the following general changes:

1. The fee structure of the agency was periodically modified to establish the following current minimum and maximum dollar limits for the specified fees: \$10 to \$60 for the annual renewal fee, \$25 to \$100 for the examination fee, \$100 to \$200 for the reciprocal licensing fee, and \$20 to \$40 for the duplicate license fee.
2. Venue for appeals from orders of the board was modified and clarified.
3. The scope of the board's rules of professional conduct was increased, grounds for revocation, suspension or refusal to issue a license were expanded and authority to seek injunctions was modified. Either party in the appeal of a board order was given the right to demand a jury to pass on disputed fact issues.
4. The annual renewal fee for full-time faculty members of a reputable veterinary college in Texas was set at half of the normal fee provided that such members are not engaged in private practice.
5. All money in excess of a specified limit (set at \$100,000 in 1977) remaining in the Veterinary Fund at the end of a fiscal year was required to revert to the General Revenue Fund.
6. The board was authorized to use staggered license renewal.
7. The board was made subject to the Texas Sunset Act.

Proposed Legislative Action

No bills affecting the present Act were introduced unsuccessfully in the last four legislative sessions.

In its self-evaluation report, the board recommended two modifications of the Act. A proposed amendment would require licensees to maintain a record-keeping system for controlled substances to include the quantities purchased, dispensed and administered and balances on hand. The records would be subject to inventory by law enforcement agencies and the board's representatives. The board also proposed to authorize the board to probate an order of revocation or suspension of a license upon such terms and conditions as imposed by the board in its order.

Summary

The board's current enabling legislation has been modified and restructured several times since its adoption in 1953. Major changes include periodic restructuring of the fee schedule; an increase in grounds for revocation or suspension of a license or refusal to issue a license; expansion of the scope of authority to promulgate board rules of professional conduct; modification and clarification of venue for appeals from orders of the board, and increases in the level of funds remaining in the Veterinary Fund at the end of a fiscal year that shall revert to the General Revenue Fund.

No bills affecting the present Act were introduced unsuccessfully in the last four legislative sessions.

In its self-evaluation report, the board recommended two modifications of the Act to require licensees to maintain a record-keeping system for controlled substances subject to inspection by law enforcement agencies and the board's representatives, and to authorize the board to probate an order of revocation or suspension of a license.