

BILL ANALYSIS

C.S.H.B. 1767
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Agriculture & Livestock
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Veterinary Licensing Act states that there are certain “accepted livestock management practices” that do not qualify as the practice of veterinary medicine and thus can be performed by non-licensees. Included among these practices are dehorning of cattle, castrating a male animal raised for human consumption, and branding or identifying an animal in any manner. Also included is “artificially inseminating an animal, including training, inseminating, and compensating for services related to artificial insemination.” While there are non-licensees who are capable of providing these services in a competent fashion, the use of surgical techniques complicates matters significantly. The risk of harm to the animal increases substantially when using surgical techniques and for this reason AI as an accepted livestock management practice should be limited to non-surgical procedures.

The veterinarian-client-patient-relationship (VCPR) is one of the cornerstones of the veterinary profession. The Licensing Act should make very clear that in order to practice veterinary medicine in Texas there must be a VCPR. In addition, it is important to address changes in technology that could be used to circumvent the VCPR. There have been instances in which veterinarians have actually attempted to diagnose an animal’s condition over the telephone without ever having seen the animal. Technology can certainly be used to enhance the VCPR, but it cannot be the sole means for establishing such a relationship. The veterinarian must be in close physical proximity to the animal in order to establish this relationship.

The Veterinary Licensing Act currently allows for a veterinarian to release information concerning the veterinarian’s care of animals only when the veterinarian has received consent from the client or upon receipt of a court order or subpoena. There are instances in which releasing confidential information is critical to individual and/or public health, but current law does not provide for any such exceptions. As proposed, this legislation would allow veterinarians to release the name and address of a client to a health authority, veterinarian, or physician in order to verify a rabies vaccination or obtain information for other treatment involving a life-threatening situation.

Under current law veterinarians are required to hold abandoned animals for a minimum of 12 days before disposing (e.g., adopting, turning the animal over to a shelter, etc.) of them. Unfortunately this situation arises quite often, with owners “dumping” animals at veterinary clinics with no intention of ever returning to claim the animals. This becomes a very expensive proposition for veterinarians. In addition to the fact that the veterinarian is expending money for the food, shelter, cleaning, and other care involved in keeping such animals, the veterinarian is often turning away other boarders in order to keep the abandoned animal. Although not a major change in the law, this legislation would reduce the minimum number of days from 12 to 10. Ten days is still more than adequate time for an owner to reclaim the animal. Many animal shelters only keep strays for three days before disposing of them – and these are lost animals, not animals whose owners know where they are located, as is the case with animals left with veterinarians.

Animal cruelty is a problem in Texas and the rest of the nation, causing pain and suffering to untold numbers of animals every year. In addition, there is mounting evidence that those who abuse animals are more likely than the rest of the population to abuse humans as well - so early intervention can be critical. However, because of current confidentiality statutes and concerns regarding possible legal retribution veterinarians are hesitant to report suspected cases of animal abuse. A statute allowing veterinarians to report, in good faith, suspected cases of animal cruelty without fear of reprisal would be very beneficial to everyone.

Current law prevents veterinarians from dispensing legend medications to persons unless a veterinarian-client-patient relationship exists. This is a necessary law, but there are certain instances in which it causes undue hardship on the animal-owning public. This legislation would allow veterinarians to dispense a small percentage of the total drugs they supply to clients on an annual basis without the necessity of establishing a veterinarian-client-patient relationship.

Prosecuting individuals attempting to practice veterinary medicine without a license is a very rare occurrence. However, in those instances when it does occur, there is another hurdle – local bias. In most of the smaller counties in Texas the defendant is so closely tied to the community that it is almost impossible to get a conviction. In order to receive a fair and impartial trial, it would be beneficial to move such actions away from the defendant's home county and into Travis County instead.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

This bill amends occupations code to clarify that surgical artificial insemination is the practice of veterinary medicine and is not an accepted livestock management technique. The bill redefines the veterinarian-client-patient relationship and provides for the release of certain information, in limited situations, under the confidentiality statute. The bill reduces the amount of time a veterinarian must hold abandoned animals before disposing of them.

The bill provides civil and criminal immunity to licensees who, in good faith, report suspected cases of animal cruelty. This bill gives veterinarians the authority to dispense drugs prescribed by another veterinarian in a limited amount without having to first establish a veterinarian-client-patient relationship. The bill also makes the record keeping provision of dispensing these limited quantities of legend drugs in the absence of a veterinarian-client-patient relationship effective on September 1, 2006. The bill also clarifies that the venue for cases involving the unauthorized practice of veterinary medicine should be Travis County and specifies that this only pertains to cases that occur after the effective date of the act.

EFFECTIVE DATE

This Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute removes the section in the original that dealt with alternative therapies. The substitute also removes the section in the original that dealt with liability for emergency care to humans. The substitute also removes the section in the original that dealt with certain veterinary services required for cow or bull sales as well as the section that dealt with the sale or other change of ownership of a cow or bull.