

By: Seliger
(Hardcastle)

S.B. No. 1032

A BILL TO BE ENTITLED

AN ACT

relating to the licensure and regulation of equine dental
providers; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 801.002, Occupations Code, is amended by
adding Subdivisions (3-a) and (4-a) to read as follows:

(3-a) "Equine dentistry" means any diagnosis,
treatment, or surgical procedure performed on the head or oral
cavity of an equine animal. The term includes:

(A) any procedure that invades the tissues of the
oral cavity, including a procedure to:

(i) remove sharp enamel projections;

(ii) treat malocclusions of the teeth;

(iii) reshape teeth; and

(iv) extract one or more teeth;

(B) the treatment or extraction of damaged or
diseased teeth;

(C) the treatment of diseased teeth through
restoration and endodontic procedures;

(D) periodontal treatments, including:

(i) the removal of calculus, soft deposits,
plaque, and stains above the gum line; and

(ii) the smoothing, filing, and polishing
of tooth surfaces; and

1 (E) dental radiography.

2 (4-a) "Licensed equine dental provider" means a person
3 who holds a license to practice equine dentistry issued under this
4 chapter.

5 SECTION 2. Section 801.151, Occupations Code, is amended by
6 amending Subsection (c) and adding Subsections (e) and (f) to read
7 as follows:

8 (c) The board shall adopt rules to:

9 (1) protect the public; ~~and~~

10 (2) ensure that alternate therapies, including
11 ultrasound diagnosis and therapy, magnetic field therapy, holistic
12 medicine, homeopathy, chiropractic treatment, acupuncture, and
13 laser therapy, are performed only by a veterinarian or under the
14 supervision of a veterinarian; and

15 (3) ensure that equine dentistry is performed only by
16 a veterinarian who is active and in good standing or by a licensed
17 equine dental provider who is active and in good standing under the
18 appropriate level of supervision of a veterinarian who is active
19 and in good standing and who has established a
20 veterinarian-client-patient relationship with the owner or other
21 caretaker of an animal and the animal in accordance with Section
22 801.351.

23 (e) The board shall adopt rules to implement a jurisprudence
24 examination for licensed equine dental providers, including rules
25 relating to the development and administration of the examination,
26 examination fees, guidelines for reexamination, examination
27 grading, and provision of notice of examination results.

1 (f) The board may not adopt rules that unreasonably restrict
2 the selection by the owner or other caretaker of an animal of a
3 licensed equine dental provider who is in good standing to provide
4 equine dental services.

5 SECTION 3. Subsections (b) and (d), Section 801.154,
6 Occupations Code, are amended to read as follows:

7 (b) The veterinarian license renewal fee set by the board
8 under this chapter is the amount set by the board under Subsection
9 (a) and an additional fee of \$200.

10 (d) The additional fee under Subsection (b) does not apply
11 to a veterinarian [~~license holder~~] who is:

12 (1) exempt from paying the renewal fee under Section
13 801.304; or

14 (2) placed on inactive status as provided by Section
15 801.306.

16 SECTION 4. Section 801.156, Occupations Code, is amended to
17 read as follows:

18 Sec. 801.156. REGISTRY. (a) The board shall maintain a
19 record of each license holder's [~~veterinarian's~~]:

20 (1) name;

21 (2) residence address; and

22 (3) business address.

23 (b) A license holder [~~veterinarian~~] shall notify the board
24 of a change of business address or employer not later than the 60th
25 day after the date the change takes effect.

26 SECTION 5. Subsection (b), Section 801.203, Occupations
27 Code, is amended to read as follows:

1 (b) The board shall list with its regular telephone number
2 any toll-free telephone number established under other state law
3 for presenting a complaint about a license holder [~~veterinarian~~].

4 SECTION 6. Subsection (b), Section 801.2056, Occupations
5 Code, is amended to read as follows:

6 (b) A complaint delegated under this section shall be
7 referred for informal proceedings under Section 801.408 if:

8 (1) the committee determines that the complaint should
9 not be dismissed or settled;

10 (2) the committee is unable to reach an agreed
11 settlement; or

12 (3) the license holder [~~veterinarian~~] who is the
13 subject of the complaint requests that the complaint be referred
14 for informal proceedings.

15 SECTION 7. Sections 801.251 and 801.252, Occupations Code,
16 are amended to read as follows:

17 Sec. 801.251. LICENSE REQUIRED FOR PRACTICE OF VETERINARY
18 MEDICINE. Except as provided by Section 801.004, a person may not
19 practice, or offer or attempt to practice, veterinary medicine
20 unless the person holds a license to practice veterinary medicine
21 issued under this chapter.

22 Sec. 801.252. ELIGIBILITY REQUIREMENTS FOR LICENSE TO
23 PRACTICE VETERINARY MEDICINE. The board shall issue a license to
24 practice veterinary medicine to a person who is qualified to be
25 licensed to practice veterinary medicine under this chapter. A
26 person is qualified to be licensed to practice veterinary medicine
27 if:

1 (1) the person has attained the age of majority;

2 (2) the person is a graduate of a board-approved
3 school or college of veterinary medicine;

4 (3) the person successfully completes the licensing
5 examination for veterinarians conducted by the board; and

6 (4) the board does not refuse to issue a license to the
7 person under Section 801.401.

8 SECTION 8. The heading to Section 801.253, Occupations
9 Code, is amended to read as follows:

10 Sec. 801.253. LICENSING EXAMINATIONS FOR VETERINARIANS.

11 SECTION 9. Subsection (a), Section 801.253, Occupations
12 Code, is amended to read as follows:

13 (a) The board shall hold a regular meeting at least twice
14 each year to conduct licensing examinations for veterinarians as
15 provided by board rule. The board shall conduct the examination at
16 a time and place the board determines is convenient for applicants.

17 SECTION 10. The heading to Section 801.256, Occupations
18 Code, is amended to read as follows:

19 Sec. 801.256. SPECIAL LICENSE TO PRACTICE VETERINARY
20 MEDICINE.

21 SECTION 11. Subsection (a), Section 801.256, Occupations
22 Code, is amended to read as follows:

23 (a) The board may issue a special license to practice
24 veterinary medicine to an applicant who is:

25 (1) a member of the faculty or staff of a
26 board-approved veterinary program at an institution of higher
27 education;

1 (2) a veterinarian employee of the Texas Animal Health
2 Commission;

3 (3) a veterinarian employee of the Texas Veterinary
4 Medical Diagnostic Laboratory; or

5 (4) a person licensed to practice veterinary medicine
6 in another jurisdiction, if the board determines that the person's
7 specialty practice is unrepresented or underrepresented in this
8 state.

9 SECTION 12. The heading to Section 801.257, Occupations
10 Code, is amended to read as follows:

11 Sec. 801.257. PROVISIONAL LICENSE TO PRACTICE VETERINARY
12 MEDICINE.

13 SECTION 13. Subsection (a), Section 801.257, Occupations
14 Code, is amended to read as follows:

15 (a) The board may grant a provisional license to practice
16 veterinary medicine to an applicant who presents proof that the
17 applicant:

18 (1) is licensed in good standing as a veterinarian in
19 another state that:

20 (A) has licensing requirements substantially
21 equivalent to the requirements of this chapter; and

22 (B) maintains professional standards the board
23 considers equivalent to the professional standards of this chapter;
24 and

25 (2) has passed a national or other examination
26 recognized by the board relating to veterinary medicine.

27 SECTION 14. Section 801.258, Occupations Code, is amended

to read as follows:

Sec. 801.258. TEMPORARY LICENSE TO PRACTICE VETERINARY MEDICINE. The board by rule may provide for the issuance of a temporary license to practice veterinary medicine.

SECTION 15. Subchapter F, Chapter 801, Occupations Code, is amended by adding Sections 801.259, 801.260, 801.261, 801.262, 801.263, and 801.264 to read as follows:

Sec. 801.259. LICENSED EQUINE DENTAL PROVIDER DESIGNATIONS. (a) Subject to Subsection (b), a person may not represent to the public that the person is authorized to perform equine dentistry or use the titles "dentist," "certified equine dental provider," "equine dental provider," "CEDP," or "EDP" unless the person is licensed to practice equine dentistry under this chapter.

(b) Only a licensed equine dental provider who is certified in accordance with Section 801.261(a)(3) may use the title "certified equine dental provider" or the designation "CEDP." Only a licensed equine dental provider who is licensed before September 1, 2013, and who is not certified in accordance with Section 801.261(a)(3) may use the title "equine dental provider" or the designation "EDP."

Sec. 801.260. LICENSE REQUIRED FOR EQUINE DENTISTRY. A person may not perform equine dentistry or offer or attempt to act as an equine dental provider unless the person is:

- (1) a veterinarian who is active and in good standing;
- or
- (2) a licensed equine dental provider who is active

1 and in good standing performing under the supervision of a
2 veterinarian who is active and in good standing.

3 Sec. 801.261. LICENSED EQUINE DENTAL PROVIDER:
4 APPLICATION, QUALIFICATIONS, AND ISSUANCE. (a) The board shall
5 issue an equine dental provider license to a person who is qualified
6 under this section. A person is qualified to be licensed as an
7 equine dental provider if the person:

8 (1) passes a jurisprudence examination conducted by
9 the board in accordance with Section 801.264;

10 (2) is not disqualified under this chapter or board
11 rule; and

12 (3) is certified by the International Association of
13 Equine Dentistry or another board-approved certification entity or
14 organization.

15 (b) An applicant for an equine dental provider license must
16 submit to the board:

17 (1) an application on the form prescribed by the
18 board;

19 (2) information to enable the board to conduct a
20 criminal background check as required by the board; and

21 (3) any other information required by the board.

22 Sec. 801.262. SCOPE OF PRACTICE OF LICENSED EQUINE DENTAL
23 PROVIDER. (a) A licensed equine dental provider may not perform
24 equine dentistry unless the provider is active and in good standing
25 and performs equine dentistry under the general supervision of a
26 veterinarian who is active and in good standing.

27 (b) A licensed equine dental provider may perform only the

following equine dental procedures:

(1) removing sharp enamel points;

(2) removing small dental overgrowths;

(3) rostral profiling of the first cheek teeth;

(4) reducing incisors;

(5) extracting loose, deciduous teeth;

(6) removing supragingival calculus;

(7) extracting loose, mobile, or diseased teeth or dental fragments with minimal periodontal attachments by hand and without the use of an elevator; and

(8) removing erupted, non-displaced wolf teeth.

(c) Subsection (b) may not be construed to prohibit an employee of a veterinarian who is not a licensed equine dental provider from performing the equine dental procedures described in Subsection (b) if the employee is under the direct supervision of a veterinarian.

(d) A copy of the dental chart of an equine animal is to be left with the person who authorizes an equine dental procedure and is to be made available to the supervising veterinarian upon request.

Sec. 801.263. LICENSED EQUINE DENTAL PROVIDER RESPONSIBILITY. A licensed equine dental provider shall be held to the same standard of care as a veterinarian when the provider performs the equine dental procedures described in Section 801.262(b).

Sec. 801.264. JURISPRUDENCE EXAMINATION. The board shall develop and administer a jurisprudence examination for licensed

1 equine dental providers to determine an applicant's knowledge of
2 this chapter, board rules, and any other applicable laws of this
3 state affecting the applicant's equine dentistry practice.

4 SECTION 16. Subsections (b) and (c), Section 801.303,
5 Occupations Code, are amended to read as follows:

6 (b) A person whose license has been expired for 90 days or
7 less may renew the license by paying to the board a renewal fee that
8 is equal to the sum of 1-1/2 times the renewal fee set by the board
9 under Section 801.154(a) and the additional fee required by Section
10 801.154(b), if applicable.

11 (c) A person whose license has been expired for more than 90
12 days but less than one year may renew the license by paying to the
13 board a renewal fee that is equal to the sum of two times the renewal
14 fee set by the board under Section 801.154(a) and the additional fee
15 required by Section 801.154(b), if applicable.

16 SECTION 17. Section 801.304, Occupations Code, is amended
17 to read as follows:

18 Sec. 801.304. FEE EXEMPTION. A veterinarian [~~license~~
19 ~~holder~~] is exempt from the fee requirements imposed under Section
20 801.303 if the veterinarian [~~license holder~~]:

21 (1) is on active duty with the Armed Forces of the
22 United States and does not engage in private or civilian practice;
23 or

24 (2) is permanently and totally retired.

25 SECTION 18. Subsection (a), Section 801.305, Occupations
26 Code, is amended to read as follows:

27 (a) A person who was licensed to practice veterinary

1 medicine in this state, moved to another state, and is currently
2 licensed in good standing and has been in practice in the other
3 state for the two years preceding the date of application may obtain
4 a new license to practice veterinary medicine without
5 reexamination.

6 SECTION 19. Section 801.306, Occupations Code, is amended
7 to read as follows:

8 Sec. 801.306. INACTIVE STATUS. The board by rule may
9 provide for the placement of a license holder [~~veterinarian~~] on
10 inactive status. The rules adopted under this section must include
11 a limit on the time a license holder [~~veterinarian~~] may remain on
12 inactive status.

13 SECTION 20. Subsections (a) and (b), Section 801.307,
14 Occupations Code, are amended to read as follows:

15 (a) The board by rule shall establish a minimum number of
16 hours of continuing education required to renew a license to
17 practice veterinary medicine. The board shall require eight hours
18 of continuing education annually to renew an equine dental provider
19 license.

20 (b) The board may:

21 (1) establish general categories of continuing
22 education that meet the needs of license holders [~~veterinarians~~];
23 and

24 (2) require a license holder [~~veterinarian~~] to
25 successfully complete continuing education courses.

26 SECTION 21. Subsections (b) and (c), Section 801.352,
27 Occupations Code, are amended to read as follows:

(b) A veterinarian may not:

(1) allow a person who does not hold a license to practice veterinary medicine issued under this chapter to interfere with or intervene in the veterinarian's practice of veterinary medicine; or

(2) submit to interference or intervention by a person who does not hold a license to practice veterinary medicine issued under this chapter.

(c) A veterinarian shall avoid a relationship that may result in interference with or intervention in the veterinarian's practice of veterinary medicine by a person who does not hold a license to practice veterinary medicine issued under this chapter.

SECTION 22. Section 801.3541, Occupations Code, is amended to read as follows:

Sec. 801.3541. LOCATION OF VETERINARY PRACTICE. The premises on which a veterinary practice is located may be owned by a person or other legal entity that does not hold a license to practice veterinary medicine issued under this chapter.

SECTION 23. Sections 801.402, 801.403, and 801.404, Occupations Code, are amended to read as follows:

Sec. 801.402. GENERAL GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. A person is subject to denial of a license or to disciplinary action under Section 801.401 if the person:

(1) presents to the board dishonest or fraudulent evidence of the person's qualifications;

(2) commits fraud or deception in the examination process or to obtain a license;

1 (3) is chronically or habitually intoxicated,
2 chemically dependent, or addicted to drugs;

3 (4) engages in dishonest or illegal practices in, or
4 connected with, the practice of veterinary medicine or the practice
5 of equine dentistry;

6 (5) is convicted of a felony under the laws of this
7 state, another state, or the United States;

8 (6) engages in practices or conduct that violates the
9 board's rules of professional conduct;

10 (7) permits another to use the person's license to
11 practice veterinary medicine or to practice equine dentistry in
12 this state;

13 (8) fraudulently issues a health certificate,
14 vaccination certificate, test chart, or other form used in the
15 practice of veterinary medicine or the practice of equine dentistry
16 that relates to the presence or absence of animal disease;

17 (9) issues a false certificate relating to the sale
18 for human consumption of inedible animal products;

19 (10) commits fraud in connection with the application
20 or reporting of a test of animal disease;

21 (11) pays or receives a kickback, rebate, bonus, or
22 other remuneration for treating an animal or for referring a client
23 to another provider of veterinary or equine dental services or
24 goods;

25 (12) performs or prescribes unnecessary or
26 unauthorized treatment;

27 (13) orders a prescription drug or controlled

1 substance for the treatment of an animal without first establishing
2 a veterinarian-client-patient relationship;

3 (14) refuses to admit a board representative to
4 inspect the person's client and patient records and business
5 premises during regular business hours;

6 (15) fails to keep the person's equipment and business
7 premises in a sanitary condition;

8 (16) commits gross malpractice or a pattern of acts
9 that indicate consistent malpractice, negligence, or incompetence
10 in the practice of veterinary medicine or the practice of equine
11 dentistry; or

12 (17) is subject to disciplinary action in another
13 jurisdiction, including the suspension, probation, or revocation
14 of a license to practice veterinary medicine or to practice equine
15 dentistry issued by another jurisdiction.

16 Sec. 801.403. FAILURE TO REPORT DISEASE. The board may
17 suspend or revoke a license to practice veterinary medicine, place
18 a veterinarian [~~license holder~~] on probation, or reprimand a
19 veterinarian [~~license holder~~] if the veterinarian [~~license holder~~]
20 knowingly fails to report a disease to the Texas Animal Health
21 Commission as required by Section 161.101, Agriculture Code.

22 Sec. 801.404. FAILURE TO MAINTAIN RECORDS. The board may
23 suspend or revoke a license to practice veterinary medicine issued
24 under this chapter or place on probation a veterinarian [~~license~~
25 ~~holder~~] if the veterinarian [~~license holder~~] fails to maintain
26 records as required by Section 801.359.

27 SECTION 24. Subsection (a), Section 801.502, Occupations

Code, is amended to read as follows:

(a) The board, through the attorney general or a district or county attorney, may bring an action for an injunction, or a proceeding incident to an injunction, to:

(1) enforce this chapter; or

(2) enjoin a person, including a corporation, organization, business trust, estate, trust, partnership, association, or other legal entity, from practicing veterinary medicine or equine dentistry in violation of this chapter.

SECTION 25. Subsections (a) and (b), Section 801.506, Occupations Code, are amended to read as follows:

(a) A sole proprietorship, partnership, or corporation may not engage in veterinary medicine unless the owner, each partner, or each shareholder, as appropriate, holds a license to practice veterinary medicine issued under this chapter.

(b) A corporation, organization, business trust, estate, trust, partnership, association, or other legal entity not owned exclusively by one or more persons licensed to practice veterinary medicine under this chapter may not engage in veterinary medicine.

SECTION 26. Subsection (a), Section 801.508, Occupations Code, is amended to read as follows:

(a) If it appears to the board that a person is engaging in an act or practice that constitutes the practice of veterinary medicine without a license or the practice of equine dentistry without a license under this chapter, the board, after notice and opportunity for a hearing, may issue a cease and desist order prohibiting the person from engaging in the activity.

SECTION 27. Chapter 801, Occupations Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. EQUINE DENTAL PROVIDER ADVISORY COMMITTEE

Sec. 801.551. EQUINE DENTAL PROVIDER ADVISORY COMMITTEE.

(a) The equine dental provider advisory committee is an informal advisory committee to the board and is not subject to Chapter 2110, Government Code.

(b) The advisory committee does not have any independent rulemaking authority but shall advise and assist the board in adopting rules relating to licensed equine dental providers.

(c) The board shall consult the advisory committee regarding matters relating to a disciplinary action that involves a licensed equine dental provider.

Sec. 801.552. APPOINTMENT OF ADVISORY COMMITTEE. (a) The equine dental provider advisory committee is composed of three members appointed by the presiding officer of the board as follows:

(1) two members who are licensed equine dental providers, have resided in and engaged in the practice of smoothing or filing teeth by floating in this state for the five years immediately preceding the date of appointment, and are of good repute; and

(2) one veterinarian member who is active and in good standing and who supervises a licensed equine dental provider.

(b) Notwithstanding Subsection (a)(1), the advisory committee members appointed under Subsection (a)(1) are not required to hold a license to practice equine dentistry issued under this chapter until September 1, 2012. This subsection

1 expires September 1, 2013.

2 (c) Appointments to the advisory committee shall be made
3 without regard to the race, color, disability, sex, religion, age,
4 or national origin of the appointees.

5 Sec. 801.553. TERMS; VACANCY. (a) Members of the equine
6 dental provider advisory committee are appointed for staggered
7 six-year terms. The terms of the members expire on February 1 of
8 each odd-numbered year.

9 (b) If a vacancy occurs during a member's term, the
10 presiding officer of the board shall appoint a new member to fill
11 the unexpired term.

12 (c) An advisory committee member may not serve more than two
13 consecutive full terms.

14 Sec. 801.554. GROUNDS FOR REMOVAL. (a) It is a ground for
15 removal from the equine dental provider advisory committee that a
16 member:

17 (1) does not have at the time of appointment the
18 qualifications required by Section 801.552;

19 (2) does not maintain during service on the advisory
20 committee the qualifications required by Section 801.552; and

21 (3) cannot, because of illness or disability,
22 discharge the member's duties for a substantial part of the member's
23 term.

24 (b) The validity of an action of the advisory committee is
25 not affected by the fact that it is taken when a ground for removal
26 of an advisory committee member exists.

27 Sec. 801.555. OFFICERS. The presiding officer of the board

1 shall designate biennially an equine dental provider advisory
2 committee member as the presiding officer of the advisory committee
3 to serve in that capacity at the will of the presiding officer of
4 the board.

5 Sec. 801.556. REIMBURSEMENT; COMPENSATION. An equine
6 dental provider advisory committee member is not entitled to
7 reimbursement for travel expenses or compensation.

8 Sec. 801.557. MEETINGS. (a) The equine dental provider
9 advisory committee shall meet at the call of the presiding officer
10 of the board.

11 (b) A meeting may be held by telephone conference call.

12 SECTION 28. Subchapter F, Chapter 411, Government Code, is
13 amended by adding Section 411.0995 to read as follows:

14 Sec. 411.0995. ACCESS TO CRIMINAL HISTORY RECORD
15 INFORMATION: STATE BOARD OF VETERINARY MEDICAL EXAMINERS. The
16 State Board of Veterinary Medical Examiners is entitled to obtain
17 from the department criminal history record information maintained
18 by the department that relates to a person who is:

19 (1) an applicant for a license to practice equine
20 dentistry under Chapter 801, Occupations Code; or

21 (2) the holder of a license under that chapter.

22 SECTION 29. (a) Not later than October 1, 2011, the
23 presiding officer of the State Board of Veterinary Medical
24 Examiners shall appoint the initial members of the equine dental
25 provider advisory committee established under Subchapter L,
26 Chapter 801, Occupations Code, as added by this Act, with the term
27 of one member expiring February 1, 2013, the term of one member

1 expiring February 1, 2015, and the term of one member expiring
2 February 1, 2017.

3 (b) Not later than June 1, 2012, the State Board of
4 Veterinary Medical Examiners, in consultation with the equine
5 dental provider advisory committee established under Subchapter L,
6 Chapter 801, Occupations Code, as added by this Act, shall adopt the
7 rules, procedures, and jurisprudence examination required to
8 implement the licensure of equine dental providers under Chapter
9 801, Occupations Code, as amended by this Act.

10 (c) Notwithstanding Section 801.260, Occupations Code, as
11 added by this Act, a person employed as an equine dental provider is
12 not required to hold a license under Chapter 801, Occupations Code,
13 and is not subject to the imposition of a penalty for not holding a
14 license under that chapter before September 1, 2012.

15 SECTION 30. (a) Before September 1, 2013, the State Board
16 of Veterinary Medical Examiners shall issue a provisional equine
17 dental provider license required by Section 801.260, Occupations
18 Code, as added by this Act, to a person who is not certified by the
19 International Association of Equine Dentistry or another
20 board-approved entity or organization if the person:

21 (1) presents proof of graduation from or completion of
22 280 hours of course work at a dental school; and

23 (2) submits, with the application and other
24 information required under Subsection (b), Section 801.261,
25 Occupations Code, as added by this Act:

26 (A) three notarized affidavits in which equine
27 owners or industry professionals who are residents of this state

1 state that they know the person and that the person is known in the
2 community to be competent in the practice of smoothing or filing
3 teeth by floating; and

4 (B) three letters of recommendation from
5 veterinarians licensed to practice in this state.

6 (b) A license issued under this section may be renewed in
7 the same manner as a license issued to a person under Section
8 801.261, Occupations Code, as added by this Act.

9 (c) This section expires September 1, 2013.

10 SECTION 31. This Act takes effect September 1, 2011.