

BILL ANALYSIS

S.B. 319
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Agriculture & Livestock
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The State Board of Veterinary Medical Examiners, which oversees the veterinarian profession in the state, is subject to the Texas Sunset Act and will be abolished on September 1, 2017, unless continued by the legislature. S.B. 319 seeks to continue the board with several statutory modifications.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the State Board of Veterinary Medical Examiners in SECTION 18 of this bill.

ANALYSIS

S.B. 319 amends the Occupations Code to postpone from September 1, 2017, to September 1, 2021, the date the State Board of Veterinary Medical Examiners is abolished and the Veterinary Licensing Act expires unless continued in existence as provided by the Texas Sunset Act. The bill requires the Sunset Advisory Commission to conduct a special-purpose review of the board for the 87th Legislature. The bill requires the commission staff evaluation and report, in conducting the special-purpose review, to be limited to reviewing the effectiveness of recommendations made by the commission to the 85th Legislature and authorizes the commission's recommendations to the 87th Legislature to include any recommendation the commission considers appropriate based on the special-purpose review.

S.B. 319 revises board membership provisions to replace one of the veterinarian members with a licensed veterinary technician member and specifies that of the veterinarian members one member be associated with an animal shelter and one member have at least three years of experience practicing veterinary medicine in Texas on horses, livestock, or other large animals. The bill provides for the transition to the new board composition.

S.B. 319 revises the information the board member training program is required to provide. The bill requires the executive director of the board to create a training manual that includes such information and provides for the distribution and receipt of the manual. The bill's provisions relating to board member training and the training manual apply to a board member appointed before, on, or after the bill's effective date. The bill requires a board member who, before the bill's effective date, completed the training program under the law as it existed before the bill's effective date to complete additional training only on subjects added by the bill to the training program and prohibits such a board member from voting, deliberating, or being counted as a member in attendance at a meeting of the board held on or after December 1, 2017, until the

member completes the additional training.

S.B. 319 removes the floor of a fee set by the board that existed on September 1, 1993. The bill authorizes the board to conduct a risk-based inspection of a veterinarian's practice based on information obtained from the veterinarian or another source concerning the veterinarian's use, handling, prescribing, dispensing, or delivery of controlled substances. The bill changes the reviewers required to review a complaint that requires medical expertise from two or more veterinarian board members to one or more veterinarians designated by the board and makes related changes. The bill prohibits a veterinarian board member who reviews a complaint requiring medical expertise from participating in any subsequent disciplinary proceeding related to the complaint.

S.B. 319 revises provisions relating to the confidentiality of investigation records and investigative information of the board and requires the board to protect the identity of a complainant to the extent possible. The bill requires the board, not later than the 30th day after the date of receipt of a written request from a license holder who is the subject of a formal complaint initiated and filed under applicable provisions or from the license holder's counsel of record, and subject to any other privilege or restriction set forth by rule, statute, or legal precedent, and unless good cause is shown for delay, to provide the license holder with access to all information in its possession that the board intends to offer into evidence in presenting its case in chief at the contested hearing on the complaint. The bill expressly does not require the board to provide a board investigative report or memorandum, the identity of a nontestifying complainant, or attorney-client communications, attorney work product, or other materials covered by a privilege recognized by the Texas Rules of Civil Procedure or the Texas Rules of Evidence. The bill establishes that furnishing information in this manner does not constitute a waiver of privilege or confidentiality under the Veterinary Licensing Act or other applicable law.

S.B. 319 sets out provisions relating to board notification to a complainant of the final disposition of a complaint and prohibits the notification from including certain confidential information. The bill prohibits the board from accepting anonymous complaints. The bill requires a complaint filed with the board by a pharmaceutical company or by an insurance professional or insurer relating to insurance covering veterinary services against a veterinarian license holder to include the name and address of the pharmaceutical company, insurance professional, or insurer filing the complaint and sets out notification requirements.

S.B. 319 requires the board to require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the board, to the board or to the Department of Public Safety (DPS) for the purpose of obtaining criminal history record information from DPS and the FBI. The bill prohibits the board from issuing a license to a person who does not comply with such requirement, provides for the conducting or administering of a criminal history record information check of an applicant, and sets out related provisions for the renewal of a license. The bill revises provisions relating to the term of a license and continuing education to provide for a two year license term. The bill removes the requirement that rules adopted by the board providing for the placement of a license holder on inactive status include a limit on the time a license holder may remain on inactive status.

S.B. 319 requires the board by rule to adopt a schedule of penalties, disciplinary actions, and other sanctions that the board may impose under the Veterinary Licensing Act that meets certain requirements and applies the schedule of sanctions only to conduct that occurs on or after the date such rules become effective.

S.B. 319 requires the board to periodically check the prescribing and dispensing information submitted to the Texas State Board of Pharmacy as authorized by certain provisions of the Texas Controlled Substances Act to determine whether a veterinarian is engaging in potentially harmful prescribing or dispensing patterns or practices. The bill requires the State Board of Veterinary Medical Examiners, in coordination with the Texas State Board of Pharmacy, to determine the

conduct that constitutes a potentially harmful prescribing or dispensing pattern or practice, and in determining such conduct, to consider certain matters. The bill authorizes the board to notify a veterinarian of the veterinarian's potentially harmful prescribing or dispensing pattern or practice and to initiate a complaint against a veterinarian based on information relating to such a pattern or practice.

EFFECTIVE DATE

September 1, 2017.