

BILL ANALYSIS

Senate Research Center

H.B. 1767
By: Cook, Robby (Armbrister)
S/C on Agriculture & Coastal Resources
5/17/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

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, including “artificially inseminating an animal, including training, inseminating, and compensating for services related to artificial insemination.” H.B. 1767 limits the livestock management practice of artificial insemination to non-surgical methods.

The veterinarian-client-patient relationship (VCPR) is one of the cornerstones of the veterinary profession. 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 attempted to diagnose the animal solely over the phone. H.B. 1767 prohibits the VCPR from being established solely by electronic means.

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. H.B. 1767 allows 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 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. H.B. 1767 reduces the minimum number of days from 12 to 10.

Animal cruelty is a problem in Texas and the rest of the nation. However, because of current confidentiality statutes and concerns regarding possible legal retribution veterinarians are hesitant to report suspected cases of animal abuse. H.B. 1767 shields veterinarians who report abuse in good faith from suit.

Current law prevents veterinarians from dispensing legend medications to persons unless a VCPR exists. However, some emergency situations exist which make it necessary to dispense medication without a VCPR. H.B. 1767 allows 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 difficult due to 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. H.B. 1767 moves such prosecutions to Travis County.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the State Board of Veterinary Medical Examiners in SECTION 6 (Section 801.362, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 801.004, Occupations Code, to provide that this chapter (Veterinarians) does not apply to a person who performs an accepted livestock practice including artificially inseminating an animal in a nonsurgical manner. Makes conforming and nonsubstantive changes.

SECTION 2. Amends Section 801.351, Occupations Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Prohibits a person from practicing veterinary medicine unless a veterinarian-client-patient relationship exists.

(c) Prohibits a veterinarian-client-patient relationship to be established solely by telephone or electronic means.

SECTION 3. Amends Section 801.353, Occupations Code, by adding Subsection (f) to provide that a veterinarian does not violate this section (Confidentiality; Waiver) by providing the name or address of a client to a health authority, veterinarian, or physician who requests the identity of the client to obtain information for the verification of a rabies vaccine or other treatment involving a life-threatening situation.

SECTION 4. Amends Sections 801.357(a) and (d), Occupations Code, as follows:

(a) Authorizes a veterinarian to dispose of an animal that is abandoned in the veterinarian's care if the veterinarian allows the client to retrieve the animal during the 10, rather than 12, days after the date the veterinarian mails the notice.

(b) Provides that an animal is considered abandoned on the 11th, rather than 13th, day after the date the veterinarian mails the notice.

SECTION 5. Amends Subchapter H, Chapter 801, Occupations Code, by adding Section 801.3585, as follows:

Sec. 801.3585. **LIABILITY FOR REPORTING ANIMAL CRUELTY; IMMUNITY.** Provides that a veterinarian who in good faith and in the normal course of business reports to the appropriate governmental entity a suspected incident of animal cruelty is immune from liability in a civil or criminal action brought against the veterinarian for reporting the incident.

SECTION 6. Amends Subchapter H, Chapter 801, Occupations Code, by adding Section 801.362, as follows:

Sec. 801.362. **AUTHORITY TO DISPENSE DRUGS PRESCRIBED BY ANOTHER VETERINARIAN IN EMERGENCY.** (a) Authorizes a veterinarian to dispense a drug, other than a controlled substance, prescribed by another veterinarian under certain circumstances.

(b) Provides that a veterinarian does not violate Section 801.402 (General Grounds for License Denial or Disciplinary Action) by ordering a prescription drug in compliance with this section for the treatment of an animal without first establishing a veterinarian-client-patient relationship.

(c) Authorizes the State Board of Veterinary Medical Examiners to adopt rules to implement this section.

SECTION 7. Amends Section 801.504, Occupations Code, by adding Subsection (c) to provide that venue for the prosecution of certain offenses is in a district court in Travis County.

SECTION 8. Makes application of Section 801.362(a), Occupations Code, as added by this Act, prospective to September 1, 2006.

SECTION 9. Makes application of Section 801.504(c), Occupations Code, as added by this Act, prospective.

SECTION 10. Effective date: September 1, 2005.