

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1032  
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Agricultural & Rural Affairs  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The intent of this legislation is to define and establish training and certification for persons performing equine dentistry. Veterinarians currently provide equine dentistry services and have training to do so. However, there are also several veterinarian technicians who are practicing equine dentistry procedures, such as teeth floating (filing away sharp points on the teeth) without proper training. The concern is that these veterinarian technicians are not providing quality care and may actually be doing more harm than good.

This bill ensures that equine dentistry is performed only by a veterinarian or a certified equine dental technician under supervision of a veterinarian. Equine dentistry includes removing sharp enamel projections, treating malocclusions, reshaping teeth, extracting teeth, treating diseased teeth, and more. To become a certified equine dentistry technician, an applicant must pass a jurisprudence examination by the Texas Board of Veterinary Medical Examiners (TBVME) and submit to TBVME an application, information for a background check, recommendations from two veterinarians, and additional documents required by TBVME. The license or certificate must be renewed annually to continue practicing equine dentistry by paying a renewal fee to TBVME. The bill also contains a provision that allows advertising of veterinarians and certified equine dental technicians. The bill lays out grounds for license or certificate denial or disciplinary action or a temporary license suspension. TBVME will develop a method for monitoring license or certificate holder's compliance with TBVME requirements.

As proposed, S.B. 1032 amends current law relating to the registration and regulation of equine dental technicians, advertising by veterinarians and equine dental technicians, and the confidentiality of investigation files maintained by the State Board of Veterinary Medical Examiners; providing penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Texas Board of Veterinary Medical Examiners (TBVME) is modified in SECTION 2 (Section 801.151, Occupations Code), SECTION 3 (Section 801.153, Occupations Code), SECTION 11 (Section 801.301, Occupations Code), SECTION 12 (Section 801.306, Occupations Code), SECTION 13 (Section 801.307, Occupations Code), SECTION 19 (Section 801.408, Occupations Code), SECTION 20 (Section 801.409, Occupations Code), and SECTION 21 (Section 801.501, Occupations Code) of this bill.

Rulemaking authority is expressly granted to TBVME in SECTION 2 (Section 801.151, Occupations Code) and SECTION 9 (Section 801.261, Occupations Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 801.002, Occupations Code, by adding Subdivisions (1-a), (2-a), and (4-a), to define "certified equine dental technician," "dentistry," and "immediate supervision."

SECTION 2. Amends Section 801.151, Occupations Code, by amending Subsection (c) and adding Subsections (e) and (f), as follows:

(c) Requires the Texas Board of Veterinary Medical Examiners (TBVME) to adopt rules to:

(1) and (2) Makes nonsubstantive changes.

(3) ensure that equine dentistry is performed only by a veterinarian or by a certified equine dental technician under the appropriate level of supervision of a veterinarian.

(e) Requires TBVME to adopt rules to implement a jurisprudence examination for certified equine dental technicians, including rules relating to the development and administration of the examination, examination fees, guidelines for reexamination, examination grading, and provision of notice of examination results.

(f) Requires TBVME by rule to establish standards to ensure the health, safety, and welfare of animals treated by certified equine dental technicians.

SECTION 3. Amends Section 801.153(b), Occupations Code, as follows:

(b) Deletes existing Subdivision (4), prohibiting TBVME from including in its rules to prohibit a false, misleading, or deceptive practice a rule that restricts the person's advertisement under a trade name. Makes nonsubstantive changes.

SECTION 4. Amends Section 801.156, Occupations Code, as follows:

Sec. 801.156. REGISTRY. (a) Requires TBVME to maintain a record of each license or certificate holder's, rather than each veterinarian's, name, residence address, and business address.

(b) Requires a license or certificate holder, rather than a veterinarian, to notify TBVME of a change of business address or employer not later than the 60th day after the date the change takes effect.

SECTION 5. Amends Section 801.203(b), Occupations Code, to make a conforming change.

SECTION 6. Amends Section 801.2056(b), Occupations Code, to make a conforming change.

SECTION 7. Amends Section 801.207, Occupations Code, as follows:

Sec. 801.207. New heading: CONFIDENTIALITY OF INVESTIGATION FILES. (a) Redesignates existing Subsection (b) as Subsection (a). Provides that an investigation record of TBVME, including a record relating to a complaint that is found to be groundless, is confidential and not subject to discovery, subpoena, or any other means of legal compulsion for release other than to TBVME or an employee or agent of TBVME. Deletes existing Subsection (a), providing that, except as provided by Subsection (b), a TBVME record is a public record and is available for public inspection during normal business hours.

(b) Requires TBVME to share information in investigation files with another state or federal regulatory agency or with a local, state, or federal law enforcement agency regardless of whether the investigation has been completed.

SECTION 8. Amends the heading to Subchapter F, Chapter 801, Occupations Code, to read as follows:

#### SUBCHAPTER F. LICENSE AND CERTIFICATION REQUIREMENTS

SECTION 9. Amends Subchapter F, Chapter 801, Occupations Code, by adding Sections 801.260 through 801.264, as follows:

Sec. 801.260. LICENSE OR CERTIFICATE REQUIRED FOR EQUINE DENTISTRY. Prohibits a person from performing equine dentistry or offering or attempting to act as an equine dental technician unless the person is:

- (1) a veterinarian; or
- (2) a certified equine dental technician performing under the supervision of a veterinarian.

Sec. 801.261. CERTIFIED EQUINE DENTAL TECHNICIAN: APPLICATION, QUALIFICATIONS, AND ISSUANCE. (a) Requires TBVME to adopt rules to establish qualifications for certified equine dental technicians. Requires that the qualifications at a minimum provide that a person is qualified if the person:

- (1) passes a jurisprudence examination conducted by TBVME in accordance with Section 801.264; and
- (2) is not disqualified under this chapter or TBVME rule.

(b) Requires that an applicant for an equine dental technician certificate submit to TBVME:

- (1) an application on the form prescribed by TBVME;
- (2) information to enable TBVME to conduct a criminal background check as required by TBVME;
- (3) recommendations from two veterinarians; and
- (4) any other information required by TBVME.

Sec. 801.262. CERTIFIED EQUINE DENTAL TECHNICIAN SUPERVISION. (a) Prohibits a certified equine dental technician from performing equine dentistry unless the technician is under the supervision of a veterinarian as required by this section.

(b) Requires a certified equine dental technician to be under the direct supervision of a veterinarian to:

- (1) extract wolf teeth, premolars, caps, or deciduous teeth; or
- (2) smooth or file teeth by floating.

(c) Requires a certified equine dental technician to be under the immediate supervision of a veterinarian to extract incisors, canines, or molars.

(d) Prohibits Subsection (b) from being construed to prohibit an employee of a veterinarian who is not a certified equine dental technician from smoothing or filing teeth by floating if the employee is under the direct supervision of a veterinarian.

(e) Prohibits a certified equine dental technician, notwithstanding any other law, from administering any sedative, tranquilizer, analgesic, prescription medication, or other drug under any circumstances.

Sec. 801.263. CERTIFIED EQUINE DENTAL TECHNICIAN RESPONSIBILITY. Requires a certified equine dental technician to be held to the same standard of care as a veterinarian when the technician smooths teeth by floating or performs any other dental procedure described in Section 801.262.

Sec. 801.264. JURISPRUDENCE EXAMINATION. Requires TBVME to develop and administer a jurisprudence examination for certified equine dental technicians to determine an applicant's knowledge of this chapter, TBVME rules, and any other applicable laws of this state affecting the applicant's equine dentistry practice.

SECTION 10. Amends the heading to Subchapter G, Chapter 801, Occupations Code, to read as follows:

**SUBCHAPTER G. LICENSE AND CERTIFICATE EXPIRATION AND RENEWAL**

SECTION 11. Amends Sections 801.301, 801.302, and 801.303, Occupations Code, as follows:

Sec. 801.301. ANNUAL RENEWAL REQUIRED. (a) Requires TBVME to provide for the annual renewal of a license or certificate, rather than of a license.

(b) and (c) Makes conforming changes.

Sec. 801.302. New heading: NOTICE OF LICENSE OR CERTIFICATE EXPIRATION. Makes conforming changes.

Sec. 801.303. PROCEDURE FOR RENEWAL. (a) Makes conforming changes.

(b) Authorizes a person whose license or certificate has been expired for 90 days or less to renew the license or certificate by paying to TBVME a renewal fee that is equal to the sum of 1-1/2 times the renewal fee set by TBVME under Section 801.154(a) (relating to fees) and the additional fee required by Section 801.154(b) (relating to a license renewal fee), if applicable. Makes conforming changes.

(c) Authorizes a person whose license or certificate has been expired for more than 90 days but less than one year to renew the license or certificate by paying to TBVME a renewal fee that is equal to the sum of two times the renewal fee set by TBVME under Section 801.154(a) and the additional fee required by Section 801.154(b), if applicable. Makes conforming changes.

(d) Makes conforming changes.

SECTION 12. Amends Section 801.306, Occupations Code, to make conforming changes.

SECTION 13. Amends Section 801.307, Occupations Code, as follows:

Sec. 801.307. CONTINUING EDUCATION. (a) Requires TBVME by rule to establish a minimum number of hours of continuing education required to renew a license or certificate.

(b) Authorizes TBVME to:

(1) establish general categories of continuing education that meet the needs of veterinarians or certified equine dental technicians; and

(2) require a veterinarian or certified equine dental technician to successfully complete continuing education courses.

(c) Makes a conforming change.

SECTION 14. Amends the heading to Subchapter I, Chapter 801, Occupations Code, to read as follows:

**SUBCHAPTER I. LICENSE OR CERTIFICATE DENIAL AND DISCIPLINARY PROCEDURES**

SECTION 15. Amends Sections 801.401(a), (c), and (d), Occupations Code, to make conforming and nonsubstantive changes.

SECTION 16. Amends Section 801.402, Occupations Code, as follows:

Sec. 801.402. New heading: GENERAL GROUNDS FOR LICENSE OR CERTIFICATE DENIAL OR DISCIPLINARY ACTION. Provides that a person is subject to denial of a license or certificate or to disciplinary action under Section 801.401 (Disciplinary Powers of Board) if the person engages in certain activities, including committing fraud or deception in the examination process or to obtain a license or certificate; engaging in dishonest or illegal practices in, or connected with, the practice of veterinary medicine or the practice of equine dentistry; permitting another to use the person's license to practice veterinary medicine or certificate to practice equine dentistry in this state; fraudulently issuing a health certificate, vaccination certificate, test chart, or other form used in the practice of veterinary medicine or the practice of equine dentistry that relates to the presence or absence of animal disease; paying or receiving a kickback, rebate, bonus, or other remuneration for treating an animal or for referring a client to another provider of veterinary or equine dental services or goods; committing gross malpractice or a pattern of acts that indicate consistent malpractice, negligence, or incompetence in the practice of veterinary medicine or the practice of equine dentistry; or being subject to disciplinary action in another jurisdiction, including the suspension, probation, or revocation of a license to practice veterinary medicine or a certificate to practice equine dentistry issued by another jurisdiction.

SECTION 17. Amends Sections 801.405 and 801.406, Occupations Code, to make conforming changes.

SECTION 18. Amends Sections 801.407(a) and (d), Occupations Code, to make conforming changes.

SECTION 19. Amends Sections 801.408(b) and (e), Occupations Code, to make conforming changes.

SECTION 20. Amends Section 801.409, Occupations Code, as follows:

Sec. 801.409. New heading: TEMPORARY LICENSE OR CERTIFICATE SUSPENSION. (a)-(d) Makes conforming changes.

SECTION 21. Amends Section 801.501, Occupations Code, as follows:

Sec. 801.501. New heading: MONITORING LICENSE OR CERTIFICATE HOLDER. Makes conforming changes.

SECTION 22. Amends Section 801.502(a), Occupations Code, as follows:

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

(1) Makes no changes to this subdivision;

(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 23. Amends the heading to Section 801.503, Occupations Code, to read as follows:

Sec. 801.503. ASSESSMENT OF CIVIL PENALTY AGAINST PERSON NOT LICENSED OR CERTIFIED.

SECTION 24. Amends Section 801.503(a), Occupations Code, to provide that a person not licensed or certified under this chapter, including a corporation, organization, business trust, estate, trust, partnership, association, or other legal entity, who violates this chapter or a rule adopted by TBVME under this chapter is subject to a civil penalty of \$1,000 for each day of violation.

SECTION 25. Amends Section 801.505, Occupations Code, to make a conforming change.

SECTION 26. Amends Section 801.508(a), Occupations Code, as follows:

(a) Authorizes TBVME, if it appears to TBVME 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 or certificate under this chapter, to, after notice and opportunity for a hearing, issue a cease and desist order prohibiting the person from engaging in the activity.

SECTION 27. Amends Subchapter F, Chapter 411, Government Code, by adding Section 411.0995, as follows:

Sec. 411.0995. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE BOARD OF VETERINARY MEDICAL EXAMINERS. Entitles TBVME to obtain from the Texas Department of Public Safety (DPS) criminal history record information maintained by DPS that relates to a person who is:

- (1) an applicant for a certificate to practice equine dentistry under Chapter 801 (Veterinarians), Occupations Code; or
- (2) the holder of a license or certificate under that chapter.

SECTION 28. (a) Requires TBVME, not later than June 1, 2012, to adopt the rules, procedures, and jurisprudence examination required to implement the registration of equine dental technicians under Chapter 801, Occupations Code, as amended by this Act.

(b) Provides that a person employed as an equine dental technician is not required to hold a certificate under Chapter 801, Occupations Code, and is not subject to the imposition of a penalty for not holding a certificate under that chapter before September 1, 2012, notwithstanding Section 801.260, Occupations Code, as added by this Act.

SECTION 29. Effective date: September 1, 2011.