

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 895  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The purpose of this legislation is to address the concern over unlicensed teeth floaters who may not be educated on proper teeth floating techniques and who use the designations after their name which suggest certification.

Over the last several years, the Texas Board of Veterinary Medical Examiners (TBVME) has become aware of lay persons advertising and performing dental procedures on horses, the most common procedure being equine teeth floating (teeth floating). TBVME believes that the practice of equine dentistry, including teeth floating, by non-veterinary dentists (NVDs) is illegal and may present a threat to the health and welfare of horses. According to TBVME, NVDs routinely use "Eq.D" or "M/Eq.D" or "Certified Equine Dentist" designations after their name.

NVDs contend that those who practice teeth floating are highly skilled and trained in the procedure and fill a need to offer inexpensive services to horse owners. NVDs point out—and TBVME does not dispute—that not enough veterinarians have the knowledge or practice necessary to perform teeth floating.

The current conflict between veterinarians and NVDs revolves around consumer choice versus consumer protection. NVDs believe that the regulation of teeth floating is a protectionist measure purely designed to give veterinarians a monopoly over this procedure—and the associated fees. On the other hand, veterinarians believe that NVDs, who are unregulated and unsupervised, frequently mislead consumers by putting designations after their names. Furthermore, veterinarians contend that NVDs routinely administer prescription drugs when floating teeth. Finally, veterinarians are worried that consumers have no course of action against NVDs who perform teeth floating poorly, which could result in injury to the animal.

This bill will define dentistry and teeth floating. It will also set forth the requirements for non-veterinarians who practice teeth floating to become certified in order to protect the public from misleading designations and ensure some training in teeth floating. This legislation will amend the Act to include a definition of dentistry that includes teeth floating and a definition of teeth floating. The legislation will allow for a certification process through which NVDs can be allowed to practice teeth floating in the state, thus settling the issue of legality. In addition, the legislation will contain a grandfather clause to allow all people who currently practice teeth floating the opportunity to become certified without having to take a full equine dentistry course.

As proposed, S.B. 895 amends current law relating to the regulation of equine dental care providers and provides penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Board of Veterinary Medical Examiners (TBVME) in SECTION 2 (Section 801.151, Occupations Code); SECTION 4 (Section 801.259, Occupations Code); SECTION 6 (Section 801.301, Occupations Code); SECTION 14 (Section 801.409, Occupations Code); and SECTION 15 (Section 801.501, Occupations Code) of this bill.

## **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 801.002, Occupations Code, by adding Subdivisions (3-a), (3-b), (4-a), and (5-a) to define, respectively, "equine dental care," "equine dental care provider," "practice of equine dentistry," and "tooth floating."

SECTION 2. Amends Section 801.151(c), Occupations Code, as follows:

(c) Requires the Texas Board of Veterinary Medical Examiners (TBVME) to adopt certain rules, including to ensure that the practice of equine dentistry, other than tooth floating, is performed only by a veterinarian; and ensure that tooth floating is performed only by a veterinarian or a certified equine dental care provider. Makes nonsubstantive changes.

SECTION 3. Amends the heading to Subchapter F, Chapter 801, Occupations Code, to read as follows:

### **SUBCHAPTER F. LICENSE AND CERTIFICATION REQUIREMENTS**

SECTION 4. Amends Subchapter F, Chapter 801, Occupations Code, by adding Sections 801.259, 801.260, and 801.261, as follows:

Sec. 801.259. EQUINE DENTIST DESIGNATIONS. (a) Prohibits a person from representing to the public that the person is an equine dentist or use the title "Eq.D.," "M/Eq.D.," or "Certified Equine Dentist" unless the person is licensed under this chapter to practice veterinary medicine and has specialized training in equine dentistry by a board-approved program.

(b) Requires TBVME to adopt rules necessary to implement this section.

Sec. 801.260. LICENSE OR CERTIFICATE REQUIRED FOR EQUINE DENTAL CARE. Prohibits a person from engaging in the practice of, or offer or attempt to engage in the practice of, equine dental care unless the person is a veterinarian, or a certified equine dental care provider.

Sec. 801.261. CERTIFIED EQUINE DENTAL CARE PROVIDER: APPLICATION, QUALIFICATIONS, AND ISSUANCE. (a) Requires TBVME to issue an equine dental care provider certificate to a person qualified for certification under this chapter. Provides that a person is qualified if the person:

(1) satisfactorily completes at least 80 hours of training in equine dentistry at the Texas Institute of Equine Dentistry or a similar program approved by TBVME; or

(2) is certified as an equine dental technician by the International Association of Equine Dentistry or a similar program approved by TBVME.

(b) Requires an applicant for an equine dental care provider certificate submit to TBVME an application on the form prescribed by TBVME; and any other information required by TBVME.

SECTION 5. Amends the heading to Subchapter G, Chapter 801, Occupations Code, to read as follows:

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

SECTION 6. 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.

(b) Authorizes TBVME by rule to adopt a system under which licenses or certificates expire on various dates during the year.

(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 expired for 90 days or less to renew the license or certificate by paying 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 renewal fees) and the additional fee required by Section 801.154(b) (relating to an additional fee of \$200), if applicable.

(c)-(d) Makes conforming changes.

SECTION 7. Amends Section 801.307, Occupations Code, by adding Subsection (a-1) and amending Subsections (b) and (c), as follows:

(a-1) Requires TBVME to require four hours of continuing education annually to renew the certificate of an equine dental care provider.

(b) Authorizes TBVME to establish general categories of continuing education that meet the needs of veterinarians or certified equine dental care providers, and require a veterinarian or certified equine dental care provider to successfully complete continuing education courses.

(c) Makes a conforming change.

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

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

SECTION 9. Amends Sections 801.401(a), (c), and (d), Occupations Code, to make conforming changes.

SECTION 10 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 if the person takes certain actions, including engages in dishonest or illegal practices in, or connected with, the practice of veterinary medicine or the practice of equine dental care; permits another to use the person's license to practice veterinary medicine or certificate to practice equine dental care in this state; commits 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 dental care; or is 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 dental care issued by another jurisdiction.

SECTION 11. Amends Sections 801.405 and 801.406, Occupations Code, as follows:

Sec. 801.405. MENTAL INCOMPETENCE. (a) Authorizes TBVME to suspend or revoke a license or certificate if a court finds that the license or certificate holder is mentally incompetent.

(b) Makes conforming changes.

Sec. 801.406. REQUIRED DISCIPLINARY ACTION FOR CERTAIN CONVICTIONS. (a) Requires TBVME, after conducting an administrative hearing in which the fact of conviction is determined, on conviction of a license or certificate holder of a felony under Section 485.033 (Inhalant Paraphernalia), Health and Safety Code, or Chapter 481 (Texas Controlled Substances Act) or 483 (Dangerous Drugs), to impose a penalty as provided by Section 801.401.

(b) Redesignates existing Subsection (c) as Subsection (b) and makes conforming changes.

SECTION 12. Amends Sections 801.407(a) and (d), Occupations Code, to make conforming changes.

SECTION 13. Amends Sections 801.408(b) and (e) Occupations Code, to make conforming changes.

SECTION 14. Amends Section 801.409, Occupations Code, as follows:

Sec. 801.409. New heading: TEMPORARY LICENSE OR CERTIFICATE SUSPENSION. (a) Authorizes an executive committee of the TBVME consisting of the president and two other TBVME members appointed by the president to temporarily suspend the license or certificate of a license or certificate holder if the executive committee determines from the evidence or information presented to the committee that continued practice by the license or certificate holder constitutes a continuing or imminent threat to the public welfare.

(b) Requires TBVME by rule to adopt procedures for the temporary suspension of a license or certificate under this section.

(c) Makes conforming changes.

SECTION 15. Amends Section 801.501, Occupations Code, as follows:

Sec. 811.501. New heading: MONITORING LICENSE OR CERTIFICATE HOLDER. Requires TBVME to develop a system for monitoring a license or certificate holder's compliance with the requirements of this chapters. Requires the rule to include procedures to:

(1) monitor for compliance a license or certificate holder who is ordered by TBVME to perform certain acts; and

(2) identify and monitor a license or certificate holder who represents a risk to the public.

SECTION 16. 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 enforce this chapter; or enjoin a person, including a corporation, organization, business trust, estate, trust, partnership, association, or other legal entity, from practicing veterinary medicine or equine dental care in violation of this chapter.

SECTION 17. 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 18. Amends Section 801.503(a), Occupations Code, to make a conforming change.

SECTION 19. Amends Section 801.505, Occupations Code, to make a conforming change.

SECTION 20. Amends Section 801.508(a), Occupations Code, to authorize TBVME, after notice and opportunity for a hearing, 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 dental care without a license or certificate under this chapter, to issue a cease and desist order prohibiting the person from engaging in the activity.

SECTION 21. (a) Requires TBVME, not later than June 1, 2012, to adopt the rules required to implement the certification of equine dental care providers under Chapter 801, Occupations Code, as amended by this Act.

(b) Provides that notwithstanding Section 801.260, Occupations Code, as added by this Act, a person employed as an equine dental care provider 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.

SECTION 22. (a) Requires TBVME, before September 1, 2013, to issue a certificate required by Section 801.260, Occupations Code, as added by this Act, to a person who has not completed a board-approved training program for certified equine dental care providers if the person has performed acts that constitute the practice of equine dental care before September 1, 2012; and submits, with the application and other information required under Section 801.261(b), Occupations Code, as added by this Act, three notarized affidavits described by Subsection (b) of this section.

(b) Requires that each affidavit state that the affiant knows the applicant and that the applicant is known in the community to provide equine dental care commonly known as "tooth floating." Requires that the affiants be residents of this state. Requires that at least one of the affiants be a veterinarian licensed in this state. Requires that two affiants be horse owners.

(c) Authorizes that a certificate issued under this section be renewed in the same manner as a certificate issued to a person who has completed a board-approved training program for certified equine dental care providers.

(d) Requires TBVME to revoke a certificate issued to a person under this section if the person does not satisfactorily complete four hours of continuing education for certified equine dental care providers before the second anniversary of the date the certificate was issued.

(e) Provides that this section expires January 1, 2016.

SECTION 23. Effective date: September 1, 2011.