

COMMENTS TO THE LEGISLATURE – APRIL 2017

The Sunset Advisory Committee concluded that the Vet Board has serious problems regarding its mandate to enforce accountability for veterinarians who commit malpractice. The bill's own analysis states that this has created 'significant distrust between licensees, the public, and the agency.' We do not believe SB 319 goes far enough to correct these problems."

This board is run by veterinarians who are regulating veterinarians and it should be no surprise they have been deceiving the public by dismissing serious complaints of wrong doing and protecting veterinarians from their malpractice for years, which only exacerbates the problem by leaving those dangerously incompetent veterinarians to continue to harm the unsuspecting public and our beloved pets.

We do not have the option of using the Courts for redress because in the eyes of the Courts, our pets are worthless and have no sentient value. Our legal fees would greatly outsize any damages awarded. The only avenue the public has for redress for the nightmare of losing a pet to malpractice is to file a complaint with this board.

I can tell you from experience that if your pet was killed by veterinarians and you filed a claim with the expectation that it would be treated with the seriousness it deserves, only to have it tossed out as if it's nothing, is unbearably painful. It only victimizes us again.

Supreme Court Docket No. 13-534 titled North Carolina State Board of Dental Examiners vs Federal Trade Commission, is a case where the State Dental Board comprised of dentists sent out threatening letters to people who were conducting teeth cleaning. The board dentists did not like non-dentists doing this because it took business away from them.

The Supreme Court ruled 6 to 3 against that board explaining "When a State empowers a group of active market participants to decide who can participate in its market, and on what terms, the need for supervision is manifest." This case is an antitrust case, but it clearly points out that supervision is obviously required when dentists are regulating dentists, and veterinarians are regulating veterinarians. This vet board needs to be

actively supervised because this agency is being managed by veterinarians who are clearly acting in their own self-interests and not in the public interest.

My very serious complaint of gross malpractice and animal cruelty in the horrifying death of my horse, Harvey, a case with an abundance of supporting evidence against the worst of veterinarians, was dismissed and also my appeal was dismissed **DURING** the recent Sunset Advisory Commission review. Sunset is clearly not enough supervision for this agency.

Absent that supervision, the board needs to be comprised of a majority of public members and not veterinarians. Reviews of medical malpractice cases can be handled by two or more third party reviewers, and do not require board members to be veterinarians. I implore you to lower the numbers of veterinarians on this board to less than half.

I encourage all of you to take this opportunity to correct the many problems with this agency so that it functions to protect the public and our pets and not those veterinarians guilty of malpractice.

The need for supervision is manifest.

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COMMENTS CONCERNING SB 319

For more than the last decade this agency has been controlled by veterinarians who are regulating veterinarians, a serious conflict of interest. I refer to the Supreme Court case, Docket No. 13-534, titled North Carolina State Board of Dental Examiners vs Federal Trade Commission, "When a State empowers a group of active market participants to decide who can participate in its market, and on what terms, the need for supervision is manifest." Another quote from that Supreme Court decision: "Limits on state-action immunity are most essential when a State seeks to delegate its regulatory power to active market participants, for dual allegiances are not always apparent to an actor and prohibitions against anticompetitive self-regulation by active market participants are an axiom of federal antitrust policy."

Aside from the antitrust issue for the State, the TBVME must be actively supervised because the TBVME is being managed by active market participants who are acting in their own self-interests, thereby deceiving the public and violating public trust, as well as leaving unqualified veterinarians to continue harming the public and our pets.

I ask the legislature to take this opportunity to correct the many problems with this agency so that it functions to protect the public and their pets and not the unqualified veterinarians by either supervising it very closely or reducing the veterinarian board members below half.

Also, since current complaint cases are being delayed and stalled due to missing staff and board members, I am requesting that a similar time period (November, 2016 to September, 2017, or ten months) be given to those delayed cases. Mine is one of those, and I fear the board will dismiss my one remaining case out of the five due to the time issue. My five complaints were filed on May 3, 2016. Only one has been referred to informal hearing and I have been told that this informal hearing will not take place until September, 2017. The other four complaints were all dismissed and later dismissed on appeal as well during the Sunset review.

I respectfully request the following changes to HB 319:

Section 2. Section 801.0519a), Occupations Code, change (a) (1) to three veterinarian members instead of five veterinarian members, and change (3) to five members who represent the public.

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Since the Governor appoints the veterinarian members from a pool selected by the TVMA (I have been told), the public members should be selected by election or a fair and unbiased selection of volunteer citizens who meet the criteria of informed with a desire to serve, and who own pets.

Section 6. GENERAL RULES REGARDING COMPLAINT INVESTIGATION AND DISPOSITION.

- (1) distinguish between categories of complaints and ensure that those involving an animal death receive priority;
- (2) ensure that complaints are not dismissed without a thorough investigation involving both the licensee and the complainant;
- (3) require that the full board be given sufficient details, including a copy of the complaint, the licensee's responses and the complainant's responses to the licensee's responses, before any complaint is dismissed;

Also, all board orders regarding sanctions against veterinarians should be easily accessible to the public so they are able to find out if the veterinarian they are considering has received any sanctions so they can make an informed decision about using that veterinarian or not.

Sec. 801.2055. COMPLAINTS REQUIRING MEDICAL EXPERTISE.

- (a) A complaint that requires medical expertise to review must be reviewed by at least **TWO** or more veterinarians, one of which is a third party reviewer and one of which is a board member or additional third party reviewer.

Two reviewers is absolutely necessary. This is an area of huge concern for the public. One reviewer is insufficient in any case of malpractice in order to establish clear reasons for the malpractice. That a single reviewer could stop a complaint invites the self serving interests of the board and its conflicts of interests to continue dismissing egregious cases of malpractice. This issue has been battled before and moving from two reviewers back to one is a backward step for correcting the problems of this board and affirms its conflicts of interests.

- (c) If the veterinarian reviewers do not agree to dismiss or refer the complaint to an informal proceeding, the complaint is referred to an informal proceeding under Section 801.408.

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With regards to the rules that are to be proposed by the board, I hope the legislature will remain involved and actively supervising the board. Complainants are not allowed to bring their attorneys to an informal hearing, but veterinarians can bring as many attorneys as they want. Complainants deserve the same rights as the veterinarians to have their attorneys present and participating in this process and receiving information.

Section 8. Section 801.207, Occupations Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follow:

(b) Except as provided herein, each investigation file and all other investigative information gathered by the board or the board's employees or agents relating to a license holder, an application for license, or a criminal investigation is privileged and confidential. The complainant is entitled to receive any third party reviewer's comments and report, any board member reviewer's comments and reports, as well as all responses from the licensee, regarding their own complaint. The complainant shall have the opportunity to respond to all responses from the licensee, as well as the right to comment on the reports from the reviewers.

Sec. 801.208. NOTIFICATION TO COMPLAINANT REGARDING COMPLAINT DISPOSITION. (1) The board shall promptly notify a complainant of the final disposition of the complaint, including notice:

~~DELETE (d) The notification may not include information that is confidential under Section 801.207 (b)~~

This has the potential to cause conflicts. One of the stated reasons for SB 319 is transparency. If the complaint is dismissed, the reasons would likely entail results of the board's investigation, so this sentence should be deleted. Complainants need more information and transparency and not less. The current closed process by the board invites abuse.

Sec. 801.267. CRIMINAL HISTORY RECORD INFORMATION FOR LICENSE ISSUANCE.

ADD somewhere in this section the following: The board may not issue a license to a person who has been convicted of animal cruelty. The board shall permanently revoke the license of any licensee convicted of animal cruelty.

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The fact that veterinarians with animal cruelty convictions are practicing with a license is outrageous. Adding this language takes that possibility away from the board, so the board can no longer protect veterinarians who engage in animal cruelty. People who harm animals do not improve with sanctions or peer review or any of the tools available to the board. Their licenses should be permanently revoked in order to protect the public and our pets.

Sec. 801.411. SCHEDULE OF SANCTIONS.

Revise (b) 1.(B) the hazard or potential hazard created to the health, safety, or economic welfare of the public and their pets and animals;

Since the purpose of veterinarians is to serve the public by treating their pets and animals, it seems pets and animals should be appear in the language.

Additionally:

As a comment regarding fees, we are all subject to rising costs and I see no reason why veterinarians should be held out as a special class whose fees should be lowered and not raised. In order to fund badly needed new staff in this under staffed agency, my suggestion is to raise fees and monetary penalties substantially. I see no rationale given for lowering the fees and doubt there is one from the public perspective.

Regarding the process for complaints, currently the licensee must agree to the sanctions imposed, called an Agreed Order. If the licensee is not satisfied with the proposed sanctions, he or she may appeal to the SOAH. The complainant is entitled to one appeal, and I know of no single case that has been re-addressed due to an appeal. The complainant should be entitled to the same rights as the licensee to appeal beyond the board to the SOAH.

If this board continues to fail the public, the public requires additional avenues of redress, since the Courts do not recognize the sentient value of our pets which renders our Court system useless against dangerously incompetent veterinarians who kill our pets.

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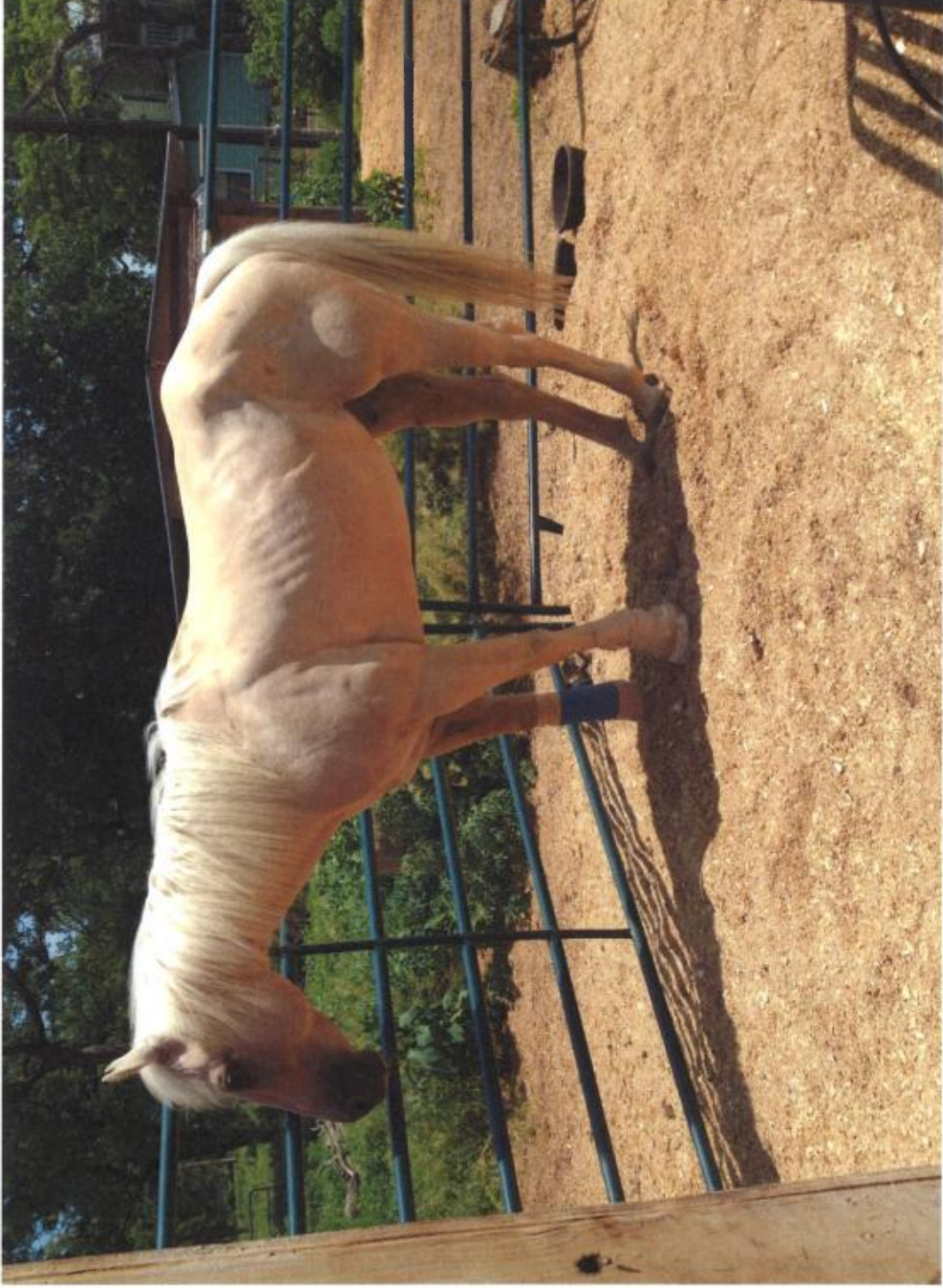
The veterinary industry is a multi-billion dollar industry that has managed to capitalize on the sentient values of our pets while at the same time denying us redress in the form of exemplary damages for those same sentient values. Until the courts correct this injustice, keeping unqualified veterinarians away from the public should be a priority for this agency.

The magnitude of the problem of unqualified veterinarians in this State is unknown, largely due to the obfuscation and mismanagement of this agency. We know there are approximately 600 complaints per year. Over a ten year period, that is 6,000 complaints in a population of about 8,000 veterinarians. The implication is obvious – this is a very widespread problem, particularly considering that most people probably don't file complaints. Those that do are complaining of something serious.

We, the victims of grossly unqualified veterinarians, appeal to our legislators to address the problems of this board. I am attaching a photo of my beloved horse, Harvey, who was a victim of gross malpractice and suffered enormously because of some dangerously incompetent veterinarians who are all still practicing. Please remember him as you work to correct the problems with this troubled State agency.

Thank you for your time and consideration.

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This is my horse, Harvey, shortly before his death on April 24, 2014. He was barely eleven years old, and was subjected to gross malpractice by five veterinarians. Harvey spent months at A&M while they tried to save him. No violations were found by the TBVME in one of the vets who was obviously guilty of animal cruelty. Please help ensure these dangerously incompetent veterinarians can't torture another horse. See www.harveysmemorial.com.