

RULES PERTAINING TO THE PRACTICE OF VETERINARY MEDICINE

TEXAS ADMINISTRATIVE CODE
TITLE 22, PART 24
CHAPTERS 571 - 577



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CHAPTER 571 LICENSING

SUBCHAPTER A GENERAL

§571.1 Definitions

The following words and terms, when used in the Veterinary Licensing Act (Chapter 801, Texas Occupations Code) or the Rules of the Board (Texas Administrative Code, Title 22, Part 24, Chapters 571 - 577) shall have the following meaning:

- (1) Board--the Texas Board of Veterinary Medical Examiners.
- (2) EDPE--Equine Dental Provider Jurisprudence Examination.
- (3) Locally derived scaled score--the equivalent of the criterion referenced passing point for the national examination or the NAVLE.
- (4) Name on license--licenses will be issued to successful applicants in the name of the individual as it appears on the birth certificate, court order, marriage license, or documentation of naturalization.
- (5) National Board of Veterinary Medical Examiners (NBVME)--the organization responsible for producing, administering and scoring the NAVLE.
- (6) National examination--the examination in existence and effective prior to the inauguration date of the NAVLE and which consists of the national board examination (NBE) and the clinical competency test (CCT).
- (7) North American Veterinary Licensing Examination (NAVLE)--the examination which replaced the national examination in the year 2000.
- (8) Passing Score--an examination score of at least 75 percent on the national examination and NAVLE, which is based on a locally derived scaled score; an examination score of at least 75 percent on the VTNE, which is based on a locally derived scaled score; an examination score of at least 85 percent on the SBE, the LVTE, or the EDPE. The examination score on the SBE, LVTE, or the EDPE is valid for one year past the date of the examination.
- (9) SBE--State Board Examination.
- (10) School or college of veterinary medicine--a school or college of veterinary medicine that is approved by the Board and accredited by the Council on Education of the American Veterinary Medical Association (AVMA). Applicants who are graduates of a school or college of veterinary medicine not accredited by the Council on Education of the AVMA are eligible provided that the applicant presents satisfactory proof to the Board that the applicant is a graduate of a school or college of veterinary medicine and possesses an Educational Commission for Foreign Veterinary Graduates (ECFVG) certificate or a Program for Assessment of Veterinary Education Equivalence (PAVE) certificate.
- (11) VTNE--Veterinary Technician National Examination.
- (12) LVTE--Licensed Veterinary Technician jurisprudence examination.
- (13) Veterinary Technician Program--a program of education for veterinary technicians accredited by AVMA.

(14) Renewal year--the year between the first day of the month after a licensee's birth month and the last day of the licensee's birth month in the following year.

Source Note: *The provisions of this §571.1 adopted to be effective May 29, 2011, 36 TexReg 3187; amended to be effective June 19, 2012, 37 TexReg 4416; amended to be effective May 4, 2014, 39 TexReg 3419; amended to be effective November 22, 2015, 40 TexReg 8021*

§571.3 Criminal History Evaluation Letters

(a) Purpose: The purpose of this section is to provide a process by which an individual may request a criminal history evaluation letter regarding the person's eligibility for a license issued by the Texas Board of Veterinary Medical Examiners, pursuant to §53.102 of the Texas Occupations Code.

(b) Prior to applying for licensure, an individual seeking licensure may request that agency staff review the person's criminal history to determine if the person is ineligible for licensure based solely on the person's criminal background.

(c) Requestors must submit their requests in writing on a form provided by the Board which includes:

(1) a statement by the petitioner or applicant indicating the reason(s) and basis of potential ineligibility;

(2) if the potential ineligibility is due to criminal conduct and/or conviction, any court documents including, but not limited to, indictments, orders of deferred adjudication, judgments, probation records and evidence of completion of probation, if applicable; and

(3) the required fee as provided in §577.15 of this title (relating to Fee Schedule) which is not refundable.

(d) The agency may require additional documentation including fingerprint cards before issuing a criminal history evaluation letter.

(e) The agency shall provide criminal history evaluation letters that include the basis for ineligibility if grounds for ineligibility exist to all requestors no later than the 90th day after the agency receives all required documentation to allow the agency to respond to a request.

(f) If a requestor does not provide all requested documentation within one year of submitting the original request, the requestor must submit a new request along with appropriate fees.

(g) All evaluation letters shall be based on existing law at the time of the request. All requestors remain subject to the requirements for licensure at the time of application and may be determined ineligible under existing law at the time of application. If a requestor fails to provide complete and accurate information to the agency, the agency may invalidate the criminal history evaluation letter. Additional criminal history after the submission of the Petition for Criminal History Evaluation Letter to the Board may invalidate the Criminal History Evaluation Letter.

(h) An individual shall be permitted to apply for licensure, regardless of the agency's determination in a criminal history evaluation letter.

Source Note: *The provisions of this §571.3 adopted to be effective May 29, 2011, 36 TexReg 3187*

§571.4 Qualifications for Licensed Veterinary Technician License

(a) To be eligible for licensure as a licensed veterinary technician, an applicant must present satisfactory proof to the Board that the applicant:

- (1) is at least 18 years old;
- (2) has obtained at least a passing score on:
 - (A) the VTNE; and
 - (B) the LVTE; and
- (3) is a graduate of a Veterinary Technician Program.
- (4) A person must first take and pass the VTNE in order to apply for the LVTE.

(b) The Board may refuse to issue a licensed veterinary technician license to an applicant who meets the qualification criteria but is otherwise subject to denial of license as provided in Texas Occupations Code §801.401 and §801.402.

Source Note: The provisions of this §571.4 adopted to be effective May 4, 2014, 39 TexReg 3420

§571.5 Qualifications for Veterinary License

(a) To be eligible for veterinary licensure, an applicant must present satisfactory proof to the Board that the applicant:

- (1) is at least the age of majority;
- (2) has obtained at least a passing score on:
 - (A) the NAVLE if an applicant sits for that examination subsequent to its inauguration date; or
 - (B) the national examination if an applicant sat for that examination prior to the inauguration date of the NAVLE; and
 - (C) the SBE; and
- (3) is a graduate of a school or college of veterinary medicine that is approved by the Board.

(b) The Board may refuse to issue a veterinary license to an applicant who meets the qualification criteria but is otherwise subject to denial of license as provided in Texas Occupations Code §801.401 and §801.402.

(c) An applicant may petition the Board in writing for an exception to subsection (a)(2)(A) or (B) of this section. In deciding whether to grant the petition, the Board may consider:

- (1) the availability of the national examination or NAVLE at the time the petitioner originally applied for licensure;
- (2) the number of years the petitioner has been in active practice;
- (3) petitioner's license status and standing in other jurisdictions;
- (4) petitioner's status as a diplomate in an AVMA recognized veterinary specialty; and
- (5) any other factors that may be related to petitioner's request for an exception.

(d) As a condition of granting an exception under subsection (c)(2) of this section, the Board may impose additional requirements that are reasonably necessary to assure that the petitioner is competent to practice veterinary medicine in Texas.

Source Note: *The provisions of this §571.5 adopted to be effective May 29, 2011, 36 TexReg 3187; amended to be effective June 19, 2012, 37 TexReg 4416; amended to be effective May 4, 2014, 39 TexReg 3420*

§571.6 Qualifications for Equine Dental Provider License

(a) To be eligible for licensure as an equine dental provider, an applicant must present satisfactory proof to the Board that the applicant:

- (1) has obtained at least a passing score of 85 on the EDPE; and
- (2) is certified by the International Association of Equine Dentists or other Board-approved entity.

(b) The Board may refuse to issue an equine dental provider license to an applicant who meets the qualification criteria but is otherwise subject to denial of license as provided in Texas Occupations Code §801.401 and §801.402.

Source Note: *The provisions of this §571.6 adopted to be effective June 19, 2012, 37 TexReg 4417; amended to be effective May 4, 2014, 39 TexReg 3420*

§571.7 Veterinary Licensing Eligibility

(a) An applicant for a veterinary license may apply for the SBE provided that the applicant is a graduate of an approved and accredited veterinary medical school or college, as defined in §571.1(10) of this title (relating to Definitions).

(b) An applicant for a veterinary license may sit for the NAVLE provided that the applicant is a graduate of:

- (1) an approved and accredited veterinary medical school or college, as defined in §571.1(10) of this title; or
- (2) a veterinary medical school or college not approved and accredited, but who is enrolled in the ECFVG or PAVE certification program, and meets the requirements of subsection (c) of this section, if applicable.

(c) When applying for the NAVLE through NBVME, an applicant who is a graduate of a veterinary medical school or college not approved and accredited, and is enrolled in the ECFVG or PAVE certification program, shall submit proof that the applicant passed all English language proficiency tests required by the certification program of choice and must have completed all other requirements of each program to be considered eligible to apply for the NAVLE.

(d) A person must first take and pass the national examination or the NAVLE in order to apply for the SBE.

(e) A candidate for the NAVLE must take the examination within the testing window in which the candidate is authorized for testing. A candidate, who fails to take the examination within the appropriate testing window or fails to obtain a passing score on NAVLE, and desires to take the examination during a subsequent testing window must comply with NBVME application requirements.

(f) Eligibility Prior to Graduation. An applicant for a veterinary license who has not graduated from veterinary medical school may apply for the SBE provided the following conditions have been met:

(1) An applicant must be enrolled in an approved and accredited veterinary medical school or college as defined in §571.1(10) of this title and must obtain a document from the dean of the school or college from which the applicant expects to graduate certifying that the applicant is within 60 days of completion of a veterinary college program and is expected to graduate.

(2) An applicant enrolled in a joint or combined degree program who has completed the applicant's veterinary medical education but has not received a diploma or transcript certifying the award of the applicant's DVM degree, must obtain a letter from the dean of the school or college of veterinary medicine stating that the applicant did in fact graduate before the applicant is eligible to sit for the SBE.

(3) To apply for the NAVLE through NBVME, a candidate shall, at the time an application is submitted, demonstrate that the candidate is:

(A) a student enrolled in an approved and accredited school or college of veterinary medicine as defined in §571.1 10) of this title, and who has submitted a document from the dean of the school or college from which the student expects to graduate, certifying that the applicant is within ten months of the student's expected graduation date and is expected to graduate, and has demonstrated compliance with all of the NBVME's testing requirements for the NAVLE; or

(B) a graduate of a school or college of veterinary medicine not approved and accredited, who is enrolled in the ECFVG or PAVE certification program and shall submit proof that the applicant passed all English language proficiency tests required by the certification program of choice and must have completed all other requirements of each program.

Source Note: *The provisions of this §571.7 adopted to be effective May 29, 2011, 36 TexReg 3187; amended to be effective June 19, 2012, 37 TexReg 4417; amended to be effective March 22, 2016, 41 TexReg 2166*

§571.9 Special Veterinary Licenses

(a) General requirements for special veterinary licensure; examination scores; issuance and renewal.

(1) The Board shall schedule a jurisprudence examination at least once a year for applicants for special veterinary licenses.

(2) An applicant for a special veterinary license under §801.256(a)(1) - (3), Texas Occupations Code, must:

(A) be at the age of majority;

(B) be a graduate of a Board approved veterinary program at an institution of higher education or possess an Educational Commission for Foreign Veterinary Graduates (ECFVG) Certificate or a Program for Assessment of Veterinary Education Equivalence (PAVE) Certificate; or

(C) provide to the Board a written affirmation by the dean of a Board approved veterinary program at an institution of higher education in this state or the executive director of the Texas Animal Health Commission or the executive director of the Texas Veterinary Medical Diagnostic Laboratory that the applicant:

(i) meets a critical need for staffing at the institution of higher education or the Texas Animal Health Commission or the Texas Veterinary Medical Diagnostic Laboratory; and

(ii) is certified by a nationally recognized veterinary specialty board or is eligible for that certification; and

(D) pass the Board's jurisprudence examination. The applicant must submit a completed application for examination to the Board by no later than forty-five (45) days prior to the examination date. The completed application includes payment of examination fees and certification from the applicant's employer attesting to the applicant's employment position.

(3) For purposes of this section, a "Board approved veterinary program at an institution of higher education" means any program which is recognized and accredited by an appropriate body of the American Veterinary Medical Association (AVMA).

(4) The applicant must submit with his application a written statement from his employer describing the applicant's official duties that require the issuance of a special license under §801.256(a)(1) - (3), Texas Occupations Code. Upon completion of the jurisprudence examination, the Board shall notify the applicant by letter of his score. For candidates who attain a passing score of 85 percent, the letter shall constitute the special license for limited practice in the State of Texas.

(5) A special veterinary license will be issued for the renewal year in which the requirements for licensure have been met.

(6) A special veterinary license is subject to the renewal requirements set out in §801.303, Texas Occupations Code.

(7) An applicant who fails the jurisprudence examination for a special veterinary license and wishes to be re-examined will be required to resubmit an application and fees for a later scheduled jurisprudence examination.

(b) Applicant requirements for unrepresented or under represented specialty practice, as further defined in subsection (c) of this section. An applicant for a special license to practice a veterinary medicine specialty in this state must:

(1) be a graduate of a board approved veterinary program at an institution of higher education as defined in §571.15(a)(3) of this title (relating to Temporary Veterinary License) or possess an ECFVG or PAVE Certificate;

(2) present proof of a current active license in good standing in another state or jurisdiction of the United States that has licensing requirements substantially equivalent to the requirements of the Veterinary Licensing Act, Texas Occupations Code Chapter 801;

(3) not currently be holding a special veterinary license under this section; and

(4) have a certification from an employing sponsor or controlling authority approved by the board that the need for a special veterinary license exists.

(c) The board may issue a special veterinary license to an applicant for an unrepresented or under represented specialty practice if the board finds that:

- (1) there is a need, shortage, or demand for the specialty practice in the State of Texas;
- (2) the applicant is competent to practice veterinary medicine in the particular specialty; and
- (3) the applicant has taken and passed the jurisprudence examination for special veterinary license.

(d) Change of special veterinary license status. A request by the holder of a special veterinary license to change the license from one category to another must be submitted to the Board for approval.

Source Note: *The provisions of this §571.9 adopted to be effective May 29, 2011, 36 TexReg 3187; amended to be effective June 19, 2012, 37 TexReg 4418; amended to be effective November 22, 2015, 40 TexReg 8022*

§571.11 Provisional Veterinary Licensure

(a) The Board may issue a provisional veterinary license to a person seeking regular veterinary licensure in Texas. The Board may not issue a provisional veterinary license to an individual who has previously taken and failed any examination offered by the Board and required to obtain a Texas veterinary license. The Board may not reissue, extend, or renew a provisional veterinary license.

(b) The Board may grant a provisional veterinary license containing specific practice restrictions to a person who meets the following criteria:

- (1) present proof of a current active license in good standing in another state or jurisdiction of the United States that has licensing requirements substantially equivalent to the requirements of the Veterinary Licensing Act, Texas Occupations Code Chapter 801;
- (2) proof of receipt of a passing score on the national examination or NAVLE, except that the Board may, upon written petition of the applicant, provide an exception to this requirement based on the applicant's satisfaction of the other requirements of this section and consideration of factors set out in §571.5(c) of this title (relating to Qualifications for Veterinary License);
- (3) a passing score of 85 percent on the Board's jurisprudence examination;
- (4) payment of the required application fee;
- (5) proof of graduation from a college of veterinary medicine accredited by the Council on Education of the American Veterinary Medical Association (AVMA) or an Educational Commission for Foreign Veterinary Graduates (ECFVG) Certificate or a Program for Assessment of Veterinary Education Equivalence (PAVE) Certificate; and
- (6) proof of veterinary experience, which may be satisfied by letter of reference from at least two licensed veterinary employers or licensed veterinary colleagues with direct knowledge of the applicant's veterinary practice and experience.

(c) The Board's Executive Director will issue a provisional veterinary license to an applicant following verification of the requirements set out in subsection (b) of this section and receipt of the documents and fee required in subsection (d) of this section.

(d) An applicant for a provisional veterinary license must submit completed information on an application form designated by the Board, together with the required supporting documentation and an application fee in an amount set by the Board and contained in §577.15 of this title (relating to Fee Schedule).

(e) An applicant for a veterinary license, who is the spouse of an active duty member of the United States armed forces and held a veterinary license in this state within the preceding five years that was cancelled for failure to renew while the applicant lived in another state for at least six months, may apply for a provisional license and is exempt from the requirements of subsection (b) of this section, except that the applicant must attain a passing score of 85 percent on the Board's jurisprudence examination, and pay the required application fee.

(f) A provisional veterinary license is valid until the earlier of:

- (1) 14 days after the first available regularly scheduled SBE;
- (2) announcement of the results of the first available SBE; or
- (3) cancellation, if the provisional licensee fails to appear at the first available regularly scheduled SBE held after the issuance of the provisional license.

(g) The Board shall process any additional requirements necessary to complete a provisional veterinary licensee's application for regular licensure within 180 days after the issuance of a provisional veterinary license. The Board is not required to conduct a licensure examination if a regularly scheduled SBE does not occur within the 180-day period.

Source Note: *The provisions of this §571.11 adopted to be effective May 29, 2011, 36 TexReg 3187; amended to be effective June 19, 2012, 37 TexReg 4419; amended to be effective December 23, 2013, 38 TexReg 9363*

§571.13 Temporary Veterinary Licensure During Declared State of Disaster

(a) An individual who is licensed to practice veterinary medicine in any of the United States may be issued a temporary veterinary license during a state of disaster declared by the Governor of the State of Texas under the following circumstances:

- (1) The applicant must complete an Application for Temporary Emergency License.
- (2) The Board will verify that the veterinarian is licensed in the states indicated in the Application and will confirm good standing.
- (3) The applicant must file an application with the Texas Department of Public Safety for a controlled substances registration.
- (4) An application fee and the SBE are waived.

(b) A veterinarian granted a temporary emergency license under this section shall abide by the Texas Veterinary Licensing Act and the Board's rules. Violations of the Act, Board rules, or the temporary emergency license will subject the temporary licensee to disciplinary action by the Board.

(c) A temporary veterinary license issued under this rule will be valid for 120 days or until the end of the declaration of disaster, whichever is earlier.

Source Note: *The provisions of this §571.13 adopted to be effective May 29, 2011, 36 TexReg 3187; amended to be effective June 19, 2012, 37 TexReg 4420*

§571.15 Temporary Veterinary License

- (a) The board may issue a temporary veterinary license to an applicant who:
- (1) is at the age of majority; and
 - (2) is a graduate of a school or college of veterinary medicine that is approved by the Board and accredited by the Council on Education of the American Veterinary Medical Association (AVMA); or
 - (3) is a graduate of a school or college of veterinary medicine not accredited by the Council on Education of the AVMA and presents satisfactory proof to the Board that the applicant is a graduate of a school or college of veterinary medicine and possesses an Educational Commission for Foreign Veterinary Graduates (ECFVG) Certificate or a Program for Assessment of Veterinary Education Equivalence (PAVE) Certificate. The Board may refuse to issue a license to an applicant who meets the qualification criteria but is otherwise disqualified as provided in the Texas Occupations Code, §801.401; and
 - (4) has attained a passing score of at least 75% on:
 - (A) The NAVLE if an applicant sits for that examination subsequent to its inauguration date; or
 - (B) The national examinations referred to as the NBE (National Board Examination) and the CCT (Clinical Competency Test) required prior to the inauguration date of the NAVLE; and
 - (5) presents proof of a current active license in good standing in another state or jurisdiction of the United States or foreign country that has licensing requirements substantially equivalent to the requirements of the Veterinary Licensing Act, Texas Occupations Code Chapter 801; and
 - (6) at the time of application, is not subject to final or pending disciplinary action in any foreign country, state or jurisdiction in which the applicant is now licensed or has ever held a license; and
 - (7) presents proof of having earned a minimum of 17 hours of acceptable continuing education related to veterinary medicine or general scientific subjects within 12 months preceding application for temporary license.
- (b) The applicant who earns the temporary veterinary license must be under general supervision of a Texas licensed veterinarian who possesses an active, current license in the state of Texas.
- (c) The applicant for a temporary veterinary license shall submit to the Board a complete application in the form designated by the Board with the supporting required documentation as set out in subsection (a) of this section, as well as:
- (1) A letter of good standing not older than six months from each jurisdiction in which the applicant is currently actively licensed or has been previously licensed;
 - (2) a certified copy of the applicant's veterinary school transcript including a graduation date;
 - (3) a certified copy of the applicant's birth certificate;
 - (4) a certified report from the official reporting service verifying that the applicant passed the national examination or the NAVLE, subject to a petition by the applicant for an exception

to this requirement in accordance with §571.5(c) of this title (relating to Qualifications for Veterinary License);

(5) official verification of board certification if applicant is certified by a nationally recognized veterinary specialty board, if applicable; and

(6) an application fee in an amount set by the Board and contained in §577.15 of this title (relating to Fee Schedule).

(d) The temporary veterinary license application and all supporting documentation must be received in the board office PRIOR to being issued a temporary veterinary license. A temporary veterinary license will only be issued once the applicant's file is complete and ALL required, supporting documentation and fee has been received. The Board's Executive Director will issue a temporary veterinary license to an applicant following verification of the requirements set out in subsections (a) - (c) of this section, and receipt of the documents and fee required.

(e) The temporary veterinary license is valid only for a specific patient, client, continuing education course, or task per issuance. A temporary veterinary license granted under this section is valid for 30 days from the date of original issue, per temporary veterinary license issued. The temporary veterinary license should be available for review at the place of practice for the period the applicant is in Texas under the temporary veterinary license.

(f) The temporary veterinary license is not renewable nor can it be reissued. The applicant must cease and desist the practice of veterinary medicine the day after the expiration of the temporary veterinary license. Continued practice of veterinary medicine without the valid, temporary veterinary license is a violation of current laws and rules and is viewed as the practice of veterinary medicine without a license. Disciplinary action can be taken and includes, but is not limited to, the refusal of the Board to issue a second temporary veterinary license, for which the applicant may otherwise be eligible, and possibly the issuance of a future, regular license.

(g) An applicant may request a second temporary veterinary license within the same calendar year, provided no more than two temporary veterinary licenses are issued per applicant. After the second temporary veterinary license, if the applicant wishes to continue to practice in the State of Texas, he/she must seek regular licensing and must be eligible for such regular license as set out in current laws and rules governing the issuance of a regular license in the State of Texas.

Source Note: The provisions of this §571.15 adopted to be effective May 29, 2011, 36 TexReg 3187; amended to be effective June 19, 2012, 37 TexReg 4420; amended to be effective May 4, 2015, 40 TexReg 2417

§571.17 Expedited and Alternative Licensure Procedure for Military

(a) For any military service member, military veteran, or military spouse, as defined under Texas Occupations Code §55.001, the Board shall issue a license if the military service member, military veteran, or military spouse is not subject to denial of license as provided in Texas Occupations Code §801.401 and §801.402 and has not surrendered his or her Texas license in lieu of disciplinary action in the last five years, and held a Texas license within the last five years or holds a current license issued by another jurisdiction that has the following licensure requirements:

(1) Veterinary licensure:

(A) at least a passing score on:

(i) the NAVLE if an applicant sits for that examination subsequent to its inauguration date; or

- (ii) the national examination if an applicant sat for that examination prior to the inauguration date of the NAVLE; and
 - (B) is a graduate of a school or college of veterinary medicine.
- (2) Equine Dental Provider licensure:
- (A) certified by International Association of Equine Dentists or other Board-approved entity; and
 - (B) equine dental providers work only under supervision by a veterinarian licensed in the jurisdiction.
- (3) Licensed Veterinary Technician licensure:
- (A) at least a passing score on the VTNE; and
 - (B) graduate of Veterinary Technician Program.
- (b) A license issued under this section is valid for 12 months from the date the license is issued. When a license issued under this section expires, the licensee must submit information showing that he or she has met all requirements for regular licensure.
- (c) The terms military service member, military veteran, and military spouse are as defined in Chapter 55, §55.001, of the Texas Occupations Code.

Source Note: *The provisions of this §571.17 adopted to be effective May 4, 2014, 39 TexReg 3421; amended to be effective November 22, 2015, 40 TexReg 8022*

SUBCHAPTER B EXAMINATIONS

§571.21 Application for the SBE, LVTE, and EDPE

The applicant for either the SBE, LVTE, or the EDPE shall apply on the appropriate form furnished by the Board. The completed application, including the completion of any terms and conditions as set forth by a Board order and the payment of appropriate fees, must be received at the Board offices no later than 45 days prior to the date of the examination for which the applicant desires to sit.

Source Note: *The provisions of this §571.21 adopted to be effective May 29, 2011, 36 TexReg 3187; amended to be effective June 19, 2012, 37 TexReg 4421; amended to be effective May 4, 2014, 39 TexReg 3421*

§571.23 National Licensing Examination

- (a) Results of National Board Examinations. The Board will accept certified scores issued by the:
- (1) American Association of Veterinary State Boards (AAVSB), or its successor, for the national examination or the VTNE; and
 - (2) the official reporting service for the NAVLE.
- (b) Score Information. All requests for information on examination scores shall be processed as follows:
- (1) All requests from other state licensing boards for an applicant's raw scores on the VTNE, the national examination or NAVLE will be referred to the official reporting service for those examinations.

(2) All requests from other state licensing boards for an applicant's locally derived scale scores on the VTNE, the national examination or NAVLE will be based upon national data submitted by the official reporting service for those examinations.

(3) Upon written request of an applicant, the Board will certify the score of the SBE or LVTE to another state licensing board. Upon written request of an applicant, the Board will make LVTE, national examination or NAVLE scores available for informational purposes only to another state licensing board but will not certify the scores.

(4) The Board will not disclose any actual examination documents or materials.

Source Note: *The provisions of this §571.23 adopted to be effective May 29, 2011, 36 TexReg 3187; amended to be effective June 19, 2012, 37 TexReg 4421; amended to be effective May 4, 2014, 39 TexReg 3422*

§571.25 Reapplication for SBE, LVTE, and EDPE

(a) An applicant for either the SBE, LVTE, or EDPE must submit a new application and the current fees at least 45 days prior to the date of the examination for which the applicant desires to sit, if the applicant:

(1) does not appear for the scheduled examination; or

(2) fails to attain a passing score on the scheduled examination.

(b) The Board shall refund the examination fee for either the SBE, LVTE, or EDPE if the applicant:

(1) provides notice of not less than fourteen (14) days before the date of the examination, that the applicant is unable to take the examination; or

(2) is unable to take the examination because of an emergency.

(c) For purposes of subsection (b)(2) of this section, an "emergency" shall be defined as any immediate, unforeseen event that would render a person unable or unfit to take an examination, and may include a death in the family or an injury or other event that could be reasonably considered to be an emergency. Matters of inconvenience or failure to satisfy an examination prerequisite, shall not be considered an emergency.

Source Note: *The provisions of this §571.25 adopted to be effective May 29, 2011, 36 TexReg 3187; amended to be effective June 19, 2012, 37 TexReg 4421; amended to be effective May 4, 2014, 39 TexReg 3422*

§571.27 Disability Accommodations

(a) The Board will evaluate all requests for examination protocol modifications to determine whether the applicant:

(1) has a disability, as defined by the Americans with Disabilities Act of 1990 (ADA); and

(2) is qualified for protection under Title II of the ADA. Such modifications must maintain the security of the examination. Exam modifications that fundamentally alter the nature or security of the exam are not permitted. Qualified individuals with disabilities are required to request reasonable accommodations every time they apply to take an examination, by the deadline for submission of disability accommodation requests as set out in the schedule on the Board website.

(b) To request a modification of examination protocol on the basis of a disability, an applicant shall complete the ADA Accommodations Request Form available on the Board website, and

submit documentation providing evidence of a substantial current limitation to physical or academic functioning. A prior history of accommodations, without demonstration of a current need, will not necessarily warrant approval of testing modifications.

(1) Documentation for all disabilities shall describe the specific diagnosed disability, the extent of the disability, the criteria for the diagnosis, the type and length of treatment and the recommended accommodation.

(2) The diagnosed disability must be specific. Terms such as "problems," "deficiencies," "weaknesses," "differences," and "learning disabilities" are not the equivalent of a specific diagnosed disability.

(3) Documentation must state the specific requested accommodation. "Extended time" or "unlimited time" is not sufficient. Documentation shall indicate why specific accommodations are needed and how the effects of the specific disability are mediated by the recommended accommodations.

(4) Documentation must state any medication that the applicant is currently taking that is directly linked to the disability and any effect that medication may have relating to the major life activity affected by the disability.

(5) Documentation can include, but is not limited to, clinical evaluations performed by a licensed or qualified professional (e.g., physician or psychologist) who has conducted an examination of the applicant and has diagnosed a physical or mental impairment. Clinical evaluations can include, but are not limited to, a letter or detailed report from an evaluating professional on the evaluating professional's official letterhead. If submitting a clinical evaluation, an applicant shall also submit the examining professional's area of specialization and professional credentials, including any relevant certification and licensure.

(6) Documentation shall not be older than three years from the date of submission.

(7) All medical records provided to the Board are confidential under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

(c) The entity giving the examination (i.e., TBVME or NBVME) shall be responsible for reviewing and determining whether to grant disability accommodation requests. Once accommodations have been granted, they may not be altered during the examination unless prior approval of the Executive Director is obtained.

Source Note: The provisions of this §571.27 adopted to be effective November 20, 2011, 36 TexReg 7666

SUBCHAPTER C RECIPROCAL LICENSING AGREEMENTS

§571.31 Reciprocal Licensing Agreements

The Board shall not accept applications for licensure under any former reciprocal licensing agreements with any state, nor shall the Board license by endorsement.

Source Note: The provisions of this §571.31 adopted to be effective May 29, 2011, 36 TexReg 3187

SUBCHAPTER D LICENSE RENEWALS

§571.51 Application

Application for license renewals shall be on forms furnished by the board. Failure to complete the application in its entirety will be grounds to reject the application which will be returned to the applicant.

Source Note: The provisions of this §571.51 adopted to be effective May 29, 2011, 36 TexReg 3187

§571.53 Exemptions

The Registration Exemption Certification is to be completed by all veterinarians claiming active military or retiree status. Upon completion of the certification, the registration fee will be waived for that registration period.

Source Note: The provisions of this §571.53 adopted to be effective May 29, 2011, 36 TexReg 3187

§571.54 Retired Veterinary License Status

- (a) "Retirement" means the voluntary and permanent conclusion of a veterinary licensee's practice of veterinary medicine.
- (b) A veterinarian may not retire his license if he is currently the subject of an open complaint investigation or a contested case.
- (c) If a veterinary licensee retiring for the first time requests reinstatement of his license in the same renewal year in which he retired, the licensee must:
 - (1) pay the annual renewal fee plus a \$25 administrative processing fee to reinstate the license; and
 - (2) comply with the following continuing education requirements:
 - (A) If a retired veterinary licensee has maintained an annual average of 17 hours of approved continuing education, no additional continuing education hours will be required.
 - (B) If a retired veterinary licensee has maintained an annual average of less than 17 hours of approved continuing education, the retired licensee must complete 34 hours of continuing education in the twelve months immediately following reinstatement.
- (d) If a veterinary licensee has been retired for longer than one renewal period, the retired veterinary licensee may reinstate the license by:
 - (1) petitioning the Board in writing for reinstatement and completing an examination for reinstatement application with supporting documentation and fees; and
 - (2) submitting to reexamination and complying with all requirements for obtaining an original license. At the discretion of the Board, the petitioner may be required to take and pass the NAVLE prior to applying for and taking the SBE.
- (e) By no later than 30 days before the end of the current renewal year in which a licensee's veterinary license is retired for the first time, the Board shall inform the retired veterinary licensee that he or she may:
 - (1) apply to reinstate the license in accordance with subsection (d) of this section; or
 - (2) remain in retired status.

(f) The retired veterinary licensee shall notify the Board of his or her decision by no later than the end of the current renewal year in which the licensee's veterinary license is retired for the first time.

(g) If the retired veterinary licensee decides to remain in retired status, he or she will no longer receive license renewal notices and will not be required to renew his or her retired veterinary license.

Source Note: The provisions of this §571.54 adopted to be effective May 29, 2011, 36 TexReg 3187; amended to be effective June 19, 2012, 37 TexReg 4422; amended to be effective May 4, 2014, 39 TexReg 3422

§571.55 Delinquent Letters

The executive director shall prepare monthly delinquency letters addressed to all licensees, who are delinquent for the renewal year ending that month, on the 10th calendar day after the end of each month. A one-year delinquency letter shall be mailed to each delinquent licensee. Once a licensee is delinquent for one year, his/her license is cancelled.

Source Note: The provisions of this §571.55 adopted to be effective May 29, 2011, 36 TexReg 3187; amended to be effective June 19, 2012, 37 TexReg 4422; amended to be effective November 22, 2015, 40 TexReg 8023

§571.56 Military Service Fee Waiver

- (a) The license and examination fees are waived for a licensee that can prove that he or she is:
- (1) a military service member or military veteran whose military service, training, or education substantially meets all of the requirements for a license from the Board; or
 - (2) a military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for a license from the Board.
- (b) No late fee is assessed for failing to timely renew a license if such failure is due to the licensee serving as a military service member.
- (c) The terms military service member, military veteran, and military spouse are as defined in Chapter 55, §55.001, of the Texas Occupations Code.

Source Note: The provisions of this §571.56 adopted to be effective May 29, 2011, 36 TexReg 3187; amended to be effective June 19, 2012, 37 TexReg 4422; amended to be effective November 22, 2015, 40 TexReg 8023

§571.57 Application of Monetary Funds to Outstanding Balances

When a person pays monetary funds to the Board to renew a license, the monetary funds paid shall first be applied to any outstanding unpaid fees, assessed costs owed by that person from a final Board order, as authorized under §575.10 of this title (relating to Costs of Administrative Hearings), or administrative penalties owed from a final Board order, as authorized under §573.62(b) of this title (relating to Violation of Board Orders/Negotiated Settlements).

Source Note: The provisions of this §571.57 adopted to be effective May 29, 2011, 36 TexReg 3187; amended to be effective December 23, 2013, 38 TexReg 9364

§571.58 Application Form and Photograph

An applicant for license reinstatement must make application in the form of an affidavit on a form furnished by the board and shall be required to attach to said application a permanent-type, current photograph of the applicant.

Source Note: The provisions of this §571.58 adopted to be effective May 29, 2011, 36 TexReg 3187

§571.59 Expired Veterinary Licenses

(a) A veterinarian's license expires on the first day of the month following his/her birth month and is considered delinquent. Within 90 days of the last day of the month of a licensee's birth month, a licensee must renew an unexpired license, in writing, by paying the required fee and furnishing all information required by the Board for renewal.

(b) A veterinary licensee who has failed to renew his or her license for a period of one year or more and wishes to reinstate the license may be required to appear before the Board to explain why the licensee allowed the license to expire and the licensee's reasons for wanting it reinstated. Subject to subsections (c) and (d) of this section, the licensee must take and pass the SBE and comply with §571.3 of this title (relating to Criminal History Evaluation Letters).

(c) A military spouse, military veteran, or military service member, as defined by Chapter 55, §55.001, of the Texas Occupations Code, who has failed to renew his or her Texas license for a period of one year or more may receive a license in accordance with §571.17 of this title (relating to Expedited Licensure Procedure for Military Spouses) if the military spouse, military veteran, or military service member meets the requirements of §571.17.

(d) A licensee who has failed to renew his or her license for a period of one year or more may reinstate the licensee's expired license without taking and passing the SBE if the licensee:

- (1) previously had a Texas license and lived and/or practiced in Texas;
- (2) moved to another state and is licensed and practices in that state;
- (3) has been practicing in the other state during the past two years preceding application for reinstatement in Texas;
- (4) intends to return to and practice in Texas;
- (5) furnishes a letter of good standing from all states where the licensee is currently licensed; and
- (6) submits a complete application for license reinstatement within two years of the date the license expired and could not be renewed.

(e) A veterinary licensee who has failed to renew his or her license for a period of one year or more, shall have his or her license cancelled.

Source Note: The provisions of this §571.59 adopted to be effective May 29, 2011, 36 TexReg 3187; amended to be effective June 19, 2012, 37 TexReg 4423; amended to be effective November 22, 2015, 40 TexReg 8023

§571.60 Expired Licenses for Equine Dental Providers and Licensed Veterinary Technicians

(a) Licensed veterinary technician and equine dental provider licenses expire on the first day of the month after his/her birth month and are considered delinquent. Within 90 days of the last day of a licensee's birth month, a licensee must renew an unexpired license, in writing, by paying the required fee and furnishing all information required by the Board for renewal.

(b) A licensed veterinary technician or an equine dental provider licensee, who has failed to renew his or her license for a period of one year or more and wishes to reinstate the license, may be required to appear before the Board to explain why the licensee allowed the license to expire and the licensee's reasons for wanting it reinstated. The licensee must take and pass the EDPE or the LVTE, as appropriate for his or her license.

(c) A licensed veterinary technician or an equine dental provider licensee, who is the spouse of a person serving on active duty as a member of the armed forces of the United States who held an equine dental provider or veterinary technician license in Texas within the past five years, and has failed to renew his or her license for a period of one year or more while the licensee was living in another state for at least six months, may reinstate his or her license without appearing before the Board. The licensee must still take and pass the EDPE or the LVTE, as appropriate for his or her license.

(d) A licensed veterinary technician or equine dental provider licensee, who had failed to renew his or her license for a period of one year or more, shall have his or her license cancelled.

Source Note: The provisions of this §571.60 adopted to be effective June 19, 2012, 37 TexReg 4423; amended to be effective May 4, 2014, 39 TexReg 3423; amended to be effective November 22, 2015, 40 TexReg 8024

§571.61 Inactive License Status

(a) Application. A licensee may request his/her license be placed on inactive status, whether or not he/she is practicing within the State of Texas, provided:

(1) his or her current license is active and is in good standing;

(2) a request in writing, on the form prescribed by the Board, is made for his or her license to be placed on official inactive status; and

(3) the original request is made during the annual license renewal period within three months prior to the first day of the licensee's birth month; provided however, that subsequent requests for continued inactive status may be accepted by the Board at any time during the renewal year if accompanied by the appropriate delinquent penalty.

(b) Restrictions. The following restrictions shall apply to veterinary licensees whose licenses are on inactive status:

(1) Except as provided in §801.004, Texas Occupations Code, the licensee may not engage in the practice of veterinary medicine or otherwise provide treatment to any animal in the State of Texas.

(2) If the licensee possesses or obtains a federal Drug Enforcement Administration (DEA) and/or a Department of Public Safety (DPS) controlled substances registration for a Texas location, the licensee must comply with §573.43 and §573.50 of this title (relating to Misuse of DEA Narcotics Registration and Controlled Substances Records Keeping for Drugs on Hand, respectively).

(c) Return to Active Status. A licensee on inactive status wishing to practice within the State of Texas must receive written approval from the Board prior to returning to active status. In addition to other information which may be requested or required by the Board, the following conditions apply to licensees applying to return to active status.

(1) A licensee who is licensed and practicing in another state or jurisdiction must prove he or she is in good standing in that state or jurisdiction.

(2) A licensee on inactive status must pay the total annual renewal fee, less the amount of the inactive annual renewal fee, plus a \$25 administrative processing fee to obtain a regular license. The regular annual renewal fee shall not be prorated for applications to return to active status made after the annual renewal period.

(d) Continuing Education Requirements.

(1) If a licensee on inactive status requesting a return to regular license status has maintained an annual average equal to the number of continuing education hours required annually for renewal of the license, not including any portion of the reactivation year, the licensee will be placed on regular license status without any additional requirements. If the average annual continuing education is less than the number of hours required annually for renewal of the license, the licensee will be placed on regular license status but must complete twice as many continuing education hours as is required to renew the license in the twelve months immediately following the licensee's attaining of regular license status.

(2) For the year of reactivation, proof of continuing education shall not be required for an active license renewal in the year following reactivation.

(3) For purposes of this subsection, the terms "year" and "annual" mean the renewal year.

(e) Cancellation of Inactive License. A license maintained on inactive status will be automatically cancelled at the end of nine consecutive years. A new license will be issued only upon completion of all requirements for licensure. During the ninth consecutive year of inactive status, the Board will notify the inactive licensee that during the following year, his or her license must be on regular status or the license will be cancelled.

(f) Annual Renewal Fees. The annual fee for a license on inactive status shall be as set by the Board in §577.15 of this title (relating to Fee Schedule).

Source Note: *The provisions of this §571.61 adopted to be effective May 29, 2011, 36 TexReg 3187; amended to be effective June 19, 2012, 37 TexReg 4424; amended to be effective May 4, 2014, 39 TexReg 3423; amended to be effective November 22, 2015, 40 TexReg 8024*

§571.63 Default on Student Loan

(a) Denial. The Board may deny an application for a license if it receives information from an administering entity that the applicant has defaulted on a student loan or has breached a student loan repayment contract by failing to perform his or her service obligation under the contract. The Board may rescind a denial under this subsection upon receipt of information from an administering entity that the applicant whose application was denied is now in good standing.

(b) Renewal.

(1) The Board shall not renew a license of a licensee who is in default of a student loan or a repayment agreement except as provided in paragraph (2) of this subsection.

(2) For a licensee in default of a loan or repayment agreement, the Board shall renew the license if the licensee presents to the board a certificate certifying that:

(A) the licensee has entered into a repayment agreement on the defaulted loan; or

(B) the licensee is not in default on the loan or on the repayment agreement.

Source Note: *The provisions of this §571.63 adopted to be effective June 19, 2012, 37 TexReg 4425*

§571.65 Default on Child Support

The Board shall suspend and/or deny a renewal of a license upon receipt of a final order suspending a license under Chapter 232 of Texas Family Code for failure to pay child support and/or where the Office of the Attorney General has notified the Board to suspend and/or not renew a license for failure to pay child support.

Source Note: *The provisions of this §571.65 adopted to be effective June 19, 2012, 37 TexReg 4425*

CHAPTER 573 RULES OF PROFESSIONAL CONDUCT

SUBCHAPTER A GENERAL PROFESSIONAL ETHICS

§573.1 Avoidance of Conflicting Interest

A veterinarian shall not represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. A veterinarian represents conflicting interests if, when employed by a buyer to inspect an animal for soundness, the veterinarian accepts a fee from the seller. Acceptance of a fee from both the buyer and seller is prima facie evidence of fraud.

Source Note: The provisions of this §573.1 adopted to be effective March 9, 1988, 13 TexReg 1026; amended to be effective March 1, 1999, 24 TexReg 1385

§573.2 Avoidance of Encroachment on Another's Practice

A licensee may not make any effort, direct or indirect, which in any manner is calculated to influence the sound professional judgment of another licensee. It is the right of any licensee, without fear or favor, to give proper advice to those seeking relief against substandard or neglectful veterinary or equine dentistry services, to make a complaint to the Board, or to act as a witness in a Board investigation or a contested hearing. A licensee who makes a complaint against another licensee that is groundless and brought in bad faith, for the purpose of harassment, retaliation, or for any other improper purpose shall be in violation of this rule.

Source Note: The provisions of this §573.2 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2014, 39 TexReg 3424

§573.3 Exposure of Corrupt or Dishonest Conduct

Licensees shall expose without fear or favor before the proper tribunal or the State Board of Veterinary Medical Examiners corrupt or dishonest conduct by other licensees.

Source Note: The provisions of this §573.3 adopted to be effective June 14, 2012, 37 TexReg 4229

§573.4 Adherence to the Law

No licensee shall commit any act that is in violation of the laws of the State of Texas, other states, or of the United States, if the act is connected with the licensee's professional practice, including, but not limited to, the acts enumerated in §575.50(f) of this title (relating to Criminal Convictions). A complaint, indictment, or conviction of a law violation is not necessary for the enforcement of this rule. Proof of the commission of the act while in the practice of, or under the guise of the practice of, either veterinary medicine or equine dentistry, is sufficient for action by the Board under this rule.

Source Note: The provisions of this §573.4 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective November 22, 2015, 40 TexReg 8025

§573.5 Avoidance of Corruption of Others

A licensee shall not render any service or advice directed toward the corruption of any person or persons exercising a public office or private trust, or deception, or betrayal of the public. A licensee shall not harass, discriminate against, or otherwise retaliate against a complainant or witness to a complaint, including but not limited to another licensee who provides information or an opinion in the matter.

Source Note: The provisions of this §573.5 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2015, 40 TexReg 2418

§573.6 Restriction of Partnerships to Members of Veterinary Profession

In the formation of partnerships for the practice of veterinary medicine, no person shall be admitted as a partner who is not a member of the veterinary profession, duly authorized to practice, and amenable to professional discipline. No person shall be held out as a practitioner of veterinary medicine or a member of the firm who is not so admitted. In the selection and use of a firm name, no false or misleading name shall be used. Partnerships between veterinarians and members of other professions or nonprofessional persons shall not be formed or permitted if a part of the partnership employment consists of the practice of veterinary medicine.

Source Note: The provisions of this §573.6 adopted to be effective June 14, 2012, 37 TexReg 4229

§573.7 No Abuse of Position or Trust

- (a) Any licensee who uses present or past position, or office of trust, deliberately to create an individual professional advantage, or to coerce, or to deceive the public shall be in violation of the rules of professional conduct.
- (b) A licensee may not influence, or attempt to influence, the statement, response, or opinion of any person, licensed or unlicensed, to the Board if the Board has requested the statement or opinion.
- (c) A licensee may not request or require a client or another person to waive his or her right to file a complaint with the Board.

Source Note: The provisions of this §573.7 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective November 22, 2015, 40 TexReg 8025

§573.8 Loss of Accreditation

A licensee whose accreditation or license has been revoked or suspended by a state or federal authority is subject to disciplinary action by the Board. A licensee must report any accreditation, licensure, certification, or registration revocation or suspension to the Board within 30 business days.

Source Note: The provisions of this §573.8 adopted to be effective June 14, 2012, 37 TexReg 4229

§573.9 Nonresident Consultants

Veterinarians licensed in other states may enter the State of Texas, whether in person, by mail, or by electronic means, for purposes of consultation. Nonresident consultants may not establish a routine visit schedule of consultations in Texas. Consultants must, at all times, consult under the general supervision of a Texas veterinarian.

Source Note: The provisions of this §573.9 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective September 3, 2014, 39 TexReg 6860

SUBCHAPTER B SUPERVISION OF PERSONNEL

§573.10 Supervision of Non-Veterinarians

(a) With appropriate supervision and after establishing a veterinarian-client-patient relationship, a veterinarian may delegate veterinary care and treatment duties to non-veterinarian employees, or to the following independent contractors:

(1) licensed equine dental providers, in accordance with §573.19 of this title (relating to Dentistry); or

(2) individuals performing any form of musculoskeletal manipulation, including but not limited to animal chiropractic, in accordance with §573.14 of this title (relating to Alternate Therapies-Chiropractic and Other Forms of Musculoskeletal Manipulation).

(b) A veterinarian shall determine when general, direct, or immediate supervision of a non-veterinarian's actions is appropriate, except where such actions of the non-veterinarian may otherwise be prohibited by law. A veterinarian shall consider whether the individual is licensed by the Board, as well as the level of training and experience of the non-veterinarian, when determining the level of supervision and duties of non-veterinarians.

(c) A veterinarian is subject to discipline if he or she improperly delegates care and/or treatment duties to a non-veterinarian, or fails to properly supervise the non-veterinarian performing delegated duties.

(d) When feasible, a veterinarian may delegate greater responsibility to a licensed veterinary technician than to an unlicensed person.

(1) Veterinary supervision of licensed veterinary technicians:

(A) Under the direct or immediate supervision of a veterinarian, a licensed veterinary technician may:

(i) suture to close existing surgical skin incisions and skin lacerations;

(ii) induce anesthesia; and

(iii) in dogs and cats, extract loose teeth or dental fragments with minimal periodontal attachments by hand and without the use of an elevator.

(B) Except where otherwise prohibited by law, under general veterinary supervision, a licensed veterinary technician may:

(i) draw blood; and

(ii) take samples for purposes of testing and diagnosis.

(2) Veterinary supervision of unlicensed employees:

(A) Under the immediate supervision of a veterinarian, an unlicensed employee of a veterinarian may:

(i) suture to close existing surgical skin incisions and skin lacerations; and

(ii) induce anesthesia.

(B) An unlicensed employee of a veterinarian may perform other tasks assigned by the supervising veterinarian under a level of supervision determined by the supervising veterinarian.

- (C) An unlicensed employee may not, under any level of veterinary supervision, extract loose teeth or dental fragments from a dog or cat.
- (e) Under the immediate supervision of a licensed veterinary technician, an unlicensed employee of a veterinarian may:
- (1) suture to close existing skin incisions and skin lacerations;
 - (2) induce anesthesia;
 - (3) draw blood;
 - (4) take samples for the purpose of testing and diagnosis and;
 - (5) perform other tasks in veterinary medicine, not otherwise prohibited by other subsections of this section or other laws, as assigned by the supervising veterinarian and according to a protocol established by the supervising veterinarian.
- (f) A non-veterinarian shall not perform the following health care services:
- (1) surgery;
 - (2) invasive dental procedures except as allowed for licensed equine dental providers under §573.19 of this title, and as allowed for licensed veterinary technicians under subsection (d)(1) of this section;
 - (3) diagnosis and prognosis of animal diseases and/or conditions;
 - (4) prescribing drugs and appliances; or
 - (5) initiate treatment without prior instruction by a veterinarian, except in an emergency without expectation of compensation.
- (g) Euthanasia may be performed by a non-veterinarian only under the immediate supervision of a veterinarian.
- (h) A non-veterinarian may administer a rabies vaccine only under the direct supervision of a veterinarian, and only after the veterinarian has properly established a veterinarian-client-patient relationship.
- (i) The use of a veterinarian's signature stamp or electronic signature pad on an official health document by a non-veterinarian shall be authorized only under the direct supervision of the vaccinating veterinarian.
- (j) Exception for Emergency Care. In an emergency situation where prompt treatment is essential for the prevention of death or alleviation of extreme suffering, a veterinarian may, after determining the nature of the emergency and the condition of the animal, issue treatment directions to a non-veterinarian by means of telephone, electronic mail or messaging, radio, or facsimile communication and not be in violation of §801.351 of the Act. However, the Board may take action against a veterinarian if, in the Board's sole discretion, the veterinarian uses this authorization to circumvent this rule. The veterinarian assumes full responsibility for such treatment. However, nothing in this rule requires a veterinarian to accept an animal treated under this rule as a patient under these circumstances.
- (k) Exception for Care of Hospitalized Animals. A non-veterinarian may, in the absence of direct supervision, follow the oral or written treatment orders of a veterinarian who is caring for a

hospitalized animal, so long as the veterinarian has examined the animal(s) and a valid veterinarian-client-patient relationship exists.

Source Note: *The provisions of this §573.10 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 25, 2012, 37 TexReg 9935; amended to be effective August 29, 2013, 38 TexReg 5486; amended to be effective May 4, 2014, 39 TexReg 3424; amended to be effective December 22, 2014, 39 TexReg 10016*

§573.11 Responsibility for Unlicensed Employees

(a) A veterinarian shall be responsible for any acts a non-veterinarian employee commits within the scope of the employee's employment.

(b) A licensed veterinary technician supervising an unlicensed employee of a veterinarian shall be responsible for any acts committed by that unlicensed employee of a veterinarian related to the practice of veterinary medicine.

(c) If a licensed veterinary technician acting under supervision of a veterinarian violates a law, regulation or board rule, both the veterinarian and the licensed veterinary technician are subject to discipline by the Board.

Source Note: *The provisions of this §573.11 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2014, 39 TexReg 3426*

§573.12 Responsibility for Licensure of Licensed Persons

(a) A veterinarian who employs and/or supervises another veterinarian practicing veterinary medicine shall assure that the person is:

(1) actively licensed; and

(2) meets the requirements of §573.43 of this title (relating to Controlled Substances Registration) for registration with the federal Drug Enforcement Administration (DEA) and the Texas Department of Public Safety (DPS).

(b) A veterinarian who employs and/or supervises an equine dental provider or a licensed veterinary technician shall ensure that each licensee is actively licensed.

Source Note: *The provisions of this §573.12 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2014, 39 TexReg 3426*

§573.13 Delegation and Supervision Relating to Official Health Documents

(a) A veterinarian must personally sign any official health documents issued by the veterinarian, and/or any official health documents for which the veterinarian has received compensation, regardless of whether said compensation is ultimately refunded, provided, however, that rabies certificates may be authenticated by either:

(1) the veterinarian's personal signature; or

(2) the use of a signature stamp or electronic signature by a non-licensed employee under direct supervision of the veterinarian.

(b) The issuance of any pre-signed or pre-stamped official health documents by a veterinarian is prohibited.

(c) Unless otherwise prohibited by law, and except as provided in subsection (d) of this section, a veterinarian may permit a non-licensed employee under the veterinarian's direct supervision, or

under the immediate supervision of a licensed veterinary technician, to collect samples from animals for official tests.

(d) A person approved by the Texas Animal Health Commission (TAHC) and under the general supervision of a TAHC approved veterinarian may perform testing for brucellosis at a livestock market or collect blood samples on animals to be consigned directly from the ranch to slaughter and submit them to the state/federal laboratory for brucellosis testing.

Source Note: *The provisions of this §573.13 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2014, 39 TexReg 3426*

§573.14 Alternate Therapies--Chiropractic and Other Forms of Musculoskeletal Manipulation

(a) Definition. For the purpose of this rule, animal chiropractic and other forms of musculoskeletal manipulation (MSM) are systems of therapeutic application of mechanical forces applied manually through the hands or any mechanical device to treat and/or alleviate impaired or altered function of related components of the musculoskeletal system of nonhuman animals. Animal chiropractic and other forms of MSM in nonhuman animals are considered to be alternate therapies in the practice of veterinary medicine.

(b) Treatment using animal chiropractic and other forms of MSM. Animal chiropractic and other forms of MSM may only be performed by the following.

(1) A licensed veterinarian. Animal chiropractic and MSM may be performed by a licensed veterinarian under the following conditions:

(A) a valid veterinarian/client/patient relationship has been established as defined in the Act;

(B) an examination has been made by the licensee to determine that animal chiropractic/MSM will not likely be harmful to the patient; and

(C) the licensee obtains as a part of the patient's permanent record a signed acknowledgment by the owner or other caretaker of the patient that animal chiropractic or MSM is considered by Texas law to be an alternate therapy.

(2) A non-veterinarian employee or an independent contractor. A non-veterinarian employee or an independent contractor may perform these procedures on an animal under the direct or general supervision of the veterinarian if the conditions in paragraph (1)(A) - (C) of this subsection have been met.

(3) An individual to whom the exceptions of the Act, §801.004, apply.

(c) Responsibility. Whether the animal chiropractic/MSM is performed by a veterinarian or a non-veterinarian employee or an independent contractor working under the supervision of a licensee, the Board will hold the veterinarian to a level of professional judgment as would be exercised by the average Texas veterinarian who performs or recommends chiropractic/MSM treatments in his/her practice.

Source Note: *The provisions of this §573.14 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective August 29, 2013, 38 TexReg 5486; amended to be effective May 4, 2014, 39 TexReg 3427*

§573.15 Use of Ultrasound in Diagnosis or Therapy

(a) Definitions.

(1) Ultrasound--Mechanical radiant energy with a frequency greater than 20 kilocycles per second.

(2) Ultrasonics--That part of the science of acoustics dealing with the frequency range beyond the upper limit of perception by the human ear, but usually restricted to frequencies above 500 kilocycles per second.

(3) Ultrasonic radiation--The effect of ultrasound which is injurious to tissues because of its thermal effects when absorbed by living matter.

(4) Ultrasound therapy--Controlled doses of ultrasound used therapeutically to selectively break down pathologic tissues, as in treatment of arthritis and lesions of the nervous system.

(5) Diagnostic ultrasound--Ultrasound images used as a diagnostic aid by visually displaying echoes received from irradiated tissues.

(6) Ultrasonography--The visualization of deep structures of the body by recording the reflections of pulses of ultrasonic waves directed into the tissues.

(b) Use of ultrasound for diagnosis or therapy of animals. The use of ultrasound in animals to diagnose any condition or for any therapeutic purpose is the practice of veterinary medicine and shall only be performed by a licensed veterinarian or under the general supervision of a licensed veterinarian.

(c) Use of ultrasound by persons who are not licensed veterinarians.

(1) For diagnostic purposes. A person who is not a licensed veterinarian may perform ultrasonography on an animal for diagnostic purposes only if: the person administering the ultrasound is doing so at the request of a licensed veterinarian; the veterinarian has established a veterinarian/client/patient relationship; and it is the veterinarian who uses the ultrasonography to make a diagnosis.

(2) For therapeutic purposes. A person who is not a licensed veterinarian may perform ultrasonography on an animal for therapeutic purposes only if a veterinarian has: established a veterinarian/client/patient relationship; made a diagnosis; prescribed ultrasonics as a treatment; and the person administering the ultrasound is doing so at the specific request of a licensed veterinarian.

(d) Prohibited acts. Any person who uses ultrasound on animals in a manner inconsistent with this rule shall be in violation of this rule and the Texas Veterinary Licensing Act.

Source Note: The provisions of this §573.15 adopted to be effective June 14, 2012, 37 TexReg 4229

§573.16 Alternate Therapies--Acupuncture

(a) Definition. For the purpose of this rule, acupuncture is:

(1) the insertion of an acupuncture needle and the application of moxibustion to specific areas of a non-human animal's body to relieve the discomfort associated with painful disorders, to induce surgical anesthesia, and for therapeutic purposes; and

(2) the administration of thermal or electrical treatments or the recommendation of dietary guidelines, energy flow exercise, or dietary or herbal supplements in conjunction with the

treatment described by paragraph (1) of this subsection. Acupuncture in non-human animals is considered to be an alternate therapy in the practice of veterinary medicine.

(b) Use of Acupuncture in the treatment of animals. Only licensed veterinarians may use acupuncture in the care and medical treatment of animals. No veterinarian may allow a non-veterinarian employee or other agent to perform acupuncture in the treatment of an animal patient.

(c) Client Consent Required. Before acupuncture may be used in the treatment of an animal, the veterinarian must obtain a signed statement from the animal's owner or caretaker acknowledging that acupuncture is an alternate therapy in veterinary medicine and approving its use in the treatment of the animal. Before signing the statement, the veterinarian shall inform the client of the conventional treatments available and their probable ability to cure the problem. The statement shall become a permanent part of the patient's record.

(d) Standard Used in Determining Appropriate Use of Acupuncture. If the Board receives a complaint against a licensee about treatment involving the use of acupuncture, investigation of the complaint may include opinions from other licensees who use acupuncture in their treatment of animals. However, veterinarians who practice acupuncture shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community, or in similar locations or communities, in which they practice.

(e) Other Board Rules Not Preempted. Nothing in this rule shall remove or limit in any way the applicability of other rules of the Board as they apply to the practice of veterinary medicine.

Source Note: The provisions of this §573.16 adopted to be effective June 14, 2012, 37 TexReg 4229

§573.17 Alternate Therapies--Holistic Medicine

(a) Definition. For the purpose of this rule, holistic medicine means: the practice of veterinary medicine that believes in a blend of alternative and, if need be, conventional approaches of treatment in an effort to develop a system of complementary medicine to treat the whole patient. In practice, it incorporates less conventional methods such as herbal medicine, acupuncture, chiropractic, homeopathy, and applied kinesiology, with more conventional methods, such as modern drugs, surgery and diagnostics. Use of holistic medicine in non-human animals is considered to be an alternate therapy in the practice of veterinary medicine.

(b) Use of holistic medicine in the treatment of animals. Only licensed veterinarians may use holistic medicine in the medical treatment of animals. No veterinarian may allow a non-veterinarian employee or other agent to perform holistic medicine in the treatment of an animal patient.

(c) Client Consent Required. Before holistic medicine may be used in the treatment of an animal, the veterinarian must obtain a signed statement from the animal's owner or caretaker acknowledging that holistic medicine is an alternate therapy in veterinary medicine and approving its use in the treatment of the animal. Before signing the statement, the veterinarian shall inform the client of the conventional treatments available and their probable ability to cure the problem. The signed statement shall become a permanent part of the patient's record.

(d) Standard Used in Determining Appropriate Use of Holistic Medicine. If the Board receives a complaint against a licensee about treatment involving the use of holistic medicine, investigation of the complaint may include opinions from other licensees who use holistic medicine in their treatment of animals. However, veterinarians who practice holistic medicine shall exercise the

same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community, or in similar localities or communities, in which they practice.

(e) Other Board Rules Not Preempted. Nothing in this rule shall remove or limit in any way the applicability of other rules of the Board as they apply to the practice of veterinary medicine.

Source Note: *The provisions of this §573.17 adopted to be effective June 14, 2012, 37 TexReg 4229*

§573.18 Alternate Therapies--Homeopathy

(a) Definition. For the purpose of this rule, homeopathy is: a system of therapeutics in which diseases are treated by substances which are capable of producing in healthy animals symptoms like those of the disease to be treated, the substance being administered in minute doses. Use of homeopathic remedies in non-human animals is considered to be an alternate therapy in the practice of veterinary medicine.

(b) Use of Homeopathy in the Treatment of Animals. Only licensed veterinarians may use homeopathy in the medical treatment of animals. No veterinarian may allow a non-veterinarian employee or other agent to perform homeopathy in the treatment of an animal patient.

(c) Client Consent Required. Before homeopathy may be used in the treatment of an animal, the veterinarian must obtain a signed statement from the animal's owner or caretaker acknowledging that homeopathy is an alternate therapy in veterinary medicine and approving its use in the treatment of the animal. Before signing the statement, the veterinarian shall inform the client of the conventional treatments available and their probable ability to cure the problem. The signed statement shall become a permanent part of the patient's file.

(d) Standard Used in Determining Appropriate Use of Homeopathy. If the Board receives a complaint against a licensee about treatment involving the use of homeopathy, investigation of the complaint may include opinions from other licensees who use homeopathy in their treatment of animals. However, veterinarians who practice homeopathy shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community, or in similar localities or communities, in which they practice.

(e) Other Board Rules Not Preempted. Nothing in this rule shall remove or limit in any way the applicability of other rules of the Board as they apply to the practice of veterinary medicine.

Source Note: *The provisions of this §573.18 adopted to be effective June 14, 2012, 37 TexReg 4229*

§573.19 Dentistry

(a) Dentistry, a subset of the practice of veterinary medicine, is:

(1) The application or use of any instrument or device to any portion of an animal's tooth, gum or any related tissue for the prevention, cure or relief of any wound, fracture, injury or disease of an animal's tooth, gum or related tissue; and

(2) Preventive dental procedures including, but not limited to, the removal of calculus, soft deposits, plaque, stains or the smoothing, filing or polishing of tooth surfaces.

(b) A non-licensed person may not perform any invasive dental procedure, as defined in §573.80 of this title (relating to Definitions), and as limited by subsection (e) of this section.

(c) Nothing in this regulation shall prohibit any person from utilizing cotton swabs, gauze, dental floss, dentifrice, or toothbrushes to clean an animal's teeth.

(d) In dogs and cats, a licensed veterinary technician under direct or immediate supervision of a veterinarian may extract loose teeth or dental fragments with minimal periodontal attachments by hand and without the use of an elevator.

(e) The following treatments may be performed to an equid by a licensed equine dental provider under general supervision by a veterinarian, and by a non-veterinarian employee under direct supervision by the veterinarian:

- (1) removing sharp enamel points;
- (2) removing small dental overgrowths;
- (3) rostral profiling of the first cheek teeth;
- (4) reducing incisors;
- (5) extracting loose, deciduous teeth;
- (6) removing supragingival calculus;
- (7) extracting loose, mobile, or diseased teeth or dental fragments with minimal periodontal attachments by hand and without the use of an elevator; and
- (8) removing erupted, non-displaced wolf teeth.

Source Note: *The provisions of this §573.19 adopted to be effective December 25, 2012, 37 TexReg 9936; amended to be effective August 29, 2013, 38 TexReg 5487; amended to be effective May 4, 2014, 39 TexReg 3427*

SUBCHAPTER C RESPONSIBILITIES TO CLIENTS

§573.20 Responsibility for Acceptance of Medical Care

(a) The decision to accept an animal as a patient is at the sole discretion of a veterinarian. The veterinarian is responsible for determining the diagnosis and course of treatment for an animal that has been accepted as a patient and for advising the client as to the diagnosis and treatment to be provided.

(b) For purposes of establishing a veterinarian-client-patient relationship under §801.351 of the Veterinary Licensing Act, Texas Occupations Code, a veterinarian can obtain sufficient knowledge of an animal by making medically appropriate and timely visits to the premises on which the animal is kept only if the animal is a member of a herd.

(c) A veterinarian must inform a client when:

- (1) the client has specifically requested that the veterinarian diagnose and/or treat the client's animal; and
- (2) the veterinarian reasonably believes there is a likelihood or possibility that another veterinarian may perform some or all of the diagnosis and/or treatment of the patient.

(d) Once a veterinarian-client-patient relationship has been established, a veterinarian may discontinue treatment:

- (1) at the request of the client;

- (2) after the veterinarian substantially completes the treatment or diagnostics prescribed;
- (3) upon referral to another veterinarian; or
- (4) after notice to the client providing a reasonable period for the client to secure the services of another veterinarian.

(e) Once a veterinarian establishes a veterinarian-client-patient relationship and prescribes medication(s), another Texas licensed veterinarian within the same clinic or hospital who has access to the patient's current medical records may refill that same prescription(s) without a veterinary-client-patient relationship.

Source Note: The provisions of this §573.20 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective August 29, 2013, 38 TexReg 5487; amended to be effective May 4, 2015, 40 TexReg 2418

§573.21 Direct Responsibility to Client

The professional services of a licensee shall not be controlled or exploited by any lay agency, personal or corporate, which intervenes between the client and the licensee. A licensee shall not allow a non-licensed person or entity to interfere or intervene with the licensee's practice; nor shall the licensee submit to such interference or intervention by a non-licensed person or entity. A licensee shall avoid all relationships which could result in interference or intervention in the licensee's practice by a non-licensed person or entity. A licensee shall be responsible for his or her own actions and is directly responsible to the client and for the care and treatment of the patient.

Source Note: The provisions of this §573.21 adopted to be effective June 14, 2012, 37 TexReg 4229

§573.22 Professional Standard of Care

Licenses shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances, including the type of practice, by average members of the veterinary medical profession in good standing in the locality or geographic community in which they practice, or in similar communities.

Source Note: The provisions of this §573.22 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2015, 40 TexReg 2419

§573.23 Board Certified Specialists

(a) Standard of Care for Specialist. Specialists are held to a higher standard of care than non-specialist veterinarians, notwithstanding §573.22 of this title (relating to Professional Standard of Care).

(b) Complaints against Specialists. Board investigations of complaints alleging substandard care by a Specialist in his/her area of specialty will include consultations with one or more Specialists licensed by the Board practicing the same specialty on the species involved in the complaint. The Board, at its sole discretion, may consult with Specialists from outside of Texas. If the Board determines an informal conference is warranted, both complainant and respondent may, at their own expense, present oral or written commentary by a Specialist practicing the same specialty on the species involved in the complaint.

(c) Verification of Specialist Status. Specialists must make information verifying their certification or recognition as a specialist available to the Board, Board staff, and the public. This information must be available upon request.

Source Note: The provisions of this §573.23 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective August 17, 2015, 40 TexReg 5153

§573.24 Responsibility of Veterinarian to Refer a Case

(a) A veterinarian shall have a duty to a client to suggest a referral to a specialist, or otherwise more qualified veterinarian, in any case where the care and treatment of the animal is beyond the veterinarian's capabilities. A veterinarian's decision on whether to accept or continue care and treatment of an animal, which may require expertise beyond the veterinarian's capabilities, shall be based on the exercise of sound judgment within the prevailing standard of care for a veterinarian faced with the same or similar circumstances.

(b) Complaints Regarding Failure to Make Proper Referral. Board investigations of complaints alleging failure to properly make referrals will include evaluation of the training and experience of the veterinarian, the availability of a specialist or more qualified veterinarian, the timeliness and adequacy of information provided to the client regarding the possible need for a referral, the requests of the client, and the likelihood that an adverse result could have been prevented by a timely referral.

Source Note: The provisions of this §573.24 adopted to be effective June 14, 2012, 37 TexReg 4229

§573.25 Issuance of Official Health Documents Through Direct Knowledge Only

Licensed veterinarians in this state shall not issue any official health documents for an animal without first having personally examined the individual animal and know of their own knowledge, by actual inspection and appropriate tests, that said animal meets the requirements for the issuance of the official health document. A veterinarian is deemed to have issued and to have knowledge of any official health documents issued in the veterinarian's name, written by veterinarian's employee and/or maintained in veterinarian's patient or client files. A veterinarian shall be responsible for the security and proper use of all official certificates, forms, records and reports, and shall take reasonable care to prevent the misuse thereof. A veterinarian shall immediately report to the TBVME the loss, theft or deliberate or accidental misuse of any such certificate, form, record or report.

Source Note: The provisions of this §573.25 adopted to be effective June 14, 2012, 37 TexReg 4229

§573.26 Avoidance of Guaranteeing Cures

It is professionally dishonest for a licensee to guarantee a cure. A licensee must avoid bold and confident assurances to clients, especially where the licensee's employment may depend upon such assurance.

Source Note: The provisions of this §573.26 adopted to be effective June 14, 2012, 37 TexReg 4229

§573.27 Honesty, Integrity, and Fair Dealing

Licensees shall conduct their practice with honesty, integrity, and fair dealing to clients in time and services rendered, and in the amount charged for services, facilities, appliances, and drugs.

Source Note: The provisions of this §573.27 adopted to be effective June 14, 2012, 37 TexReg 4229

§573.28 Observance of Confidentiality

- (a) A veterinarian shall not violate the confidential relationship between the veterinarian and a client.
- (b) Except as provided in subsection (c) of this section, a veterinarian shall not disclose any information concerning the veterinarian's care for an animal except:
 - (1) on written or oral authorization or other form of waiver executed by the client;
 - (2) on receipt by the veterinarian of an appropriate court order or subpoena; or
 - (3) as necessary to substantiate and collect on a debt incurred by a client for veterinary services.
- (c) A veterinarian may, without authorization by the client, disclose information contained in a rabies certificate or any information regarding reportable communicable diseases to a governmental entity only for purposes related to the protection of public health and safety.

Source Note: *The provisions of this §573.28 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective August 17, 2015, 40 TexReg 5154*

§573.29 Complaint Information and Notice to Clients

- (a) A licensed veterinarian or licensed equine dental provider shall provide an effective way to inform clients and other visitors to the premises, clinic or hospital of how to file complaints with the Board. The licensee must provide:
 - (1) the following specific address: Texas State Board of Veterinary Medical Examiners, 333 Guadalupe, Suite 3-810, Austin, Texas 78701-3942;
 - (2) the Board's telephone numbers: (512) 305-7555; fax: (512) 305-7556; and
 - (3) a toll-free complaint information number: 1-800-821-3205.
- (b) Acceptable forms of providing the information in subsection (a) of this section may include a:
 - (1) written notice form, with print size of at least 14 point, prominently displayed in the area of each clinic or hospital that is most frequented by the public;
 - (2) brochure available in the area of each clinic or hospital that is most frequented by the public; or
 - (3) statement on each written bill, invoice or receipt.

Source Note: *The provisions of this §573.29 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 22, 2014, 39 TexReg 10017*

SUBCHAPTER D ADVERTISING, ENDORSEMENTS AND CERTIFICATES

§573.30 Advertising

A licensee may not engage in advertising that is false, deceptive, or misleading. A false, deceptive, or misleading advertising statement or claim includes, without limitation:

- (1) a prediction of future success or a guarantee that satisfaction or a cure will result from the performance of the advertised professional services;
- (2) illegal transactions;

- (3) a representation or implication that the announced services or facilities are superior in quality to those of other licensees which is not subject to reasonable verification by the public and/or would tend to create a false impression of the qualities of the professional services or facilities;
- (4) a statement or implication that a licensee is a certified or recognized specialist unless the licensee is a veterinarian who is board certified as recognized by the American Veterinary Medical Association in such specialty;
- (5) a claim that intends to create or is likely to create an inflated or unjustified expectation; or
- (6) an expressed or implied material misrepresentation of fact.

Source Note: The provisions of this §573.30 adopted to be effective June 14, 2012, 37 TexReg 4229

§573.32 Specialty Listings

A veterinarian holding a current certificate of special competence in a particular field of veterinary medicine issued by the respective specialty boards in veterinary medicine, recognized by the American Veterinary Medical Association, may state in reputable veterinary directories, advertising or notices mailed to veterinarians, clients, former clients, personal friends, and relatives; the yellow pages of telephone directories distributed in the geographical area or areas in which the veterinarian resides or maintains offices or had his/her primary practice; and on professional cards or letterhead that he/she is certified in a particular field in the following words: "Board Certified (e.g., Veterinary Radiology)." A veterinarian must indicate his or her specialty whenever the veterinarian indicates that he or she is a specialist.

Source Note: The provisions of this §573.32 adopted to be effective June 14, 2012, 37 TexReg 4229

§573.33 Display of Degree, Certificate, or Title from Approved Institutions Only

A licensee shall not use or display any college degree, certificate, or title pertaining to veterinary medicine or equine dentistry granted by any institution not approved by the Texas State Board of Veterinary Medical Examiners.

Source Note: The provisions of this §573.33 adopted to be effective June 14, 2012, 37 TexReg 4229

§573.34 Authorized Degrees, Certificates, or Titles Only

A licensee shall not use any certificate, college degree, or title to which he or she is not entitled.

Source Note: The provisions of this §573.34 adopted to be effective June 14, 2012, 37 TexReg 4229

§573.35 Display of License

Each licensee, including a relief veterinarian, shall post or display at the licensee's practice location, whether mobile or fixed, his or her Board license. This document must be displayed where it is visible to the public. A legible photocopy of the original document is acceptable.

Source Note: The provisions of this §573.35 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2015, 40 TexReg 2419

§573.36 Corporate and Assumed Names

Licensees shall not use a corporate or assumed name for their practice which would be false, deceptive, or misleading to the public.

Source Note: The provisions of this §573.36 adopted to be effective June 14, 2012, 37 TexReg 4229

§573.37 Ban on Use of Solicitors

A licensee shall not participate in arrangements which share the proceeds from professional services with individuals who may have been instrumental in his or her having been selected to perform the particular service.

Source Note: The provisions of this §573.37 adopted to be effective June 14, 2012, 37 TexReg 4229

SUBCHAPTER E PRESCRIBING AND/OR DISPENSING MEDICATION

§573.40 Labeling of Medications Dispensed

(a) A veterinarian shall affix labels to all unlabeled containers containing any medication dispensed and to all factory labeled containers that contain prescription (legend) drugs and/or controlled substances dispensed. The label must be affixed to the immediate container and include:

- (1) the veterinarian's name, address, and telephone number (including area code);
- (2) date of delivery or dispensing;
- (3) patient/client name (and address if drug is a controlled substance);
- (4) species of the animal;
- (5) name, strength, and quantity of the drug dispensed;
- (6) directions for use; and
- (7) cautionary statements as required by law, i.e. not for human consumption, poisonous, withdrawal periods, etc.

(b) If the immediate container is too small to be labeled, the small container shall be enclosed within another container large enough to be labeled.

Source Note: The provisions of this §573.40 adopted to be effective March 9, 1988, 13 TexReg 1027; amended to be effective November 20, 1992, 17 TexReg 7896; amended to be effective July 4, 2005, 30 TexReg 3877

§573.41 Use of Prescription Drugs

(a) It is unprofessional conduct for a licensed veterinarian to prescribe, administer, dispense, deliver, or order delivered any prescription drug without first having established a veterinarian/client/patient relationship and determined that such prescription drug is therapeutically indicated for the health and/or well-being of the animal(s). Prescription drugs include all controlled substances in Schedules I - V and legend drugs which bear the federal legends, recognized as such by any law of the State of Texas or of the United States.

(b) It shall be unprofessional and a violation of the rules of professional conduct for a licensed veterinarian to prescribe, provide, obtain, order, administer, possess, dispense, give, or deliver to or for any person prescription drugs that are not necessary or required for the medical care of animals, or where the use or possession of such drugs would promote addiction thereto. Prescription drugs are defined in subsection (a) of this section.

(c) A licensed veterinarian prescribing, administering, dispensing, delivering, or ordering delivered any prescription drug must comply with the laws, including all rules, of both the United States and the State of Texas, including but not limited to Chapter 483 of the Texas Health and Safety Code.

Source Note: *The provisions of this §573.41 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 23, 2014, 39 TexReg 10017*

§573.42 Use of Scheduled Drugs in Training and/or Racing

Any licensed veterinarian who prescribes, provides, obtains, orders, administers, possesses, dispenses, gives or delivers scheduled drugs to or for any animal solely for training or racing purposes and not for a medically sound reason has violated the Veterinary Licensing Act.

Source Note: *The provisions of this §573.42 adopted to be effective June 14, 2012, 37 TexReg 4229*

§573.43 Controlled Substances Registration

(a) Subject to subsection (b) of this section, a licensed veterinarian may not prescribe, administer, dispense, deliver, or order delivered, any controlled substance unless the licensed veterinarian is currently registered with the federal Drug Enforcement Administration (DEA) and the Texas Department of Public Safety (DPS) to dispense controlled substances if such registration is required by other state or federal law.

(b) The requirement for DEA registration is waived for a licensed veterinarian who is not registered with the DEA to dispense controlled substances if:

- (1) a licensed veterinarian who is registered with the DEA to dispense controlled substances (registrant) supervises or employs the veterinarian who is not registered with the DEA to dispense controlled substances (non-registrant);
- (2) the registrant has knowledge that the non-registrant is dispensing and/or administering controlled substances in the usual course of the non-registrant's duties;
- (3) the registrant has given written permission for the non-registrant to dispense/administer under the registrant's license; and
- (4) the registrant has actual knowledge that the non-registrant is currently registered with the DPS and holds a current DPS controlled substances certificate.

(c) A licensed veterinarian who is not registered with the DEA but is registered with the DPS to dispense controlled substances and holds a current DPS controlled substances certificate may dispense and administer controlled substances, but may not procure, purchase or issue a prescription for a controlled substance.

(d) A licensed veterinarian registered with the DEA and/or DPS must comply with all relevant statutes and rules as required by DEA and/or DPS, including but not limited to chapter 481 of the Texas Health and Safety Code, Chapter 13 of Part 1 of Title 37 of the Texas Administrative Code, and Chapter 13 of Title 21 of United States Code.

Source Note: *The provisions of this §573.43 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 25, 2012, 37 TexReg 9937; amended to be effective December 23, 2014, 39 TexReg 10018*

§573.44 Compounding Drugs

(a) A veterinarian may only compound drugs for a specific animal or herd with which the veterinarian has established and maintained a valid veterinarian-client-patient relationship.

(b) A veterinarian may only prescribe compounded drugs to treat a specific occurrence of a disease or condition, which threatens the health of the animal or will cause suffering or death if left untreated, that the veterinarian has observed and diagnosed in the particular patient for whom the compounded drugs are prescribed. The amount of a drug that a veterinarian compounds or orders compounded must not exceed the established need for specific compounded drugs for patients with which the veterinarian has established and maintained a valid veterinarian-client-patient relationship.

(c) Labeling Requirements.

(1) All compounded drugs must bear the labeling information required under §573.40 of this title (relating to Labeling of Medications Dispensed), as well as the following information:

(A) date on which the drug was compounded;

(B) name and strength of medically active ingredients;

(C) identity of treated animals;

(D) withdrawal/withholding times if needed; and

(E) condition or disease to be treated.

(2) In addition to the information listed in paragraph (1) of this subsection, compounded drugs dispensed to the client must also state a date dispensed and an expiration date, which should not exceed the length of the prescribed treatment.

(d) Limitations on Compounded Products.

(1) A veterinarian shall not compound or order a drug compounded if there is a FDA-approved, commercially available animal or human drug that, when used as labeled or in an extra-label fashion in its available dosage form and concentration, will appropriately treat the patient.

(2) A veterinarian shall only compound or order compounded products with FDA-approved commercially available animal or human drugs as the active ingredients.

(3) A veterinarian shall not promote and/or distribute compounded drugs that are essentially similar to FDA-approved products.

(4) A veterinarian must ensure the safety and efficacy of a compounded drug, including but not limited to avoiding known drug incompatibilities and inappropriate combinations, and must use a pharmacist to perform drug compounding when the complexity of the compounding exceeds the veterinarian's knowledge, skill, facilities, or available equipment.

(e) Compounding for Food Producing Animals.

(1) For animals intended for human consumption, a veterinarian must establish an extended withdrawal interval for the compounded product sufficient to ensure food safety and may not compound from any drugs prohibited for use in food producing animals. The withdrawal period must be supported by scientific information, and the veterinarian shall note the method used to determine the withdrawal interval in the patient records.

- (2) A veterinarian shall not compound or order a drug compounded if the compounded drug results in violative food residue, or any residue that may present a risk to public health.
 - (3) Compounding from a human drug for use in food-producing animals is not permitted if an approved animal drug can be used for compounding.
 - (4) Veterinarians shall ensure that procedures are in place to maintain the identity of treated animals, and shall note those procedures in the patient records.
- (f) Limitations on Promotion and Sale of Compounded Drugs.
- (1) A veterinarian shall not prepare for sale any compounded drugs which employ fanciful names or trade names, colorings or other additives, or that in any way imply that the compounds have some unique effectiveness or composition.
 - (2) A veterinarian shall not advertise, promote, display, resell, or in any other way market prepared compounded drugs.
 - (3) A veterinarian shall not offer compounded drugs to other state licensed veterinarians, pharmacists or other commercial entities for resale.

Source Note: *The provisions of this §573.44 adopted to be effective June 14, 2012, 37 TexReg 4229*

§573.45 Extra-Label or Off-Label Use of Drugs

- (a) Extra-label or off-label use is the actual or intended use of a drug in an animal that is not in accordance with the approved labeling, and includes, but is not limited to:
- (1) compounded drugs;
 - (2) use in species not listed in the labeling;
 - (3) use for diseases or other conditions not listed in the labeling;
 - (4) use at dosage levels, frequencies, or routes of administration other than those stated in the labeling; and
 - (5) deviation from the labeled withdrawal time based on these different uses.
- (b) A veterinarian must use his or her discretion in the off-label use of drugs for animals. In exercising such discretion, a veterinarian shall consider, to the extent possible:
- (1) whether the off-label use of a drug meets the community standard of humane care and treatment set out in §573.22 of this title (relating to Professional Standard of Care);
 - (2) the established safety of the off-label usage;
 - (3) the inclusion of a drug in a standard veterinary formulary;
 - (4) analyses of off-label usage in the veterinary medical literature and in articles and commentaries written by the veterinarian's peers in the veterinary medical profession;
 - (5) information provided by the drug's manufacturer, vendor or the FDA as to whether off-label usage of a drug may present a risk to public health; and
 - (6) any other sources of pertinent information.
- (c) If anticipated off-label use of a drug is not commonly accepted or used by average veterinarians in the community in which the veterinarian practices or if the off-label usage does not have an established safety record, the veterinarian shall orally or in writing inform the client that the off-

label usage is not commonly accepted or used in the veterinary community and that such usage could pose a risk to the health of the animal. Any oral notification shall be recorded in the patient records.

(d) Extra-Label Drug Use in Food Producing Animals.

(1) For animals intended for human consumption, a veterinarian must establish an extended withdrawal interval sufficient to ensure food safety. The withdrawal period must be supported by scientific information, and the veterinarian shall note the method used to determine the withdrawal interval in the patient records.

(2) A veterinarian shall not prescribe an extra-label drug in a manner that will result in violative food residue, or any residue that may present a risk to public health.

(3) Veterinarians shall ensure that procedures are in place to maintain the identity of treated animals, and shall note those procedures in the patient records.

Source Note: *The provisions of this §573.45 adopted to be effective June 14, 2012, 37 TexReg 4229*

SUBCHAPTER F RECORDS KEEPING

§573.50 Controlled Substances Records Keeping for Drugs on Hand

Texas veterinarians shall maintain at their place of business records of all scheduled drugs listed in the Texas Controlled Substances Act in their possession. These records shall be maintained for a minimum of five years. A record shall be kept for each scheduled drug. The records shall be complete, contemporaneous, and legible. The record shall contain the following information in addition to the name of the drug:

- (1) date of acquisition;
- (2) quantity purchased;
- (3) date administered or dispensed;
- (4) quantity administered or dispensed;
- (5) name of client and patient receiving the drug(s); and
- (6) total balance on hand of the scheduled drug.

Source Note: *The provisions of this §573.50 adopted to be effective March 9, 1988, 13 TexReg 1028; amended to be effective July 6, 1990, 15 TexReg 3635; amended to be effective April 6, 2008, 33 TexReg 2695; amended to be effective December 23, 2013, 38 TexReg 9365; amended to be effective November 22, 2015, 40 TexReg 8027*

§573.51 Rabies Control

(a) Only the vaccinating veterinarian shall issue official rabies vaccination certificates. Each certificate shall contain the information required by 25 TAC §169.29 (relating to Vaccination Requirement) adopted by the Department of State Health Services, including:

- (1) owner's name, address and telephone number;
- (2) animal identification species, sex (including neutered if applicable), approximate age (three months to 12 months, 12 months or older), size (pounds), predominant breed, and colors;

- (3) vaccine used product name, manufacturer, and serial number;
- (4) date vaccinated;
- (5) date vaccination expires (re-vaccination due date);
- (6) rabies tag number if a tag is issued; and
- (7) veterinarian's signature, or electronic signature, or signature stamp and license number, in accordance with §573.10 of this title (relating to Supervision of Non-Licensed Persons).

(b) Each veterinarian that issues a rabies vaccination certificate, or the veterinary practice where the certificate was issued, shall retain a readily retrievable copy of the certificate for a period of not less than five years from the date of issuance.

(c) A veterinarian having knowledge of an animal bite to a human shall immediately report the incident to the local health authority. A veterinarian preparing an animal's body for rabies diagnosis shall comply with all requirements of 25 TAC §169.33 (relating to Submission of Specimens for Laboratory Examination) adopted by the Department of State Health Services.

(d) A veterinarian who ceases the practice of veterinary medicine shall deliver to the local health authority all duplicate rabies vaccination certificates issued by the veterinarian within the preceding five-year period. A veterinarian who sells or leases his practice to another veterinarian may transfer duplicate rabies certificates with the records of the practice which are transferred to a new owner.

Source Note: *The provisions of this §573.51 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 23, 2013, 38 TexReg 9365*

§573.52 Veterinarian Patient Record Keeping

(a) Individual records shall be maintained at the veterinarian's place of business, shall be complete, contemporaneous and legible and shall include, but are not limited to:

- (1) name, address, and phone number of the client;
- (2) identification of patient, including name, species, breed, age, sex, and description;
- (3) patient history;
- (4) dates of visits;
- (5) any immunization records;
- (6) weight if required for diagnosis or treatment. Weight may be estimated if actual weight is difficult to obtain;
- (7) temperature if required for diagnosis or treatment except when treating a herd, flock, or a species, or an individual animal that is difficult to obtain a temperature;
- (8) any laboratory analysis;
- (9) any diagnostic images or written summary of results if unable to save image;
- (10) differential diagnosis and/or treatment, if applicable;
- (11) names, dosages, concentration, and routes of administration of each drug prescribed, administered and/or dispensed. If a drug is approved by the United States Food and Drug Administration (FDA) in only one concentration and the veterinarian is administering the

FDA-approved drug at the FDA-approved concentration, the veterinarian may omit recording the concentration of the drug administered;

(12) other details necessary to substantiate or document the examination, diagnosis, and treatment provided, and/or surgical procedure performed;

(13) any signed acknowledgment required by §§573.14, 573.16, 573.17, and 573.18 of this title (relating to Alternate Therapies--Chiropractic and Other Forms of Musculoskeletal Manipulation, Alternate Therapies--Acupuncture, Alternate Therapies--Holistic Medicine, and Alternate Therapies--Homeopathy);

(14) the identity of the veterinarian who performed or supervised the procedure recorded;

(15) any amendment, supplementation, change, or correction in a patient record not made contemporaneously with the act or observation noted by indicating the time and date of the amendment, supplementation, change or correction, and clearly indicating that there has been an amendment, supplementation, change, or correction;

(16) the date and substance of any referral recommendations, with reference to the response of the client;

(17) the date and substance of any consultation concerning a case with a specialist or other more qualified veterinarian; and

(18) copies of any official health documents issued for the animal.

(b) Maintenance of Patient Records.

(1) Patient records shall be current and readily available for a minimum of five years from the anniversary date of the date of last treatment by the veterinarian.

(2) A veterinarian may destroy medical records that relate to any civil, criminal or administrative proceeding only if the veterinarian knows the proceeding has been finally resolved.

(3) Veterinarians shall retain patient records for such longer length of time than that imposed herein when mandated by other federal or state statute or regulation.

(4) Patient records are the responsibility and property of the veterinarian or veterinarians who own the veterinary practice, provided however, the client is entitled to a copy of the patient records pertaining to the client's animals.

(5) If the veterinarian discontinues his or her practice, the veterinarian may transfer ownership of records to another licensed veterinarian or group of veterinarians only if the veterinarian provides notice consistent with §573.55 of this title (relating to Transfer and Disposal of Patient Records) and the veterinarian who assumes ownership of the records shall maintain the records consistent with this chapter.

(c) When appropriate, veterinarians may substitute the words "herd", "flock" or other collective term in place of the word "patient" in subsections (a) and (b) of this section. Records to be maintained on these animals may be kept in a daily log, or the billing records, provided that the treatment information that is entered is adequate to substantiate the identification of these animals and the medical care provided. In no case does this eliminate the requirement to maintain drug records as specified by state and federal law and Board rules.

Source Note: *The provisions of this §573.52 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 23, 2013, 38 TexReg 9365*

§573.53 Equine Dental Provider Patient Record Keeping

(a) Individual records shall be complete, contemporaneous and legible and shall include, but are not limited to:

- (1) name, address, and phone number of the client;
- (2) identification of patient, including name, breed, age, sex, and description;
- (3) patient history;
- (4) dates of visits;
- (5) other details necessary to substantiate or document the procedure performed; and
- (6) any amendment, supplementation, change, or correction in a patient record not made contemporaneously with the act or observation noted by indicating the time and date of the amendment, supplementation, change or correction, and clearly indicating that there has been an amendment, supplementation, change, or correction.

(b) Maintenance of Patient Records.

- (1) Patient records shall be current and readily available for a minimum of five years from the anniversary date of the date of last treatment by the equine dental provider.
- (2) Patient records are the responsibility and property of the equine dental provider, provided however, that equine dental providers shall give copies of records to the owner or caretaker authorizing treatment of the patient at the time of treatment, and shall provide copies of records to the supervising veterinarian on request, within 15 business days of the request.
- (3) An equine dental provider may destroy medical records that relate to any civil, criminal or administrative proceeding only if the equine dental provider knows the proceeding has been finally resolved.

Source Note: *The provisions of this §573.53 adopted to be effective June 14, 2012, 37 TexReg 4229*

§573.54 Patient Records Release and Charges

(a) Release of records pursuant to request. Upon the request of the client or their authorized representative, the veterinarian shall furnish a copy of the patient records, including a copy of any radiographs requested, within 15 business days of the request or in accordance with subsection (f) of this section, unless a longer period is reasonably required to duplicate the records. If a longer period is necessary and prior to the 15 business day deadline, the veterinarian must inform the client in writing how long it will take to furnish the records and why production of the records is delayed. The records must be provided no later than 30 calendar days after the request. If the records are requested for acute/emergency care, the veterinarian must provide the records immediately and no later than one business day.

(b) Contents of records. For purposes of this section, "patient records" shall include those records as defined in §573.52 of this title (relating to Veterinarian Patient Record Keeping).

(c) Allowable charges. The veterinarian may charge a reasonable fee for this service and, in non-emergency and non-acute situations, may withhold the records until such payment is received. A reasonable fee shall include only the cost of:

- (1) copying, including the labor and cost of supplies for copying;
- (2) postage, when the individual has requested the copy or summary be mailed; and
- (3) preparing a summary of the records when appropriate.

(d) Improper withholding for past due accounts. Patient records requested pursuant to a proper request for release may not be withheld from the client, the client's authorized agent, or the client's designated recipient for such records based on a past due account for care or treatment previously rendered to the patient.

(e) The veterinarian shall be entitled to the reasonable fee prior to the release of the records unless the information is requested by another veterinarian or his or her agent for purposes of emergency or acute medical care.

(f) The veterinarian must notify the requestor of records the amount of the reasonable fee within five (5) business days of the request. Once the veterinarian receives written or verbal notice from the requestor that the requestor accepts the reasonable fee and will pick up the records, the veterinarian must have the records copied and ready for delivery within ten (10) business days of receiving such notice.

Source Note: *The provisions of this §573.54 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2015, 40 TexReg 2419; amended to be effective November 22, 2015, 40 TexReg 8027*

§573.55 Transfer and Disposal of Patient Records

(a) Required Notification of Discontinuance of Practice. When a veterinarian discontinues the provision of veterinary services without the continuation of their practice, he or she is responsible for ensuring that clients receive reasonable notification and are given the opportunity to obtain copies of their records or arrange for the transfer of their patient records to another veterinarian.

(b) Method of Notification.

(1) When a veterinarian discontinues the provision of veterinary services without the continuation of their practice, he or she shall provide notice to clients of when the veterinarian intends to terminate the practice or relocate, and will no longer be available to clients, and offer clients the opportunity to obtain a copy of their patient records.

(2) Notification shall be accomplished by:

- (A) placing written notice in the veterinarian's office; and
- (B) sending written notification to clients seen in the last three years notifying them of discontinuance of practice, or placing a notice in the local newspaper.

(c) Voluntary Surrender or Revocation of Veterinarian's License.

(1) Veterinarians who have voluntarily surrendered their licenses in lieu of disciplinary action or have had their licenses revoked by the Board must notify their clients, consistent with subsection (b) of this section, within 30 days of the effective date of the voluntary surrender or revocation.

(2) Veterinarians who have voluntarily surrendered their licenses in lieu of disciplinary action or have had their licenses revoked by the Board must obtain a custodian for their records to be approved by the Board within 30 days of the effective date of the voluntary surrender or revocation.

Source Note: *The provisions of this §573.55 adopted to be effective June 14, 2012, 37 TexReg 4229*

SUBCHAPTER G OTHER PROVISIONS

§573.60 Prohibition Against Treatment of Humans

A veterinarian shall not provide care and treatment of humans including prescribing and/or dispensing prescription medication for personal use by the veterinarian and/or another human. A veterinarian may render first aid or emergency care to a human if such action is without expectation of compensation in response to an emergency or disaster situation.

Source Note: *The provisions of this §573.60 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective August 17, 2015, 40 TexReg 5154*

§573.61 Minimum Security for Controlled Substances

Veterinarians shall adhere to the following to ensure security of controlled substances:

- (1) Establish adequate security to prevent unauthorized access to controlled substances.
- (2) Establish adequate security to prevent the diversion of controlled substances.
- (3) During the course of business activities, do not allow any individual access to controlled substances storage areas except those authorized agents required for efficient operations.
- (4) Controlled substances listed in Schedules I, II, III, IV, and V shall be stored in a securely locked, substantially constructed cabinet or security cabinet.
- (5) The term "substantially constructed cabinet" means the following:
 - (A) A structure of wood or metal so constructed as to resist any entry by simple tools of attack such as screw drivers, crow bars, tire tools, pry bars, etc. Hinges should not be mounted with bolts or screws on outside of door and the locking devices should be installed internally as in a dead bolt type or the device should be of a type that has protected mounting screws or bolts to inhibit removal. The cabinet should be permanently constructed or attached to the building structure or fixtures so as to prevent the cabinet from being physically removed from the premises. If the cabinet is a metal file cabinet type, it should be permanently attached to prevent easy removal and have an external locking bar that secures the drawer or drawers.
 - (B) A security cabinet or safe equivalent in construction to a Class 6 Mosler Government Sales Security Filing Cabinet or a Class 5 Mosler Government Safe.

(C) A cabinet less substantially constructed may meet security requirements provided the cabinet is located in a room or area entrance to which has been so constructed that hinge mountings inhibit removal and a limited number of employees have keys or combinations to locking device. If combination locks are utilized, the combination can be changed upon termination of employees having knowledge of the combination. A veterinarian must maintain a written list of all persons that have access to the controlled substances storage areas, including the dates on which individuals are added or deleted from the list.

Source Note: *The provisions of this §573.61 adopted to be effective June 14, 2012, 37 TexReg 4229*

§573.62 Violation of Board Orders/Negotiated Settlements

(a) All persons that are subject of a Board order shall abide by the terms of the order. The Board may open a complaint against a person who violates a Board order and/or refer the person to the Attorney General for prosecution under the Veterinary Licensing Act, Texas Occupations Code, Chapter 801, and the Administrative Procedure Act, Government Code, §2001.202.

(b) The Board may deny a person's request to renew a license issued under Title 4, Chapter 801 of the Texas Occupations Code if the person has not paid an administrative penalty imposed under Title 4, Chapter 801 of the Texas Occupations Code. This section does not apply if:

- (1) the person's time to pay or request a hearing has not expired under Title 4, Chapter 801 of the Texas Occupations Code;
- (2) the person has requested a hearing under Title 4, Chapter 801 of the Texas Occupations Code, but the person's time to pay has not expired under the same statute or Board rules; or
- (3) the penalty is stayed.

Source Note: *The provisions of this §573.62 adopted to be effective July 20, 1992, 17 TexReg 4753; amended to be effective March 22, 2005, 30 TexReg 1634; amended to be effective July 13, 2008, 33 TexReg 5527*

§573.63 Inspection of Facilities and Records

Licensees shall admit a representative of the Board, during regular business hours, to inspect equipment and business premises; examine and/or copy client and patient records, drug records, including, but not limited to, invoices, receipts, transfer documents, inventory logs, surgery logs; and all other associated records relating to the practice of veterinary medicine or equine dentistry.

Source Note: *The provisions of this §573.63 adopted to be effective June 14, 2012, 37 TexReg 4229*

§573.64 Continuing Education Requirements

(a) Required Continuing Education Hours.

(1) Licensed Veterinarians. Seventeen (17) hours of acceptable continuing education shall be required annually for renewal of all types of Texas veterinary licenses, except as provided in subsection (b) of this section. Veterinary licensees who successfully complete the Texas State Board Licensing Examination shall receive credit for 17 continuing education hours for the calendar year in which they were examined and licensed.

(2) Licensed Equine Dental Providers. Six (6) hours of acceptable continuing education shall be required annually for renewal of Texas equine dental provider licenses.

(3) Licensed Veterinary Technicians. Ten (10) hours of acceptable continuing education shall be required annually for renewal of Texas veterinary technician licenses.

(4) A licensee shall earn the required hours of acceptable continuing education during the calendar year immediately preceding the licensee's application for license renewal. Should a licensee earn acceptable continuing education hours during the year in excess of the required hours, the licensee may carry over and apply the excess hours to the requirement for the next year. Licensees may carry over excess hours to the following year only, and may not carry over more hours than the licensee is required to earn in a calendar year.

(5) Hardship extensions may be granted by appeal to the Executive Director of the Board. The executive director shall only consider requests for a hardship extension from licensees who were prevented from completing the required continuing education hours due to circumstances beyond the licensee's control. A hardship extension generally will not be allowed due to financial hardship or lack of time due to a busy professional or personal schedule. Requests for a hardship extension must be received in writing and in the Board offices by no later than December 15. Should such extension be granted, twice the number of hours of continuing education required for a standard annual license renewal shall be obtained in the two-year period of time that includes the year of insufficiency and the year of extension. Licensees receiving a hardship extension shall maintain records of the continuing education obtained and shall file copies of these records with the Board by attaching the records to the license renewal application submitted following the extension year, or by sending them to the Board separately if the licensee submits his or her renewal application electronically (on-line).

(6) A military service member, as defined in Chapter 55, §55.001, of the Texas Occupations Code, has up to two years to complete the required continuing education requirements for each renewal year.

(7) Except as provided in subsection (a)(1) of this section, continuing education hours obtained prior to licensure in Texas may not be applied toward the required number of continuing education hours.

(b) Exemption from Continuing Education Requirements for Veterinary Licensees. A veterinary licensee is not required to obtain or report continuing education hours, provided that the veterinary licensee submits to the Board sufficient proof that during the preceding year the veterinary licensee was:

(1) in retired status;

(2) a veterinary intern or resident; or

(3) out-of-country on charitable, military, or special government assignments for at least nine (9) months in a year; or

(4) on inactive status. Veterinary licensees on inactive status may voluntarily acquire continuing education for purposes of reinstating his/her license to regular status.

(c) Make up Hours. The Board may require a licensee who does not complete the required hours of continuing education to make up the missed hours in later years. Hours required to be made up in a later year are in addition to the continuing education hours required to be completed in that year.

Source Note: *The provisions of this §573.64 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2014, 39 TexReg 3427; amended to be effective November 22, 2015, 40 TexReg 8028; amended to be effective March 22, 2016, 41 TexReg 2166*

§573.65 Proof of Acceptable Continuing Education

(a) Acceptable Continuing Education.

(1) Continuing Education hours shall be acceptable if they relate to clinical matters. For veterinary licensees, continuing education hours shall be acceptable if they relate to practice management.

(2) Acceptable continuing education hours shall be earned by:

(A) veterinary licensees and licensed veterinary technicians attending meetings sponsored or co-sponsored by the American Veterinary Medical Association (AVMA), AVMA's affiliated state veterinary medical associations and/or their continuing education organizations, AVMA recognized specialty groups, regional veterinary medical associations, local veterinary medical associations, and AVMA-accredited veterinary medical colleges and veterinary technician programs;

(B) equine dental provider licensees attending meetings sponsored or co-sponsored by the International Association of Equine Dentistry;

(C) veterinary licensees taking correspondence courses that require the licensee to take a test at the conclusion of the course and yield a certificate of completion;

(D) all licensees participating in verifiable, monitored on-line and video programs or other telecommunication discussions yield a certificate of completion and meet the following minimum standards:

(i) Inclusion of the following interactive experiences:

(I) direct, two-way verbal communication between attendees and the instructor at all times;

(II) direct, two way verbal communication between attendees at all times; and

(III) visual communication with the instructor;

(ii) The ability to document active participation by attendees through:

(I) verbal interaction and software documentation; and

(II) the use of real time on-line surveys that promote audience interaction and document the attendance and engagement of the participants;

(E) all licensees' self study, through any form of continuing education from which the licensee does not receive a certificate of completion, including reading articles in professional journals or periodicals, listening to audio tapes or CD's or viewing video tapes or similar devices that transmit a video image; or

(F) any other methods approved by the Executive Director and a Board member appointed by the Board president, by an advisory committee appointed by the Board president, or approved for veterinary licensees and licensed veterinary technicians by the Registry of Approved Continuing Education (RACE) of the American Association of Veterinary State Boards (AAVSB).

(b) Distribution of Continuing Education Hours.

(1) Veterinary Licensees.

(A) Of the required seventeen (17) hours of continuing education for veterinary licensees, no more than five (5) hours may be derived from either:

- (i) correspondence courses; or
- (ii) practice management courses.

(B) Hours claimed for self study shall not exceed three (3) hours.

(C) Hours claimed for online interactive, participatory programs shall not exceed 10 hours.

(D) Notwithstanding the allowable hours provided in subparagraphs (A) - (C) of this paragraph, at least seven (7) hours must be obtained from personal attendance at live courses, seminars and meetings providing continuing education.

(2) Equine Dental Provider Licensees.

(A) None of the required six (6) hours of continuing education for equine dental provider licensees may be derived from either correspondence courses or practice management courses.

(B) Hours claimed from self study shall not exceed one (1) hour.

(C) Hours claimed from online interactive, participatory programs shall not exceed two (2) hours.

(D) Notwithstanding the allowable hours provided in subparagraphs (A) - (C) of this paragraph, at least four (4) hours must be obtained from personal attendance at live courses and seminars providing continuing education.

(3) Licensed Veterinary Technicians.

(A) Licensed veterinary technicians are required to complete ten (10) hours of continuing education annually. Of the required ten (10) hours, no more than two (2) hours of continuing education for licensed veterinary technicians may be derived from practice management.

(B) No more than four (4) hours of continuing education for licensed veterinary technicians may be derived from correspondence courses.

(C) Hours claimed from self study shall not exceed two (2) hours.

(D) Hours claimed from online interactive, participatory programs shall not exceed four (4) hours.

(E) Notwithstanding the allowable hours provided in subparagraphs (A) - (D) of this paragraph, at least six (6) hours must be obtained from personal attendance at live courses and seminars providing continuing education.

(c) Proof of Continuing Education.

(1) The licensee shall sign a statement on the licensee's annual license renewal form attesting to the fact that the required continuing education hours have been obtained. If the licensee renews his license electronically (on-line), the licensee shall input an affirmation that the required continuing education hours have been obtained.

(2) The licensee shall maintain records which support the signed statement or affirmation. These documents must be maintained for the last four (4) calendar years and shall be available at the practice location for inspection to Board investigators upon request.

(3) Proof of attendance at live, on-site courses may require sign-in procedures, course checklists, certificates of course completion and other measures as directed by the Board. If the licensee attends a multi-day course and the certificate of completion reflects only a total number of continuing education credits that can be earned, proof of attendance must include a pre-printed schedule, agenda, or brochure on which the licensee marks the actual courses or seminars the licensee personally attended.

(4) For proof of on-line interactive courses, the licensee must provide a certificate from the provider showing the nature of the course, date taken, and the hours given.

(5) For proof of self-study, the licensee must provide a signed statement showing details, including dates, of the articles or courses read, videos observed, or audios listened to, and hours claimed.

Source Note: The provisions of this §573.65 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2014, 39 TexReg 3428

§573.66 Disciplinary Action for Non-Compliance with Continuing Education Requirements

Failure to complete the required hours without obtaining a hardship extension from the executive director, failure to maintain required records, falsifying records, or intentionally misrepresenting programs for continuing education credit shall be grounds for disciplinary action by the Board.

Source Note: The provisions of this §573.66 adopted to be effective June 14, 2012, 37 TexReg 4229

§573.67 Continuing Education as Disciplinary Action

(a) The Board may require a licensee who violates the Veterinary Licensing Act or the Board's Rules to participate in a program to acquire continuing education.

(b) Continuing education hours required under this subsection shall be in addition to the hours required of all licensees, and shall be:

- (1) based on the seriousness of the violation; and
- (2) relevant to the violation committed by the license holder.

Source Note: The provisions of this §573.67 adopted to be effective June 14, 2012, 37 TexReg 4229

§573.68 Monitoring Licensee Compliance

(a) The Board shall conduct a compliance monitoring program to ensure that licensees comply with the requirements of Chapter 801, Texas Occupations Code (the Veterinary Licensing Act) and the Board's rules.

(b) The Board's compliance monitoring program shall include on-site inspections of licensees' practices and inspections by mail.

(c) After an inspection, licensees will normally be given 30 days to correct deficiencies and provide written documentation of the corrections. If no timely response is received within that time period, the inspection process will become an investigation and the Board will follow the formal investigative procedure.

(d) After an initial inspection, if the licensee does not make required corrections to noted deficiencies, investigators may recommend to the director of enforcement to open an investigation within the spirit and intent of the program. When a deficiency involves flagrant disregard of the law, including illegal practices; improper use of prescription drugs; failure to account for drugs dispensed or administered; failure to comply with controlled substance registration requirements, continuing education requirements, and sanitation; and drug diversion and/or abuse, the compliance inspection shall be terminated and the investigator will open an investigation and the violations will be referred to the director of enforcement as a complaint.

(e) When in a subsequent inspection a licensee is found to have failed to correct those deficiencies noted in the prior inspection, the investigator will advise the director of enforcement and the licensee that the licensee has continued to violate the Veterinary Licensing Act and/or Board rules.

(f) The Board may, on an unannounced basis, inspect licensees who have been ordered to perform certain acts as a result of a previous inspection to verify that the licensees performed the required acts. If the licensee is found to have refused or failed to comply with the Board order, the investigator will prepare a report documenting the failure to comply and the report will be submitted to the Board for appropriate disciplinary action.

Source Note: *The provisions of this §573.68 adopted to be effective June 14, 2012, 37 TexReg 4229*

§573.69 Conditions Relative to License Suspension

If a Board disciplinary action is taken against a licensee that results in the suspension of a license for a specified period of time, the Board shall identify specific conditions (or prohibitions) relative to the suspension. The conditions (or prohibitions) should be clearly stated as part of the negotiated settlement or Board order. The following guidelines will be utilized when specifying the conditions of a license suspension.

(1) Licensees shall not practice nor give the appearance that they are practicing veterinary medicine or equine dentistry during the time of suspension. The Board may provide a notice of the Board's order of suspension for the licensee to post in the reception area or other place clearly visible to the public.

(2) Licensees shall not supervise other licensees, nor supervise, encourage, or allow any employee(s) who are not licensed to practice in Texas, to perform duties described as the practice of veterinary medicine or equine dentistry in the Veterinary Licensing Act, the Rules of Professional Conduct, and other policies of the Board.

(3) During the period of downtime, licensees shall notify all present and prospective employers of the Board order, including the terms, conditions, and restrictions imposed. Within 30 days of the effective date of the order and within 15 days of undertaking new employment, licensees shall cause their employers to provide written acknowledgment to the Board that they have read and understand the terms and conditions of the Board order.

(4) Licensees shall notify all veterinarians, equine dental providers, and veterinary technician employees with whom the licensee practices of the Board order and, within 30 days of the effective date of the order, licensees shall acknowledge to the Board in writing that this has been done.

(5) A sole practitioner's clinic or facilities may be used by the disciplined licensee for administrative purposes only. Examples are opening mail, referring patients, accepting payments on accounts, and general office tasks. In these instances, he/she must exercise

extreme caution to not be persuaded, coerced, or otherwise drawn by anyone to practicing or even giving the appearance of practicing veterinary medicine or equine dentistry. The licensee may lease the clinic/practice to, or employ, another licensee to continue the clinic business during suspension.

(6) A disciplined veterinarian who owns/operates a clinic and employs associate veterinarians may enter the clinic or hospital for administrative purposes only, as cited in paragraph (5) of this section.

(7) Licensee shall abide by the Board's order and conform to all laws, rules, and regulations governing the practice of veterinary medicine and equine dentistry in Texas.

(8) If the Board receives information alleging that the licensee is practicing during the period of suspension (downtime), Board staff will initiate an investigation. If there is evidence to support the allegation, the licensee will be subject to further disciplinary action.

Source Note: *The provisions of this §573.69 adopted to be effective June 14, 2012, 37 TexReg 4229*

§573.70 Reporting of Criminal Activity

(a) A licensee or an applicant for a license from the Board shall report to the Board no later than the 30th day after he or she is charged with, or convicted of, any misdemeanor related to the practice of veterinary medicine or equine dentistry, or any felony, including but not limited to the acts enumerated in §575.50(e) of this title (relating to Criminal Convictions).

(b) On a finding by the Board that a licensee has engaged in non-drug related criminal conduct or committed a non-drug related felony or misdemeanor, other than a misdemeanor under the Uniform Act Regulating Traffic or Highways, Texas Civil Statutes, Article 6701d, or a similar misdemeanor traffic offense, the executive director shall notify the district attorney or county attorney of the county in which the licensee resides. The notice must be in writing and contain a copy of the Board's finding and any order of the Board relating to the licensee's conduct.

(c) On a finding by the Board that a licensee has engaged in drug related criminal conduct or committed a drug related felony or misdemeanor, the executive director shall notify the Narcotics Service, Texas Department of Public Safety and/or the U.S. Drug Enforcement Administration. The notice must be in writing and contain a copy of the Board's finding and any order of the Board relating to the licensee's conduct.

Source Note: *The provisions of this §573.70 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective August 29, 2013, 38 TexReg 5489; amended to be effective May 4, 2015, 40 TexReg 2420*

§573.71 Operation of Temporary Limited-Service Veterinary Services

(a) Requirements for operation. Veterinarians operating temporary limited service clinics shall:

- (1) maintain sanitary conditions at the clinic site, including, but not limited to, removal of animal solid waste and sanitizing/disinfecting of urine and solid waste sites;
- (2) provide injections with sterile disposable needles and syringes;
- (3) utilize a non-porous table for examining and/or injecting small animals;
- (4) maintain biologics and injectable medications between temperature ranges of 35 to 45 degrees Fahrenheit;
- (5) perform and complete blood and fecal examinations before dispensing relevant federal legend medications;

- (6) maintain rabies vaccination records and treatment records for five years, indexed alphabetically by the client's last name and by vaccination tag numbers, if issued; and
- (7) provide clients with a printed form that contains the identity of the administering veterinarian and the address of the places where the records are to be maintained.

(b) Required notification to the Board prior to operation. Before any temporary limited-service clinic may be operated, the veterinarian is required to provide notification to the Board office at least 48 hours before the clinic begins operation. Notice may be provided no more than 90 days prior to the clinic operating for a particular day and any cancellations of operation must be provided to the Board within 48 hours before the clinic was to operate. Notice must include the veterinarian's full name, license number, and daytime phone number; the date the clinic will be held, the specific location of where the clinic will be held, and times of operation; and the permanent address where records for the clinic will be kept. Notice may be by electronic transmission or mail. Mailed notice will be considered to have met the notification requirement if the written notice is postmarked at least five days prior to the operation of the clinic.

Source Note: The provisions of this §573.71 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 25, 2012, 37 TexReg 9937; amended to be effective May 4, 2014, 39 TexReg 3428; amended to be effective August 17, 2015, 40 TexReg 5154; amended to be effective November 22, 2015, 40 TexReg 8028

§573.72 Employment by Nonprofit or Municipal Corporations

- (a) A nonprofit or municipal corporation may employ or contract with a veterinarian to provide veterinary services in connection with sheltering, sterilization, vaccination, or other medical care and treatment of animals.
- (b) Employment by or contractual service to a nonprofit or municipal corporation does not alone exempt the veterinarian from any of the provisions of the Veterinary Licensing Act or the Board's rules.
- (c) Veterinarians employed by, or contracted to, nonprofit or municipal corporations shall be liable for any violations of the Act or rules occurring as a result of the practice of veterinary medicine or any veterinary services provided by the nonprofit or municipal corporation, including those occurring due to the acts or omissions of non-licensed employees of, or volunteers for, the nonprofit or municipal corporation, unless otherwise exempt from the Veterinary Licensing Act under §801.004.

Source Note: The provisions of this §573.72 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective November 22, 2015, 40 TexReg 8029

§573.73 Animal Reproduction

- (a) The Board considers the following activities the practice of veterinary medicine as defined in the Veterinary Licensing Act, Texas Occupations Code, §801.002:
 - (1) surgical invasion of the reproductive tract of an animal, including laparoscopy and needle entry unless performed under the direct supervision of a veterinarian;
 - (2) obtaining, possessing or administering prescription or legend drugs for use in an animal without a valid prescription from a licensed veterinarian or in a properly labeled container dispensed by a licensed veterinarian; and
 - (3) a breeding soundness examination, which is defined as the assessment of an animal by a veterinarian to determine the animal's ability or potential for reproduction, and includes, but

is not limited to, diagnosis by rectal palpation of reproduction structures, ultrasonography, semen collection and microscopic examination, serum/blood chemistry analysis, cytology, and biopsy of tissue.

(b) The activities described in this section do not affect those activities exempted from coverage of the Veterinary Licensing Act, Texas Occupations Code, §801.004.

Source Note: *The provisions of this §573.73 adopted to be effective June 14, 2012, 37 TexReg 4229*

§573.74 Management Services Organizations in Veterinary Practice

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Control--the ability to order or dictate the delivery or the manner of delivery of any services or tasks. Consulting with another person regarding a service or task, or assisting in the performance of a service or task, does not constitute control.

(2) Intervene--directly altering the practice of veterinary medicine. Recommending or providing a service or supply or performing management services under this section does not constitute intervention.

(3) Management services--those services and activities relating to the operation of a veterinary practice exclusive of the practice of veterinary medicine.

(4) Management services organization--a person or entity that provides management services.

(5) Veterinary medical personnel--persons under the direct or general supervision, as defined by the Veterinary Licensing Act, Texas Occupations Code, §801.002, of a veterinarian who perform duties directly related to the practice of veterinary medicine.

(b) Management Services Contracts. A veterinarian or group of veterinarians, whether or not incorporated, may contract with a management services organization to provide management services.

(c) Prohibited Practices. A management services organization shall not control or intervene in a veterinarian's practice of veterinary medicine. Prohibited activities by a management services organization, whether or not authorized by contract, include but are not limited to:

(1) employing a veterinarian to practice veterinary medicine;

(2) determining the compensation of a veterinarian for the practice of veterinary medicine;

(3) controlling or intervening in a veterinarian's diagnosis, treatment, correction, change, manipulation, relief, or prevention of animal disease, deformity, defect, injury or other physical condition, including the prescription or administration of a drug, biologic, anesthetic, apparatus, or other therapeutic or diagnostic substance or technique;

(4) controlling or intervening in a veterinarian's selection or use of type or quality of medical supplies and pharmaceuticals to be used in the practice of veterinary medicine;

(5) determining the amount of time a veterinarian may spend with a patient;

(6) owning drugs, unless the drugs are owned in compliance with applicable Texas or federal law;

(7) owning and controlling the records of patients of the veterinarian;

- (8) determining the fees to be charged by the veterinarian for the veterinarian's practice of veterinary medicine;
 - (9) mandating compliance with specific professional standards, protocols or practice guidelines relating to the practice of veterinary medicine;
 - (10) placing limitations or conditions upon communications that are clinical in nature with the veterinarian's clients;
 - (11) requiring a veterinarian to make referrals in violation of Texas Occupations Code §801.402(11); or
 - (12) penalizing a veterinarian for reporting violations of a law regulating the practice of veterinary medicine.
- (d) Veterinarians, and entities in which veterinarians are the sole owner, shareholders or partners, are not prohibited from performing the activities set out in subsection (c)(1) - (10) of this section.
- (e) Permitted Management Services. Permitted activities by a management services organization include but are not limited to:
- (1) providing by lease, ownership or other arrangement:
 - (A) the facility used by the veterinarian in the practice of veterinary medicine;
 - (B) the medical equipment, instruments and supplies used by the veterinarian in the practice of veterinary medicine; and
 - (C) the business, office and similar non-medical equipment used by the veterinarian.
 - (2) providing for the repair, maintenance, renovation, replacement or otherwise of any facility or equipment used by the veterinarian in the practice of veterinary medicine;
 - (3) providing accounting, financial, payroll, bookkeeping, budget, investment, tax compliance and similar financial services to the veterinarian;
 - (4) providing information and information systems and services for the veterinarian so long as any patient records in these systems are clearly owned and freely accessed by the veterinarian;
 - (5) providing the services of billing and collection of the veterinarian's fees and charges;
 - (6) arranging for the collection or sale of the veterinarian's accounts receivable;
 - (7) providing advertising, marketing and public relations services in compliance with §§573.30 - 573.37 of this title (relating to Advertising, Endorsements and Certificates) pertaining to the practice of veterinary medicine;
 - (8) providing contract negotiation, drafting and similar services for the veterinarian;
 - (9) providing receptionist, scheduling, messaging and similar coordination services for the veterinarian;
 - (10) obtaining all licenses and permits necessary to operate a practice of veterinary medicine that may be obtained by a non-veterinarian, and assisting veterinarians in obtaining licenses and permits necessary to operate a practice of veterinary medicine that may be obtained only by a veterinarian, provided that the Executive Director of the Board approves the method of payment for veterinary license renewals paid by the management services organization;

- (11) assisting in the recruiting, continuing education, training and legal and logistical peer review services for the veterinarian;
- (12) providing insurance, purchasing and claims services for the veterinarian, and including the veterinarian and veterinary medical personnel on the same insurance policies and benefit plans as the management services organization;
- (13) providing consulting, business and financial planning and business practice and other advice;
- (14) establishing the price to be charged to the veterinary client for the goods and supplies provided or managed by the management services organizations;
- (15) employing and controlling persons who:
 - (A) perform management services;
 - (B) are veterinarians employed by a management services organization to perform management services but not the practice of veterinary medicine; or
 - (C) perform management, administrative, clerical, receptionist, secretarial, bookkeeping, accounting, payroll, billing, collection, boarding, cleaning and other functions; or
- (16) employing veterinary medical and other personnel, if a veterinarian present at the practice location who is in charge of veterinary medicine for that practice location at which the veterinary medical and other personnel work has the right to:
 - (A) control the medically related procedures, duties, and performance of the veterinary medical and other personnel; and
 - (B) suspend for medically related reasons the veterinary medical and other personnel unless the suspension is contrary to law, regulation or other legal requirements.

(f) Disclosure of Contracts.

- (1) A veterinarian or a group of veterinarians that contract with a management services organization shall:
 - (A) make available for inspection by the Board at the main office of the veterinarian or group of veterinarians, pursuant to §573.66 of this title (relating to Disciplinary Action for Non-Compliance with Continuing Education Requirements), copies of the contracts with the management services organizations; and
 - (B) if the Board opens an investigation against a veterinarian or a group of veterinarians, make available to the Board copies of the contracts with the management services organizations.
- (2) Verbal contracts will not be considered evidence of compliance with this rule.
- (3) Copies of contracts produced under this subsection shall be governed by the Veterinary Licensing Act, Texas Occupations Code, §801.207.

Source Note: *The provisions of this §573.74 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 23, 2014, 39 TexReg 10018*

§573.75 Duty to Cooperate with Board

A licensee shall:

- (1) cooperate fully with any Board inspection or investigation; and
- (2) respond within twenty-one (21) days of receipt to requests for information regarding complaints and other requests for information from the Board, except where:
 - (A) the Board in contacting a licensee imposes a different response date; or
 - (B) the licensee is unable for good cause to meet the response date and requests a different response date.

Source Note: *The provisions of this §573.75 adopted to be effective June 14, 2012, 37 TexReg 4229*

§573.76 Notification of Licensee Addresses

- (a) Each licensee shall report to the Board the licensee's:
 - (1) name and license number;
 - (2) clinic or practice name;
 - (3) physical business address;
 - (4) mailing address;
 - (5) residence address;
 - (6) business telephone number; and
 - (7) residence and/or cellular telephone number.
- (b) A mailing address may be a post office box number. A physical business address shall be a physical location and shall not be a post office box number. If a remote practice location does not have a physical business address, the licensee must provide as the physical business address sufficient directions as to how the practice location may be found.
- (c) A relief veterinarian's physical business address shall be the physical business address where the relief veterinarian regularly conducts the largest percentage of his or her relief work at one clinic. If the relief veterinarian does not have one clinic where he or she conducts the largest percentage of his or her work, then the relief veterinarian shall use the physical address of one of the locations where he or she works. If the relief veterinarian is not actively working, then the relief veterinarian may use his or her physical residence address, which shall not be a post office box number.
- (d) A licensee shall notify the Board of any change of items required under subsection (a) of this section not later than the 60th day after the change takes place.

Source Note: *The provisions of this §573.76 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 23, 2014, 39 TexReg 10018; amended to be effective August 17, 2015, 40 TexReg 5155*

§573.77 Sterilization of Animals from Releasing Agencies

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Releasing agency--a public or private animal pound, shelter, or humane organization. This term does not include an individual who occasionally renders humane assistance or shelter in the individual's home to a dog or cat.

(2) Animal--a dog or cat.

(3) Microchip--a transponder that is placed under an animal's skin by an injector and can be read by a microchip scanner.

(4) Tattoo--a permanent etching formed by injecting ink into the basal layer of the epidermis of an animal.

(b) Sterilization required. A new owner of an animal released from a releasing agency must have the animal sterilized in accordance with Chapter 828, Health and Safety Code.

(c) Identification markers. An animal sterilized under this section must be identified by a microchip and/or a tattoo indicating that it has been sterilized.

(1) A new owner of an animal with a microchip shall be responsible for providing information to the data base registry of the microchip manufacturer indicating that the animal has been sterilized.

(2) A tattoo must:

(A) be placed on the inside of the animal's thigh near the abdomen or on the caudal-ventral abdomen;

(B) be imprinted with ink that is manufactured in the United States;

(C) meet the standards of the federal Food and Drug Administration for tattooing;

(D) be of a contrasting color to the predominant color of the skin in which it is tattooed; and

(E) consist of the universal symbol for male or female overlain by a slash through the circle to indicate sterilization.

Source Note: *The provisions of this §573.77 adopted to be effective June 14, 2012, 37 TexReg 4229*

§573.78 Default on Student Loan/Child Support Payments

(a) A licensee who has defaulted on a student loan or breached a student loan repayment contract by failing to perform his or her service obligation under the contract, or any other agreement between the licensee and the administering entity, relating to payment of a student loan may be subject to disciplinary action by the Board.

(b) A licensee, who has a final order under Chapter 232 of the Texas Family Code suspending the license for failure to pay child-support and/or where the Office of the Attorney General has notified the Board to not renew the license for failure to pay child-support, may be subject to disciplinary action by the Board.

Source Note: *The provisions of this §573.78 adopted to be effective June 14, 2012, 37 TexReg 4229*

§573.79 Maintenance of Sanitary Premises

Licensees must maintain their offices/clinics/hospitals and the offices/clinics/hospitals in which they work, including mobile facilities, in a clean and sanitary condition without any accumulation of trash, debris, or filth. Such premises shall be maintained in full compliance with all health requirements of the city or county in which located and in conformity with the health laws of the State of Texas; further, they shall use properly sterilized instruments and clean supplies.

Source Note: The provisions of this §573.79 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective August 17, 2015, 40 TexReg 5155

§573.80 Definitions

The following words and terms, when used in the Veterinary Licensing Act (Chapter 801, Texas Occupations Code) or the Rules of the Board (Texas Administrative Code, Title 22, Part 24, Chapters 571, 573, 575, and 577) shall have the following meanings, unless the context clearly indicates otherwise:

- (1) Accepted livestock management practices--those practices involving animals raised or produced primarily for food, fiber, or other products for human consumption, and may include the following:
 - (A) branding, tattooing, ear tags or identifying marks of any kind;
 - (B) tail docking, except cosmetic tail docking that is performed for appearance purposes only;
 - (C) earmarking;
 - (D) routine dehorning, except cosmetic dehorning that reshapes or alters the poll area for appearance purposes;
 - (E) castration;
 - (F) non-surgical assistance with birthing;
 - (G) implantation with approved implant products;
 - (H) administration of a biologic, except where restricted by law to administration by a veterinarian, and not including deworming by use of stomach tubing;
 - (I) artificial insemination;
 - (J) shoeing and trimming hooves; and
 - (K) application or administration of parasiticides, except where restricted by law.
- (2) Designated caretaker--a person to whom the owner of an animal has given specific authority to care for the animal and who has not been designated, by using the pretext of being a designated caretaker, to circumvent the Veterinary Licensing Act (Chapter 801, Texas Occupations Code) by engaging in any aspect of the practice of veterinary medicine (including alternate therapies). A designated caretaker who treats an animal for a condition that the animal was known or suspected of having prior to the person being named a designated caretaker, is presumed to be attempting to circumvent the Veterinary Licensing Act unless the designated caretaker is following the instruction of a veterinarian and is under the appropriate level of supervision per board rules. In this situation, the designated caretaker may present evidence to rebut the presumption.

- (3) Food production animals--any mammals, poultry, fowl, fish or other animals that are raised primarily for human food consumption.
- (4) Biologic--any serum, vaccine, antitoxin, or antigen used in the prevention or treatment of disease.
- (5) Pregnancy testing--the diagnosis of the physical condition of pregnancy by any method other than the gross visual observation of the animal.
- (6) Invasive dentistry or invasive dental procedures--exposing of the dental pulp, or performing extractions.
- (7) Consultation--the act of rendering professional advice (diagnosis and prognosis) about a specific veterinary medical case, but does not include treatment or surgery.
- (8) General Supervision--a veterinarian required to generally supervise a non-veterinarian must be readily available to communicate with the person under supervision.
- (9) Direct Supervision--a licensee required to directly supervise a person must be physically present on the same premises as the person under supervision.
- (10) Immediate Supervision--a licensee required to immediately supervise a person must be within audible and visual range of both the animal patient and the person under supervision.
- (11) Official Health Documents--any certificate attesting to the health, vaccination status, physical condition and/or soundness of an animal.
- (12) Specialist--a veterinarian that is a Board Certified Diplomate of a specialty organization recognized by the American Veterinary Medical Association.
- (13) Non-veterinarian employee--an individual paid directly by a veterinarian for work involving the practice of veterinary medicine, as defined in the Veterinary Licensing Act, Texas Occupations Code, §801.002(5), regardless of the defined status of the employment relationship between the individual and the veterinarian under Internal Revenue Service regulations.
- (14) Herd--a group of animals of the same species, managed as a group and confined to a specific geographic location. A herd may not include dogs, cats, any animal in individual training, or any animal that competes as an individual.

Source Note: *The provisions of this §573.80 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 25, 2012, 37 TexReg 9937; amended to be effective August 29, 2013, 38 TexReg 5490; amended to be effective November 22, 2015, 40 TexReg 8029*

§573.81 Mandatory Report by Licensee

- (a) A licensee shall report to the Board in the manner prescribed under subsection (b) of this section if the licensee has reasonable cause to suspect that:
 - (1) the ability of another licensee to provide veterinary, LVT, or EDP services safely and reasonably is impaired by chemical dependency; or
 - (2) another licensee generally poses a continuing threat to the public welfare.
- (b) A report by a licensee under subsection (a) of this section must:
 - (1) Be in writing and signed; and

- (2) Include the identity of the licensee and any additional information required by the Board.
- (c) A licensee may not suspend or terminate the employment or otherwise retaliate against, discipline, or discriminate against, a person who:
 - (1) Reports in good faith under this section; or
 - (2) Advises a licensee of the licensee's rights and obligations under this section.
- (d) A licensee satisfies his or her duty to report in accordance with subsection (a)(1) of this section by reporting the other licensee to the Board's approved Peer Assistance Program.

Source Note: *The provisions of this §573.81 adopted to be effective May 4, 2015, 40 TexReg 2420*

CHAPTER 575 PRACTICE AND PROCEDURE

§575.1 Definitions

The definitions contained in the Veterinary Licensing Act (Chapter 801, Occupations Code) and the Administrative Procedure Act (Chapter 2001, Government Code) are hereby incorporated into this chapter, insofar as they are applicable thereto.

Source Note: The provisions of this §575.1 adopted to be effective January 1, 1976; amended to be effective July 6, 1990, 15 TexReg 3635; amended to be effective March 15, 2004, 29 TexReg 2642

§575.2 Filing of Documents

All applications, petitions, complaints, motions, replies, answers, notices, requests for exceptions, and other documents relating to any proceeding pending or set for consideration by the Board shall be filed in the office of the Texas Board of Veterinary Medical Examiners, Austin, Texas. The documents shall be deemed filed only when actually received in the office of the Texas Board of Veterinary Medical Examiners, accompanied by the filing fee, if any, required by statute or Board rules.

Source Note: The provisions of this §575.2 adopted to be effective January 1, 1976; amended to be effective March 22, 1988, 13 TexReg 1189; amended to be effective March 15, 2004, 29 TexReg 2642; amended to be effective July 13, 2008, 33 TexReg 5528

§575.3 Computation of Time

- (a) Counting days. Unless otherwise required by statute, in computing time periods prescribed by this chapter or by a SOAH order, the period shall begin to run on the day after the act, event or default in question. The day of the act, event or default on which the designated period time begins to run is not included. The period shall conclude on the last day of the designated period, unless that day is a Saturday, Sunday or legal state or federal holiday, in which case the designated period runs until the end of the next day that is not a Saturday, Sunday or legal state or federal holiday. When these rules specify a deadline or a set number of days for filing documents or taking other actions, the computation of time shall be by calendar days rather than business days, unless otherwise provided in this chapter or pursuant to a SOAH or board order.
- (b) Dispute. Disputes regarding computation of time for periods not specified by this chapter or by a board or SOAH order will be resolved by reference to applicable law and upon consideration of agency policy documented in accordance with the Act and Board rules.
- (c) Extensions. Unless otherwise provided by statute, the time for filing any document may be extended by agreement of the parties, order of the executive director or the ALJ if SOAH has acquired jurisdiction, upon written request filed prior to the expiration of the applicable time period. This written request must show good cause for an extension of time and state that the need is not caused by the neglect, indifference or lack of diligence of the movant.

Source Note: The provisions of this §575.3 adopted to be effective January 1, 1976; amended to be effective March 22, 1988, 13 TexReg 1189; amended to be effective March 15, 2004, 29 TexReg 2643; amended to be effective July 13, 2008, 33 TexReg 5528

§575.4 Conduct and Decorum

- (a) All meetings of the Board and its committees are open to the public unless such meetings are conducted in executive session in accordance with the Chapter 551, Government Code, or Chapter 801, Occupations Code.
- (b) Each party, witness, attorney, or other representative shall conduct themselves in all proceedings with proper dignity, courtesy, and respect for the Board and all other parties. Disorderly conduct will not be tolerated. Members of the public shall not address Board members during meetings unless recognized by the Board's presiding officer pursuant to a published agenda item. Persons seeking to position microphones, video cameras or other equipment for the purposes of recording Board proceedings may not disrupt the meeting or disturb participants.
- (c) Attorneys and other representatives of parties shall observe and practice the standards of the ethical behavior prescribed for their professions.
- (d) The Board's presiding officer may exclude from a meeting any person who, after being duly warned, persists in disorderly, abusive or disruptive behavior.

Source Note: The provisions of this §575.4 adopted to be effective March 15, 2004, 29 TexReg 2643; amended to be effective July 13, 2008, 33 TexReg 5528

§575.5 Subpoenas/Witness Expenses

- (a) In any proceeding involving an alleged violation of the Veterinary Licensing Act, Chapter 801, Occupations Code, including a contested case under the Administrative Procedure Act, Chapter 2001, Government Code, the Board may compel by subpoena:
 - (1) the attendance of witnesses for examination under oath; and
 - (2) the production for inspection or copying of books, accounts, records, papers, correspondence, documents, and other evidence relevant to the alleged violation.
- (b) A party to a contested case hearing may request that the Board issue a subpoena or subpoena duces tecum, in accordance with §2001.089 of the APA, as may be hereafter amended. The requesting party must show good cause, relevancy, necessity of the testimony or documents, lack of undue inconvenience, imposition or harassment of the party required to produce the testimony or documents, and must deposit sums necessary to insure payment of expenses incident to the subpoenas. The written request shall be addressed to a sheriff or constable for service in accordance with §2001.089 of the APA.
 - (1) The party requesting the subpoena shall be responsible for the payment of any expense incurred in serving the subpoena, as well as reasonable and necessary expenses incurred by the witness who appears in response to the subpoena.
 - (2) The party requesting a subpoena duces tecum shall describe and recite with great clarity, particularity and specificity the books, records, and documents to be produced. The written request shall contain a description of the item sought, the name, address and title, if any, of the person or entity who has custody or control over the items, and the date and location at which the items are sought to be produced.
 - (3) If the subpoena is for the attendance of a witness, the written request shall contain the name, address, and title, if any, of the witness and the date and location at which the attendance of the witness is sought.

(c) A subpoena issued at the request of the Board's staff may be served personally by a Board employee, by certified mail, or by any other means authorized by law.

(d) The Board may delegate authority to issue subpoenas to the executive director.

(e) A witness, called at the request of the Board in a contested case, who is not a party to the proceeding and who is subpoenaed to appear at a deposition or hearing or to produce books, papers, or other objects, shall be entitled to receive a fee of \$25 per day and reimbursed for travel expenses in the same manner as Board employees.

(f) The pendency of a SOAH proceeding does not preclude the board from issuing an investigative subpoena at any time.

Source Note: *The provisions of this §575.5 adopted to be effective March 15, 2004, 29 TexReg 2644; amended to be effective July 13, 2008, 33 TexReg 5528; amended to be effective March 10, 2009, 34 TexReg 1608; amended to be effective November 20, 2011, 36 TexReg 7667*

§575.6 Procedures Following a Contested Case Hearing

(a) Following issuance of a proposal for decision (PFD) in a contested case referred by the Board to the State Office of Administrative Hearings (SOAH), the parties to the hearing may file exceptions and replies to exceptions to the PFD.

(b) Any party may, within 20 days after the date of service of a proposal for decision, file with the executive director of the Board and the administrative law judge (ALJ), exceptions and briefs to the PFD. Replies to the exceptions and briefs may be filed within 15 days after the date of filing of the exceptions and briefs.

(1) A request for extension of time within which to file exceptions, briefs, or replies shall be filed with the executive director of the Board and the ALJ, and a copy thereto shall be served on all other parties of record by the party making the request.

(2) The ALJ will rule on all exceptions, briefs and replies and requests for extension of time and notify the parties of their decision and any amendments they propose to the PFD.

Source Note: *The provisions of this §575.6 adopted to be effective March 15, 2004, 29 TexReg 2644; amended to be effective July 13, 2008, 33 TexReg 5528*

§575.7 Presentation of Proposal for Decision

(a) Notice of oral argument. All parties and the ALJ who has issued a proposal for decision shall be given notice of the opportunity to attend and provide oral argument concerning a proposal for decision before the board. Notice shall be sent by hand delivery, regular mail, certified mail - return receipt requested, courier service, or registered service to the ALJ's office and the parties' addresses of record.

(b) Arguments before the Board. The order of the proceeding shall be as follows:

(1) the ALJ shall present and explain the proposal for decision;

(2) the party adversely affected shall briefly state the party's reasons for being so affected supported by the evidence of record;

(3) the other party or parties shall be given the opportunity to respond;

(4) the party with the burden of proof shall have the right to close;

(5) board members may question any party as to any matter relevant to the proposal for decision and evidence presented at the hearing;

(6) at the end of all arguments by the parties, the board may deliberate in closed session and shall determine the charges on the merits and take action on a final decision in open session.

(c) Limitation. A party shall not be disruptive of the orderly procedure of the board's routines.

Source Note: *The provisions of this §575.7 adopted to be effective July 13, 2008, 33 TexReg 5528*

§575.8 Final Decision and Orders

(a) Board action. A copy of the final decision or order shall be delivered or mailed to any party and to the attorney of record.

(b) Recorded. All final decisions and orders of the Board shall be in writing and shall be signed by the president, vice-president, or secretary and reported in the minutes of the meeting. A final order shall include findings of fact and conclusions of law, separately stated.

(c) Imminent peril. If the Board finds that imminent peril to the public's health, safety, or welfare requires immediate effect of a final decision or order in a contested case, it shall recite the finding in the decision or order as well as the fact that the decision or order is final and effective on the date rendered, in which event the decision or order is final and appealable on the date rendered and no motion for rehearing is required as a prerequisite for appeal.

(d) Changes to findings of fact and conclusions of law.

(1) Reasons to change findings of fact and conclusions of law. The Board is charged by the legislature to protect the public interest, is an independent agency of the executive branch of the government of the State of Texas, and is the primary means of licensing, regulating and disciplining veterinarians, licensed veterinary technicians, and equine dental providers. Therefore, to ensure that sound veterinary medical principles govern the decisions of the Board, it is the policy of the Board to change a finding of fact or conclusion of law or to vacate or modify any proposed order of an ALJ only when the Board determines:

(A) that the ALJ did not properly apply or interpret applicable law, Board rules, written policies, or prior administrative decisions;

(B) that a prior administrative decision on which the ALJ relied is incorrect or should be changed; or

(C) that a technical error in a finding of fact should be changed.

(2) Recommendations regarding the appropriate sanction. Section 801.456(a) of the Veterinary Licensing Act requires that, after receiving the ALJ's findings of fact and conclusions of law, the Board may determine that a violation occurred and impose an administrative penalty. The Board interprets this requirement as imposing on the Board the responsibility of assessing the proper sanction. While the Board welcomes the recommendations of ALJs regarding the appropriate sanction, the Board does not consider the findings of fact and conclusions of law to be appropriate for stating such recommendations. Therefore, sanction recommendations in the form of findings of fact and conclusions of law are considered to be an improper application of applicable law and these rules.

(3) Changes stated in final order. If the Board modifies, amends, or changes the ALJ's proposed findings of fact or conclusions of law, an order shall be prepared reflecting the specific reason and legal basis for each change made.

(e) Administrative finality. A final order or Board decision is administratively final:

(1) upon a finding of imminent peril to the public's health, safety or welfare, as outlined in subsection (c) of this section;

(2) when no motion for rehearing has been filed within 20 days after the date the final order or Board decision is entered; or

(3) when a timely motion for rehearing is filed and the motion for rehearing is denied by Board order or operation of law as outlined in §575.9 of this title (relating to Motions for Rehearing).

Source Note: The provisions of this §575.8 adopted to be effective July 13, 2008, 33 TexReg 5528; amended to be effective June 20, 2012, 37 TexReg 4425; amended to be effective May 4, 2014, 39 TexReg 3429

§575.9 Motions for Rehearing

Any motions for rehearing and replies to motions for rehearing must be filed in accordance with the time periods specified in the Government Code, §2001.146. Upon request by a party, the Board may grant oral argument on motions for rehearing.

Source Note: The provisions of this §575.9 adopted to be effective July 13, 2008, 33 TexReg 5528

§575.10 Costs of Administrative Hearings

(a) Default Orders. In cases brought before SOAH, in the event that the respondent is adjudged to be in violation of the Act by default, the Board has the authority to assess, in addition to penalty imposed, costs of transcribing the administrative hearing.

(b) Mediation at SOAH. The costs of mediation shall be born equally by the parties, unless proof through affidavit and other reliable records such as tax returns show that a party is incapable of paying part of the costs of mediation.

(c) Trial on the Merits. In cases brought before SOAH, in the event that the respondent is adjudged after a trial on the merits to be either in violation of the Act or ineligible for licensure, the Board has the authority to assess, in addition to the penalty imposed, the costs of transcribing the administrative hearing.

(d) Appeal. The costs of transcribing the testimony and preparing the record for an appeal by judicial review shall be paid by the party who appeals.

Source Note: The provisions of this §575.10 adopted to be effective July 13, 2008, 33 TexReg 5528; amended to be effective May 12, 2013, 38 TexReg 2761

§575.20 Board Proceedings Relating to Licensure Eligibility

(a) Recommendations by the Executive Director.

(1) The executive director may review applications for licensure and determine whether an applicant is eligible for licensure or refer an application to a committee of the Board for review.

(2) To promote the expeditious resolution of any licensure matter, the executive director may recommend that the applicant be eligible for a license, but only under certain terms and conditions, and present a proposed agreed licensure order to the applicant.

(A) If the proposed agreed licensure order or remedial plan is acceptable to the applicant, the applicant shall sign the agreed licensure order and the agreed licensure order shall be presented to the Board for consideration and acceptance without conducting an informal board proceeding relating to licensure eligibility.

(B) If the proposed agreed order is not acceptable to the applicant, the applicant may request review of the executive director's recommendation by a committee of the Board.

(b) Determination by a Committee of the Board. Upon a review of an application for licensure, a committee of the Board may determine that the applicant is ineligible for licensure, or is eligible for licensure with or without restrictions or conditions, or defer its decision pending further information.

(1) Licensure with Terms and Conditions.

(A) If the committee determines that the applicant should be granted a license under certain terms and conditions based on the applicant's commission of a prohibited act or failure to demonstrate compliance with provisions under the Veterinary Licensing Act (Chapter 801, Occupations Code) or board rules, the committee, as the Board's representatives, shall propose an agreed order.

(B) If the applicant agrees to the terms of the agreed order, the proposed agreed order will be presented to the Board for approval at the next board meeting.

(i) The agreed licensure order may be adopted, modified, or rejected by the Board.

(ii) If the Board approves the agreed order with or without amendments, the executive director or their designee shall mail the approved agreed order to the applicant. The applicant shall have fourteen (14) days from receipt to accept the amended agreed order by signing and returning it to the Board. If an applicant does not sign and return an amended agreed order or does not respond within the fourteen (14) days, the applicant shall be considered ineligible for licensure.

(iii) If the Board rejects the agreed order, the applicant may be scheduled for a hearing before an administrative law judge at the SOAH, or the Board may direct the executive director to take other appropriate action.

(C) If the applicant does not agree to the terms of the proposed agreed order, the applicant is considered ineligible for licensure.

(2) Ineligibility Determination.

(A) If an applicant is ineligible for licensure either through a determination by a board committee or through the applicant's failure to accept a proposed agreed order, the applicant will be notified of the determination and scheduled for a hearing before an administrative law judge at the State Office of Administrative Hearings, unless the applicant sends notice in writing to the Board that the applicant accepts the determination of ineligibility or withdraws the application for licensure.

(B) A hearing on an applicant's eligibility for licensure will be conducted in accordance with §575.30 of this chapter (relating to Contested Case Hearing at SOAH), and a final decision of the Board shall be rendered in accordance with §§575.6 - 575.9 of this chapter (relating to Procedures Following a Contested Case Hearing, Presentation of Proposal for Decision, Final Decision and Orders, and Motions for Rehearing).

(C) An applicant whose petition for licensure is denied by a final order of the Board may not file another petition for licensure until after the expiration of two years from the date of the Board's order denying the petition.

Source Note: *The provisions of this §575.20 adopted to be effective May 12, 2013, 38 TexReg 2761*

§575.22 Reinstatement of Licenses

(a) A person whose license has been surrendered or revoked, whether by voluntary action or by disciplinary action of the Board, may after five (5) years from the effective date of such surrender or revocation, petition the Board for reinstatement of the license, unless another time is provided in the surrender or revocation order, or unless no provision was made in the order for reinstatement. This section does not apply to licensees who let their licenses lapse for non-payment of renewal fees or licensees against whom a surrender or revocation proceeding is not pending before the Board or in any other jurisdiction.

(b) The petition shall be in writing and in the form prescribed by the Board.

(c) After consideration of the petition for reinstatement, the Board may:

(1) deny reinstatement of the license;

(2) reinstate and probate the licensee for a specified period of time under specified conditions;
or

(3) authorize reinstatement of the licensee.

(d) If the petition is denied by the Board, a subsequent petition may not be considered by the Board until twelve (12) months have lapsed from the date of denial of the previous petition.

(e) The petitioner or their legal representative must appear before the Board or the Board's Enforcement Committee to present the request for reinstatement of the license.

(f) The petitioner shall have the burden of showing good cause why the license should be reinstated.

(g) In considering a petition for reinstatement, the Board may consider the petitioner's:

(1) moral character;

(2) employment history;

(3) status of financial support to petitioner's family;

(4) participation in continuing education programs or other methods of staying current with the individual's area of practice;

(5) criminal history record, including felonies or misdemeanors relating to the practice of veterinary medicine, the practice of equine dentistry, and/or moral turpitude;

(6) offers of employment as a veterinarian, licensed veterinary technician, or equine dental practitioner;

- (7) involvement in public service activities in the community;
- (8) compliance with the provisions of the Board order revoking or canceling the petitioner's license;
- (9) compliance with provisions of the Veterinary Licensing Act regarding unauthorized practice;
- (10) history of acts or actions by any other state and federal regulatory agencies; and
- (11) any physical, chemical, emotional, or mental impairment.

(h) In considering a petition, the Board may also consider:

- (1) the gravity of the offense for which the petitioner's license was cancelled, revoked or restricted and the impact the offense had upon the public health, safety, and welfare;
- (2) the length of time since the petitioner's license was cancelled, revoked, or restricted, as a factor in determining whether the time period has been sufficient for the petitioner to have been rehabilitated sufficiently to be able to practice in a manner consistent with the public health, safety and welfare;
- (3) whether the license was submitted voluntarily for cancellation at the request of the licensee; and
- (4) other rehabilitative actions taken by the petitioner.

(i) If the Board grants the petition for reinstatement, the petitioner must successfully complete the Texas State Board Licensing Examination in their area of practice during the regularly scheduled examination times. The Board may also require the petitioner to complete additional testing to assure the petitioner's competency to practice.

Source Note: *The provisions of this §575.22 adopted to be effective April 1, 1992, 17 TexReg 2128; amended to be effective March 13, 2001, 26 TexReg 2025; amended to be effective July 12, 2004, 29 TexReg 6650; amended to be effective July 13, 2008, 33 TexReg 5528; amended to be effective June 20, 2012, 37 TexReg 4426; amended to be effective May 4, 2014, 39 TexReg 3429; amended to be effective November 22, 2015, 40 TexReg 8029*

§575.24 Reprimands

(a) A licensee subject to disciplinary action by the Board may be reprimanded. A reprimand:

- (1) may be formal or informal;
- (2) is contained in a written order of the Board; and
- (3) is available upon request as public information.

(b) A formal reprimand will be:

- (1) published in the Board's newsletter; and
- (2) for a veterinary licensee or a licensed veterinary technician, routinely reported to the American Association of Veterinary State Boards (AAVSB) for inclusion in the national reporting database.

(c) An informal reprimand will not be published in the Board's newsletter and will not be routinely reported to the AAVSB for inclusion in the national reporting database. A copy of an informal reprimand of a licensee will be forwarded to the AAVSB if specifically requested by that organization.

Source Note: *The provisions of this §575.24 adopted to be effective November 19, 2001, 26 TexReg 9386; amended to be effective June 20, 2012, 37 TexReg 4426; amended to be effective May 4, 2014, 39 TexReg 3429*

§575.25 Recommended Schedule of Sanctions

(a) Class A violations. Licensees considered as presenting imminent peril to the public will be considered Class A violators. In determining whether a violation is a Class A, consideration will be given to the disposition of any previously docketed cases, and to the combination of charges which might involve Class B and/or C violations.

(1) Class A violations may include, but are not limited to:

(A) conviction of a felony, including a felony conviction under the Health and Safety Code, §485.032 (formerly numbered; §485.033) relating to Delivery of an Abusable Volatile Chemical to a Minor, or Chapter 481 relating to Controlled Substances, or Chapter 483 relating to Dangerous Drugs;

(B) gross malpractice with a pattern of acts indicating consistent malpractice, negligence, or incompetence in the licensee's area of practice;

(C) revocation of a veterinary license, a veterinary technician license, or an equine dental provider license in another jurisdiction;

(D) mental incompetence found by a court of competent jurisdiction;

(E) chronic or habitual intoxication or chemical dependency, or addiction to drugs;

(F) issuance of a false certificate relating to the sale for human consumption of animal products;

(G) presentation of dishonest or fraudulent evidence of qualifications or a determination of fraud or deception in the process of examination, or for the purpose of securing a license;

(H) engaging in practices which are violative of the Rules of Professional Conduct; and/or

(I) fraudulent issuance of health certificates, vaccination certificates, test charts, or other blank forms used in the practice of veterinary medicine that relate to the presence or absence of animal disease.

(2) In assessing sanctions and/or penalties, consideration shall be given to the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public; the economic harm to property or the environment caused by the violation; history of previous violations; what is necessary to deter future violations; and any other matters that justice may require.

(3) Maximum penalties:

(A) revocation of the license;

(B) a penalty not exceeding \$5,000 for each violation per day;

(C) continuing education in a specified field related to the licensee's practice that the Board deems relevant to the violation(s). The total number of hours mandated are in addition to the number of hours required to renew the license;

(D) quarterly reporting certifying compliance with board orders; and/or

(E) Licensee sit for, and pass, the SBE, LVTE, or EDPE.

(b) Class B violations. Involves licensees who either have violated rules and/or statutes, and committed a prior Class C violation; or have violated rules and/or statutes and have not committed a prior violation, but the nature and severity of the violation(s) necessitates a greater penalty than that available for a Class C violation, but does not rise to the level of creating an imminent peril to the public. In determining whether a violation is a Class B, consideration will be given to the disposition of the previously docketed cases, and to the combination of charges which might invoke Class A and/or C violations.

(1) Class B violations may include, but are not limited to:

(A) engaging in dishonest or illegal practices in or connected with the licensee's practice;

(B) engaging in practices which are violative of the Rules of Professional Conduct;

(C) permitting or allowing another to use his/her license or certificate to practice;

(D) committing fraud in application or reporting of any test of animal disease;

(E) paying or receiving any kickback, rebate, bonus, or other remuneration for treating an animal or for referring a client to another provider of veterinary services or goods;

(F) fraudulent issuance of health certificates, vaccination certificates, test charts, or other blank forms used in the practice of veterinary medicine that relate to the presence or absence of animal disease;

(G) performing or prescribing unnecessary or unauthorized treatment;

(H) ordering prescription drugs or controlled substances for the treatment of an animal without first establishing a valid veterinarian-patient-client relationship;

(I) failure to maintain equipment and business premises in a sanitary condition; and/or

(J) refusal to admit a representative of the Board to inspect the client and patient records and business premises of the licensee during regular business hours.

(2) In assessing sanctions and/or penalties, consideration shall be given to: the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts; the hazard or potential hazard created to the health, safety, or economic welfare of the public; the economic harm to property or the environment caused by the violation; the history of previous violations; what is necessary to deter future violations; and any other matters that justice may require.

(3) Maximum penalties:

(A) one to 10-year license suspension with none, all, or part probated;

(B) a penalty not exceeding \$5,000 for each violation per day;

(C) continuing education in a specified field related to the licensee's practice that the Board deems relevant to the violation(s). The total number of hours mandated are in addition to the number of hours required to renew the license;

(D) quarterly reporting certifying compliance with board orders; and/or

(E) Licensee sit for, and pass, the SBE, LVTE, or EDPE.

(c) Class C violations. Involve licensees who have violated the rules and/or statutes, but do not have a history of previous violations. Consideration should be given to the nature and severity of the violation(s).

(1) Class C violations may include, but are not limited to, minor violations included in Class A and/or B in which there is no hazard or potential hazard created to the health, safety, or economic welfare of the public and no economic harm to property or to the environment.

(2) In assessing sanctions, consideration should be given to the good or bad faith exhibited by the cited person; evidence that the violation was willful; extent to which the cited individual has cooperated with the investigation; and the extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused.

(3) Maximum penalties:

(A) six months to one-year suspension with the entire period probated;

(B) an administrative penalty not to exceed \$500 for each violation per day; and/or

(C) Licensee sit for, and pass, the SBE, LVTE, or EDPE.

Source Note: *The provisions of this §575.25 adopted to be effective November 17, 1993, 18 TexReg 8201; amended to be effective July 17, 2006, 31 TexReg 5617; amended to be effective July 19, 2007, 32 TexReg 4398; amended to be effective November 22, 2009, 34 TexReg 8036; amended to be effective November 20, 2011, 36 TexReg 7667; amended to be effective August 26, 2012, 37 TexReg 6311; amended to be effective May 4, 2014, 39 TexReg 3429*

§575.27 Complaints--Receipt

(a) Complaints against licensees.

(1) All complaints filed by the public against Board licensees must be in writing on a complaint form provided by the Board and signed by the complainant. The Board-approved complaint form can be obtained free of charge from the Board office or downloaded from the Board's website at <http://www.veterinary.texas.gov>. If a complaint is transmitted to the Board orally or by means other than in writing and the complaint alleges facts showing a continuing or imminent threat to the public welfare, the requirement of a written complaint may be waived until later in the investigative process.

(2) The Board may file a complaint on its own initiative.

(3) Complaints by the Board's enforcement section shall be initiated by the opening of a complaint file.

(4) Anonymous written complaints will normally not be investigated, but may be investigated if sufficient information exists for the Board to file a complaint under paragraph (2) of this subsection.

(5) The Board shall utilize violation code numbers to distinguish between categories of complaints.

(6) The Board may not consider a complaint that is filed with the Board after the fourth anniversary of the latest date:

(A) the act that is the basis of the complaint occurred; or

(B) the earlier of when the complainant discovered, or in the exercise of reasonable diligence should have discovered, the occurrence of the act that is the basis of the complaint.

(7) If the Board receives multiple complaints regarding the same licensee and the same alleged facts, the Board may combine the complaints into one investigation and one file. The director of enforcement may elect to divide multiple complaints regarding the same licensee and the same alleged facts into multiple cases based upon the timing of the receipt of such complaints.

(b) Complaints against non-licensees. Complaints against persons alleged to be practicing veterinary medicine or equine dentistry without a license may be investigated and resolved informally by the executive director with the consent of the non-licensee, or the Board may utilize formal cease and desist procedures specified in §801.508, Occupations Code. Complaints not resolved by the executive director may be referred to a local prosecutor or the attorney general for legal action, as well as addressed in §801.508 of the Occupations Code.

(c) Report to the Board of dismissed complaints. The executive director or the executive director's designee shall advise the Board at each scheduled meeting of the complaints dismissed since the last meeting.

(d) Use of Private Investigators. The executive director may approve the use of private investigators to assist in investigation of complaints where the use of Board investigators is not feasible or economical or where private investigators could provide valuable assistance to the Board investigators. Private investigators may be utilized in cases involving honesty, integrity and fair dealing; reinstatement applications; solicitation; fraud; dangerous drugs and controlled substances; and practicing veterinary medicine or equine dentistry without a license. Private investigators will be utilized in accordance with existing purchasing rules of the Comptroller of Public Accounts.

Source Note: *The provisions of this §575.27 adopted to be effective July 22, 2001, 26 TexReg 5252; amended to be effective November 7, 2004, 29 TexReg 10268; amended to be effective November 8, 2005, 30 TexReg 7226; amended to be effective July 17, 2006, 31 TexReg 5618; amended to be effective March 8, 2007, 32 TexReg 1315; amended to be effective November 25, 2007, 32 TexReg 8311; amended to be effective July 13, 2008, 33 TexReg 5528; amended to be effective November 20, 2011, 36 TexReg 7668; amended to be effective June 20, 2012, 37 TexReg 4426; amended to be effective November 22, 2015, 40 TexReg 8030*

§575.28 Complaints--Investigations

Investigation of complaints.

(1) Policy. The policy of the Board is that the investigation of complaints shall be the primary concern of the Board's enforcement program, and shall take precedence over all other elements of the enforcement program, including compliance inspections.

(2) Priority. The Board shall investigate complaints based on the following allegations, in order of priority:

(A) acts or omissions, including those related to substance abuse, that may constitute a continuing and imminent threat to the public welfare;

- (B) acts or omissions of a licensee that resulted in the death of an animal;
 - (C) acts or omissions of a licensee that contributed to or did not correct the illness, injury or suffering of an animal; and
 - (D) all other acts and omissions that do not fall within subparagraphs (A) - (C) of this paragraph.
- (3) Upon receipt of a complaint, a letter of acknowledgment will be promptly mailed to the complainant unless the complainant is the Board.
- (4) Complaints will be reviewed every thirty (30) days to determine the status of the complaint. Parties to a complaint will be informed on the status of a complaint at approximately 45 day intervals.
- (5) Upon receipt of a complaint, the director of enforcement, or their designee, will review it and may interview the complainant to obtain additional information. If the director of enforcement concludes that the complaint resulted from a misunderstanding, is outside the jurisdiction of the Board, has been addressed as part of a previously filed complaint and related investigation regarding the same licensee and the same alleged facts, or is without merit, the director of enforcement shall recommend through the general counsel to the executive director that an investigation not be initiated. If the general counsel concurs with the recommendation, the complainant will be so notified. If the general counsel does not concur with the recommendations, an investigation will be initiated.
- (6) The director of enforcement will assign a member of board staff to investigate the complaint. A summary of the allegations in the complaint will be sent to the licensee who is the subject of the complaint, along with a request that the licensee respond in writing within 21 days of receipt of the request. The licensee will also be asked to provide a copy of the relevant patient records with the response. The licensee is entitled on request to review the complaint submitted to the Board unless board staff determines that allowing the licensee to review the complaint would jeopardize an active investigation.
- (7) After the licensee's response to the complaint is received, board staff shall send a copy of the licensee's response to the complainant, unless the complainant is the Board, along with notification that the complainant may submit additional comments and other evidence, if any, at any time during the investigation to the Board. Board staff shall provide any response provided by the complainant to the licensee, unless board staff determines that allowing the licensee to review the response from the complainant would jeopardize an active investigation, and provide a single opportunity for the licensee to respond to the Board within ten days of receipt. No further responses from either the licensee or the complainant will be provided to either party.
- (8) Further investigation may be necessary to corroborate the information provided by the complainant and the licensee. During the investigation, board staff shall attempt to interview by telephone the complainant, and if unable to contact the complainant shall document such in the file. Other persons, such as second opinion or consulting veterinarians, may be contacted. Board staff may request additional medical opinions, supporting documents, and interviews with other witnesses.

(9) Upon the completion of an initial investigation, board staff shall prepare a report of investigation (ROI) for review by the director of enforcement.

(A) If the director of enforcement determines from the ROI that the probability of a violation involving medical judgment or practice exists, the director of enforcement will forward the ROI to the executive director. If the executive director concurs that the probability of a violation involving medical judgment or practice exists, the director of enforcement shall forward a copy of the ROI and complaint file to two veterinary licensee board members (veterinarian members) who will determine whether or not the complaint should be closed, further investigation is warranted, or if the licensee and complainant should be invited to respond to the complainant at an informal conference at the board offices.

(B) If the director of enforcement determines from the ROI that the probable violation does not involve medical judgment or practice (example: administrative matters such as continuing education and federal and state controlled substances certificates), the director of enforcement shall forward the complaint file to a committee of the executive director, director of enforcement, member of board staff assigned to investigate the complaint, and general counsel (the "staff committee"), which shall determine whether or not the complaint should be dismissed, investigated further, or settled.

(C) If the veterinarian members determine that a violation has not occurred, the executive director or the executive director's designee, shall notify the complainant and licensee in writing of the conclusion and that the complaint is dismissed.

(D) If the veterinarian members conclude that a probable violation(s) exists, the executive director or the executive director's designee, shall invite the licensee and complainant, in writing, to an informal conference to discuss the complaint made against the licensee. If the veterinarian members cannot agree to dismiss or refer the complaint to an informal conference, the complaint will be automatically referred to an informal conference. The letter invitation to the licensee must include a list of the specific allegations of the complaint.

(E) A complaint considered by the staff committee shall be referred to an informal conference if:

- (i) the staff committee determines that the complaint should not be dismissed or settled;
- (ii) the staff committee is unable to reach an agreed settlement; or
- (iii) the licensee who is the subject of the complaint requests that the complaint be referred to an informal conference.

Source Note: *The provisions of this §575.28 adopted to be effective July 13, 2008, 33 TexReg 5528; amended to be effective November 22, 2009, 34 TexReg 8037; amended to be effective January 18, 2011, 36 TexReg 142; amended to be effective August 26, 2012, 37 TexReg 6311; amended to be effective May 12, 2013, 38 TexReg 2762; amended to be effective December 23, 2014, 39 TexReg 10019; amended to be effective November 22, 2015, 40 TexReg 8030*

§575.29 Informal Conferences

- (a) The informal conference is the last stage in the investigation of a complaint. The licensee has the right to waive his or her attendance at the conference. The licensee may be represented by counsel.
- (b) The Board may be represented at the informal conference by an enforcement committee of the executive director, the two veterinarian members and a public member of the Board, the director of enforcement, the member of board staff assigned to investigate the complaint, and the Board's general counsel. The complainant and the licensee and the licensee's legal counsel may attend the conference. Any other attendees are allowed at the discretion of the executive director. The executive director, general counsel, or the director of enforcement shall conduct the conference.
- (c) Contingency. The Board president shall appoint a third veterinary licensee board member to assume the duties of either of the veterinarian members in the complaint review and informal conference process in the event either of the veterinarian members is unable to serve in the capacity set out in this section and in §575.28 of this title (relating to Complaints--Investigations).
- (d) Procedure. Subject to the discretion of the executive director, the following procedure will be followed at the informal conference. The executive director, general counsel, or director of enforcement shall explain the purpose of the conference and the rights of the participants, lead the discussion of the allegations of the complaint, and explain the possible courses of action at the conclusion of the conference. The licensee will be asked to respond to the allegations. The complainant will be allowed to make comments relevant to the allegations. Comments of the licensee and complainant must be addressed to the person conducting the conference and not to each other. In the interest of maintaining decorum, the licensee or complainant may be asked to leave the room while the other is talking with the committee. Comments by the licensee may be used in furtherance of the current case against the licensee, any other case or investigation, and/or to initiate a new complaint or investigation. The enforcement committee members may ask questions of the licensee and complainant in order to fully develop the complaint record. The licensee or complainant may provide evidence to the enforcement committee that will be considered by the enforcement committee and become part of the investigation file.
- (e) At the conclusion of the informal conference, the enforcement committee shall determine if a violation has occurred. If the enforcement committee determines that a violation has not occurred, the enforcement committee, or their designee, will dismiss the complaint, and will advise all parties of the decision and the reasons why the complaint was dismissed.
- (f) If the enforcement committee determines that a violation has occurred and that disciplinary action is warranted, the executive director, or their designee, will advise the licensee of the alleged violations and offer the licensee a settlement in the form of an agreed order that specifies the disciplinary action and monetary penalty. With the agreement of the licensee, the enforcement committee may recommend that the licensee refund an amount not to exceed the amount the complainant paid to the licensee instead of or in addition to imposing an administrative penalty on the licensee. The executive director, or their designee, must inform the licensee that the licensee has a right to a hearing before an administrative law judge on the finding of the occurrence of the violation, the type of disciplinary action, and/or the amount of the recommended penalty.

- (g) Within the time period prescribed, the licensee must submit a written response to the Board:
 - (1) accepting the settlement offer and recommended disciplinary action; or
 - (2) requesting a hearing before an administrative law judge.
- (h) Additional negotiations may be held between board staff and the licensee or the authorized representative. In consultation with the board representatives, as available, the recommendations of the board representatives may be subsequently modified based on new information, a change of circumstances, or to expedite a resolution in the interest of protecting the public.
- (i) The board representative(s) shall be consulted and must concur with any subsequent substantive modifications before any recommendations are sent to the full Board for approval.
- (j) Board staff may communicate directly with the board representative(s) after the informal conference for the purpose of discussing settlement of the case.
- (k) If the licensee accepts the settlement offer by signing the agreed order, the agreed order will be docketed for board action at the next regularly scheduled board meeting.
- (l) The recommendations may be adopted, modified, or rejected by the Board.
- (m) If the Board approves the agreed order with amendments, the executive director, or their designee, shall mail the amended agreed order to the licensee and the licensee shall have fourteen (14) days from receipt to accept the amended agreed order by signing and returning it to the Board. If a licensee does not sign an amended agreed order or does not respond within the fourteen (14) days, the complaint will be scheduled for a hearing before an administrative law judge. If the Board rejects the agreed order, the complaint may be scheduled for a hearing before an administrative law judge, or the Board may direct the executive director to take other appropriate action.

Source Note: *The provisions of this §575.29 adopted to be effective July 13, 2008, 33 TexReg 5528; amended to be effective June 20, 2012, 37 TexReg 4427; amended to be effective May 12, 2013, 38 TexReg 2763; amended to be effective December 23, 2014, 39 TexReg 10019*

§575.30 Contested Case Hearing at SOAH

- (a) If a licensee, applicant for licensure, or unlicensed person in accordance with §575.40 of this title (relating to Cease and Desist Procedures) declines to sign a proposed agreed order or cease and desist order, or if the licensee, applicant for licensure, or unlicensed person in accordance with §575.40 of this title fails to respond timely to a proposed agreed order or cease and desist order, or if the Board rejects a proposed agreed order, the board staff may proceed with the filing of a contested case with the State Office of Administrative Hearings (SOAH). At least ten (10) days prior to a scheduled hearing, the notice of hearing shall be served on the licensee or applicant for licensure as set out in subsection (g)(1) of this section. Except in cases of temporary suspension, a notice of hearing shall be filed only after notice of the facts or conduct alleged to warrant the intended action has been sent to the licensee's, applicant for licensure's, or unlicensed person's address of record and the licensee, applicant for licensure, or unlicensed person has an opportunity to show compliance with the law for the retention of a license as provided in §2001.054 of the APA, and §801.408 of the Veterinary Licensing Act. Once a contested case is filed with SOAH, the case file is no longer considered the investigation file but rather the legal case file.
- (b) SOAH hearings of contested cases shall be conducted in accordance with the Act, the APA, SOAH rules, and board rules. In the event of a conflict, the Act shall prevail over any other statute or rule, the APA shall prevail over SOAH rules, and SOAH rules shall prevail over the rules of

the Board, except when board rules provide the Board's interpretation of the Act. If SOAH rules are silent on an issue addressed by this subchapter, the provisions of this subchapter shall be applied.

(c) The administrative law judge (ALJ) has the authority under SOAH rules, Chapter 155, to issue orders, to regulate the conduct of the proceeding, rule on motions, establish deadlines, clarify the scope of the proceeding, schedule and conduct prehearing and posthearing conferences for any purpose related to any matter in the case, set out additional requirements for participation in the case, and take any other steps conducive to a fair and efficient process in the contested case, including referral of the case to a mediated settlement conference or other appropriate alternative dispute resolution procedure as provided by Chapter 2003 of the Government Code.

(d) All documents are to be filed at SOAH after it acquires jurisdiction. Copies of all documents filed at SOAH shall be contemporaneously filed with the Board.

(e) Because of the often voluminous nature of the records properly received into evidence by the ALJ, the party introducing such documentary evidence should paginate each exhibit and/or flag pertinent pages in each exhibit in order to expedite the hearing and the decision-making process.

(f) In accordance with the provisions of the APA, §2001.058(e), a party may file an interlocutory or interim appeal to the Board requesting that the Board vacate or modify an order issued by an ALJ.

(g) Notice of SOAH hearing; continuance and default.

(1) The Board shall provide notice of the time, date, and place of the hearing to the licensee, applicant for licensure, or unlicensed person in accordance with §575.40 of this title. The notice shall include the requirements set forth in §2001.052 of the APA. The Board shall send notice of a contested case hearing before SOAH to the licensee's, applicant for licensure's, or unlicensed person's last known address as evidenced by the records of the Board. Respondent is presumed to have received proper and timely notice three (3) days after the notice is sent to the last known address as evidenced by the records of the Board. Notice shall be given by first class mail, certified or registered mail, or by personal service.

(2) If the licensee, applicant for licensure, or unlicensed person in accordance with §575.40 of this title fails to timely enter an appearance or answer the notice of hearing, the Board is entitled to a continuance at the time of the hearing. If the licensee, applicant for licensure, or unlicensed person fails to appear at the time of the hearing, the Board may move either for dismissal of the case from the SOAH docket, or request that the ALJ issue a default proposal for decision in favor of the Board.

(3) Proof that the licensee, applicant for licensure, or unlicensed person in accordance with §575.40 of this title has evaded proper notice of the hearing may also be grounds for the Board to request dismissal of the case or issuance of a default proposal for decision in favor of the Board.

(h) If a party submitted proposed findings of fact, the proposal for decision shall include a ruling on each proposed finding by the ALJ, including a statement as to why any proposed finding was not included in the proposal for decision.

(i) After receiving the ALJ's findings of fact and conclusions of law in the proposal for decision, the Board shall rule on the merits of the charges and enter an order. The Board by order may find

that a violation has occurred and impose disciplinary action, or find that no violation has occurred. The Board shall promptly advise the complainant of the Board's action.

(j) If the licensee, applicant for licensure, or unlicensed person in accordance with §575.40 of this title fails to appear for the contested case hearing at the designated time and place, the ALJ may enter an order dismissing the case on the basis of default and the Board may informally dispose of the case.

Source Note: The provisions of this §575.30 adopted to be effective July 13, 2008, 33 TexReg 5528; amended to be effective May 12, 2013, 38 TexReg 2763; amended to be effective December 23, 2014, 39 TexReg 10020; amended to be effective August 17, 2015, 40 TexReg 5155

§575.35 Temporary License Suspension Proceedings

(a) Annually, the president of the Board shall appoint a three-member executive disciplinary committee (EDC) consisting of the president, the Board secretary, and one public member, to determine whether a person's license to practice in this state should be temporarily suspended under the Occupations Code, §801.409. The president shall serve as the chairman of the EDC, except in their absence the Board secretary shall serve as chairman. If a member of the EDC is recused, or a member is unable to attend the EDC's meeting, an alternate Board member may serve in the member's place on the EDC if the alternate was previously appointed by the president of the Board and approved by the Board.

(b) The EDC shall meet to receive information on a complaint indicating that a licensee's continued practice may constitute a continuing or imminent threat to the public welfare. At the conclusion of the meeting, if the EDC concludes that the licensee's continued practice would constitute a continuing or imminent threat to the public welfare, the EDC shall suspend the licensee's license for a temporary, stated period of time.

(c) In accordance with the APA, §2001.081, the determination of the EDC may be based not only on evidence admissible under the Texas Rules of Evidence, but may be based on information of a type on which a reasonably prudent person commonly relies in the conduct of the person's affairs.

(d) In receiving information on which to base its determination of a continuing threat to the public welfare, the EDC may accept the testimony of witnesses by telephone.

(e) The EDC and the enforcement committee (EC) may receive testimony and evidence in oral or written form. Written statements may be sworn or unsworn. The committee members may question witnesses at the members' discretion. Evidence or information that is clearly irrelevant, unreliable, or unduly inflammatory will not be considered.

(f) The EDC may suspend a license under this section without notice or a hearing on the complaint, provided the Board's EC (established pursuant to §575.29(b) of this title (relating to Informal Conferences)) shall meet in an informal conference within 14 days of the date of suspension, to determine if formal disciplinary proceedings should be initiated against the licensee. The licensee must receive notice of the conference at least 72 hours prior to the conference.

- (g) Following the informal conference, the EC shall take one of the following actions:
- (1) Lift the temporary suspension and reinstate the license without conditions.
 - (2) Negotiate with the licensee an agreed settlement order that will lift the suspension, continue the suspension, or impose other sanctions as appropriate. The agreed order would be presented to the next available Board meeting for adoption.
 - (3) Prepare a notice of hearing setting out the details of the complaint and recommended sanctions, and forward the notice of hearing to the State Office of Administrative Hearings for setting of an administrative hearing. Following the hearing, the administrative law judge will prepare a proposal for decision for adoption, in the form of an order, by the Board.
- (h) If the EC determines that a notice of hearing shall be forwarded to the State Office of Administrative Hearings for an administrative hearing, that hearing must occur no later than the 60th day after the date the EDC first ordered the temporary suspension, in accordance with §801.409 of the Texas Occupations Code.

Source Note: *The provisions of this §575.35 adopted to be effective July 13, 2008, 33 TexReg 5528; amended to be effective August 1, 2010, 35 TexReg 6539; amended to be effective June 20, 2012, 37 TexReg 4428; amended to be effective May 4, 2014, 39 TexReg 3430; amended to be effective May 4, 2015, 40 TexReg 2421*

§575.36 Rescission of Probation

- (a) At least 20 days prior to a hearing to rescind probation, the probationer shall be served with written notice of the allegations supporting rescission of the probation.
- (b) The hearing shall be conducted in accordance with §575.30 of this title (relating to Contested Case Hearing at SOAH).
- (c) After giving the probationer notice and an opportunity to be heard, the Board may set aside the stay order and impose the stayed discipline (revocation/suspension) of the probationer's license.
- (d) If during the period of probation, an additional allegation, accusation, or petition is reported or filed against the probationer's license, the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

Source Note: *The provisions of this §575.36 adopted to be effective June 20, 2012, 37 TexReg 4428*

§575.38 Proceeding for the Modification or Termination of Agreed Orders and Disciplinary Orders

- (a) This rule is intended to provide a procedure whereby licensees presently subject to a board order can, if otherwise eligible, petition for the modification or termination of their board order.
- (b) The decision to modify or terminate all or any part of a board order is at the sole discretion of the Board unless otherwise specified in the licensee's order.
- (c) A request for modification or termination of an existing board order must be submitted in writing by the licensee subject to the board order. The writing must specifically detail the desired action being requested.
- (d) After receipt of the licensee's petition and an initial determination by board staff of the licensee's eligibility for a hearing to modify or terminate their board order, a date and time for an informal conference with the Board's enforcement committee to consider the licensee's petition

for modification or termination of an existing board order shall be set and the licensee shall be provided written notice.

(e) If the licensee desires to submit evidence in support of his or her petition to modify or terminate, the licensee must submit such evidence no less than seven calendar days prior to the informal conference.

(f) When considering a licensee's petition for modification or termination of a board order, the Board or the enforcement committee may consider:

- (1) evidence presented by the licensee;
- (2) the existence of any pending investigations;
- (3) past compliance with the board order;
- (4) the existence of prior board orders;
- (5) whether there has been a significant change in circumstances that indicates that it is in the best interest of the public and licensee to modify or terminate the board order;
- (6) whether there has been an unanticipated, unique hardship on the licensee as a result of the board order that goes beyond the natural adverse ramifications of the disciplinary action (i.e. impossibility of requirement, geographical problems);
- (7) whether the licensee has engaged in special activities that are particularly commendable or so meritorious as to make modification or termination appropriate; and
- (8) any other information or evidence the Board or the enforcement committee deems necessary to make an informed decision.

(g) At the conclusion of the informal conference, the enforcement committee shall determine whether to grant the licensee's modification or termination request, in whole or in part. The enforcement committee may deny the licensee's request, or recommend to the Board that the licensee's existing order be modified or terminated.

(1) If the enforcement committee determines that a licensee's order should be modified, the Executive Director, or their designee, shall offer the licensee a modified agreed order with 14 days of the informal conference. If the licensee accepts the modified agreed order, it will be presented to the Board for consideration.

(A) Additional negotiations may be held between board staff and the licensee or the authorized representative. The members of the enforcement committee shall be consulted and must concur with any subsequent substantive modifications to an offered agreed order before it is recommended to the full Board for approval.

(B) If the licensee does not accept a modified agreed order, the licensee's petition for modification or termination is considered denied.

(2) If the enforcement committee determines that a licensee's order should be terminated, the recommendation to terminate an order will be presented to the Board for consideration.

(h) The recommendations of the enforcement committee for modification or termination of an existing order may be adopted, modified or denied by the Board. If the Board approves a modified agreed order with amendments or in lieu of termination of an existing agreed order, the licensee shall have fourteen (14) days from receipt to accept the amended agreed order by signing and

returning it to the Board. If a licensee does not sign an amended agreed order or does not respond within the fourteen (14) days, the licensee's request for modification or termination is denied.

(i) If either the enforcement committee or the Board denies the licensee's petition for modification or termination, the licensee is not entitled to a contested case hearing under §575.30 of this title (relating to Contested Case Hearing at SOAH), §801.407 of the Texas Occupations Code, or Chapter 2001 of the Texas Government Code.

(j) Unless the original board order otherwise specifies, modification or termination requests may be made only once a year since the effective date of the original board order or since the effective date of any orders subsequently granting or denying modification or termination of the board order.

Source Note: *The provisions of this §575.38 adopted to be effective August 29, 2013, 38 TexReg 5492*

§575.40 Cease and Desist Procedures

(a) Purpose. The purpose of a cease and desist proceeding is to determine whether a person has engaged in acts or practices that constitute the practice of veterinary medicine or the practice of equine dentistry without a license ("respondent") in violation of Chapter 801 of the Occupations Code ("Veterinary Licensing Act") and whether the Board should issue a cease and desist order in accordance with the Veterinary Licensing Act, §801.508. The purpose of this section is to establish procedures for the handling of complaints regarding the unlicensed practice of medicine and other violations of the Veterinary Licensing Act, a rule adopted by the Board, or another statute relating to the practice of veterinary medicine or equine dentistry by a person who is not licensed by the Board in accordance with Chapter 801 of the Veterinary Licensing Act.

(b) Form of Complaint. Notwithstanding §575.27 of this title (relating to Complaints--Receipt) to the contrary, a complaint of someone practicing veterinary medicine or equine dentistry without a license does not have to be submitted on a complaint form utilized by the Board. However, a complainant must submit some form of written documentation to the Board.

(c) Staff Committee Action.

(1) Upon the Board's receipt of a complaint and after a determination that a respondent may have engaged in the unlicensed practice of veterinary medicine or the practice of equine dentistry, a staff committee as defined in §575.27 of this title may propose an agreed cease and desist order ("the order") to be presented to the respondent.

(2) If the respondent signs the order, it shall be effective and enforceable against the respondent upon receipt by the Board, but it shall not become final until approved by the Board.

(d) Informal Conference.

(1) If the Respondent chooses not to sign the order and requests a conference, or if the respondent does not respond after receipt of the order, the complaint shall be referred to an informal conference as defined by §575.27 of this title. If the conference committee determines that a violation of the Veterinary Licensing Act has occurred, it may propose an agreed cease and desist order with such settlement terms as it considers appropriate.

(2) If the respondent declines to sign the order, the Board may refer the complaint and investigative file to the State Office of Administrative Hearings for a contested case proceeding. Following the proceeding and issuance of a proposal for decision by the administrative law judge, the Board may take such action as appropriate.

Source Note: *The provisions of this §575.40 adopted to be effective July 13, 2008, 33 TexReg 5528; amended to be effective June 20, 2012, 37 TexReg 4429*

§575.50 Criminal Convictions

(a) In a process under Chapter 53, Occupations Code, the Board may suspend or revoke an existing license, disqualify a person from receiving a license, or deny a person the opportunity to be examined for a license because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of a veterinarian, a licensed veterinary technician, or an equine dental provider. This subsection applies to persons who are not imprisoned at the time the Board considers the conviction.

(b) The Board shall revoke a license upon the imprisonment of a licensee following a felony conviction or revocation or felony community supervision, parole, or mandatory supervision. A person currently incarcerated because of a felony conviction may not sit for license examination, obtain a license under the Veterinary Licensing Act, Occupations Code, Chapter 801, or renew a previously issued license.

(c) The Board shall, in determining whether a criminal conviction directly relates to the duties and responsibilities of a licensee, consider the factors listed in the Occupations Code, §53.022.

(d) In determining the present fitness to perform the duties and discharge the responsibilities of a licensee who has been convicted of a crime, the Board shall consider, in addition to the factors referenced in subsection (c) of this section, the factors listed in the Occupations Code, §53.023.

(e) Under Occupations Code §801.402, a person is subject to denial of a license or to disciplinary action under Occupations Code §801.401 if the person engages in illegal practices connected with the practice of veterinary medicine or the practice of equine dentistry.

(f) The professional practices of veterinarians, licensed veterinary technicians, and equine dental providers place those licensees in positions of public trust. A licensee practices in an autonomous role in the treating and safekeeping of animals; preparing and safeguarding confidential records and information; accepting client funds; and, if the licensee is a veterinarian, prescribing, administering and safely storing controlled substances. The following crimes therefore relate to and are connected with the practices of veterinarians, licensed veterinary technicians, and equine dental providers because the commission of each indicates a violation of the public trust, and a lack of integrity and respect for one's fellow human beings and the community at large:

- (1) any felony or misdemeanor conviction of which fraud, dishonesty or deceit is an essential element;
- (2) any criminal violation of the Veterinary Licensing Act, or other statutes regulating or pertaining to the licensee's practice or profession;
- (3) any criminal violation of statutes regulating other professions in the healing arts;
- (4) deceptive business practices;

(5) a misdemeanor or felony offense involving:

- (A) murder;
- (B) assault;
- (C) burglary;
- (D) robbery;
- (E) theft;
- (F) sexual assault;
- (G) injury to a child or to an elderly person;
- (H) child abuse or neglect;
- (I) tampering with a government record;
- (J) animal cruelty;
- (K) forgery;
- (L) perjury;
- (M) bribery;
- (N) mail fraud;
- (O) diversion or abuse of controlled substances, dangerous drug, or narcotic; or
- (P) other misdemeanors or felonies, including violations of the Penal Code, Titles 4, 5, 7, 9, and 10, which indicate an inability or tendency of the person to be unable to perform as a licensee or to be unfit for licensure, if action by the Board will promote the intent of the Veterinary Licensing Act, Board rules, including this chapter, and the Occupations Code, Chapter 53.

(g) Notwithstanding the provisions of subsections (a) - (f) of this section, the Board shall suspend or revoke a licensee's license in accordance with the Occupations Code, §801.406, where the licensee has been convicted of a felony under the Health and Safety Code, §485.033, or the Health and Safety Code, Chapter 481 or 483.

Source Note: The provisions of this §575.50 adopted to be effective July 13, 2008, 33 TexReg 5528; amended to be effective June 20, 2012, 37 TexReg 4429; amended to be effective May 12, 2013, 38 TexReg 2764; amended to be effective December 23, 2013, 38 TexReg 9366; amended to be effective May 4, 2014, 39 TexReg 3430

§575.60 Alternative Dispute Resolution

(a) The board's policy is to encourage the resolution and early settlement of internal and external disputes, including contested cases, through voluntary settlement processes, which may include any procedure or combination of procedures described by Chapter 154, Civil Practice and Remedies Code. Any ADR procedure used to resolve disputes before the board shall comply with the requirements of Chapter 2009, Government Code, and any model guidelines for the use of ADR issued by the State Office of Administrative Hearings.

(b) The board's general counsel or their designee shall be the board's dispute resolution coordinator (DRC). The DRC shall perform the following functions, as required:

- (1) coordinate the implementation of the policy set out in subsection (a) of this section;
- (2) serve as a resource for any staff training or education needed to implement the ADR procedures; and
- (3) collect data to evaluate the effectiveness of ADR procedures implemented by the board.

(c) The board, a committee of the board, a respondent in a disciplinary matter pending before the board, the executive director, or a board employee engaged in a dispute with the executive director or another employee, may request that the contested matter be submitted to ADR. The request must be in writing, be addressed to the DRC, and state the issues to be determined. The person requesting ADR and the DRC will determine which method of ADR is most appropriate. If the person requesting ADR is the respondent in a disciplinary proceeding, the executive director shall determine if the board will participate in ADR or proceed with the board's normal disciplinary processes.

(d) Any costs associated with retaining an impartial third party mediator, moderator, facilitator, or arbitrator, shall be borne by the party requesting ADR.

(e) Agreements of the parties to ADR must be in writing and are enforceable in the same manner as any other written contract. Confidentiality of records and communications related to the subject matter of an ADR proceeding shall be governed by §154.073 of the Civil Practice and Remedies Code.

(f) If the ADR process does not result in an agreement, the matter shall be referred to the board for other appropriate disposition.

(g) ADR for breach of contract claims. Resolution of breach of contract claims brought by a contractor against the Board shall conform to the requirements of Government Code, Chapter 2260. The Board adopts by reference the Office of the Attorney General's model rules regarding the negotiation and mediation of certain contract disputes (1 Texas Administrative Code Part 3, Chapter 68). The requirements of Government Code, Chapter 2260, and the Office of the Attorney General's model rules are required prerequisites to a contractor filing suit in accordance with Civil Practice and Remedies Code, Chapter 107.

Source Note: *The provisions of this §575.60 adopted to be effective July 13, 2008, 33 TexReg 5528; amended to be effective May 4, 2015, 40 TexReg 2421*

§575.61 Petition for Rulemaking

Any person may petition for rulemaking in accordance with §2001.021 of the Administrative Procedures Act by submitting a written request to the Board at least 30 days prior to a board meeting identifying the rule the petitioner wants the Board to change, the reasons why the petitioner believes the requested rulemaking is necessary, and attaching a copy of the rule showing the proposed changes with deletions crossed through and additions underlined.

Source Note: *The provisions of this §575.61 adopted to be effective June 20, 2012, 37 TexReg 4430*

§575.62 Negotiated Rulemaking

- (a) Notice of a proposed new rule or amendment of any existing rule shall be made in accordance with the provisions of §2001.023 and §2001.024 of the Administrative Procedures Act.
- (b) The board's policy is to encourage the use of negotiated rulemaking for the adoption of board rules in appropriate situations.
- (c) The board's general counsel or their designee shall be the board's negotiated rulemaking coordinator (NRC). The NRC shall perform the following functions, as required:
 - (1) coordinate the implementation of the policy set out in subsection (a) of this section, and in accordance with the Negotiated Rulemaking Act, Chapter 2008, Government Code;
 - (2) serve as a resource for any staff training or education needed to implement negotiated rulemaking procedures; and,
 - (3) collect data to evaluate the effectiveness of negotiated rulemaking procedures implemented by the board.
- (d) The board, its rules committee, or the executive director may direct the NRC to begin negotiated rulemaking procedures on a specified subject.

Source Note: *The provisions of this §575.62 adopted to be effective July 13, 2008, 33 TexReg 5528*

§575.63 Board Approval of Equine Dental Provider Certification Programs

- (a) The process to establish a new equine dental provider certification program shall be initiated with the Board one year prior to the anticipated start date of the certification program.
- (b) An organization that educates equine dental providers cannot own or control an equine dental provider certification program.
- (c) The individual writing the application for board approval of an equine dental provider certification program should hold a current license to practice as an equine dental provider in Texas.
 - (1) The name and credentials of the author of the application should be included in the document.
 - (2) A qualified director must be employed by the program early in the application process, and in no event shall a director be hired later than six (6) months prior to the submission of the application to the Board. The director shall:
 - (A) hold a current license to practice equine dentistry or veterinary medicine in Texas; and
 - (B) have a minimum of ten (10) years experience as a practicing equine dental provider.
 - (3) The program director must review/revise the application and agree with the components of the application as being representative of the proposed certification program that the individual will be responsible for administratively.
 - (4) If the program director changes, the director shall submit to the Board written notification of the change indicating the final date of employment, and identifying and providing information about the qualifications of a replacement director.

(5) The director shall have authority to direct the equine dental provider certification program in all its aspects and phases, including approving staff, selection of testing sites, facilities and equipment, application processes, rejection of applicants, and enforcement of policies.

(6) The director shall notify the Board immediately when there is a change in the name of the certification program or the governing organization, or when there are changes in the contact information.

(d) The application shall include the following information documenting written policies on the following required elements for a board-approved equine dental provider certification program:

(1) Documentation of financial stability, including but not limited to information on ownership, sources and amounts of financial resources and support for the first two years of operation, financial audit, and budget for the program.

(2) Policies on examiners, including but not limited to qualifications, responsibilities, performance evaluation criteria, and terms of employment.

(A) An equine dental provider certification program shall employ examiners in sufficient numbers and with the training and expertise necessary to evaluate accurately the skill and knowledge of applicants for equine dental provider licensure.

(B) All examiners must hold active Texas veterinary licenses or equine dental provider licenses.

(C) All examiners must have at least five (5) years of experience working as an equine dental provider.

(D) All examiners must be evaluated annually by the program director.

(3) Position descriptions for the director and examiners outlining their job duties and responsibilities.

(4) Requirements for examiner training, plans for examiner development and requirements for examiner continuing education.

(5) Requirements for certification, including but not limited to:

(A) Prerequisites for certification.

(B) Testing to prove competency in at least the following topic areas:

(i) Equine anatomy;

(ii) Harm and potential side effects of equine dentistry;

(iii) Sterilization and disease control;

(iv) Legal limits of equine dental provider practice, including supervision by a veterinarian.

(6) Document creation, retention, and safe storage guidelines to maintain in the official program files for five (5) years the following documents:

(A) Documentation of examiner qualifications and examiner employment;

(B) Application records for each applicant seeking certification;

(C) Examination records for each applicant seeking certification;

(D) Certification records for each equine dental provider certified; and

- (E) Examination materials, including copies of all test questions or areas of examination, and answer keys or grading criteria, for all examinations given, whether written and practical.
- (e) After reviewing the application, board staff may request additional information or may issue recommendations. The organization seeking approval shall provide all additional requested information and respond to all recommendations before the application is eligible for consideration by the Board.
- (f) After the application is submitted and board staff has determined that the application is complete, a survey visit may be conducted by a board representative prior to presentation to the Board. Additional survey visits may be conducted as necessary by board representatives until the Board grants full approval status. Following the survey visits, the organization seeking approval will be given a list of identified deficiencies and a specified time in which to correct the deficiencies. If the organization seeking approval fails to correct the identified deficiencies within the specified time, the application will be presented to the Board with the uncorrected deficiencies noted.
- (g) The application shall be considered by the Board at a regularly scheduled meeting of the Board. The Board may approve the application and grant approval to the certification program, may defer action on the application, or may deny further consideration of the application. In order to ensure success of newly approved certification programs, the Board may, in its discretion, impose any restrictions or conditions it deems appropriate and necessary.
- (h) When the application is submitted, a fee shall be assessed in accordance with §577.15 of this title (relating to Fee Schedule).
- (i) An application without action for one (1) calendar year shall be inactivated and a new application and fee will be required.
- (j) If the Board denies an application, the organization seeking approval of a certification program must wait a minimum of twelve (12) calendar months from the date of the denial before submitting a new proposal to establish an equine dental provider certification program.
- (k) The director of the board-approved equine dental provider certification program shall notify the Board in writing of an intent to transfer the administrative authority of the program.
- (l) Closing a board-approved equine dental provider certification program.
- (1) When the decision to close a board-approved equine dental provider certification program is made, the director must notify the Board by submitting a written plan for closure which includes:
- (A) reason for closing the program;
 - (B) date of intended closure; and
 - (C) provisions made for access to and safe storage of records, including application, test and certification records for all individuals certified by the organization.
- (2) A board-approved equine dental provider certification program will be deemed closed when the program has not certified any equine dental providers for a period of two (2) years.

(m) Factors Jeopardizing Certification Program Approval Status.

(1) When a certification program demonstrates non-compliance with Board requirements, approval may be withdrawn, or the Board, in its discretion, may impose restrictions or conditions as it deems appropriate and necessary. In addition to imposing restrictions or conditions, the Board may also require monitoring of the program.

(2) A change in approval status, requirements for restrictions or conditions, or a monitoring plan may be issued by the Board for any of the following reasons:

(A) Deficiencies in compliance with the board rules;

(B) Non-compliance with the certification program's stated philosophy/mission, program design, objectives/outcomes, and/or policies;

(C) Failure to submit records and reports to the Board within designated time frames;

(D) Failure to comply with board requirements or to respond to board recommendations within the specified time;

(E) Accepting applications for certification or certifying equine dental providers without resources to support the program, including sufficient qualified examiners, and adequate testing facilities;

(F) Other activities or situations that demonstrate to the Board that a program is not meeting requirements.

(3) A program from which approval has been withdrawn may reapply for approval. A new application may not be submitted to the Board until after at least twelve (12) calendar months from the date of withdrawal of approval have elapsed.

(4) Notice of a program's approval status shall be sent to the director of the program.

Source Note: *The provisions of this §575.63 adopted to be effective December 23, 2013, 38 TexReg 9366*

§575.281 Complaints--Appeals

(a) Initiation. Following the receipt of the notice of dismissal of a complaint, the complainant may appeal the dismissal to the board. To be considered by the board, the appeal must:

(1) be in writing;

(2) be received in the Board office no later than the 60th day following the date of the complaint dismissal notification; and

(3) list the reason(s) for the appeal. The appeal should provide sufficient information to indicate that additional review is warranted.

(b) Review of an Appeal. Appeals will be considered by a veterinarian member of the board ("reviewing veterinarian"). Upon review of an appeal, the reviewing veterinarian may determine any of the following:

(1) The investigation should remain closed;

(2) Additional information needs to be obtained before a determination can be made as to whether a violation of the Act occurred;

(3) The case should be referred to an informal conference for a determination.

(c) Notice. The complainant shall be notified of the Board's decision concerning the appeal.

(d) Appeals Limited. Only one appeal shall be allowed for each complaint.

Source Note: *The provisions of this §575.281 adopted to be effective August 1, 2010, 35 TexReg 6539; amended to be effective December 23, 2014, 39 TexReg 10020*

CHAPTER 577 GENERAL ADMINISTRATIVE DUTIES

SUBCHAPTER A BOARD MEMBERS AND MEETINGS—DUTIES

§577.1 Officers

The officers of the Board shall be a president, a vice president, and a secretary. The president is appointed by the Governor. The vice-president and secretary are elected by the Board members at the first meeting of each fiscal year; take office immediately after the close of such meeting; serve for one year; and may be re-elected.

Source Note: The provisions of this §577.1 adopted to be effective January 1, 1976; amended to be effective March 22, 1988, 13 TexReg 1191; amended to be effective July 19, 2007, 32 TexReg 4398

§577.2 Meetings

- (a) The president shall preside at meetings of the Board. In his absence, the vice-president shall preside. In the absence of both the Board president and vice-president, the secretary shall preside.
- (b) The Board shall hold a minimum of two regular meetings each year for the purpose of conducting Board business. Other meetings may be held on the call of the President or upon petition to the President of two or more Board members. The Board may hold meetings by telephone conference call or video conference call provided that the requirements of the Government Code, §551.125 and/or §551.127, are met.
- (c) An agenda for each board meeting shall be posted in accordance with law and copies shall be sent to the board members.
- (d) Board and committee meetings shall be conducted pursuant to the provisions of Robert's Rules of Order Newly Revised unless the board by rule adopts a different procedure.
- (e) Meetings of the board are open to the public unless such meetings are conducted in executive session pursuant to state law.
- (f) In order that board meetings may be conducted safely, efficiently, and with decorum, attendees may not engage in disruptive activity that interferes with board proceedings.
- (g) Members of the public shall not address or question board members during meetings unless recognized by the board's presiding officer pursuant to a published agenda item.
- (h) Journalists have the same right of access to board meetings conducted in open session as other members of the public and are subject to the same requirements.
- (i) The board's presiding officer may exclude from a meeting any person who, after being duly warned, persists in disruptive activity that interferes with board proceedings.
- (j) Five members of the Board shall constitute a quorum and all members shall have a vote on all matters except where a Board member may be recused from voting for good cause. Decisions must be made by affirmative vote of a majority of the members present and voting.

(k) Recording of meetings

(1) A person may record all or part of the proceedings of a public Board meeting by means of a tape recorder, video camera, or other means of audio or visual reproduction.

(2) In order to minimize disruption of the normal order of Board business, the executive director or Board president may direct any individual wishing to record or videotape the meeting as to equipment location, placement, and the manner in which the recording is conducted.

(l) Executive Session.

(1) The board may meet in executive session pursuant to law.

(2) An executive session of the board shall not be held unless a quorum of the board has first been convened in open meeting. If during such open meeting, a motion is passed by the board to hold an executive session, the presiding officer shall publicly announce that an executive session will be held.

(3) The presiding officer of the board shall announce the date and time at the beginning and end of the executive session.

(4) A certified agenda of the executive session shall be prepared.

Source Note: *The provisions of this §577.2 adopted to be effective January 1, 1976; amended to be effective March 22, 1988, 13 TexReg 1191; amended to be effective November 4, 1994, 19 TexReg 8448; amended to be effective August 20, 1996, 21 TexReg 7533; amended to be effective March 22, 2005, 30 TexReg 1634; amended to be effective July 17, 2006, 31 TexReg 5621; amended to be effective April 28, 2010, 35 TexReg 3283; amended to be effective October 20, 2010, 35 TexReg 9286*

§577.3 Compensation

Board members shall receive reimbursement at the statutory per diem rate for each day actually engaged in official Board duties. Reimbursement for travel expenses shall be made in accordance with amounts established by state law. Official duties include preparation and review of examinations, attendance at official Board meetings, other meetings as directed by the President of the Board, or meetings required by statute or Board rule. Official duties also include the time spent in direct travel to and from the location of Board duties.

Source Note: *The provisions of this §577.3 adopted to be effective January 1, 1976; amended to be effective August 20, 1996, 21 TexReg 7533.*

§577.5 Advisory Committees

(a) With statutory or board authorization, the president may appoint, disband, or reconvene advisory committees as deemed necessary. Such committees shall have and exercise such authority as may be granted by the board. At the time the president creates an advisory committee, the president will assign it a purpose, role, responsibility and goal.

(b) The president will determine the composition of the advisory committee, and determine the necessary qualifications of advisory committee members, to ensure that the advisory committee is made up of members with experience or backgrounds necessary to represent stakeholder viewpoints on the issue before the advisory committee.

(c) Advisory committee members will serve one year terms, unless the president chooses to disband the advisory committee before one year has elapsed. Committee members may be reappointed at the end of their terms, at the discretion of the president.

- (d) Advisory committees will be composed of no less than three and no more than six members. A quorum is a simple majority of the total number of appointed committee members.
- (e) A board member or members appointed by the President of the Board or the Board may serve as a liaison(s) to a committee and report to the Board the recommendations of the committee for consideration by the Board.
- (f) Each committee shall select from among its members a chairperson who shall report to the agency or Board as needed.
- (g) Each committee's work and usefulness shall be evaluated annually.
- (h) Committee members will be expected to attend meetings. The chairperson has the discretion to recommend the dismissal of a member who does not regularly attend. The Board or Executive Director has the authority to approve the dismissal of a member.
- (i) Advisory committees chairs may invite individuals as expert resources to participate in committee discussions and deliberations. Invited experts serve as ad hoc members and do not have voting privileges.
- (j) The committees will meet as needed. Meeting times will be scheduled by the chairperson of each committee who shall determine whether a majority of the members will be in attendance to establish a quorum.
- (k) Advisory committees will provide notice of meetings, as feasible, on the Secretary of State's web site to allow the public an opportunity to participate.
- (l) The decisions of the committee are advisory only.

Source Note: *The provisions of this §577.5 adopted to be effective May 4, 2014, 39 TexReg 3431*

SUBCHAPTER B STAFF

§577.11 Appointments and Fund Disbursements

The president of the board is authorized to appoint a member of the board, the executive director, or designee, to sign each voucher and any other instrument required by state law to be signed by the board for disbursement of funds or other purposes, or both.

Source Note: *The provisions of this §577.11 adopted to be effective January 1, 1976; amended to be effective September 30, 1986, 11 TexReg 3969; amended to be effective January 21, 1987, 12 TexReg 68; amended to be effective March 22, 1988, 13 TexReg 1191.*

§577.12 Directory of Licensees

Upon request the Board will furnish a complete or partial listing of currently licensed veterinarians, equine dental providers, and licensed veterinary technicians, in printed or electronic format. Costs for the directory will vary depending on the information requested and will be in accordance with the Office of the Attorney General 1 TAC §§70.1 - 70.11 (relating to Cost of Copies of Public Information).

Source Note: *The provisions of this §577.12 adopted to be effective January 1, 1976; amended to be effective August 20, 1996, 21 TexReg 7534; amended to be effective April 28, 2010, 35 TexReg 3283; amended to be effective May 4, 2014, 39 TexReg 3431*

§577.15 Fee Schedule

The Texas Board of Veterinary Medical Examiners has established the following fixed fees as reasonable and necessary for the administration of its functions. Other variable fees exist, including but not limited to costs as described in §575.10 of this title (relating to Costs of Administrative Hearings), and are not included in this schedule.

Figure: 22 TAC §577.15

(a) APPLICATION FOR INITIAL LICENSE

Type of License Application	Total Fee
Veterinary Regular License	\$515
Veterinary Special License	\$575
Veterinary Provisional License	\$600
Veterinary Temporary License	\$200
Equine Dental Provider License	\$100
Veterinary Technician License	\$50

(b) LICENSE RENEWALS.

(1) Current License Renewals

Type Of License	Board Fees
Veterinary Regular License	\$159
Veterinary Special License	\$174
Veterinary Inactive License	\$105
Equine Dental Provider License	\$65
Equine Dental Provider Inactive License	\$55
Veterinary Technician Regular License	\$35
Veterinary Technician Inactive License	\$25

(2) Expired License Renewals – Less Than 90 Days Delinquent

Type Of License	Board Fees
Veterinary Regular License	\$234
Veterinary Special License	\$259
Veterinary Inactive License	\$155
Equine Dental Provider License	\$95
Equine Dental Provider Inactive License	\$80
Veterinary Technician Regular License	\$50
Veterinary Technician Inactive License	\$35

(3) Expired License Renewals – Greater Than 90 Days and Less Than 1 Year Delinquent

Type Of License	Board Fees
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Veterinary Regular License	\$309
Veterinary Special License	\$344
Veterinary Inactive License	\$205
Equine Dental Provider License	\$125
Equine Dental Provider Inactive License	\$105
Veterinary Technician Regular License	\$65
Veterinary Technician Inactive License	\$45

(c) SPECIALIZED LICENSE CATEGORIES

Type Of License	Total Fee
Veterinary Reinstatement	\$250
Veterinary Re-Activation	\$150
Equine Dental Provider Re-Activation	\$25
Veterinary Technician Re-Activation	\$25

(d) OTHER FIXED FEES AND CHARGES

- (1) Criminal History Evaluation Letter: \$32
- (2) Returned Check Fee: \$25
- (3) Duplication of License: \$40
- (4) Letter of Good Standing: \$25
- (5) Continuing Education Approval Review Process: \$25
- (6) Continuing Education Approval Review submitted less than 30 days prior to the continuing education event: \$50
- (7) Equine Dental Certification approval review process: \$1500

Source Note: *The provisions of this §577.15 adopted to be effective November 17, 1993, 18 TexReg 8203; amended to be effective April 6, 1995, 20 TexReg 2217; amended to be effective September 6, 1995, 20 TexReg 6409; amended to be effective November 12, 1996, 21 TexReg 10814; amended to be effective November 6, 1997, 22 TexReg 10661; amended to be effective October 25, 1998, 23 TexReg 10869; amended to be effective November 7, 1999, 24 TexReg 9612; amended to be effective July 4, 2000, 25 TexReg 6325; amended to be effective November 5, 2000, 25 TexReg 10742; amended to be effective November 19, 2001, 26 TexReg 9386; amended to be effective November 24, 2002, 27 TexReg 10924; amended to be effective November 11, 2003, 28 TexReg 9834; amended to be effective November 8, 2005, 30 TexReg 7227; amended to be effective November 6, 2006, 31 TexReg 9033; amended to be effective November 25, 2007, 32 TexReg 8314; amended to be effective November 22, 2009, 34 TexReg 8038; amended to be effective August 1, 2010, 35 TexReg 6539; amended to be effective May 29, 2011, 36 TexReg 3192; amended to be effective November 20, 2011, 36 TexReg 7668; amended to be effective December 16, 2012, 37 TexReg 9774; amended to be effective December 23, 2013, 38 TexReg 9367; amended to be effective September 3, 2014, 39 TexReg 6860; amended to be effective December 23, 2014, 39 TexReg 10020; amended to be effective November 22, 2015, 40 TexReg 8031*

§577.16 Responsibilities of Board and Staff

- (a) The Texas Board of Veterinary Medical Examiners is responsible for establishing policies and promulgating rules to establish and maintain a high standard of integrity, skills, and practice in the professions of veterinarians, licensed veterinary technicians, and equine dental providers in accordance with the Veterinary Licensing Act.

(b) The board may employ an executive director to be responsible for administering policies, rules, and directives as set by the board.

Source Note: The provisions of this §577.16 adopted to be effective November 9, 1993, 18 TexReg 7474; amended to be effective August 26, 2012, 37 TexReg 6313; amended to be effective May 4, 2014, 39 TexReg 3432

§577.17 Purchasing Protest Procedures

The Board adopts by reference the rules promulgated by the Texas Building and Procurement Commission regarding purchasing protest procedures as set forth in Subchapter A of 1 TAC §111.3.

Source Note: The provisions of this §577.17 adopted to be effective March 15, 2000, 25 TexReg 2064; amended to be effective November 7, 2004, 29 TexReg 10268

§577.18 Historically Underutilized Businesses

The Board adopts by reference the rules promulgated by the Texas Building and Procurement Commission which are set forth in Subchapter B of 1 TAC §§111.11 - 111.28 regarding Historically Underutilized Business Program.

Source Note: The provisions of this §577.18 adopted to be effective July 22, 2001, 26 TexReg 5379; amended to be effective November 7, 2004, 29 TexReg 10268

§577.20 Employee Education and Training

(a) The board may use state funds to provide education and training for its employees in accordance with the State Employees Training Act (Texas Government Code, §§656.041 - 656.104).

(b) The education or training shall be related to the employee's current position or prospective job duties at the board.

(c) The board's education and training program benefits both the board and the employees participating by:

- (1) preparing for technological and legal developments;
- (2) increasing work capabilities;
- (3) increasing the number of qualified employees in areas for which the board has difficulty in recruiting and retaining employees; and
- (4) increasing the competence of agency employees.

(d) Board employees may be required to complete an education or training program related to the employee's duties or prospective duties as a condition of employment.

(e) Participation in an education or training program requires the appropriate level of approval prior to participation and is subject to the availability of funds within the agency's budget.

(f) The employee education and training program for the board may include:

- (1) mandatory agency-sponsored training required for all employees;
- (2) education relating to technical or professional certifications and licenses;
- (3) education and training relating to the promotion of employee development;
- (4) employee-funded external education;
- (5) board-funded external education; and

(6) other board-sponsored education and training determined by the board to fulfill the purposes of the State Employees Training Act.

(g) The board's Human Resources Director is designated as the administrator of the board's education and training program.

(h) The administrator or the administrator's designee shall develop policies for administering each of the components of the employee education and training program. These policies shall include:

- (1) eligibility requirements for participation;
- (2) approval procedures for participation; and
- (3) obligations of program participants.

(i) Approval to participate in any portion of the board's education and training program shall not in any way affect an employee's at-will status or constitute a guarantee or indication of continued employment, nor shall it constitute a guarantee or indication of future employment in a current or prospective position.

(j) Permission to participate in any education and training program may be withdrawn if the board determines, in its sole discretion, that participation would negatively impact the employee's job duties or performance.

Source Note: *The provisions of this §577.20 adopted to be effective January 18, 2011, 36 TexReg 143*