

HB 251: Veterinary Examiners
House Labor & Commerce Committee
3:15 p.m. February 15, 2012
Annette Kreitzer, Staff to Rep. Alan Dick, Sponsor

Overview of HB 251:

The genesis of this bill came from two sources:

- 1) A constituent complaint to our office regarding a specific veterinarian, and
- 2) The loss of affordable veterinary care in Rural Alaska.

I have reviewed the past legislative audits and available annual reports (2009, 10 and 11) to see what the Board and the Department have done to address the issue of rural veterinary care. Despite a permissive statute (AS08.98.050(a))⁷ to monitor the standards and availability of veterinary services provided in the state at the request of the department – no one at the Department can remember when such a request was ever made. This has been in the Veterinary Board statutes since at least 1981. With the angst in the Interior following the surrendering of that veterinarian's license, we would have thought the Department and the Board would have exercised this statutory responsibility. They did not. In fact, the past president of the Veterinary Board told the FBX News Miner in February 2010, that the Board "doesn't track veterinarians unless someone complains about them, so it's not clear how many Alaska veterinarians work in the Bush..." He was apparently unaware that the Department could request the board to monitor the availability of veterinary services. Despite lots of good intentions to fill it, the void left by the departure of this one veterinarian is significant. Secondly, the frustration caused by the exit of another veterinarian who had served Interior Alaska through Tanana Chiefs Conference resulted in the Alaska Federation of Natives passing a resolution calling for a separate rural veterinary board to be established.

As a former rural health care provider, I can understand this frustration. Sometimes when the caribou are near, the crab are in or the halibut are biting, a medical professional might be willing to come do a clinic. But, these visits often happen at the provider's convenience and not necessarily when the community needs the care. The need for veterinary care is acute. Over and over in the last few years, representatives of the Alaska State Veterinary Medical Association have stated that they are concerned about any effort that might create a lower standard of care for rural residents. We're not asking for a lower standard of care. This exemplifies the misunderstanding of how rural Alaskans face risks every day. When compared to their Lower 48 counterparts, Alaska EMT's routinely practice a level above their certification due to circumstances in the Bush. Where there is incompetency, locals just stop inviting or using the practitioner.

I think most people are familiar with how rural frustrations played out with the creation of the dental health aide program following years of little to no service to rural Alaska.

I'll remind you that in April 2005, the Alaska State Dental Board ruled that the Dental Health Aide Therapists and the services they intended to provide constituted the unlawful practice of dentistry in Alaska and violated the state Dental Practice Act.

There are many parallels to the Dental Health Aide Therapist story here:

In a news report regarding the Dental Health Aide program, the head of the American Dental Association expressed his fears:
DR. WILLIAM CALNON: I have had patients in my chair have heart attacks. I have had people have strokes. I have had people that have allergic reactions, life-threatening allergic reactions, to medications they took before they came in this office. You do not have a lot of time to think when you react to that.

BETTY ANN BOWSER: But proponents of the dental therapist model say the ADA is worried about more than safety. A recent

survey of over 100,000 of the ADA's members showed the majority of dentists feel some level of uncertainty about their economic stability.

Representative Dick doesn't want to see the same thing happen with veterinary care. He has been working with the Governor's office to promote candidates to the Board of Veterinary Examiners who have a more rural perspective and understand the challenges and rewards of delivering veterinary services in rural Alaska. He committed to working on this legislation to make it easier for pro bono care to be provided throughout the State, not just in Rural Alaska.

In addition to the licensed out-of-state veterinarians who have been able to practice outside of the purview of the State Board of Veterinary Examiners, for 30 or 40 years, health care workers not licensed in Alaska have been providing care within the Native health care system. Registered nurses, pharmacists and others are providing this care. In talking with a senior policy advisor at the Indian Health Service, his belief is that veterinarians fall under this same category of providers of health care. The Western Interstate Commission on Health Education (WICHE) and the U.S. Public Health Service consider Veterinary medicine crucial to the overall health of communities.

I've read the concerns of the Alaska State Veterinary Medical Association, some veterinarians and the Board of Veterinary Examiners and will address some of them through the overview of HB 251.

Section 1:

Makes clear that a person may volunteer veterinarian services and receive coffee, housing and other nonmonetary compensation. The February 9, 2012 ASVMA letter in your packet states that current regulations don't prohibit this, but that is incorrect. Legislative Legal agrees that currently it is a matter of interpretation by the Board precisely because there aren't regulations or statute addressing it.

Already, licensed out-of-state veterinarians can practice in Alaska outside of the scope of the Veterinary Examiners Board. Section 1 broadens this exemption to in-state licensed veterinarians. However, Section 1 also allows these pro bono licensed veterinarians to IDENTIFY themselves as such. Under current law, although they can practice pro bono, they can't use their earned title of veterinarian, which is confusing to the public.

Licensed Veterinarians, while acting in a pro bono capacity, are exempt from the courtesy license requirements of the veterinary board, and the oversight of the board. But, as I said – out-of-state veterinarians, as long as they don't call themselves a veterinarian, already are exempt. Note, however, in this legislation, that volunteers are not immune from legal action resulting from gross negligence, reckless or intentional misconduct while volunteering services.

Nothing in the bill says licensed veterinarians shouldn't meet the standard of care that they swore an oath to when they graduated from Veterinary School:

Being admitted to the profession of veterinary medicine, I solemnly swear to use my scientific knowledge and skills for the benefit of society through the protection of animal health and welfare, the prevention and relief of animal suffering, the conservation of animal resources, the promotion of public health, and the advancement of medical knowledge.

I will practice my profession conscientiously, with dignity, and in keeping with the principles of veterinary medical ethics.

I accept as a lifelong obligation the continual improvement of my professional knowledge and competence.

Section 2:

There is no statutory allowance for a simple surrender of a veterinarian license for someone who wants to retire. Although this section doesn't require the Board to determine competency for reinstatement, the regulations at 12AAC 68.048 determining good standing are sufficient to cover physical/mental impairment or civil or criminal issues. This section addresses the process for a surrendered license, and how a surrendered license within a specific timeframe may be reinstated. A person may only surrender under this section if not under investigation and the surrender is not because of a sanction in Alaska or any other state. The only time surrender of a license is mentioned in either the centralized licensing or the Board statutes, it is in reference to surrendering in lieu of something (Sec. 08.01.075. Disciplinary powers of boards.). If a veterinarian renews a license and then decides she wants to retire, this section lays out the process for that. If the ASVMA or the Board has a better suggestion for that process, Rep. Dick will work with them on it.

Section 3:

The Board and the ASVMA criticize this section saying it could lead to substandard care. However, it is the same language used for human medical providers. We used the example of the Medical Board statutes (AS 08.64.326-331) to clarify that the Board of Veterinary Medicine may not base a finding of "professional incompetence", etc., solely on unconventional/experimental treatments in the absence of harm to the animal.

Section 4:

Sets out the complaint process.

Complaints may only be filed:

- by persons who own/are responsible for the animal seen by the Veterinarian.
- Against a licensee who treated the animal

Complaints must:

- Include documentation of the alleged mistreatment
- Be made under oath
- Filed within six months of the date of the act or omission
- Be sent to the subject of the complaint/allegation

During the Investigation the Department:

- Shall interview, under oath, the complainant, the licensee, any technician or assistant to the veterinarian;
- Determine whether the complainant followed aftercare procedures
- Include in its report all relevant information and exculpatory evidence.

Board members within five miles of a licensee's principal place of business may not participate in a disciplinary hearing relating to that licensee.