



TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

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RQ-0581-KP

The Honorable Ken Paxton
Office of the Texas Attorney General
P.O. Box 12548
Austin, Texas 78711
Attn: Opinion Committee

Via email:opinion.committee@oag.texas.gov

February 14, 2025

Dear General Paxton:

This is a formal request from the Texas Board of Veterinary Medical Examiners (Board) for an Attorney General Opinion on:

Whether, in light of the Sunset Advisory Commission's directive to the Board in June of 2017 to "ensure its website accurately reflects the disciplinary status of its licensees and make all disciplinary orders easily accessible and readily available on its website," the Board has any discretion to not upload disciplinary orders with informal reprimands to its website when Board staff previously made oral representations to the licensees that their disciplinary orders with informal reprimands would not be made available on the Board's website.

BACKGROUND AND ANALYSIS

The Board's rule regarding reprimands (22 Texas Administrative Code § 575.24) currently states:

- (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- (c) An informal reprimand will not be published in the Board's newsletter and will not be routinely reported to the AAVSB for inclusion in the national reporting database.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.

This rule was last updated in 2014. Despite the clear statement in this rule that both formal and informal reprimands will be available upon request as public information, some members of the Board's legal staff apparently provided oral assurances to some licensees who signed agreed



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disciplinary orders with informal reprimands that the orders would not be made available on the Board's website. Based on reports received from some licensees who signed agreed disciplinary orders based on these oral assurances, it appears members of the Board's legal staff were making these assurances from at least 2014 to 2018. None of the legal staff from this time period is still employed with the Board. The actual written terms of the agreed disciplinary orders in question do not state whether or not the orders would be posted on the Board's website.

During the period of 2014 through 2017, the Board's website lacked the functionality to upload disciplinary orders. In June of 2017, the Sunset Advisory Commission provided the following directive to the Board regarding access to disciplinary status of licensees: "Direct the agency to ensure its website accurately reflects the disciplinary status of its licensees and make all approved disciplinary orders easily accessible and readily available on its website. The website should state the disciplinary status for a licensee as 'NO' only if the licensee has not received any disciplinary action, whether formal or informal." Following this directive, changes were made to the Board's website to allow disciplinary orders to be uploaded and Board staff made efforts to upload all approved disciplinary orders. It appears that some of the disciplinary orders were missed and were only uploaded in July of 2024 when the Board transitioned to a new database. Following this transition, Board legal staff received notice from several licensees who received informal reprimands from the Board stating that their disciplinary orders were now available on the Board's website when they had not been previously and despite oral assurances from the legal staff at the time the orders were signed that they would not be made available on the Board's website. Some of the affected licensees have requested Board staff to remove their disciplinary orders from the Board's website based on the oral assurances provided to them by legal staff at the time of signing that the orders that they would not be available on the Board's website.

CONCLUSION

The Board therefore respectfully requests an opinion as to whether, in light of the Sunset Advisory Commission's directive to the Board in June of 2017 to "ensure its website accurately reflects the disciplinary status of its licensees and make all disciplinary orders easily accessible and readily available on its website," the Board has any discretion to not upload disciplinary orders with informal reprimands to its website when Board staff previously made oral representations to the licensees that their disciplinary orders with informal reprimands would not be made available on the Board's website.

Please feel free to contact the Board's General Counsel, Kelly Phelps, at 512-305-7565 or kelly.phelps@veterinary.texas.gov if you need more information.

Sincerely,

A handwritten signature in black ink that reads "Brittany Sharkey, JD". The signature is written in a cursive, flowing style.

Brittany Sharkey, Executive Director
Texas Board of Veterinary Medical Examiners