

Memo

To: Tennessee Veterinary Medical Association
From: Meagan Frazier
Date: July 12, 2012
Re: 2012 Legislative Wrap-up

The second session of the 107th General Assembly adjourned on May 2, 2012. This is the earliest adjournment since the mid 1990's and strained the patience of many a legislator, staff person and lobbyist over the last two weeks of the session.

The year began with re-districting and ended with a budget conference committee. During the entire session, the Republicans found themselves solidly in control, and as a result, in the spot light.

Governor Bill Haslam was successful in passing the bulk of his multiple priorities and remains very popular among the voters in Tennessee.

The Veterinary Profession

Electronic Notification

Public Chapter 952 by Senator Watson (R) of Hixson and Rep. Barrett Rich (R) of Somerville requires the Department of Health's health-related boards, including the Board of Veterinary Medical Examiners, to notify its license holders of the availability of receiving electronic notices from the department when such license is renewed. The notices include those for renewals, fee increases, changes in state law that may affect the licensee, and any meetings where fee increases or changes to the rules are on the agenda.

Appointments to the Board of Veterinary Medical Examiners

The Government Operations Committees in both houses have really been studying the board appointments during the past few years. They have filed bills to change the language for a variety of professions. Currently the veterinary practice act says that the TVMA may recommend people to serve on the board and that the governor may follow such recommendations. Public Chapter 695 allows any interested veterinary groups to make recommendations on board appointments to the governor. The TVMA is still mentioned in the law as a group that can make recommendations as well. It does require the governor to consult with such interested veterinary groups to determine qualified persons to fill the positions. Such provisions do not apply to the citizen member.

Controlled Substances

Controlled Substance Database

HB2391/SB2253 was a key piece of the Governor's safety initiative and was strongly supported by the Commissioners of Safety, Mental Health and Health. The purpose of the legislation was two-fold. First it was intended to address the growing problem of prescription drug abuse, which goes hand in hand with an increase in crime. Second, it was intended to flesh out inappropriate prescribing practices by physicians and physician extenders.

How does this affect veterinarians? Veterinarians who dispense controlled substances will still be required to report to the controlled substance database on a regular basis. The interval will move from every two weeks to every seven days. The exception for controlled substances dispensed for a maximum of 48 hours for non-human patients is still available and those do not have to be reported to the database. The controlled substance database committee has the authority to lessen the amount of time required to report but a hardship opportunity was included in the law. If the committee lessens the time for required reporting to every 48 hours (example), then a dispenser may submit a written statement indicating why it would be a hardship to comply. If approved the hardship is valid for two years.

All prescribers with a DEA number who prescribe controlled substances and dispensers in TN for more than 15 calendar days a year must register with the controlled substance database. An exception for those vets who never dispense more than 48 hours worth of controlled substances was attempted but did not make it into the final law. It says "never prescribe a controlled substance in an amount intended to treat a non-human patient for more than forty-eight (48) hours..." but the word should have been "dispense."

Veterinarians were exempted from the checking requirement which requires a check of the database prior to writing a prescription for all opioids and benzodiazepines and potentially others required by rule. However, a dispenser, such as a vet, does have the professional responsibility to check the database or have a "health care extender" check the database if the dispenser is aware or reasonably certain that a person is attempting to obtain a controlled substance. The law did set up the ability for a "health care extender" to check the database on behalf of the prescriber which the medical doctors found to be helpful. Such person must have their own login to the database. If the database or internet is not operational, a healthcare provider is not in violation of the checking requirement.

Any patient-specific information received by a healthcare practitioner may not be disclosed to any person other than the patient to whom the information may relate to adjusting treatment or seeking counseling for substance abuse treatment or to other dispensers/prescribers who are involved in the treatment of the patient or are identified



in the information and their verification is needed. It is permissible to inform any law enforcement personnel to whom reporting of controlled substances is required by law. The controlled substance database committee can release confidential information from the database to law enforcement as well.

One of the most important aspects to the TVMA and other health professional groups was that licensing board reserves not be used to pay for the implementation of this act or the enhancement of the database. Rep. Matthew Hill pushed against the Haslam administration to place an amendment on to codify this concern. He was successful and no board reserves will be used.

This legislation becomes effective January 1, 2013, except for the prescriber checking requirement, which is effective April 1, 2013. The legislation will sunset on June 30, 2016 which will require the legislature to reauthorize this act in order to continue its provisions.

Tramadol

The Department of Mental Health made tramadol a controlled substance through the rule-making process in 2011. In 2012, Public Chapter 812 made it and a few other substances controlled according to the law.

Analogs

Controlled substance analogs were added in the law in basically the same places where controlled substances are in terms of penalties and violations of use. Public Chapter 848

Animal-Related Legislation

Aggravated Cruelty to Livestock

The offense of aggravated cruelty to livestock was created by Public Chapter 1084 in response to a variety of horse and cattle cruelty cases in Tennessee during the past few years. This bill was not filed on behalf of a particular organization such as HSUS or ASPCA but for a constituent of the sponsors who was concerned about the lack of such a law. The Tennessee Farm Bureau worked with the sponsors and supported the final piece of legislation. It includes a list of specific actions, which are to be considered a Class E felony, when intentionally committed in a depraved and sadistic manner resulting in death or serious bodily injury to the animal such as skinning while alive, hanging, or drowning among others.

<http://state.tn.us/sos/acts/107/pub/pc1084.pdf>

Horse Processing

Rep. Andy Holt (R) of Dresden amended a caption bill, HB3619/SB3461, to address horse processing. Initially the bill as amended would have required a surety bond to be paid by anyone filing opposition in court to the issuance of a license or permit allowing the processing of horsemeat. It further required that such a bond be set at 20% of the



estimated cost of building the facility or the operational costs of an existing facility. Rep. Johnny Shaw (D) of Bolivar was very concerned about this provision during debate in the House Agriculture Committee and he requested an Attorney General's opinion on the surety bond requirement. The AG essentially determined that requiring such a high bond would violate the Open Courts clause of the TN Constitution. Rep. Holt had argued in committee that he was mainly concerned about HSUS and that he knew they could afford to pay such an amount. The amendment was replaced with another amendment that deleted all of the statutory requirements regarding the sale of horsemeat. The bill passed to the House floor but was held on the desk when it seemed unlikely the bill would progress in the Senate.

The opposition filed a bill, SB3365 by Senator Beverly Marrero (D) and HB3489 by Rep. Janis Sontany (D), which was never requested to be considered. It would have placed a ban on the processing of horses for human consumption.

Beef Check-off

The Tennessee Cattlemen's Association requested SB3027/HB3263 be filed on their behalf. It requires a purchaser of cattle to submit to the commissioner of agriculture or his designee the total amount of funds withheld from the producers on or before a date specified by the commissioner. Previously the purchaser had to remit the funds within 10 days from the end of each month. A purchaser is not entitled to do so if such person is only acting as an intermediary such as only receiving a commission or handling fee with the cattle being sold within 10 days.

The funds collected are to be used by the promotion board of such commodity. The promotion board must file a report of its activities by a date specified by the commissioner and no longer by January of every year. The legislation expanded the board from nine members to 12 members appointed by the commissioner. The members of the beef promotion board shall be the members of the beef industry council and all be beef producers or representatives of the beef industry in the state. If vacancies occur they shall be filled by nominations of organizations represented on the board of directors of the Beef Industry Council with the same representative ratios. The commissioner will remain as an ex officio, non-voting member of the board.

It is Public Chapter 1049 <http://state.tn.us/sos/acts/107/pub/pc1049.pdf>

Breeding native deer

House Agriculture Committee Chairman Frank Niceley (R) of Strawberry Plains attempted again this session to authorize the breeding/farming of white-tailed deer in Tennessee with HB 3164. It was referred to his committee instead of the House Conservation Committee which had hotly debated it during the previous year. However he was still unable to pass the legislation out of the committee. The Senate sponsor Senator Becky Massey (R) of Knoxville was not committed to the issue.



Ownership of Primates

HSUS requested SB2172 by Sen. Marrero and HB3487 by Rep. Sontany be filed on their behalf to address the owning of primates as pets. The bill was never placed on notice in a House or Senate committee.

Animal Fighting

Rep. John Lundberg (R) of Bristol and Senator Bill Ketron (R) of Murfreesboro filed a bill to increase the penalties for certain offenses involving animal fighting. The bill was never scheduled but Rep. Lundberg did attempt to amend a different bill in a committee other than House Agriculture to increase the penalty for cock fighting. The measure was not approved.

Administration Legislation

The Budget

Governor Bill Haslam's first budget after a full year in office was a success. The \$31 billion proposal had something for everyone to like. He reduced taxes and reversed proposed cuts to social services. He closed some state facilities, including Lakeshore, and provided long awaited capital spending for several higher education facilities.

His budget was also tough on crime as he enhanced sentences for multi-offense domestic abusers, gun crimes and gang related criminals. Additionally, the legislature approved new penalties for those guilty of human trafficking. He also increased the reimbursement the state gives to local governments who keep short sentence state prisoners.

Haslam paid special attention to the needs of education, both K-12 and higher education and provided some additional money for Healthy Start and Child Health and Development programs. He restored some cuts to family support for those with intellectual disabilities and peer support for those with mental health challenges.

It is expected that he will have even greater opportunity in next year's budget to focus on additional priorities. As there was no meeting of the funding board before the budget passed, the budget is based on a revenue growth rate estimated last December. The rate of growth has actually improved significantly, so the Governor will be "banking" those increased revenues in anticipation of more proposals for his FY 13/14 budget.

Taxes

As mentioned, the Governor reduced the sales tax on food from 5.5% to 5.25% effective July 1, 2012, with a goal of reducing it further during his first term. Additionally, he increased the inheritance tax exemption from \$1 million to \$1.25 million and announced his intention to phase it out by 2016. And finally, with legislative support, the Governor eliminated the TN gift tax retroactive to January 1, 2012.



What's next

In August and November, every member of the TN House of Representatives and the even numbered districts of the Tennessee Senate are up for re-election. Due to the large number of announced retirements by both democrats and republicans coupled with the re-districting process which has pitted many democrat incumbents against a peer, you can expect the 108th General Assembly to begin with a number of new faces. A more solid republican majority is expected for the House and Senate. Additionally, the budget is expected to continue to improve allowing more room for pet projects for the governor and legislature.

Public Chapters

The public chapters are accessible via <http://www.tn.gov/sos/acts/index> by number or subject matter.