

ETHICAL AND LEGAL DILEMMAS OF SHELTER MEDICINE IN TEXAS

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Legal Cheat Sheet

This list distills several hundred pages of animal laws down to a few that apply most to shelter medicine in Texas. Full text of the laws as well as the PowerPoint for this presentation and handouts are available at <http://www.wendyblount.com>. This summary covers medical issues commonly encountered by the shelter vet. Specifics of rabies control are not covered in detail, nor are issues pertaining to animal cruelty investigation.

Definitions

Administer - to directly apply a controlled substance by injection, inhalation, ingestion, or other means to the body of a patient or research subject by: (A) a practitioner or an agent of the practitioner in the presence of the practitioner; or (B) the patient or research subject at the direction and in the presence of a practitioner (Health & Safety Code, Title 10, Ch 481, Sec 002).

Animal Control Authority - means a municipal or county animal control office with authority over the area in which the dog is kept or the county sheriff in an area that does not have an animal control office (Health & Safety Code, Title 10, Ch 822, Sec 001).

Animal Control Officer - a person who (A) is employed, appointed, or otherwise engaged primarily to enforce laws relating to animal control; and (B) is not a peace officer (Health & Safety Code, Title 10, Ch 829, Sec 001).

Animal Shelter - a facility that keeps or legally impounds stray, homeless, abandoned, or unwanted animals (Health & Safety Code, Title 10, Ch 823, Sec 001).

Assistance Animal - An animal that is specially trained or equipped to help a person with a disability and that: (A) is used by a person with a disability who has satisfactorily completed a specific course of training in the use of the animal; and (B) has been trained by an organization generally recognized by agencies involved in the rehabilitation of persons with disabilities as reputable and competent to provide animals with training of this type (Health & Safety Code, Title 25, Part I, Ch 169, §169.22).

Biologic - any serum, vaccine, antitoxin, or antigen used in the prevention or treatment of disease (Rules Pertaining to the Practice of Vet Med, Tex Admin Code, Title 22, Part 24, §573.80).

Confinement - The restriction of an animal to an area, in isolation from other animals and people, except for contact necessary for its care (Health & Safety Code, Title 25, Part I, Ch 169, §169.22).

Consultation - the act of rendering professional advice (diagnosis and prognosis) about a specific veterinary medical case, but does not include treatment or surgery (Rules Pertaining to the Practice of Vet Med, Tex Admin Code, Title 22, Part 24, §573.80).

Currently vaccinated - Vaccinated and satisfying all the following criteria. (A) The animal must have been vaccinated against rabies with a vaccine licensed by the United States Department of Agriculture (USDA) for that animal species at or after the minimum age requirement and using the recommended route of administration for the vaccine. (B) At least 30 days have elapsed since the initial vaccination. (C) The time elapsed since the most recent vaccination has not exceeded the recommended interval for booster vaccination as established by the manufacturer (Health & Safety Code, Title 25, Part I, Ch 169, §169.22).

Custodian - A person or agency which feeds, shelters, harbors, owns, has possession or control of, or has the responsibility to control an animal (Health & Safety Code, Title 25, Part I, Ch 169, §169.22).

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) (Rules Pertaining to the Practice of Vet Med, Tex Admin Code, Title 22, Part 24 , §573.80).

Direct Supervision - a veterinarian required to directly supervise a non-veterinarian must be physically present on the same premises as the person under supervision (Rules Pertaining to the Practice of Vet Med, Tex Admin Code, Title 22, Part 24 , §573.80), (Vet Lic Act, SubChA, §801.002).

Dispense - the delivery of a controlled substance in the course of professional practice or research, by a practitioner or person acting under the lawful order of a practitioner, to an ultimate user or research subject. The term includes the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for delivery (Health & Safety Code, Title 10, Ch 481, Sec 002).

General Supervision - a veterinarian required to generally supervise a non-veterinarian must be readily available to communicate with the person under supervision (Rules Pertaining to the Practice of Vet Med, Tex Admin Code, Title 22, Part 24 , §573.80), (Vet Lic Act, SubChA, §801.002).

Handler or Rider - a peace officer, corrections officer, or jailer who is specially trained to use a police service animal for law enforcement, corrections, prison or jail security, or investigative purposes (Texas Penal Code, §38.151).

High-Risk Animals - Those animals which have a high probability of transmitting rabies; they include skunks, bats, foxes, coyotes, and raccoons (Health & Safety Code, Title 25, Part I, Ch 169, §169.22).

Humanely Killed – To cause the death of an animal by a method which: (A) rapidly produces unconsciousness and death without pain or distress; or (B) utilizes anesthesia produced by an agent which causes painless loss of consciousness, and death following such loss of consciousness (Health & Safety Code, Title 25, Part I, Ch 169, §169.22).

Immediate Supervision - a veterinarian required to immediately supervise a veterinarian must be within audible and visual range of both the animal patient and the person under supervision (Rules Pertaining to the Practice of Vet Med, Tex Admin Code, Title 22, Part 24 , §573.80).

Impoundment - The collecting and confining of an animal by a government entity or government contractor pursuant to a state or local ordinance (Health & Safety Code, Title 25, Part I, Ch 169, §169.22).

Lawful possession - the possession of a controlled substance that has been obtained in accordance with state or federal law (Health & Safety Code, Title 10, Ch 481, Sec 002).

License Required - Except as provided by Section 801.004, a person may not practice veterinary medicine unless the person holds a license (Vet Lic Act, SubChF, §801.251).

Low-Risk Animals – Those animals which have a low probability of transmitting rabies; they include all animals of the orders Didelphimorphia, Insectivora, Rodentia, Lagomorpha, and Xenarthra (Health & Safety Code, Title 25, Part I, Ch 169, §169.22).

New owner - a person who is legally competent to enter into a binding contract and who is adopting a dog or cat from a releasing agency (Health & Safety Code, Title 10, Ch 828, Sec 001).

Observation Period – The time following a potential rabies exposure during which the health status of the animal responsible for the potential exposure must be monitored. The observation period for dogs, cats, and domestic ferrets (only) is 10 days (240 hours); the observation period for other animals, not including those defined as high risk or low risk, is 30 days. All observation periods are calculated from the time of the potential exposure (Health & Safety Code, Title 25, Part I, Ch 169, §169.22).

Police Service Animal – a dog, horse, or other domesticated animal that is specially trained for use by a handler or rider (Texas Penal Code, §38.151).

Potential Exposure – An incident in which an animal has bitten a human or in which there is probable cause to believe that an animal has otherwise exposed a human to rabies; also referred to as a potential rabies exposure (Health & Safety Code, Title 25, Part I, Ch 169, §169.22).

Practice of Veterinary Medicine - means: (A) the 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; (B) the representation of an ability and willingness to perform an act listed in Paragraph (A); (C) the use of a title, a word, or letters to induce the belief that a person is legally authorized and qualified to perform an act listed in Paragraph (A); or (D) the receipt of compensation for performing an act listed in Paragraph (A) (Vet Lic Act, SubChA, §801.002).

Prescribe - the act of a practitioner to authorize a controlled substance to be dispensed to an ultimate user (Health & Safety Code, Title 10, Ch 481, Sec 002).

Releasing Agency - a public or private animal pound, shelter, or humane organization. The term does not include an individual who occasionally renders humane assistance or shelter in the individual's home to a dog or cat (Health & Safety Code, Title 10, Ch 828, Sec 001).

Rider or Handler - a peace officer, corrections officer, or jailer who is specially trained to use a police service animal for law enforcement, corrections, prison or jail security, or investigative purposes (Texas Penal Code, §38.151).

Sanitize - To make physically clean and to destroy disease-producing agents (Health & Safety Code, Title 25, Part I, Ch 169, §169.22).

Stray - roaming with no physical restraint beyond the premises of an animal's owner or keeper (Health & Safety Code, Title 10, Ch 826, Sec 001).

Unowned Animal - Any animal for which a custodian has not been identified (Health & Safety Code, Title 25, Part I, Ch 169, §169.22).

Vaccinated - Properly administered by or under the direct supervision of a veterinarian with a rabies vaccine licensed for use in that species by the USDA (Health & Safety Code, Title 25, Part I, Ch 169, §169.22).

Veterinarian - a person licensed by the board under this chapter to practice veterinary medicine (Vet Lic Act, SubChA, §801.002).

Veterinarian-Client-Patient Relationship - (a) A person may not practice veterinary medicine unless a veterinarian-client-patient relationship exists. A veterinarian-client-patient relationship exists if the veterinarian: (1) assumes responsibility for medical judgments regarding the health of an animal and a client, who is the owner or other caretaker of the animal, agrees to follow the veterinarian's instructions; (2) possesses sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the animal's medical condition; and (3) is readily available to provide, or has provided, follow-up medical care in the event of an adverse reaction to, or a failure of, the regimen of therapy provided by the veterinarian. (b) A veterinarian possesses sufficient knowledge of the animal for purposes of Subsection (a)(2) if the veterinarian has recently seen, or is personally acquainted with, the keeping and care of the animal by: (1) examining the animal; or (2) making medically appropriate and timely visits to the premises on which the animal is kept. (c) A veterinarian-client-patient relationship may not be established solely by telephone or electronic means. (Vet Lic Act, SubChH, §801.351).

Veterinary Medicine - includes veterinary surgery, reproduction and obstetrics, dentistry, ophthalmology, dermatology, cardiology, and any other discipline or specialty of veterinary medicine (Vet Lic Act, SubChA, §801.002).

Volunteer = staff according to the law (Health & Safety Code, Title 10, Ch 826, Sec 001).

Animal Care

The Veterinary Practice Act does not apply to care provided by an owner. This means shelter staff can do just about anything they want to animals that they own, as long as they are using materials legally in their possession and the animals are treated humanely (Vet Lic Act, SubChA, §801.004(1)). They have to be much more careful when treating animals they do not own. Things shelter staff may not do to animals they own: surgery and use prescription drugs not legally in their possession.

Delegation of Care. A Veterinarian may not delegate veterinary care and treatment duties to an employee unless a valid VCPR had been established. A veterinarian may not delegate care and

treatment duties to anyone who is not either a direct employee, licensed chiropractor or licensed equine dentist (Rules of Prof Conduct §573.10(a)).

Limitations to Delegation. A person who is not a veterinarian may not diagnose animal diseases or conditions, or dispense medications unless prescribed by a veterinarian specifically for that patient. This means shelter staff may not do a heartworm test, parvo test, feline leukemia test, fecal flotation or any other test on an owned animal and tell the owner what they have. They may not give any medications or dewormers to owned animals unless prescribed by a vet who has examined the patient or herd, even if the medications are available over the counter. They are free to do this all they want on animals they own. (Rules of Prof Conduct §573.10(d)(3)).

Exceptions 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 (Rules of Prof Conduct §573.10(f)). Shelter staff is permitted to, without expectation of compensation, provide emergency care in an emergency or disaster without supervision by a veterinarian if one is not available (Vet Lic Act SubCh A, §801.004(8)).

Good Samaritan Emergency Care. A veterinarian who provides emergency treatment to an ill or injured animal on the veterinarian's own initiative, or at the request of a person other than the animal's owner, is not liable to the owner for damages to the animal unless the veterinarian commits gross negligence. If the veterinarian performs euthanasia on the animal, the veterinarian is presumed to have performed a humane act necessary to relieve the animal's pain and suffering (Vet Lic Act, SubChH, §801.358).

Exceptions for 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 VCPR exists (Rules of Prof Conduct §573.10(g)).

Prescription Drugs. A veterinarian may not prescribe legend (prescription or controlled) drugs to an animal without having examined the animal (Rules of Prof Conduct §573.41). This applies to all animals -- owned by the shelter or not, unless the veterinarian is an agent of the owner (shelter).

Maintenance of Sanitary Premises. Veterinarians must maintain their offices/clinics/hospitals in a clean and sanitary condition without any accumulation of trash, debris, or filth. They shall use properly sterilized instruments and clean supplies (Rules of Prof Conduct §573.79).

Abandoned Animals. We have a clause in the Informed Consent surgery agreement that says that if animals are not picked up at the appointed time, they are turned over to the shelter as strays. If such an informed consent is not signed, then a veterinarian may dispose of an animal that is abandoned in the veterinarian's care if the veterinarian: gives the client, by certified mail to the client's last known address, notice of the veterinarian's intention to dispose of the animal; and allows the client to retrieve the animal during the 10 days after the date the veterinarian mails the notice. The client's contact of the veterinarian by mail, telephone, or personal communication does not extend the veterinarian's obligation to treat, board, or care for an animal unless the veterinarian and client agree to extend the veterinarian's care of the animal. An animal is considered abandoned on the 11th day. Notice given by a veterinarian under Subsection does not relieve a client of liability to pay for treatment, boarding, or care provided by the veterinarian (Vet Lic Act SubChH, §801.357).

Immunity to Liability for Reporting Abuse. A veterinarian who in good faith reports a suspected incident of animal cruelty is immune from liability in a civil or criminal action brought against the veterinarian for reporting the incident (Vet Lic Act SubChH, §801.3585).

Limitation of Services Provided. A veterinarian employed by a shelter may not perform nonemergency veterinary services other than sterilization on an animal that the shelter knows or should know has an owner that is not indigent (HASC TITLE 10, Ch 828, Sec 828.012(b)).

Indication of sterilization. An animal sterilized at a shelter must be identified by a microchip and/or a tattoo indicating that it has been sterilized (Rules of Prof Conduct §573.77(c)).

Prohibition of Intervention

The Veterinarian decides which patients they will see and when. The decision to accept an animal as a patient is at the sole discretion of a veterinarian (Rules of Prof Conduct §573.20(a)). In

other words, the veterinarian determines how many surgeries will be done and when and on whom, and which patients will receive medical care. Once a VCPR has been established, a veterinarian may discontinue treatment only under the following circumstances: at the request of the client; after the veterinarian substantially completes the treatment or diagnostics prescribed; upon referral to another veterinarian; or after notice to the client providing a reasonable period for the client to secure the services of another veterinarian. (Rules of Prof Conduct §573.20(c)). In other words, prohibiting access of the vet to providing needed emergency follow-up care to clinic patients is unlawful. And failure to arrange for emergency care for owned animals is unlawful.

It is unlawful for shelter staff to intervene between the veterinarian and the client, or to interfere with the medical judgment of the veterinarian. The professional services of the vet shall not be controlled or exploited by any lay organization or person which intervenes between the client and the vet (Rules of Prof Conduct §573.21, Vet Lic Act SubChH, §801.352(a)). For example, it was unlawful for shelter staff to decide to continue to provide medical care after receiving a directive from the clinic veterinarian NOT to do so (Rules of Prof Conduct §573.21). A person associated with a shelter may not interfere with the independent professional judgment of a veterinarian employed by or under contract with the shelter (HASC TITLE 10, Ch 828, Sec 828.012(c)).

Veterinarians are prohibited from working in situations that interfere with their practice. A vet shall not allow or submit to a non-licensed person or entity to interfere or intervene with the licensee's practice. A vet shall avoid all relationships which could result in interference or intervention in the licensee's practice by a non-licensed person or entity (Rules of Prof Conduct §573.21, Vet Lic Act SubChH, §801.352(b)(c)).

Rabies Control

In order for shelter staff to give rabies vaccines, a veterinarian must have examined the patient and must be on the premises (Rules of Prof Conduct §573.10(f)).

A Veterinarian's signature stamp can be used only when the vet is on the premises (Rules of Prof Conduct §573.10(g)). The issuance of any pre-signed or pre-stamped official health documents by a veterinarian is prohibited (Rules of Prof Conduct §573.13(b)).

Rabies Certificates must contain: owner's name, address, telephone; species; sexual status; age; weight; predominant breed; colors; vaccine product name, manufacturer, serial number; date vaccinated; re-vaccination due date; rabies tag number if a tag is issued; veterinarian's signature and license number. Rabies certificate records must be kept and made available for 5 years. If a practice is closed, duplicate rabies certificates should be provided to the local health authority (Rules of Prof Conduct §573.51). There is no legal requirement to issue rabies tags.

Medical Records

Medical Records may not be released without the permission of the animal's owner (Rules of Prof Conduct §573.28, Vet Lic Act SubChH, §801.353). Exceptions are court order, for debt collection, during a Board inspection, or to pass on rabies vaccination certificate or other information needed for a life threatening situation or public health purpose. Public Health Officers must maintain confidentiality. The easiest way to release records to vets when they call is to just put a permission to release records clause in the informed consent form for surgery, and make that a condition of doing low cost surgery.

Keep Medical Records for 5 years. 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. It is unlawful to destroy medical records relating to unresolved legal proceedings (Rules of Prof Conduct §573.52(b)).

Medical Records are the property of the Veterinarian. If the practice closes, the veterinarian can transfer ownership of records to another licensed veterinarian only if the veterinarian provides notice to owners and the veterinarian who assumes ownership of the records shall maintain the records consistent with this chapter (Rules of Prof Conduct §573.52(b)).

The client is entitled to a copy of the patient records within 15 days (Rules of Prof Conduct §573.52(b), §573.54(a)). Reasonable charges for copying, postage and writing summaries are allowed (Rules of Prof Conduct §573.54(c)), and records may not be withheld for unpaid balances (Rules of Prof Conduct §573.54(d)).

Clinic Postings

If a veterinarian is working at a shelter, instructions for filing a Board complaint must be posted where clients can see them (Rules of Prof Conduct §573.29).

Each shelter vet's current license renewal must also be displayed (Rules of Prof Conduct §573.35).

Controlled Drugs

A veterinarian may not prescribe legend (prescription or controlled) drugs to an animal without having examined the animal or herd (Rules of Prof Conduct §573.41). This applies to all animals -- owned by the shelter or not (Rules of Prof Conduct §573.43). In the past, TSBVME allowed shelter veterinarians to practice herd medicine, but the current Board Opinion is that herd medicine applies only to animals raised in economic enterprise. Updates to Board Rules stipulating this were proposed in October of 2012, but are currently tabled until the next TSBVME meeting in March, 2012.

Controlled Drugs Licenses. The vet who orders controlled drugs must hold DEA and DPS Controlled Drug Licenses. Vets who work under the DEA Licensee need only hold a DPS controlled drug license if there is a letter on file from the DEA license holder allowing them to work under their license. DPS only holders can use controlled drugs in the clinic but may not prescribe them to go home with the patient (Rules of Prof Conduct §573.43). A veterinarian who employs and/or supervises another veterinarian practicing veterinary medicine shall assure that the person is: (1) actively licensed; and 4 (2) meets the requirements for registration with DEA and DPS (Rules of Prof Conduct §573.12).

Controlled Drug Records. Records on controlled drugs used by veterinarians must be kept for 5 years by that veterinarian (Rules of Prof Conduct §573.50). Records on euthanasia drugs used by shelter staff only must be kept at the shelter for 2 years, as long as a veterinarian never uses those drugs. Controlled Drug Inventory must be done at east every 2 years (Fed Contr Sub Act, Title 21, Ch13, SubCh I, PtC, §827(a)(1)). Controlled drug log entries must include: date of acquisition; quantity purchased; date administered or dispensed; quantity administered or dispensed; name of client and patient receiving the drug(s); and balance on hand (Rules of Prof Conduct §573.50).

Minimum Security for Controlled Drugs. Veterinarians must establish adequate security to prevent unauthorized access to, prevent the diversion of controlled substances, and prevent individual access to controlled substances storage areas except those authorized agents required for efficient operations. Controlled substances shall be stored in a securely locked, substantially constructed cabinet or security cabinet (Rules of Prof Conduct §573.61).

Phoning in prescriptions to a pharmacy (HASC Title 6, SubTit C, Ch481, SubChC, Sec 481.073). Only a DPS Licensee or an agent designated in writing by that licensee may communicate a prescription by telephone. Written designation must be maintained at the practitioner's usual place of business and shall make the designation available for inspection.

Prescribing controlled substances to go home. A practitioner may not allow a patient, on the patient's release from the hospital, to possess a controlled substance prescribed by the practitioner unless: the substance was dispensed under a medication order while the patient was admitted to the hospital; the substance is in a properly labeled container; and the patient possesses not more than a seven-day supply of the substance. A prescription for a controlled substance must show: the quantity of the substance prescribed, the date of issue; the species of the animal and the name and address of its owner; the name and strength of the controlled substance; directions for use of the controlled substance; the intended use of the substance prescribed unless the practitioner determines the furnishing of this information is not in the best interest of the patient (HASC Title 6, SubTit C, Ch481, SubChC, Sec 481.074(j)). The vet must have a DEA license to prescribe controlled substances to go home -- DPS registration only is not sufficient (Rules of Prof Conduct §573.43). Keep in mind that it is illegal for a person to possess a controlled substance unless it was legally prescribed to them. So, if a controlled drug is dispensed to a shelter owned animal and not administered, it must be returned to inventory or disposed of through legal channels. Buprenex and buprenorphine are in the Penalty 4 group for illegal possession and a Class B Misdemeanor (HASC Title 6, SubTit C, Ch481, SubChD, Sec 481.105). Diverting a controlled substance for personal or use is a state jail felony and for use other than for the animal prescribed is a third degree felony (HASC Title 6, SubTit C, Ch481, SubChD, Sec 481.1285). Prescribed controlled drugs should contain a warning label that it is a crime to transfer the drug to any person other than the patient (Fed Contr Sub Act, Title 21, Ch13, SubCh I, PtC, §825(c)).

Inspections

TSBVME Inspection. Veterinarians and clinic Management Services shall admit a representative of the Veterinary 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 (Rules of Prof Conduct §573.63). A veterinarian shall make available for inspection by the Veterinary Board, copies of the contracts with the management services organizations; and if the Board opens an investigation against a veterinarian, make available to the Board copies of the contracts with the management services organizations. Copies of contracts produced under this subsection shall be governed by the Veterinary Licensing Act (Rules of Prof Conduct §573.74(f)).

DPS Inspection. The Director of TX Controlled Substances Act may enter controlled premises at any reasonable time and inspect the premises and items in order to inspect, copy, and verify the correctness of a record, report, or other document required to be made or kept. "Reasonable time" means any time during the normal business hours or any time an activity regulated under this chapter is occurring on the premises (HASC Title 6, SubTit C, Ch481, SubChD, Sec 481.181).

DEA Inspection. Representatives of the DEA shall have access to controlled drug records going back 2 years (Fed Contr Sub Act, Title 21, Ch13, SubCh I, PtC, §827). It is unlawful to refuse entry to DEA Agents (Fed Contr Sub Act, Title 21, Ch13, SubCh I, PtE).

Temporary Limited-Service Clinics

Requirements of 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. (Rules of Prof Conduct §573.71[a]).

Requirements of Notification. 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 must include the veterinarian's full name, the specific location of where the clinic will be held, and times of operation. Notice may be by telephone call, facsimile 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 (Rules of Prof Conduct §573.71(b)).

Shelter Medicine

There are no special exceptions to regulation for shelter vets. Employment by or contractual service to a nonprofit or municipal corporation does not exempt the veterinarian from any of the provisions of the Veterinary Licensing Act or the Board's rules (Rules of Prof Conduct §573.72).

Increased liability for shelter vets. 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. (Rules of Prof Conduct §573.72).

Ultimate responsibility of the veterinarian for staff actions. A veterinarian is not only responsible for the actions of all employees that provide patient care, but also is subject to discipline if anything goes wrong, even if staff fail to follow orders or act without proper orders (Rules of Prof Conduct §573.10(c)). A veterinarian is responsible for any acts a non-veterinarian employee commits within the scope of the employee's employment (Rules of Prof Conduct §573.11).

Management Services (Shelter Management)

A veterinarian or group of veterinarians may contract with a management services organization to provide management services, so it OK for a shelter to pay lay people to manage a veterinary practice within a shelter (Rules of Prof Conduct §573.74(b)).

Prohibited Practices (Rules of Prof Conduct §573.74(c)). A management services organization shall not control or intervene in a veterinarian's practice of veterinary medicine. A Management service may not:

- employ a veterinarian to practice veterinary medicine. Rather, the management service works for the vet.
- determine the compensation of a veterinarian for the practice of veterinary medicine;
- control or intervene 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;
- control or intervene 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;
- determine the amount of time a veterinarian may spend with a patient;
- own drugs, unless the drugs are owned in compliance with applicable Texas or federal law;
- own and control the records of patients of the veterinarian;
- determine the fees to be charged by the veterinarian for the veterinarian's practice of veterinary medicine;
- mandate compliance with specific professional standards, protocols or practice guidelines relating to the practice of veterinary medicine;
- place limitations or conditions upon communications that are clinical in nature with the veterinarian's clients;
- require a veterinarian to make referrals in violation of Texas Occupations Code §801.402(11);
- penalize a veterinarian for reporting violations of a law regulating the practice of veterinary medicine.

Permitted Practices (Rules of Prof Conduct §573.74(e)). A management service may:

- provide: the facility used by the veterinarian in the practice of veterinary medicine; the medical equipment, instruments and supplies used by the veterinarian in the practice of veterinary medicine; and the business office and similar non-medical equipment used by the veterinarian.
- provide for the repair, maintenance, renovation, replacement or otherwise of any facility or equipment used by the veterinarian in the practice of veterinary medicine;
- provide accounting, financial, payroll, bookkeeping, budget, investment, tax compliance and similar financial services to the veterinarian;
- provide 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;
- provide the services of billing and collection of the veterinarian's fees and charges;
- arrange for the collection or sale of the veterinarian's accounts receivable;
- provide advertising, marketing and public relations services;
- provide contract negotiation, drafting and similar services for the veterinarian;
- provide receptionist, scheduling, messaging and similar coordination services for the veterinarian;
- obtain all licenses and permits necessary to operate a practice of veterinary medicine that may be obtained by a non-veterinarian, and assist 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;
- assist in the recruiting, continuing education, training and legal and logistical peer review services for the veterinarian;
- provide insurance, purchasing and claims services for the veterinarian, and include the veterinarian and veterinary medical personnel on the same insurance policies and benefit plans as the management services organization;
- provide consulting, business and financial planning and business practice and other advice;

- establish the price to be charged to the veterinary client for the goods and supplies provided or managed by the management services organizations;
- employ and control persons who: perform management services, including veterinarians employed by a management services organization to perform management services but not the practice of veterinary medicine; or perform management, administrative, clerical, receptionist, secretarial, bookkeeping, accounting, payroll, billing, collection, boarding, cleaning and other functions; or
- employ 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: control the medically related procedures, duties, and performance of the veterinary medical and other personnel; and suspend for medically related reasons the veterinary medical and other personnel unless the suspension is contrary to law, regulation or other legal requirements.