

TEXAS RACING COMMISSION

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COMMITTEE ON RULES

Tuesday, March 26, 2013
11:00 a.m.
Texas Animal Health Commission
2105 Kramer Lane
Austin, Texas 78758

Agenda

The Committee will accept comments in response to the publication of the following rule proposals in the March 8, 2013, edition of the *Texas Register*:

- A. Proposal for New Rule 307.8, Negotiated Rulemaking and Alternative Dispute Resolution
- B. Proposal for New Rule 309.53, Ownership and Management Review of Active Racetrack Licenses
- C. Proposal to Amend Rule 309.359, Live Lures
- D. Proposal to Amend Rule 311.6, Denial, Suspension, and Revocation of Licenses
- E. Proposal to Amend Rule 311.102, Greyhound Owners
- F. Proposal to Amend Rule 311.104, Trainers
- G. Proposal for New Rule 311.217, Greyhound Training
- H. Proposal for New Rule 315.112, Ineligibility Due to Improper Greyhound Training

The Committee will discuss the following requests for new rules or rule amendments.

- I. Request to Amend Rule 303.41, Allocation of Race Dates
- J. Request to Amend Rule 309.151, Change of Ownership, Board of Directors, or Management Committee
- K. Request to Amend Rule 311.5, License Fees
- L. Request for New Rule 311.112, Equine Dental Provider

The public will be given an opportunity to address the Committee and identify any potential subjects that it would like placed on the agenda for discussion at a future committee meeting.

CHAPTER 307. PROCEEDINGS BEFORE THE COMMISSION
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 307.8. Negotiated Rulemaking and Alternative Dispute Resolution.

(a) Policy. It is the Commission's policy to encourage the use of negotiated rulemaking and alternative dispute resolution procedures in appropriate situations.

(b) Negotiated Rulemaking. When the Commission finds that a rule to be proposed is likely to be complex, controversial, or affect disparate groups, the Commission may propose to engage in negotiated rulemaking in accordance with Government Code, Chapter 2008.

(1) When negotiated rulemaking is considered, the Commission's general counsel, or designee, shall be the Commission's negotiated rulemaking convener.

(A) The convener shall assist in identifying persons who are likely to be affected by a proposed rule, including those who oppose issuance of a rule. The convener shall discuss with those persons or their representatives the factors provided in Government Code §2008.052(c).

(B) The convener shall then recommend to the Commission whether negotiated rulemaking is a feasible method to develop the proposed rule and shall report to the agency on the relevant considerations, including those listed in Government Code §2008.052(d).

(2) Upon the convener's recommendation to proceed, the Commission may initiate negotiated rulemaking according to the provisions of Government Code, Chapter 2008, including the appointment of the negotiated rulemaking committee's members under Government Code § 2008.054.

(3) The executive secretary shall appoint the negotiated rulemaking committee's facilitator, subject to the requirements of Government Code § 2008.055.

(c) Alternative Dispute Resolution. The Commission encourages the fair and expeditious resolution of disputes through alternative dispute resolution (ADR) procedures.

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SUBCHAPTER A. GENERAL PROVISIONS

(1) ADR procedures include any procedure or combination of procedures described by Civil Practice and Remedies Code, Chapter 154. ADR procedures are intended to supplement and not limit other dispute resolution procedures available for use by the Commission.

(2) Any ADR procedure used to resolve disputes with the Commission shall conform with Government Code, Chapter 2009, and, to the extent possible, the model guidelines for the use of ADR issued by the State Office of Administrative Hearings (SOAH).

(3) Upon receipt of notice of a dispute, the Commission's executive secretary, in consultation with the Commission's general counsel, shall determine whether use of an ADR procedure is an appropriate method for resolving the dispute.

(4) If an ADR procedure is determined to be appropriate, the Commission's executive secretary shall recommend to the opposing party the use of ADR to resolve the dispute. The Commission's general counsel will collaborate with the opposing party to select an appropriate procedure for dispute resolution and implement the agreed upon procedure consistent with SOAH's model guidelines.

(5) ADR for Breach of Contract Claims. Resolution of breach of certain contract claims brought by a contractor against the Commission shall conform to the requirements of Government Code, Chapter 2260. The Commission adopts by reference the Office of the Attorney General's rules regarding the negotiation and mediation of certain contract disputes (1 Texas Administrative Code Part 3, Chapter 68).

(6) 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 Practices and Remedies Code, Chapter 107.

(d) The Commission's general counsel, or designee, shall coordinate the implementation of the policy set out in subsection (a) of this section in accordance with state law and provide necessary training. The Commission's general counsel, or designee, is designated as the coordinator to implement the Commission's policy under this rule,

CHAPTER 307. PROCEEDINGS BEFORE THE COMMISSION
SUBCHAPTER A. GENERAL PROVISIONS

provide necessary training, and collect data concerning the effectiveness of the implemented procedures.

CHAPTER 309. RACETRACK LICENSES AND OPERATIONS
SUBCHAPTER A. RACETRACK LICENSES
DIVISION 1. GENERAL PROVISIONS

309.53. Ownership and Management Review of Active Racetrack Licenses

(a) Scheduling of review.

(1) Except as otherwise provided in this subsection, an association holding a racetrack license designated as "Active-Operating" or "Active-Other" shall be subject to an ownership and management review in calendar year 2013.

(2) An association that has undergone an ownership and management review in connection with a change of controlling interest during any year from 2009 through 2012 shall be subject to review under this section in the year beginning five years after the Commission approved the change in controlling interest.

(3) An association whose status has changed from Inactive to Active-Operating or Active-Other shall be subject to review in the year beginning five years after the Commission approved the change in status.

(4) An association which receives its original license during or after calendar 2013 shall be subject to review under this section in the year beginning five years after its date of original licensure.

(5) On its own motion or at the request of an association, the Commission may adjust the schedule of ownership and management reviews so that the interval between an association's reviews is shorter or longer than five years.

(b) Submission requirements. Not later than June 30 of the year in which an association is subject to review, the association shall submit to the Commission:

(1) copies of its current management, concession, and totalisator contracts;

(2) a copy of its current security plan;

(3) for each officer or director and for each person owning an interest of at least five percent of the association:

(A) a completed background information form and written authorization for the Commission and the Department of Public Safety to conduct any investigation deemed necessary; and

CHAPTER 309. RACETRACK LICENSES AND OPERATIONS
SUBCHAPTER A. RACETRACK LICENSES
DIVISION 1. GENERAL PROVISIONS

(B) a set of fingerprints on a form prescribed by the Department of Public Safety, or if the person already has a set of fingerprints classified and on file with the Department of Public Safety, authorization to resubmit those fingerprints to the Federal Bureau of Investigation and the Department of Public Safety for investigation;

(5) a review fee of \$5,000, to be held by the Commission in the state treasury in a suspense account until the review is complete or transferred to the Texas Racing Commission Fund as costs are incurred;
and

(7) any other information required by the Commission.

(c) Commission Review.

(1) The executive secretary shall prepare a report for the Commission's review summarizing:

(A) the information provided by the association under this section or under Section 309.152 of this Chapter;

(B) the Commission's inspection reports from the prior five years;

(C) the results of any inspections or investigations conducted by the Commission as part of the review; and

(D) any other information relevant to the ownership or management of the association.

(2) The executive secretary will separately provide to the Commission the results of any background investigations conducted by the Department of Public Safety.

(3) At the conclusion of each review, the Commission:

(A) may take any action authorized under the Act or the Rules;
and

(B) shall schedule the next ownership and management review of the association's license. The Commission may require an association to undergo the next review in less than five years.

(d) Reconciliation of costs.

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SUBCHAPTER A. RACETRACK LICENSES
DIVISION 1. GENERAL PROVISIONS

(1) Upon completion of the review, the Commission shall determine its total cost of processing the review, including its administrative costs and any investigative costs that are reimbursable to the Department of Public Safety.

(A) If the actual cost to the Commission of processing the review exceeds the amount of the review fee paid by the association, the Commission shall bill the association for any additional amount, to be paid not later than 10 days after receipt of a bill from the Commission.

(B) If the actual cost to the Commission of processing the review are less than the amount of the review fee paid by the association, the Commission shall refund the excess not later than 10 business days after the Commission's decision on the review becomes final.

CHAPTER 309. RACETRACK LICENSES AND OPERATIONS
SUBCHAPTER D. GREYHOUND RACETRACKS
DIVISION 2. OPERATIONS

Sec. 309.359. Use of Lures in Training or Racing. ~~Live Lures~~

(a) An association may not permit the use of a live or dead animal or fowl for training or racing purposes ~~lure~~ on association grounds. This subsection does not apply to the use of a training lure that is made from cured animal hides or pelts and is commercially available to the public.

(b) An association may not permit a greyhound to be kenneled or to race on association grounds if the association knows or can reasonably be expected to know that the greyhound was trained in a state that by statute or rule does not prohibit the knowing use of live lures.

(c) An association may not permit a greyhound to be kenneled or to race on association grounds if the association knows or can reasonably be expected to know that the greyhound has been banned from pari-mutuel racing by any racing jurisdiction.

CHAPTER 311. OTHER LICENSES
SUBCHAPTER A. LICENSING PROVISIONS
DIVISION 1. OCCUPATIONAL LICENSES

Sec. 311.6. Denial, Suspension, and Revocation of Licenses.

(a) (No change.)

(b) (1)-(4) (No change.)

(5) Detrimental Practices. A license may be denied, suspended or revoked if it is determined that the licensee is engaged in activities or practices that are detrimental to the best interests of the public, racing animals, or to the racing industry.

CHAPTER 311. OTHER LICENSES
SUBCHAPTER B. SPECIFIC LICENSES

Sec. 311.102. Greyhound Owners.

(a)-(c) (No change.)

(d) Restriction on Racing. An owner may not enter a greyhound or cause a greyhound to be entered in a race at a racetrack if:

(1) the owner knows or can reasonably be expected to know that the greyhound was trained using a live or dead animal or fowl as a lure in this state or out of this state. This paragraph does not apply to the use of a training lure that is made from cured animal hides or pelts and is commercially available to the public;

(2) the owner or trainer is employed by the racetrack association in a management or supervisory position that is capable of affecting the conduct of races or pari-mutuel wagering at the racetrack; or

(3) ~~(2)~~ the owner or trainer is involved in any way with the sale or publication of tip sheets on association grounds.

CHAPTER 311. OTHER LICENSES
SUBCHAPTER B. SPECIFIC LICENSES

Sec. 311.104. Trainers.

(a)-(e) (No change.)

(f) Restriction on Racing. A trainer may not enter a race animal or cause a race animal to be entered in a race at a racetrack if:

(1) the trainer knows or can reasonably be expected to know that the greyhound was trained using a live or dead animal or fowl as a lure in this state or out of this state. This paragraph does not apply to the use of a training lure that is made from cured animal hides or pelts and is commercially available to the public;

(2) the owner or trainer is employed by the racetrack association in a management or supervisory position that is capable of affecting the conduct of races or pari-mutuel wagering at the racetrack;

(3) ~~(2)~~ the owner or trainer is involved in any way with the sale or publication of tip sheets on association grounds.

CHAPTER 311. OTHER LICENSES
SUBCHAPTER C. RESPONSIBILITIES OF INDIVIDUALS

Sec. 311.217. Greyhound Training.

(a) A person may not use a live or dead animal or fowl to train a greyhound, or send a greyhound to a facility located in this state or out of state for the purpose of being trained using a live or dead animal or fowl. Such activities and practices are detrimental to the best interests of a racing animal and the racing industry.

(b) This section does not apply to the use of a training lure that is made from cured animal hides or pelts and is commercially available to the public.

CHAPTER 315. OFFICIALS AND RULES FOR GREYHOUND RACING
SUBCHAPTER B. ENTRIES AND PRE-RACE PROCEDURES

Sec. 315.112. Ineligibility Due to Improper Greyhound Training

(a) The board of racing judges may ban a greyhound for life from being kenneled or participating in racing on association grounds if it finds that the greyhound has been trained at any facility that has engaged in any detrimental practice related to the training of greyhounds using a live or dead animal or fowl.

(b) This section does not apply to the use of a training lure that is made from cured animal hides or pelts and is commercially available to the public.

**TEXAS RACING COMMISSION
COMMITTEE ON RULES**

March 20, 2013

Date of Request: _____

***Request for Proposed Change to an Existing Rule or
Addition of a New Rule to the Rules of Racing***

Please submit this information to the attention of the Executive Director *at least 14 days* in advance of the next scheduled Committee on Rules meeting. An electronic form is available to assist in your submission or feel free to add additional pages as necessary in order to provide as much detail as possible. Filing this request does not guarantee that your proposal will be considered by the Committee on Rules.

Texas Racing Commission
8505 Cross Park Drive, Suite 110
Austin, TX 78754-4552
Phone: 512/833-6699 Fax: 512-833-6907
email: info@txrc.state.tx.us

Contact Information:

Name:	TxRC Staff	Phone(s):	512-833-6699
E-mail address:		Fax number:	512-833-6907
Mailing address:	8505 Cross Park, Suite 110, Austin, TX 78754-4552		

Check appropriate box(s)

Personal Submission *OR*

Submission on behalf of TxRC Staff
(Name of Organization)

If known, Proposed Change to Chapter: Chapter: 303 Rule: 303.41

If known, Proposed Addition to Chapter: Chapter: _____ Rule: _____

If known, Other Rules Affected by Proposal: Chapter: _____ Rule: _____

Chapter: _____ Rule: _____

Chapter: _____ Rule: _____

Chapter: _____ Rule: _____

A. Brief Description of the Issue

The rules currently provide only for the Commission to allocate race dates to associations. On two recent occasions, associations have requested permission to add race dates to their already approved meets, but without sufficient lead time for the Commission to approve those dates. After consultation with the Chairman and Vice Chairman of the Commission, the executive director has approved those race dates, subject to ratification by the full Commission.

B. Discussion of the Issue and Problem

Once or twice per year, the Commission considers and approves requests by Texas racetracks for modifications to their existing race calendars. When the changes are modest and non-controversial, the Commission has readily granted approval. There have been occasions in the past, however, when requests have been more substantive and controversial, requiring the Commission to consider the arguments both for and against the change.

For example, in 2007 Corpus Christi Greyhound Race Track (CCGRT) requested to discontinue the last six weeks of racing during the year in order to increase purse amounts for a 12 week race calendar in 2008. This change was requested in connection with a larger proposal to move from racing on a year-round basis to racing on a seasonal basis. After considering testimony from the interested parties, the Commission rejected the request. CCGRT then closed at the end of 2007.

On the other hand, Sam Houston Race Park's (SHRP's) recent request to move the last two days of racing during its current Thoroughbred meet from Sundays to Mondays was supported by the industry, it did not affect any other racetracks, and it did not affect the agency's budget. As a result of the change, SHRP's handle for those performances increased by approximately \$500,000.

C. Possible Solutions and Impact

The most direct solution to the issue is to modify Rule 303.41, Change in Race Date Allocation. Subsection (h) already provides that the executive secretary may give approval for an association to not conduct racing on a particular race date. However, there is no matching provision for the executive secretary to approve an additional race date. Instead, subsection (j) currently provides that the executive secretary may permit an association to *request* additional live race dates after the Commission has acted on the prior request if certain conditions are met. These conditions include:

- (A) that the additional race dates will enhance the breeding and training industries
- (B) that the failure to request the dates initially was not due to the association's neglect, and
- (C) if the specific requested dates have already been rejected by the Commission, that circumstances have changed sufficiently to merit additional consideration.

Additionally, the association must obtain the approval of all associations affected by the proposed change in race dates.

Amendments to subsection (j) could address this problem by granting the executive secretary the authority to approve requests to add, delete, or modify live race dates under certain circumstances.

D. Support or Opposition

The affected stakeholder groups have not yet had an opportunity to express support or opposition to this proposal.

E. Proposal

Rule 303.41. Allocation of Race Dates

(j) Change in Race Date Allocation.

(1) The executive secretary may permit an association to request additional live race dates after its request under this section has been acted on by the commission if the executive secretary determines that:

(A) the request includes evidence that granting the additional live race dates will enhance the breeding and training industries for horses or greyhounds;

(B) the association's failure to request the live race dates initially was not due to the association's neglect; and

(C) if the request duplicates a request by the association that has already been denied by the commission, changed circumstances exist that necessitate additional consideration by the commission.

(2) An association may request a change to the live race dates granted by the commission provided the association obtains the approval of all associations that are affected by the proposed change. This subsection applies to any proposed change to the number or format of live race dates.

(3) After consultation with the Chair of the Commission and the appropriate commissioner with special knowledge or experience related to greyhound or horse racing, the executive secretary may approve an association's request to add, delete, or modify live race dates, provided that the request:

(A) does not add any live race dates that are more than fourteen calendar days preceding the start of the Commission-approved race meet or more than fourteen days following the end of the Commission-approved race meet;

(B) is supported in writing by each breed organization affected by the change; and

(C) in the case of a horse racing association, is supported in writing by the horsemen's organization.

(4) In determining whether to approve a request under this subsection, the Commission or the executive secretary may consider the effect that approving the request would have on the workload and budget status of the Commission.

(5) For purposes of this subsection, an allocation of live race performances may be changed in the same manner as a change in the allocation of live race dates.

**TEXAS RACING COMMISSION
COMMITTEE ON RULES**

March 20, 2013

Date of Request: _____

***Request for Proposed Change to an Existing Rule or
Addition of a New Rule to the Rules of Racing***

Please submit this information to the attention of the Executive Director *at least 14 days* in advance of the next scheduled Committee on Rules meeting. An electronic form is available to assist in your submission or feel free to add additional pages as necessary in order to provide as much detail as possible. Filing this request does not guarantee that your proposal will be considered by the Committee on Rules.

Texas Racing Commission
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email: info@txrc.state.tx.us

Contact Information:

Name:	TxRC Staff	Phone(s):	512-833-6699
E-mail address:		Fax number:	512-833-6907
Mailing address:	8505 Cross Park, Suite 110, Austin, TX 78754-4552		

Check appropriate box(s)

Personal Submission *OR*

Submission on behalf of TxRC Staff
(Name of Organization)

If known, Proposed Change to Chapter: Chapter: 309 Rule: 309.151

If known, Proposed Addition to Chapter: Chapter: _____ Rule: _____

If known, Other Rules Affected by Proposal: Chapter: _____ Rule: _____

Chapter: _____ Rule: _____

Chapter: _____ Rule: _____

Chapter: _____ Rule: _____

A. Brief Description of the Issue

The Commission's process for reviewing and approving new ownership interests in racetrack licenses may need adjustment to streamline the process in light of the minute ownership interests currently held by a large number of owners in Retama Park.

B. Discussion of the Issue and Problem

With limited exceptions, the rules currently require prior Commission approval of all changes in ownership, even those involving minute ownership interests. For racetracks with a small number of owners, this has not created a problem. However, in the case of Retama Park, there are over 140 owners, almost all of whom own less than a one percent interest. Further, the Commission's proposed Rule 309.53, Ownership and Management Review of Active Racetrack Licenses, requires fingerprints and background checks only of those owners who hold a 5% or greater interest in the license.

By adjusting the rules to only require prior approval of ownership interests greater than five percent, the Commission will retain direct oversight over those who control each racetrack, while still retaining the background checks necessary to address any issues concerning ownership interests of less than five percent.

C. Possible Solutions and Impact

Rule 309.151, Change of Ownership, Board of Directors, or Management Committee, sets out the requirements for seeking Commission approval of a change of ownership. While the rule requires the prior approval of the Commission for most ownership changes, it deems that certain changes have the prior approval of the Commission, subject to the right of the Commission to object after it has been informed of the transfer and it has performed any background investigation it or the Department of Public Safety requires. These changes include:

- transfers to exempt institutional investors resulting in a less than ten percent ownership interest; and
- transfers to any individual where the transferred interest was registered under the Federal Securities Act and the transfer resulted in an ownership interest of less than five percent.

This process can be adapted to address any ownership change resulting in an ownership interest of less than five percent. However, the Commission may choose to include a fingerprint and background check requirement since these transactions will not involve institutional investors or SEC-regulated transfers.

D. Support or Opposition

The affected stakeholder groups have not yet had an opportunity to express support or opposition to this proposal.

E. Proposal

Sec. 309.151. Change of Ownership, Board of Directors, or Management Committee.

(d) The transfers of pecuniary interests in an association described by this subsection are considered to have the prior approval of the Commission, subject to the right of the Commission to object to the transfer after it is informed of the

transfer and has performed any background investigation required by the Commission or the Department of Public Safety. Not later than 10 days after the effective date of a transfer to which this subsection applies, the transferee shall submit to the Commission information regarding the transfer on a form prescribed by the Commission and the Department of Public Safety. If the transferee is not an individual, the form required by this subsection must be submitted for all officers, directors, partners, and members of any management committee of the transferee. The following transfers are considered to have the prior approval of the Commission in accordance with this subsection:

(1) a transfer to an exempt institutional investor of a direct or indirect beneficial ownership interest or a warrant or other option to buy a direct or indirect beneficial ownership interest in an association provided:

(A) following the transfer, the exempt institutional investor owns, directly or indirectly, less than 10% of the total beneficial ownership interests in the association; and

(B) if the transfer results in the investor holding 5.0% or more of the total beneficial ownership interests in the association, the exempt institutional investor provides to the Commission, not later than 10 days after the transfer, a copy of the investor's most recent annual report or, if the report is not available, a copy of the investor's most recent audited financial statements; and

(2) a transfer to any person of a direct or indirect beneficial ownership interest or a warrant or other option to buy a direct or indirect beneficial ownership interest in an association provided that-

~~(A) the interest was transferred after having been registered under the Federal Securities Act of 1933; and~~

~~(B) following the transfer, the person owns, directly or indirectly, less than 5.0% of the total beneficial ownership interests in the association, and:-~~

(A) the interest was transferred after having been registered under the Federal Securities Act of 1933; or

(B) the person is an individual and has submitted:

(i) the person's name, residence address and telephone number, business address and telephone number, date of birth, physical description, and driver's license number; and

(ii) a set of fingerprints on a form prescribed by the Department of Public Safety.

**TEXAS RACING COMMISSION
COMMITTEE ON RULES**

Date of Request: March 7, 2013

***Request for Proposed Change to an Existing Rule or
Addition of a New Rule to the Rules of Racing***

Please submit this information to the attention of the Executive Director *at least 14 days* in advance of the next scheduled Committee on Rules meeting. An electronic form is available to assist in your submission or feel free to add additional pages as necessary in order to provide as much detail as possible. Filing this request does not guarantee that your proposal will be considered by the Committee on Rules.

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email: info@txrc.state.tx.us

Contact Information:

Name:	TxRC Staff-Licensing & Veterinary	Phone(s):	512-833-6699
E-mail address:		Fax number:	512-833-6907
Mailing address:	8505 Cross Park, Suite 110, Austin, TX 78754-4552		

Check appropriate box(s)

<input type="checkbox"/>	Personal Submission <i>OR</i>
<input checked="" type="checkbox"/>	Submission on behalf of <u>TxRC Staff</u> (Name of Organization)

<input checked="" type="checkbox"/>	If known, Proposed Change to Chapter:	Chapter: <u>311</u>	Rule: <u>311.5</u>
<input checked="" type="checkbox"/>	If known, Proposed Addition to Chapter:	Chapter: <u>311</u>	Rule: <u>311.112</u>
<input type="checkbox"/>	If known, Other Rules Affected by Proposal:	Chapter: _____	Rule: _____
		Chapter: _____	Rule: _____
		Chapter: _____	Rule: _____
		Chapter: _____	Rule: _____

A. Brief Description of the Issue

With the implementation of HB414 on September 1, 2011, several changes were effective to the Veterinary Licensing Act (VLA) and the Texas State Board of Veterinary Medical Examiners' (TBVME) rules relating to equine dentistry. The profession of tooth floater is now referred to as an equine dental provider and the scope of practice is

defined by the VLA and the regulation of equine dental providers is performed by TBVME.

The person performing these procedures has customarily been known as a tooth floater. TxRC adopted a policy effective September 1, 2011, to comply with the new VLA and TBVME rules and regulations that require a person applying for a Tooth Floater license to show proof that he/she is currently licensed as an Equine Dental Provider by TBVME. However, TxRC Rule 311.5 still refers to the occupation as Tooth Floater.

B. Discussion of the Issue and Problem

The VLA and the TBVME's new rules provide that a person qualified to be licensed by the TBVME as an "Equine Dental Provider" (EDP) may perform ONLY the following equine dental procedures:

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.

To perform these procedures, the EDP must be active and in good standing with the TBVME and perform equine dentistry under the **general supervision** of a veterinarian who is active and in good standing with the TBVME. According to the VLA, **general supervision** means supervision of a person by a responsible veterinarian who is readily available to communicate with the person.

Employees of veterinarians who are not licensed as an EDP may perform the above named procedures when under the **direct supervision** of a veterinarian. According to the VLA, **direct supervision** means supervision of a person by a responsible veterinarian who is physically present on the premises.

The Racing Commission should adjust its rules and policies in order to address the changes made by HB414 and the TBVME.

C. Possible Solutions and Impact

Amend Rule 311.5, License Fees to rename the "Tooth Floater" occupational license to "Equine Dental Provider."

Adopt new rule, 311.112, Equine Dental Provider, specifying that EDP's must be licensed and in good standing with the TBVME.

Amend the occupational license addendum form by adding applicable acknowledgment statements to ensure that an applicant for a Veterinary Assistant's license, as well the employing veterinarian, certify that any work done on the grounds of a licensed racetrack will be done in accordance with the TBVME rules. (This requires a policy change, not a rule change.)

D. Support or Opposition

Not applicable.

E. Proposal

Sec. 311.5. License Fees.

(a) – (c) (No change.)

(d) The fee for an occupational license is as follows:

Type of License.....	1 Year	2 Year	3 Year
	Fee	Fee	Fee
Adoption Program Personnel	\$ 25.....		
Announcer.....	\$ 35.....		
Apprentice Jockey.....	\$ 75.....		
Assistant Farrier/Plater/Blacksmith....	\$ 25.....		
Assistant Starter	\$ 25.....		
Assistant Trainer	\$ 100.....		
Assistant Trainer/Owner	\$ 100.....		
Association Assistant Management....	\$ 50.....		
Association Management Personnel ..	\$ 75.....		
Association Officer/Director	\$ 100.....		
Association Other.....	\$ 75.....		
Association Staff.....	\$ 35.....		
Association Veterinarian.....	\$ 75.....		
Authorized Agent.....	\$ 15.....		
Chaplain.....	\$ 25.....		
Chaplain Assistant	\$ 25.....		
<u>Equine Dental Provider.....</u>	<u>\$ 100.....</u>		
Exercise Rider.....	\$ 25.....		
Farrier/Plater/Blacksmith	\$ 75.....		
Groom/Hot Walker	\$ 25.....		
Jockey	\$ 100	\$ 200	\$ 300
Jockey Agent.....	\$ 100.....		
Kennel.....	\$ 75.....		
Kennel Helper	\$ 25.....		
Kennel Owner	\$ 100	\$ 200	\$ 300
Kennel Owner/Owner	\$ 100	\$ 200	\$ 300
Kennel Owner/Owner-Trainer	\$ 100	\$ 200	\$ 300
Kennel Owner/Trainer	\$ 100	\$ 200	\$ 300
Lead-Out	\$ 25.....		
Kennel.....	\$ 75.....		
Kennel Helper	\$ 25.....		
Kennel Owner	\$ 100	\$ 200	\$ 300
Kennel Owner/Owner	\$ 100	\$ 200	\$ 300
Kennel Owner/Owner-Trainer	\$ 100	\$ 200	\$ 300
Kennel Owner/Trainer	\$ 100	\$ 200	\$ 300
Lead-Out	\$ 25.....		
Maintenance.....	\$ 35.....		
Medical Staff.....	\$ 35.....		
Miscellaneous	\$ 25.....		
Multiple Owner.....	\$ 35	\$ 70	\$ 105
Mutuel Clerk.....	\$ 35.....		
Mutuel Other.....	\$ 35.....		

Owner	\$ 100	\$ 200	\$ 300
Owner-Trainer.....	\$ 100	\$ 200	\$ 300
Pony Person	\$ 25.....		
Racing Industry Representative	\$ 100.....		
Racing Industry Staff.....	\$ 30.....		
Racing Official.....	\$ 50.....		
Security Officer.....	\$ 30.....		
Stable Foreman	\$ 50.....		
Tattooer.....	\$ 100.....		
Test Technician.....	\$ 25.....		
Tooth Floater.....	\$ 100.....		
Trainer.....	\$ 100	\$ 200	\$ 300
Training Facility Employee.....	\$30.....		
Training Facility General Manager	\$ 50.....		
Valet.....	\$ 25.....		
Vendor Concessionaire	\$ 100.....		
Vendor/Concessionaire Employee	\$30.....		
Vendor/Totalisator	\$ 500.....		
Vendor/Totalisator Employee	\$ 50.....		
Veterinarian	\$ 100	\$ 200	\$ 300
Veterinarian Assistant.....	\$ 30.....		

New Rule:

Sec. 311.112. Equine Dental Provider.

To be eligible to be licensed by the Commission and hold a license as an Equine Dental Provider, an individual must be currently licensed and in good standing with the Texas State Board of Veterinary Medical Examiners.

Revise Occupational Licensing Addendum Form:

VETERINARIAN'S ASSISTANT AND EMPLOYING VETERINARIAN'S ACKNOWLEDGEMENT

We certify that when working on the grounds of a licensed racetrack, the applicant will work at all times under the supervision of the employing veterinarian or of another veterinarian in the practice as provided for by Texas State Board of Veterinary Medical Examiners' Rules.

Further, as provided for under the Texas State Board of Veterinary Medical Examiners' Rules, we understand that **any equine dentistry procedures** performed by the applicant will be under the direct supervision of the employing veterinarian or of another veterinarian in the practice.

According to Sec. 801.002 of the Veterinary Licensing Act, "direct supervision" means supervision of a person by a responsible veterinarian who is physically present on the premises.

Printed Name of Employing Veterinarian If applicable, Name of Veterinary Practice

Signature of Employing Veterinarian Date Signed TSBVME License Number

Signature of Applicant Date Signed