

**TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 20. VETERINARY MEDICAL BOARD**

NOTICE OF PROPOSED CHANGES

NOTICE IS HEREBY GIVEN that the Veterinary Medical Board (“Board”) is proposing to take the action described in the Informative Digest.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Person” in this Notice, must be **received by the Board at its office no later than 5:00 p.m. on October 19, 2015**, or must be received by the Board at the hearing.

AVAILABILITY OF MODIFICATIONS

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person, and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by section 4808 of the Business and Professions Code (BPC), and to implement, interpret, or make specific sections 680, 4836.1, 4836.2, 4836.3, and 4836.4 of the BPC, the Board is considering changes to sections 2034, 2035, and 2036.5 of Article 4 of Division 20 of Title 16 of the California Code of Regulations (CCR), section 2071.1 of Article 7 of Division 20 of Title 16 of the CCR, and sections 2087, 2087.1, 2087.2, and 2087.3 of Article 11 of Division 20 of Title 16 of the CCR as follows:

INFORMATIVE DIGEST

A. Informative Digest

In accordance with the provisions of the Administrative Procedures Act, BPC §4808 authorizes the Board to adopt, amend, or repeal rules and regulations that are reasonably necessary to carry into effect the provisions of Chapter 11 of Division 2 of the BPC.

BPC §4836.1 authorizes veterinary assistants to obtain or administer controlled substances, only if they hold a valid Veterinary Assistant Controlled Substances Permit (VACSP) and receive direct or indirect supervision by a licensed veterinarian. State law also requires the Board to develop and implement a process for veterinary assistants to apply for an initial VACSP and renewal permit, including setting application and renewal fees, requiring fingerprints processed by the Department of Justice for the purposes of a criminal background check, and establishing a process for VACSP holders to notify the Board of any mailing or employer address changes [BPC §§4836.2, 4836.3, and 4836.4].

This proposal would amend current regulations to govern the supervisory relationship between a licensed veterinarian and a VACSP holder. This proposal will also adopt regulations defining the requirement for all veterinary assistants authorized to obtain or administer controlled substances to prominently display their permit or wear a name tag in the interest of public safety and consumer awareness.

Specifically, the Board is proposing the following:

- Amend Section 2034 of Article 4 of Division 20 of Title 16 of the CCR
This section expands the definitions outlined in the section to apply throughout Division 20, Veterinary Medical Board, rather than limiting the changes to only Article 4 of Division 20, Veterinary Medical Board. It adds clarifying language by changing the term “unregistered assistant” to “veterinary assistant” pursuant to the amendments made to BPC §4840 relating to authorized services by technicians and assistants. This section adds “California” to the definition for an “R.V.T.” to specify that the terms in the division apply to veterinary technicians registered in California. The terms “Veterinary Assistant Controlled Substances Permit” and the abbreviation “VACSP” were added to as a result of the new permit type. Lastly, the term “permit holder” was added to signify a veterinary assistant who is a person at least 18 years of age and is a holder of a VACSP.
- Amend Section 2035 of Article 4 of Division 20 of Title 16 of the CCR
The term “permit holder,” as defined in BPC §2034, was added to this section to include all veterinary assistants authorized to obtain and administer controlled substances as a population that must receive supervision by a licensed veterinarian. It also adds clarifying language by changing the term “unregistered assistant” to “veterinary assistant” pursuant to the amendments made to BPC §4840 relating to authorized services by technicians and assistants.
- Amend Section 2036.5 of Article 4 of Division 20 of Title 16 of the CCR
The term “permit holder,” as defined in BPC §2034, was added to this section to include all veterinary assistants authorized to obtain and administer controlled

substances as a population authorized to perform specific animal hospital health care tasks similar to a “veterinary assistant.” It also adds clarifying language by changing the term “unregistered assistant” to “veterinary assistant” pursuant to amendments made throughout BPC §4836 relating to authorized services by technicians and assistants.

- Adopt section 2071.1 of Article 7 of Division 20 of Title 16 of the CCR
This new section aims to make specific the application and renewal fees associated with a VACSP. The application fee shall be \$50.00 and the fee for the initial VACSP will be \$50.00, totaling \$100.00, and will be valid for one year or more from the date the initial VACSP is granted. The renewal fee shall be \$50.00 and will also be valid for one year.
- Adopt section 2087 of Article 11 of Division 20 of Title 16 of the CCR
The general purpose of the VACSP application is for the applicant to provide authorization for a criminal background check. Specifically, this new section lists the forms required during the application process for a VACSP. It also specifies that once a permit has been issued, authority to obtain and administer controlled substances will be granted to the veterinary assistant only under the direct or indirect supervision of a licensed veterinarian. It also requires the Board to review the application and notify the applicant of the final approval/denial.
- Adopt section 2087.1 of Article 11 of Division 20 of Title 16 of the CCR
This new section specifies the forms required to be submitted to the Board by the Licensee Manager relating to the supervision of the permit holder. It explains that until the required forms are submitted and approved by the Board, a permit holder will not be allowed to perform duties authorized by a VACSP. This section also states that a Licensee Manager shall be subject to disciplinary action by the Board if he/she fails to comply with the laws and regulations relating to the supervision of permit holders
- Adopt section 2087.2 of Article 11 of Division 20 of Title 16 of the CCR
This new section adds a time-sensitive requirement for the Licensee Manager to notify the Board when the supervisory relationship has been terminated with the permit holder. It explains that a permit holder will not be allowed to perform duties authorized by a VACSP until the required forms, which establish the supervisory relationship between the permit holder and the new Licensee Manager, are submitted and approved by the Board.
- Adopt section 2087.3 of Article 11 of Division 20 of Title 16 of the CCR
This new section adds a requirement for permit holders to prominently display their permit in a place that is easily accessible to the public or wear a name tag with their permit number. This section also states the no person may utilize the term “veterinary assistant controlled substances permit” or the abbreviation “VACSP” with the intent to represent that the person is authorized to act as a permit holder, unless that person is a permit holder and meets the requirements of the article.

B. Policy Statement Overview/Anticipated Benefits of Proposal

Policy Statement Overview

The proposed regulatory action will implement the VACSP program requirements concerning the process for veterinary assistants to pass a background check and obtain a permit from the Board in order to obtain or administer controlled substances. Moreover, this regulatory action updates language and terminology used by the Board. The policy behind the proposed regulatory additions and amendments is consistent with the Board's mission to protect California consumers and animals.

Anticipated Benefits of Proposed Regulatory Action

The proposed regulation provides specificity regarding the requirements for permit holders and managing licensees providing direct or indirect supervision over permit holders. The proposed action also expands the requirements for permit holders to display their permit, either by wearing a name tag or by prominently displaying their permit in an area easily accessible to the public, in order to promote consumer awareness. All of these changes provide greater clarity regarding the new VACSP program requirements and also serves to promote the health, safety, and welfare of animal patients and the protection of California consumers.

C. Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board has determined that these are the only regulations that deal with the subject area of the Board's VACSP program. Additionally, the Board finds that these proposed regulations are consistent and compatible with existing state regulations.

INCORPORATION BY REFERENCE

Documents incorporated by reference:

1. Veterinary Assistant Controlled Substances Permit Application, Form No. 4606-1, rev. 6/2015
2. Veterinary Assistant Controlled Substances Permit Holder / Licensee Manager Agreement, Form No. 4606-2, rev. 6/2015
3. Licensee Manager Acknowledgement, Form No. 4606-3, rev. 6/2015

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

The Board is aware of cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The Board has set application and renewal fees associated with a VACSP. The application fee shall be \$50.00 and the fee for the initial VACSP will be \$50.00, totaling \$100.00, and will be valid for one year or more from the date the initial VACSP is granted. The renewal fee shall be \$50.00 and will be valid for two years.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The proposed regulations only pertain to applicants and permit holders of a VACSP. The proposed regulations amend 16 CCR §§2034, 2035, and 2036.5 and adopt 16 CCR §§ 2071.1, 2087, 2087.1, 2087.2, and 2087.3.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The Board has determined that this regulatory proposal will benefit the health and welfare of California residents, worker safety, and state's environment by improving the consistency and transparency of penalties as related to the degree of harm caused by violation of the Veterinary Medicine Practice Act.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1747 North Market Blvd., Suite 230, Sacramento, California 95834.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 1747 North Market Blvd., Suite 230, Sacramento, California 95834.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Nina Galang, Administrative Program Coordinator
Address:	Veterinary Medical Board 1747 North Market Blvd., Suite 230 Sacramento, CA 95834-2978
Telephone No.:	916-515-5238
Fax No.:	916-928-6849
E-Mail Address:	Nina.Galang@dca.ca.gov

The backup contact person is:

Name:	Ethan Mathes, Administrative Program Manager
Address:	Veterinary Medical Board 1747 North Market Blvd., Suite 230 Sacramento, CA 95834-2978
Telephone No.:	916-515-5220
Fax No.:	916-928-6849
E-Mail Address:	Ethan.Mathes@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.vmb.ca.gov.