

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

**NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
Duties of a Supervising Veterinarian, § 2035**

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. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this notice.

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 August 3, 2020**, or must be received by the Board at the hearing, should one be scheduled.

AVAILABILITY OF MODIFICATIONS

The Board, upon its own motion or at the request 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 CITATIONS

Pursuant to the authority vested by sections 4808 and 4836 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections 4836. 4836.1, 4840, and 4840.9, the Board is considering amending section 2035 of article 4 of division 20 of title 16 of the California Code of Regulations (CCR)¹.

¹ All CCR references are to title 16 unless otherwise noted.

INFORMATIVE DIGEST

BPC section 4808 authorizes the Board to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Veterinary Medicine Practice Act (Act). BPC section 4836 requires the Board to adopt regulations establishing animal health care tasks and an appropriate degree of supervision required for those tasks that may be performed only by an RVT or licensed veterinarian. BPC section 4836.1 authorizes an RVT to administer a drug, including but not limited to, a drug that is a controlled substance, under the direct or indirect supervision of a licensed veterinarian when done pursuant to the order, control, and full professional responsibility of a licensed veterinarian. BPC section 4840 authorizes RVTs and VAs to perform animal health care services under the supervision of a California licensed or authorized veterinarian. BCP section 4840.9 allows licensed and authorized veterinarians to employ RVTs and VAs.

CCR section 2035, subsection (a), makes the supervising veterinarian responsible for determining the competency of the RVT, permit holder, or VA to perform allowable animal health care tasks. CCR section 2035, subsection (b), makes the supervising veterinarian responsible for making all decisions relating to the diagnosis, treatment, management, and future disposition of the animal patient. CCR section 2035, subsection (c), requires the supervising veterinarian to examine the animal patient before delegating any animal health care task to an RVT, permit holder, or VA, and requires the examination to be conducted at such time as good veterinary medical practice requires consistent with the particular delegated animal health care task.

This regulatory proposal will amend CCR section 2035 regarding duties of a supervising veterinarian. Specifically, the Board is proposing the following:

Adopt Subsection (d) of Section 2035 of Article 4 of Division 20 of Title 16 of the CCR

The proposed regulation would amend CCR section 2035 to add new subsection (d), which would prohibit the supervising veterinarian from delegating any allowable animal health care task to an RVT, permit holder, or VA who does not have the necessary extensive clinical skill, requisite training, and demonstrated competency.

POLICY STATEMENT OVERVIEW/ANTICIPATED BENEFITS OF PROPOSAL

Protection of the public is the Board's highest priority in exercising its licensing, regulatory, and disciplinary functions. The proposal would allow the Board to continue carrying out this mandate through its licensing and regulatory efforts by requiring the supervising veterinarian to consider the skill, training, and demonstrated competency of the RVT, permit holder, and VA before delegating animal health care tasks. As such, the proposal is intended to increase consumer and animal access to veterinary medical

care by allowing an RVT, permit holder, or VA to perform additional animal health care tasks, while ensuring that animals receive competent care. The Board anticipates that consumers and their animals will be better protected through increased access to skillful, trained, and competent individuals. The Board also anticipates that veterinarians will benefit from clarified terms to consider when delegating health care tasks to RVTs, permit holders, and VAs.

Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

The Board will be required to ensure compliance with the proposed regulations. Any increased workload and costs are anticipated to be minor and absorbable within existing resources.

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 the 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. The proposal would clarify how supervising veterinarians delegate tasks to RVTs, permit holders, and VAs based on their skill, training, and demonstrated competency.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS:

The Board has determined that the proposed regulations would not affect small businesses. The proposal would clarify how supervising veterinarians delegate tasks to RVTs, permit holders, and VAs based on their skill, training, and demonstrated competency.

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, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California. The proposal would clarify how supervising veterinarians delegate tasks to RVTs, permit holders, and VAs based on their skill, training, and demonstrated competency.

Benefits of Regulation:

The Board anticipates that consumers and their animals would benefit from increased access to skillful, trained, and competent individuals. The Board also anticipates that veterinarians will benefit from clarified terms to consider when delegating animal health care tasks to RVTs, permit holders, and VAs. This regulatory proposal does not affect worker safety or the state's environment.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered 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 proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Below are the alternatives considered by the Board and the reason each was rejected.

1. The initial question brought to the Board's Multidisciplinary Advisory Committee (MDC) was whether the Board's regulations needed to provide for extended animal health care duties that could be performed by RVTs or to restrict some animal health care duties to only be delegated to RVTs, and not to permit holders or VAs. The MDC discussed whether the regulations should provide a list of duties (e.g., only an RVT could perform a procedure involving placement of a needle or appliance in a blood vessel, body cavity, or epidural space, induce anesthesia, or perform casting and splinting) that a supervising veterinarian could only delegate to an RVT based on the degree of risk. The idea to create a list

the specific duties that could only be delegated to an RVT was rejected because generating a list of all restricted duties would be difficult and impractical and imply that any task omitted from the list may be interpreted as a task delegable to an RVT. Instead, the MDC determined that assessment of risk is necessarily based on the specific set of circumstances of the individual animal patient, and it was more prudent to focus on the supervising veterinarian's judgment and the competence of the individual to whom the task is delegated, as this proposal provides.

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:

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| Name: | Justin Sotelo |
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The backup contact person is:

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WEBSITE ACCESS

Materials regarding this proposal can be found at: <http://www.vmb.ca.gov>.