

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

INITIAL STATEMENT OF REASONS

Hearing Date: No hearing has been scheduled for the proposed action.

Subject Matter of Proposed Regulations: RVT Emergency Animal Care

Sections Affected: Section 2069, Article 6, Division 20, Title 16 of the California Code of Regulations (CCR)¹

Background and Problem Statement:

Business and Professions Code (BPC) section 4800.1 mandates that the protection of the public shall be the highest priority of the Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. The Board enforces the Veterinary Medicine Practice Act (Act) and oversees veterinary licensees, registered veterinary technicians (RVTs), veterinary premises, and veterinary assistant controlled substance permit holders (VACSPs).

BPC section 4836, subdivision (a) 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 4840.5 authorizes an RVT, under conditions of an emergency, to render lifesaving aid and treatment to an animal; however, if the emergency aid and treatment is not rendered in the presence of a licensed veterinarian, the treatment may only be continued under the direction of a licensed veterinarian. The statute defines “emergency” to mean that the animal has been placed in a life-threatening condition where immediate treatment is necessary.

During the Board’s 2015 Sunset Review, animal welfare groups raised concerns regarding immediate veterinary care to animals injured in a rodeo or sporting event. The animal welfare groups asserted that there are more animal injuries and deaths at rodeo events than are being reported to the Board; accordingly, the groups requested that a veterinarian be required to be present at every rodeo event to provide immediate veterinary care to injured animals, or, as an alternative, an RVT could be utilized if under the appropriate supervision of a veterinarian. The Background Paper for the Board’s Legislative Oversight Hearing recommended that the on-call veterinarian requirement be considered insufficient to provide for appropriate oversight and the immediate treatment of injured animals at rodeo events must be performed by a licensed veterinarian present on-site or an RVT who is under the appropriate degree of supervision by the veterinarian.

To comply with the Legislature’s recommendation to address RVT supervision in providing emergency animal care at rodeos, the proposal would clarify BPC section 4840.5, by revising CCR section 2069, which provides the conditions under which an RVT may provide emergency treatment and the emergency treatment that may be provided, to clarify an RVT’s authority to

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

administer drugs or controlled substances to animals in an emergency. The proposal would also implement recent statutory changes to BPC section 4840.5 made by Senate Bill (SB) 547 (Hill, Chapter 429, Statutes of 2017), which deleted the restriction of RVTs to render emergency aid to only circumstances where immediate treatment was necessary to sustain life, and address RVT health care tasks performed at sanctioned rodeos or other sporting events. The Board anticipates that the health, safety, and welfare of animals in emergency situations will be better protected by clarifying an RVT's ability to administer drugs and controlled substances.

SPECIFIC PURPOSE, ANTICIPATED BENEFIT, AND RATIONALE:

A. Amend section 2069, subsection (a) of Article 6 of Division 20 of Title 16 of the CCR

1. Purpose: The purpose of this proposal is to make minor grammatical and clarifying changes to the section by adding "of the code," replacing the term "life saving" with "lifesaving," and specifying that "emergency" treatment is also allowed to provide consistency with the Act and clarity in the regulation.
2. Anticipated Benefit: The Board anticipates that consumers and their animals, veterinarians, and RVTs will benefit from the minor, technical clarifying revisions in this proposal as the revisions would conform the terms used in the regulation to the terms used in the corresponding statutes and provide consistency between the statutes and regulation. Further, if a consumer, veterinarian, or RVT seeks to understand what emergency animal care an RVT can provide under this section, adding the phrase "of the code" clarifies that the Section 4840.5 referred to is in the Business and Professions Code. This saves consumers, veterinarians, and RVTs time and confusion, as presently, there is no CCR, title 16, section 4840.5, and determining this is time-consuming. If a consumer, veterinarian, or RVT seeks to understand what services an RVT can render during a condition of emergency, the amendments correcting "life saving" to the proper grammatical form of the adjective "lifesaving" and adding the phrase "or emergency" to better clarify the treatment an RVT can render. Consumers, veterinarians, and RVTs would all benefit when this regulation is amended to be more quickly and easily understood.
3. Rationale: The proposal is necessary to clarify ambiguous terms in the existing regulation. CCR section 2069 currently references Section 4840.5, but it does not clarify that section is found in the BPC, rather than the regulations. CCR section 2002 defines the term "code" to mean the BPC, so the proposal would add the term "code" after section 4840.5 for clarity. In addition, the proposal is necessary to clarify the term "life saving" by correcting that term to "lifesaving," which conforms to BPC section 4840.5 and the use of "lifesaving" in that statute, which is the statute this regulation clarifies. The proposal also adds the term "or emergency" treatment to conform to BPC section 4840.5, which uses both the terms "lifesaving aid and treatment" and "emergency aid and treatment." Additionally, BPC section 4840.5 defines "emergency" to mean that an animal has been placed in a life-threatening condition where immediate treatment is needed, so the proposal is necessary to conform to the terms used in the statute that the regulation clarifies.

B. Repeal section 2069, subsection (a)(2) of Article 6 of Division 20 of Title 16 of the CCR

1. Purpose: The purpose of this proposal is to remove this subsection to instead incorporate RVT administration of pharmacological agents in new subsection (b).

2. Anticipated Benefit: The Board anticipates that consumers and their animals will benefit from repealing CCR section 2069, subsection (a)(2) because the proposal will clarify, in new subsections (b) and (c), the supervision requirements for administration by an RVT of drugs or controlled substances, as provided in new subsection (b), or pursuant to written instructions, as provided for in new subsection (c). The Board anticipates that RVTs and veterinarians will also benefit from the repeal of subsection (a)(2) in favor of clarified provisions for RVT supervision in the administration of controlled substances and drugs. Further, the Board anticipates that RVTs and veterinarians will benefit from striking the term “pharmacological agents,” which is not otherwise defined in regulation, and replacing that term in subsection (b) with “drugs and controlled substances,” which is used throughout the laws and regulations relating to veterinary medicine practice.
3. Rationale: The proposal is necessary to clarify an RVT’s authority to administer drugs and controlled substances in lifesaving or emergency situations. Currently, the regulation only provides for RVT administration of pharmacological agents to prevent or control shock. The Veterinary Medical Board’s Multidisciplinary Advisory Committee (MDC) researched this issue and determined it is necessary to expand RVT administration of drugs to manage pain, to sedate an animal for examination, to prevent further injury, and to prevent suffering of an animal, up to and including euthanasia. The original concern of animal welfare groups was to address animals in distress at rodeo events. As animals involved in rodeo events may experience more than shock, as currently provided for under the existing regulation, but may also experience pain and suffering, the regulation must be amended to allow an RVT to render emergency treatment in these additional circumstances. Accordingly, the additional circumstances are being added to new subsection (b), and the existing provision to administer pharmacological agents to prevent or control shock is being removed along with all of existing subsection (a)(2).

C. Amend section 2069, subsection (a)(3) through (8) of Article 6 of Division 20 of Title 16 of the CCR

1. Purpose: The purpose of this section is to amend subsection (a)(3) through (8), to renumber these provisions as (a)(2) through (7) following the deletion of subsection (a)(2).
2. Anticipated Benefit: The Board anticipates that consumers and veterinary professionals will benefit from renumbering subsection (a)(3) through (8), which will provide clarity and consistency to the section.
3. Rationale: This proposal is necessary to maintain consistency throughout the regulation; by deleting subsection (a)(2), there would be a gap between (a)(1) and (3). This proposal renumbers (a)(3) through (8) to fill the gap and become subsection (a)(2) through (7).

D. Adopt section 2069, subsection (b) of Article 6 of Division 20 of Title 16 of the CCR

1. Purpose: The purpose of this subsection is to maintain the existing requirement under subsection (a)(2) that administration of drugs or controlled substances by an RVT to an animal in an emergency may only be performed after direct communication with a licensed veterinarian or veterinarian authorized to practice in this state.
2. Anticipated Benefit: The Board anticipates that the health, safety, and welfare of consumers and their animals will be better protected through a carefully tailored provision to authorize an RVT, after direct communication with a veterinarian, to

administer drugs and controlled substances to relieve the animals from shock, pain, further injury, and suffering.

3. Rationale: The proposal is necessary to clarify an RVT's authority to administer drugs and controlled substances to an animal in an emergency. Following the Legislature's recommendation to the Board to authorize an RVT to address emergency animal treatment at rodeos, the Board referred the matter to the MDC (see Tab. D.2). The MDC discussed the existing statutory authority in BPC section 4840.5 of an RVT to provide emergency care and treatment at rodeos, and the emergency conditions clarified in CCR section 2069. The MDC's meeting materials indicated that the presence of the RVT at a rodeo event should not be a substitute for the requirement that a veterinarian be on-call for any professionally sanctioned or amateur rodeo. Rather, if an RVT would be present at the event to provide emergency care and treatment, a veterinarian should be on call to provide direction to the RVT until such time as the injured animal may be transported to a veterinary hospital as deemed necessary.

Through the process of deliberations, the MDC and the Board determined that additional circumstances for the administration by an RVT of drugs or controlled substances to animals in an emergency situation needed to be included. Current subsection (a)(2) only authorizes administration of a pharmacological agent to prevent or control shock. This proposal is necessary to expand emergency treatment to include pain management and sedation and prevent animal suffering as described further below.

This proposal is also necessary to clarify the term "pharmacological agents" used in existing subsection (a)(2). The original term "pharmacological agents" must be amended to instead refer to "a drug or controlled substance" to maintain the consistent use of a "drug or controlled substance" used in the Act, the Pharmacy Law, the California Uniform Controlled Substances Act, and other relevant state and federal laws applicable to veterinary medicine.

E. Adopt section 2069, subsection (b)(1) of Article 6 of Division 20 of Title 16 of the CCR

1. Purpose: The purpose of this subsection is to incorporate the existing authority of an RVT under subsection (a)(2) to administer a drug or controlled substance to an animal in an emergency to prevent or control shock.
2. Anticipated Benefit: The Board anticipates that the health, safety, and welfare of consumers and their animals will be better protected through a carefully tailored provision to authorize an RVT, after direct communication with a veterinarian, to administer drugs and controlled substances in an emergency to relieve animals from shock.
3. Rationale: Following the Legislature's recommendation to the Board to authorize an RVT to address emergency animal treatment at rodeos, the Board referred the matter to the MDC. The MDC discussed the existing statutory authority in BPC section 4840.5, which allows an RVT to provide emergency care and treatment at rodeos, and the emergency conditions clarified in CCR section 2069. The MDC determined that the existing provision authorizing an RVT to administer drugs or controlled substances to prevent or control shock of an animal in an emergency is still necessary. Accordingly, the proposal maintains the ability of an RVT to administer a drug or controlled substance to prevent or control shock.

F. Adopt section 2069, subsection (b)(2) of Article 6 of Division 20 of Title 16 of the CCR

1. Purpose: The purpose of this subsection is to provide for administration by an RVT of a drug or controlled substance to an animal in an emergency to manage pain or sedate an animal to prevent further injury.
2. Anticipated Benefit: The Board anticipates that the health, safety, and welfare of consumers and their animals will be better protected through a carefully tailored provision to authorize an RVT, after direct communication with a veterinarian, to administer drugs and controlled substances to relieve the animals from pain or further injury.
3. Rationale: The proposal is necessary to address emergency situations where an animal needs immediate relief from pain or to prevent further injury to the animal. At the Board's April 20-21, 2016 meeting, the Board heard from a veterinarian who served as an on-call veterinarian at rodeo events for 22 years. In that time, he was only called to an emergency at a rodeo three times, and by the time he got to the animal, the animal had passed away. To manage the animal's pain in times when the veterinarian is not on-site during an emergency, the MDC determined it necessary to add to the regulation the ability for an RVT to administer a drug or controlled substance to provide immediate pain relief to the animal.

During deliberation of the pain management and sedation provision of the proposal, concern was raised as to the ability of an RVT to transport controlled substances from the veterinary hospital to a rodeo. At the MDC's April 18, 2017 meeting, the MDC determined that federal and state law authorize an RVT, acting as a mid-level practitioner registered with the Board and authorized to administer controlled substances, or as an employee of the veterinarian and acting under the veterinarian's controlled substances registration, to transport and dispense a controlled substance at a site other than the supervising veterinarian's principal place of business and under the direct or indirect supervision of the licensed veterinarian.

G. Adopt section 2069, subsection (b)(3) of Article 6 of Division 20 of Title 16 of the CCR

1. Purpose: The purpose of this subsection is to clarify that an RVT may administer a drug or controlled substance to an animal in an emergency to prevent suffering of an animal, up to and including euthanasia.
2. Anticipated Benefit: The Board anticipates that the health, safety, and welfare of consumers and their animals will be better protected through clarity in this subsection that an RVT is able to prevent suffering of an animal, up to and including euthanasia, by administering a drug or controlled substance to the animal.
3. Rationale: The proposal is necessary to address emergency situations where an animal is so injured that immediate euthanasia is necessary to relieve the animal from suffering. At the Board's February 21-22, 2018 meeting, the Board discussed whether an RVT could euthanize an animal in an emergency (see Tab D.9). Under CCR section 2036, an RVT can administer controlled substances under the indirect supervision of a veterinarian. With the authority provided in section 2036, coupled with the amendments to section 2069 relative to emergency animal care at a rodeo or other sporting event, an RVT would be able to administer controlled substances necessary to euthanize an animal injured at the rodeo or other sporting event pursuant to the responsible veterinarian's instructions. Accordingly, the Board determined it necessary to specifically

include in the regulation and make clear an RVT's authority to administer drugs or controlled substances to prevent an animal from suffering, up to and including euthanasia, in an emergency under the direct supervision of a supervising veterinarian.

H. Adopt section 2069, subsection (c) of Article 6 of Division 20 of Title 16 of the CCR

1. Purpose: The purpose of this subsection is to allow for an RVT to provide emergency services if direct communication with the supervising or responsible veterinarian cannot be obtained.
2. Anticipated Benefit: The Board anticipates that the health, safety, and welfare of consumers and their animals will be better protected through clarity in this subsection that an RVT can administer drugs or controlled substances to animals in an emergency if the RVT is in direct communication with the supervising or responsible veterinarian, or if that cannot be established, by following the written instructions of the supervising or responsible veterinarian.
3. Rationale: The proposal is necessary to maintain the existing ability in subsection (a)(2) of an RVT to act under the written instructions of the supervising veterinarian. This provision ensures that animals who are suffering will receive immediate treatment from the RVT.

In addition, the Background Paper for the Board's Legislative Oversight Hearing recommended that the on-call veterinarian requirement be considered insufficient to provide for appropriate oversight, and that the immediate treatment of injured animals at rodeo events must be performed by a licensed veterinarian present on-site or an RVT, who is under the appropriate degree of supervision of the veterinarian (see Tab D.1). This proposal responds to the Legislature's recommendation to provide for immediate emergency treatment by providing, in addition to the on-call veterinarian, for both RVT supervision by a veterinarian, as well as RVT supervision by the veterinarian charged with the responsibility to provide treatment to animals at the rodeo or event. In this way, the proposal clarifies that both a veterinarian and an RVT are available to provide emergency treatment to animals and provides appropriate supervision and instruction to the RVT by requiring either direct communication with a supervising veterinarian or written instructions of the supervising or responsible veterinarian.

Further, the Board determined it necessary to incorporate the emergency treatment of animals at rodeos or other sporting events to clarify for consumers, event personnel, veterinarians, and RVTs the ability of an RVT to administer a drug or controlled substance to an animal in an emergency. During the Board's 2015 Sunset Review, animal welfare groups raised concerns regarding immediate veterinary care to animals injured in a rodeo or sporting event (see Tab D.1). Pursuant to Penal Code 596.7, the management of any professionally sanctioned or amateur rodeo that intends to perform in any city or county in California must ensure that there is a licensed veterinarian present at all times during the performances of a rodeo or that a licensed veterinarian is "on-call" and able to arrive at the rodeo within one hour after a determination has been made that there is an injury that requires veterinary treatment. The animal welfare groups asserted that there are more animal injuries and deaths at rodeo events than are being reported to the Board; accordingly, the groups requested that the veterinarian be required to be present at every rodeo event to provide immediate veterinary care to injured animals, or, as an alternative, an RVT could be utilized if under the appropriate supervision of a veterinarian.

The proposal is also necessary to avoid redundancy in the regulation. When the MDC initially determined that a new provision for sedation and pain management was needed, the provision was added as new subsection (b) and contained identical provisions for direct communication and written orders as existing subsection (a)(2) (see Tab D.4). To avoid redundancy in creating three separate subsections for the administration of a drug or controlled substance pursuant to direct communication or under written instructions, this subsection is necessary and applies to each of the three circumstances listed in subsection (b)(1) through (3) when an RVT is unable to establish direct communication with the supervising veterinarian (see Tab D.7).

Underlying Data

- March 14, 2016 Senate Committee on Business, Professions and Economic Development and Assembly Committee on Business and Professions Oversight Hearing Background Paper for the Board
- April 20-21, 2016 Board Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
- October 18, 2016 MDC Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
- January 17, 2017 MDC Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
- January 18-19, 2017 Board Meeting Agenda (inadvertently dated January 18-19, 2016); Relevant Meeting Materials; and Meeting Minutes
- April 18, 2017 MDC Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
- July 25, 2017 MDC Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
- October 18-19, 2017 Board Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
- February 21-22, 2018 Board Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
- May 23-24, 2018 Board Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes

Business Impact

The Board has made the initial determination that this proposal will not have a significant adverse economic impact directly affecting businesses because it clarifies the existing ability of an RVT to render emergency treatment to animals.

Economic Impact Analysis

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the regulation clarifies existing law for RVTs rendering emergency treatment to animals.
- It will not create new businesses or eliminate existing businesses within the State of California because the regulation clarifies existing law for RVTs rendering emergency treatment to animals.
- It will not affect the expansion of businesses currently doing business with the State of California because the regulation clarifies existing law for RVTs rendering emergency treatment to animals.

- It will improve the health, safety, and welfare of consumers and their animals because it clarifies that an RVT can administer drugs or controlled substances to animals in an emergency through either direct communication or written instructions.
- It may benefit worker safety as the proposal provides for an RVT to administer drugs or controlled substances to an animal in pain or to sedate an animal, who may be dangerous to itself, as well as to rodeo and sporting event workers and veterinary medical personnel.
- It does not affect the state's environment.

Overview

There are approximately 7,200 licensed RVTs and approximately 12,400 licensed veterinarians in California. The Board does not know how many rodeos or sporting events that involve animals are held in California. This proposal clarifies how RVTs may, in emergencies, treat pain as well as life-threatening injuries in animal patients with drugs or controlled substances under the direct supervision of a veterinarian, or in accordance with written instructions established by a supervising veterinarian. This proposal will impact California RVTs who may need to administer drugs or controlled substances to an animal in an emergency situation without veterinarian supervision, as well as veterinarians and rodeos and sporting events that involve animals. The Board is not able to estimate the number of RVTs, veterinarians, and rodeos or sporting events that involve animals that may be impacted by this proposal, nor can the Board estimate the number of RVTs, veterinarians, or rodeos or sporting events involving animals potentially impacted by this proposal that are small businesses. The Board does not anticipate the creation or elimination of businesses or any expansion of businesses in California as a result of the proposal.

Economic Impact Assessment of Benefits

The Board has determined this proposal will benefit the health, safety, and welfare of California consumers and their animals by clarifying that, in emergencies, RVTs may treat pain as well as life-threatening emergencies in animal patients with drugs or controlled substances under specified conditions. This proposal may benefit worker safety as the proposal provides for an RVT to administer a drug or controlled substance to an animal in pain or to sedate an animal, who may be dangerous to itself, as well as to rodeo and sporting event workers and veterinary medical personnel. This proposal does not affect the state's environment. While difficult to quantify, this proposal also improves the quality of life in California for both animals in pain in emergency situations, and for the Californians who witness an animal in pain in an emergency.

- The benefits of this proposal are derived from the goals developed by the Board based on its broad statutory authority under BPC section 4808, which authorizes the Board to adopt and amend rules and regulations reasonably necessary to effectuate the Act. BPC section 4836, subdivision (a) 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 a licensed veterinarian. BPC section 4836.1 authorizes an RVT to administer a drug, including and 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 the licensed veterinarian. BPC section 4840.5 authorizes an RVT, under conditions of an emergency, to render lifesaving aid and treatment to an animal; however, if the emergency aid and treatment is rendered not in the presence of a licensed veterinarian, the treatment may only be continued under the direction of a licensed veterinarian. The statute defines "emergency" to mean that the animal has been placed in a life-threatening condition where immediate treatment is necessary. The Board seeks to

clarify BPC section 4840.5 by revising CCR section 2069, which provides the conditions under which an RVT may provide emergency treatment as well as the emergency treatment that may be provided, to clarify the an RVT's authority to administer drugs or controlled substances.

- The proposal also implements recent statutory changes to BPC section 4840.5 made by Senate Bill (SB) 547 (Hill, Chapter 429, Statutes of 2017), which deleted the restriction of RVTs to render emergency aid to only circumstances where immediate treatment was necessary to sustain life, and addresses RVT health care tasks performed at sanctioned rodeos or other sporting events involving animals. The Board anticipates that the health, safety, and welfare of animals in emergency situations will be better protected by clarifying an RVT's ability to administer drugs and controlled substances.

Requirements for Specific Technologies or Equipment

This regulatory proposal does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.