

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

**NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
Animal Health Care Tasks for R.V.T., § 2036**

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 July 20, 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

Pursuant to the authority vested by sections 4808, 4826, and 4836 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections 4826.5, 4836, 4840, and 4840.2 of said code, the Board is considering amending section 2036 of article 4 of division 20 of title 16 of the California Code of Regulations (CCR)¹.

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. BPC section 4826 defines the practice of veterinary medicine and, among other things, authorizes a registered veterinary technician (RVT) to administer a medicine (including a drug or controlled substance), appliance, application, or treatment at the

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

direction of and under the direct supervision of a licensed veterinarian. BPC section 4826.5 authorizes an RVT under the supervision of a licensed veterinarian to compound drugs for animal use, and requires the Board to promulgate regulations to address, among other things, the level and type of supervision required for compounding drugs by an RVT. 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 4840 authorizes RVTs and veterinary assistants (VAs) to perform animal health care services under the supervision of a California licensed or authorized veterinarian. BCP section 4840.2 prohibits an RVT or VA from: (a) performing surgery; (b) diagnosis and prognosis of animal disease; and (c) prescribing drugs, medicine, and appliances.

This regulatory proposal will amend CCR section 2036 regarding animal health care tasks an RVT is authorized to perform. Specifically, the Board is proposing the following:

Amend Subsection (a) of Section 2036 of Article 4 of Division 20 of Title 16 of the CCR

The proposal would amend CCR section 2036, subsection (a) to make a minor, nonsubstantive change.

Amend Subsections (b) and (c) of Section 2036 of Article 4 of Division 20 of Title 16 of the CCR

The proposal would amend CCR section 2036, subsections (b) and (c), to strike from direct veterinarian supervision of an RVT applying casts and splints and instead authorize the RVT to apply casts and splints under indirect supervision. The proposal would also make minor, technical changes.

Amend Subsection (c) of Section 2036 of Article 4 of Division 20 of Title 16 of the CCR

The proposal would amend CCR 2036, subsection (c), to authorize an RVT to compound drugs under indirect supervision, as well as make minor, nontechnical changes.

Amend Subsection (d) of Section 2036 of Article 4 of Division 20 of Title 16 of the CCR

The proposal would amend CCR section 2036, subsection (d) to make a minor, nonsubstantive change.

POLICY STATEMENT OVERVIEW/ANTICIPATED BENEFITS OF PROPOSAL

The primary mission of the Board is to protect consumers and their animals through the development and maintenance of professional standards. This regulatory proposal promotes the safety of animals and the public by clarifying the health care tasks an RVT can provide under indirect veterinarian supervision and will allow additional authorized individuals to provide services to animals who are injured and/or ill. By amending and adopting the proposed regulations, the Board seeks to ensure that California consumers and their animals are

protected by being provided with additional services when in need, while ensuring the RVT is properly supervised.

Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board has conducted and search of any similar regulations of these topics 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 through the Board's inspection programs. 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 authorize RVTs to provide additional veterinary medical care for California consumers and their animals. Accordingly, the Board does not anticipate an adverse economic impact on businesses and individuals that are currently complying with the law.

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 will not affect small businesses. The proposed regulations would authorize RVTs to provide additional veterinary medical care to California consumers and their animals, while still ensuring the RVT is properly supervised.

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. The proposed regulations would authorize RVTs to provide additional veterinary medical care to California consumers and their animals, while still ensuring the RVT is properly supervised.

Benefits of Regulation:

This regulatory proposal focuses on identifying additional animal health care tasks an RVT can provide under the indirect supervision of a veterinarian, which will provide additional access to veterinary medical care for California consumers and their animals. For this reason, the Board anticipates that the proposal will benefit California consumers and their animals. 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 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 or 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.

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 identify tasks that an RVT could safely perform under indirect supervision, which this proposal accomplishes. Importantly, the list of indirect supervised duties of an RVT in CCR section 2036, subdivisions (b) and (c), which this proposal amends, is referenced in CCR section 2036.5 as the animal health care tasks that a VA is prohibited from performing. Accordingly, although the proposal does not create a list of tasks that an RVT may perform under indirect supervision, the proposal does ensure that a VA will not be able to apply casts and splints or perform drug compounding.

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: Justin Sotelo
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The backup contact person is:

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