

Veterinary Medical Board

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MEMORANDUM

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| DATE | November 15, 2018 |
| TO | Veterinary Medical Board |
| FROM | Ethan Mathes, Operations Manager |
| SUBJECT | Agenda Item 15.A. Amend Business and Professions Code Sections 4853, 4853.1 and 4853.6 Regarding Premises Permits Following Disciplinary Actions Against a Licensee Manager and Premises Permit Application Requirements for Owner and Licensee Managers |

Background

During the February 2018 meeting, the Board discussed concerns regarding managing licensees (MGLs) retaining premises ownership after being disciplined by the Board. In some situations, disciplined MGLs/owners transfer MGL duties to other veterinarians and retain ownership. In these cases, the disciplined licensee may still control parts of the veterinary practice, and the causes for discipline may continue.

The Board also discussed the need for new premises permits if ownership changes and notifying the Board when MGLs change.

After discussion, the Board directed staff to draft proposed legislation addressing these concerns and requested the proposal be included in a 2018 legislative committee bill. Unfortunately, due to timing, the language was not included.

Update

Since the last meeting, Board staff and legal counsel made additional amendments to adequately address the concerns. The attached draft language contains rationale for each amendment.

Action Requested

Please discuss and consider approving the attached legislative proposal, and authorize staff to work with the Business, Professions and Economic Development Committee for inclusion in a 2019 legislative committee bill.

Attachment

1. Draft legislative proposal and rationale

Veterinary Medical Board
Premises Permit Registration Holder and Licensee Manager Statutes

Amend Business and Professions Code Sections 4853.1 and 4853.6 as follows:

4853.

(a) All premises where veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof is being practiced shall be registered with the board. The certificate of registration shall be on a form prescribed in accordance with Section 164.

(b) "Premises" for the purpose of this chapter shall include a building, kennel, mobile unit, or vehicle. Mobile units and vehicles shall be exempted from independent registration with the board when they are operated from a building or facility which is the licensee manager's principal place of business and the building is registered with the board, and the registration identifies and declares the use of the mobile unit or vehicle.

(c) Every application for registration of veterinary premises shall set forth in the application the name of the premises owner, who will be the holder of the premises permit registration, and the name of the responsible licensee manager, who is to act for and on behalf of the licensed registered premises. Substitution of the responsible licensee manager may be accomplished by application to the board if the following conditions are met:

(1) The person substituted qualifies by presenting satisfactory evidence that he or she possesses a valid, unexpired, and unrevoked license as provided by this chapter and that the license is not currently under suspension.

(2) No circumvention of the law is contemplated by the substitution.

(d) The premises permit registration is non-transferrable. In the event of change of ownership of the premises, the premises permit registration holder shall notify the Board of the change of ownership within thirty (30) days after any such change.

Commented [WT1]: The Board needs to know who owns the building and who is the premises registration holder.

Commented [WT2]: To address problems where ownership is transferred without the Board being notified of the change in ownership. This is increasingly a concern as small veterinary hospitals and clinics are being sold to corporate owners.

4853.1.

(a) Each application to register a premises pursuant to Section 4853 shall be made on a form provided by the board. An application for renewal of that registration shall be made annually.

(b) The application shall contain a statement to the effect that the applicant premises owner and licensee manager have not been convicted of a felony, have not been the subject of professional disciplinary action taken by any public agency in California or any other state or territory, or in any foreign country, and have not violated any of the provisions of this chapter. If the applicant premises owner and licensee manager are unable to make that statement, the application shall contain a statement of the conviction, professional discipline, or violation.

(c) In reviewing an application to register a premises, the board may consider acts of the premises owner, including acts of any incorporators, officers, directors, and

Commented [WT3]: Proposed revisions to clarify who is the applicant and that both the premises owner and licensee manager have to disclose convictions, professional discipline, or violations.

Commented [WT4]: Will be superseded by AB 2138 as of July 1, 2020; the premises owner and licensee manager will not have to state of the application any convictions; convictions and discipline in another state/territory/foreign country will only count if within the past 7 years.

Commented [WT5]: Similar to authority under BPC 7712.5, crematories.

stockholders of the premises owner, and responsible licensee manager which shall constitute grounds for the denial of a premises registration under Division 1.5 (commencing with Section 475).

(d) Upon receipt of an application for a premises registration, the board may cause an inspection to be made of the proposed veterinary premises to ensure compliance with the minimum standards as established by the board.

(e) The board may, as part of the renewal or application for substitution of the licensee manager process, make necessary inquiries of the applicant premises owner and current or proposed licensee manager and conduct an inspection in order to determine if cause for disciplinary action exists.

4853.6.

The board shall withhold, suspend or revoke registration of veterinary premises:
(a) When the licensee manager set forth in the application in accordance with Section 4853 ceases to become responsible for management of the registered premises and no substitution of the responsible licensee manager has been made by application as provided for in Section 4853.

(b) When the premises registration holder or licensee manager, has, under proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the license to practice veterinary medicine, surgery, and dentistry revoked or suspended.

(c) The board shall not renew the premises registration if it is in violation of subdivision (a).

4875.2.

If, upon completion of an investigation, the executive officer has probable cause to believe that a veterinarian, a registered veterinary technician, a veterinary assistant controlled substance permit holder, a premises registration holder, or an unlicensed person acting as a veterinarian, ~~or a registered veterinary technician, a veterinary assistant controlled substance permit holder, or a premises registration holder~~ has violated provisions of this chapter, he or she may issue a citation to the veterinarian, registered veterinary technician, veterinary assistant controlled substance permit holder, premises registration holder, or unlicensed person, as provided in this section. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this chapter alleged to have been violated. In addition, each citation may contain an order of abatement fixing a reasonable time for abatement of the violation, and may contain an assessment of a civil penalty. The citation shall be served upon the veterinarian, registered veterinary technician, veterinary assistant controlled substance permit holder, premises registration holder, or unlicensed individual personally or by any type of mailing requiring a return receipt. Before any citation may be issued, the executive officer shall submit the alleged violation for review

Commented [WT6]: Proposed revisions to clarify discipline when licensee manager is found to have violated the Act, even though that licensee manager is subsequently removed and replaced by a new licensee manager.

Commented [WT7]: To address situations where the revoked licensee still owns the premises and is operating the business though removed as the MGL.

Commented [WT8]: Adds Board citation authority against VACSP holders and premises registration holders for unlawful conduct instead of forcing the Board to file an accusation for violations.

and investigation to at least one designee of the board who is a veterinarian licensed in or employed by the state. The review shall include attempts to contact the veterinarian, registered veterinary technician, veterinary assistant controlled substance permit holder, premises registration holder, or unlicensed person to discuss and resolve the alleged violation. Upon conclusion of the board designee's review, the designee shall prepare a finding of fact and a recommendation. If the board designee concludes that probable cause exists that the veterinarian, registered veterinary technician, veterinary assistant controlled substance permit holder, premises registration holder, or unlicensed person has violated any provisions of this chapter, a civil citation shall be issued to the veterinarian, registered veterinary technician, veterinary assistant controlled substance permit holder, premises registration holder, or unlicensed person.